

1 Memorandum of Understanding
2 Regarding
3 Regional Fishery Management Council Participation
4 in
5 International Regional Fishery Management Organizations Governing
6 Pacific Ocean Highly Migratory Species
7 3-22-2007 Draft
8

9 **I. Parties**

10 A. The parties to this Memorandum of Understanding (MOU) are the United States (US)
11 Department of Commerce (DOC), the US Department of State (DOS), the Western
12 Pacific Fishery Management Council (Western Pacific Council), the Pacific Fishery
13 Management Council (Pacific Council) and the North Pacific Fishery Management
14 Council (North Pacific Council).
15

16 **II. Purpose**

17 A. In accordance with Title V, Section 503(f) of the Magnuson-Stevens Fishery
18 Conservation and Management Reauthorization Act of 2006 (MSRA), the purpose of
19 this MOU is to clarify the roles of the Western Pacific, Pacific, and North Pacific
20 Councils (collectively, the Councils) with regard to international efforts by the United
21 States to manage highly migratory species (HMS) in the Pacific Ocean, including
22 1. participation in US delegations to international fishery organizations in the
23 Pacific Ocean, including government-to-government consultations;
24 2. providing formal recommendations to the DOC and DOS regarding necessary
25 measures for both domestic and foreign vessels fishing for HMS species;
26 3. coordinating positions within the US delegation for presentation to the
27 appropriate international fishery organization; and
28 4. recommending those domestic fishing regulations that are consistent with the
29 actions of the international fishery organization, for approval and
30 implementation under the Magnuson-Stevens Fishery Conservation and
31 Management Act.
32

33 **III. Participation in US Delegations to International Fishery Organizations in the Pacific
34 Ocean, including Government-to-Government Consultations**

35 A. Participation in US delegations.

- 36 1. The Western Pacific and Pacific Councils shall participate, and the North
37 Pacific Council shall be afforded the opportunity to participate, directly in US
38 delegations to meetings of the Inter American Tropical Tuna Commission
39 (IATTC) and its subsidiary bodies. Such participation shall include at least one
40 individual designated by a Council. Participation may include two or more
41 individuals designated by a Council if such participation is consistent with the
42 total size of the US delegation and of capable of significant contributions to the
43 needs of the US delegation, in the judgment of the designated Head of the US
44 Delegation.

1 2. The Western Pacific and Pacific Councils shall participate directly in the US
2 delegation to meetings of the Western and Central Pacific Fisheries
3 Commission (WCPFC) and its subsidiary bodies in accordance with the
4 provisions with section IV of this MOU. The North Pacific Council shall be
5 afforded the opportunity to participate directly in US delegations to WCPFC
6 meetings.

7 B. The Western Pacific and Pacific Councils shall participate, and the North Pacific
8 Council shall be afforded the opportunity to participate, directly in US delegations to
9 Government-to-Government consultations regarding WCPFC and IATTC issues. In
10 cases where a Council is represented by a Commissioner to the organization in
11 question, that Commissioner, or that Commissioner's designated representative, shall
12 represent the Council in the Government-to-Government consultation. In cases where
13 there is no Commissioner from the Council in question, the Council shall designate a
14 representative. For the purposes of this section, Council representatives are considered
15 to be Government personnel in bi-lateral or other Government-to-Government
16 meetings.

17 C. The Western Pacific and Pacific Councils shall participate, and the North Pacific
18 Council shall be afforded the opportunity to participate, directly in US delegations any
19 noticed meeting of an international forum, in addition to the IATTC and WCPFC,
20 dealing with fishery management issues on HMS stocks associated with a respective
21 Council.

22 **IV. Providing Formal Recommendations to the US DOC and DOS regarding Necessary**
23 **Measures for both Domestic and Foreign Vessel Fishing for Pacific HMS Species**

24 A. The IATTC forum.

25 1. The Councils may, at any time, provide formal recommendations to DOC and
26 DOS Secretaries regarding necessary measures for the conservation and
27 management of the HMS stocks under the purview of the IATTC.

28 i. Such formal recommendations prior to two weeks before any noticed
29 meeting shall be submitted in writing.

30 ii. Such formal recommendations subsequent to two weeks prior to any
31 noticed meeting and the conclusion of the meeting activities, including
32 any direct **follow-up** activities, may be presented orally or in writing.

33 iii. Such formal recommendations of any Council, if completed in a manner
34 timely to any meetings of the **GAC** (GAC) of the IATTC, shall be
35 forwarded to the GAC of the IATTC for their analysis and
36 recommendations to the US delegation.

37 B. The WCPFC forum.

38 1. The Councils shall provide formal recommendations towards the development
39 of a US position on WCPFC issues through the Western Pacific Council and
40 Pacific Council Commissioners seats.

41 C. When MSAR section 304(i) applies, the Councils will submit recommendations to the
42 US DOC and DOS in accordance with the process established in that section.

43
44 **V. Coordinating Positions within the US Delegation for Presentation to the Appropriate**
45 **International Fishery Organization**

- 1 A. The US DOC and DOS shall notify and advise the Councils of upcoming meetings of
- 2 the WCPFC and IATTC and subsidiary bodies, or other international HMS fishery
- 3 organizations, or preliminary precursory planning meetings for such meetings, in a
- 4 timely fashion so as to provide the opportunity for Councils to develop and submit
- 5 relevant recommendations in advance of the meetings.
- 6 B. To optimize coordination at the US stakeholder level in the IATTC forum, the Pacific
- 7 Council and the Western Pacific Council shall be provided one seat each on the IATTC
- 8 GAC.
- 9 C. To optimize coordination at the US stakeholder level in the WCPFC forum, the Pacific
- 10 Council and the Western Pacific Council shall be provided and the following seats on
- 11 the WCPFC Advisory Committee (AC), with each seat allowed one designee in cases
- 12 of their absence:
 - 13 1. The Chair Western Pacific Council Advisory Committee;
 - 14 2. An official of the fisheries management authority of American Samoa;
 - 15 3. An official of the fisheries management authority of Guam;
 - 16 4. An official of the fisheries management authority of Northern Marianna Islands;
 - 17 5. Pacific Council area albacore troll fishery representative;
 - 18 6. Pacific Council area commercial fish processor;
 - 19 7. Pacific Council conservation group representative;
 - 20 8. Pacific Council recreational fishery representative;
 - 21 9. Western Pacific Council long line fishery representative;
 - 22 10. Western Pacific Council troll fishery representative;
 - 23 11. Western Pacific Council hook and line fishery representative;
 - 24 12. Western Pacific Council conservation group representative;
 - 25 13. Western Pacific Council commercial fish processor representative;
 - 26 14. A staff officer of the Pacific Council; and
 - 27 15. A staff officer of the Western Pacific Council.
- 28 D. The US position at WCPFC proceedings, including a formal proposal or motion, shall
- 29 be determined by majority vote of the five US WCPFC Commissioners.

30 **VI. Recommending Domestic Fishing Regulations that are Consistent with the Actions of the**
 31 **International Fishery Organization, for Approval and Implementation under the**
 32 **Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)**

- 33 A. Representatives of the Councils, DOS and DOC will communicate as soon as
- 34 practicable after each meeting of the respective plenaries of the WCPFC or the IATTC
- 35 to discuss whether and what regulatory actions might be needed to ensure domestic
- 36 fishing regulations are consistent with the decisions of the two organizations and under
- 37 what legal authority(ies) such regulatory actions should be taken. To the extent
- 38 practicable, and consistent with Section 505 of the WCPFC Implementation Act,
- 39 domestic regulations to implement international fisheries agreements will be approved
- 40 and implemented under the MSAR.

41 **4VII. Miscellaneous Matters**

- 42 A. If any new international fishery organizations are formed that have a substantial interest
- 43 in HMS in the Pacific, the Councils, DOS and DOC will review this MOU and reach
- 44 agreement on any alterations or additional provisions within six months.
- 45 B. If the Antigua Convention is fully ratified by US Congressional and Executive branch
- 46 action, the elements of this MOU that refer to the IATTC shall apply to the Antigua

- 1 C. Convention provisions, unless implementing legislation significantly alters existing US
- 2 responsibilities, protocols, or procedures, in which case the provisions of Section
- 3 VII.A. shall be implemented.
- 4 D. This MOU shall be reviewed for efficacy of the mechanisms and established protocols
- 5 on a regular basis.
- 6 E. While attending meetings of the IATTC, WCPFC, or other Regional Fishery
- 7 Management Organization dealing with HMS in the Pacific Ocean,
- 8 1. the appointed Council representative Commissioners and the Council Executive
- 9 Directors shall have like privileges and immunities as accorded a diplomatic
- 10 agent under the appropriate Act and in conformity with international law, and
- 11 2. appointed members to advisory bodies shall have like privileges and immunities
- 12 as are accorded to members of the administrative and technical staff of a
- 13 mission under the appropriate Act and in conformity with international law.
- 14

15 **VIII. Agreement**

16 The terms of this MOU are agreed to and remain in effect until notice of termination by any
 17 party with six months notice. By authorized signature and date,

18
 19 Department of Commerce:

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 21 _____
 22 Signature Title Date

23
 24 Department of State:

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 26 _____
 27 Signature Title Date

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 29 Western Pacific Fishery Management Council:

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 31 _____
 32 Signature Title Date

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 34 Pacific Fishery Management Council:

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 36 _____
 37 Signature Title Date

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 39 North Pacific Fishery Management Council:

40
 41 _____
 42 Signature Title Date