

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 (02-20-2009 DOC/DOS Joint Draft)
8

9 **I. Parties**

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11 A. The parties to this Memorandum of Understanding (MOU) are the U.S. Department of
12 Commerce (DOC), the U.S. Department of State (DOS), the Western Pacific Fishery
13 Management Council (Western Pacific Council), the Pacific Fishery Management
14 Council (Pacific Council) and the North Pacific Fishery Management Council (North
15 Pacific Council).
16

17 **II. Purpose**

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19 A. Pursuant to authority established in the Western and Central Pacific Fisheries
20 Convention Implementation Act, Public Law 109-479 Section 503(f), the purpose of
21 this MOU is to clarify the roles of the Western Pacific, Pacific, and North Pacific
22 Councils (collectively, the Councils) with regard to international efforts by the United
23 States to manage highly migratory species (HMS) in the Pacific Ocean, including:
24 1. participation in U.S. delegations to international fishery organizations in the
25 Pacific Ocean, including government-to-government consultations;
26 2. providing formal recommendations to the DOC and DOS regarding necessary
27 measures for both domestic and foreign vessels fishing for HMS species;
28 3. coordinating positions within the U.S. delegation for presentation to the
29 appropriate international fishery organization; and
30 4. recommending those domestic fishing regulations that are consistent with the
31 actions of the international fishery organization, for approval and
32 implementation under the Magnuson-Stevens Fishery Conservation and
33 Management Act.
34

35 **III. Participation in U.S. Delegations to International Fishery Organizations in the Pacific
36 Ocean, including Government-to-Government Consultations**
37

38 A. Participation on U.S. delegations to the Inter-American Tropical Tuna Commission
39 (IATTC) and Western and Central Pacific Fisheries Commission (WCPFC).
40
41 1. The Councils are to be afforded the opportunity to participate directly on U.S.
42 delegations to meetings of the IATTC and WCPFC and their subsidiary bodies.
43 Such participation is to include at least one individual designated by each
44 Council, but may include additional Council representatives consistent with

1 limits on the size of the U.S. delegation and the need to ensure balanced
2 representation of all relevant stakeholders as determined by the Head of
3 Delegation in consultation with the DOS.
4

- 5 2. The DOC and DOS will make their best efforts to avoid scheduling conflicts
6 between meetings of the WCPFC and IATTC and their subsidiary bodies and
7 meetings of the Fishery Management Councils, with the understanding among
8 all parties to this MOU that such scheduling is often outside the control of the
9 U.S. delegation to any meeting.
10

11
12 B. The Councils are to be afforded the opportunity to participate on U.S. delegations to bi-
13 lateral or multi-lateral Government-to-Government consultations that are primarily on
14 WCPFC and IATTC issues. In cases where a Council member is also a Commissioner
15 or Alternate Commissioner, that Commissioner or Alternate Commissioner shall
16 represent the Council in the Government-to-Government consultation. In cases where
17 there is no Commissioner from the Council in question, the Council may designate a
18 representative.
19

20 C. As a general rule, and to the extent practicable, the Councils are to be afforded the
21 opportunity to participate on U.S. delegations to, and bi-lateral or multilateral
22 Government to Government consultations at, other announced meetings of international
23 fisheries organizations, in addition to the IATTC and WCPFC, dealing with fishery
24 management issues for Pacific HMS stocks associated with a respective Council.
25

26 D. Should circumstances warrant, the Head of Delegation, in consultation with the DOS,
27 may restrict participation in Government-to-Government consultations to Government
28 personnel and appointed Commissioners or Alternate Commissioners.
29

30 E. The DOC and DOS will seek to minimize the number of IATTC or WCPFC meetings
31 at which attendance by the full delegation is restricted. Where such restricted meetings
32 cannot be avoided, and except for situations described in Section III.D of this
33 Memorandum, DOC and DOS will afford the opportunity for a Council representative
34 to attend any such restricted meetings.
35
36

37 **IV. Providing Formal Recommendations to the DOC and DOS regarding Necessary**
38 **Measures for both Domestic and Foreign Vessel Fishing for Pacific HMS Species**
39

40 A. The IATTC forum.

- 41 1. The Councils may, at any time, provide formal recommendations to the DOC
42 and DOS Secretaries, or their representatives, regarding necessary measures for
43 the conservation and management of the HMS stocks under the purview of the
44 IATTC.
45

- 1 2. Formal recommendations, if possible, shall be submitted to the DOC and DOS
2 Secretaries at least two weeks prior to any noticed meeting of the IATTC, but
3 may be submitted at any time prior to or following the conclusion of such
4 meeting, including any direct follow up activities.
5
6 3. Formal recommendations, if completed prior to any meetings of the General
7 Advisory Committee (GAC) of the IATTC, shall be submitted by the Councils
8 to the GAC of the IATTC for evaluation and recommendation to the U.S.
9 delegation.

10
11 **B. The WCPFC forum.**

- 12
13 1. The Councils may, at any time, provide formal recommendations to the DOC
14 and DOS Secretaries, or their representatives, regarding necessary measures for
15 the conservation and management of the HMS stocks under the purview of the
16 WCPFC.
17
18 2. Formal recommendations, if completed prior to any meetings of the WCPFC
19 Advisory Committee, established pursuant to the WCPFC Implementation Act,
20 shall be submitted by the Councils to the Advisory Committee for their
21 evaluation and recommendation to the U.S. delegation.
22
23 3. The Councils will submit recommendations pursuant to Magnuson-Stevens Act
24 section 304(i) to the DOC and DOS Secretaries, or their representatives, in
25 accordance with the process established in that section.
26

27 **V. Coordinating Positions within the U.S. Delegation for Presentation to the Appropriate**
28 **International Fishery Organization**

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31 A. Coordination of potential U.S. positions at the advisory body level.

- 32 1. The Pacific and the Western Pacific Councils shall be provided one seat each on
33 the IATTC GAC.
34
35 2. The Pacific and Western Pacific Councils shall be afforded one seat each on the
36 Advisory Committee for the WCPFC as ex-officio Committee members and
37 shall have the same status and rights of participation as appointed members.
38
39 3. To provide, to the maximum extent possible, an equitable balance among
40 individuals from the various groups concerned with the fisheries covered by the
41 WCPFC Convention, the Secretary of Commerce, in consultation with the
42 United States Commissioners, will appoint not less than 15 nor more than 20
43 individuals to the WCPFC Advisory Committee from the various groups in each
44 of the Pacific and Western Pacific Council areas, including among others, the
45 albacore troll, longline and purse seine fisheries, commercial fish processors,
46 recreational fisheries, and conservation and consumer groups.

- 1
2 4. Formally established advisory bodies to aid U.S. delegations to International
3 Fishery Organizations shall be convened in a timely manner relative to
4 providing recommendations to a meeting of U.S. Commissioners in advance of
5 formal meetings of the International Fishery Organizations.
6

7 B. Coordination of U.S. positions in advance of formal meetings.

8 Prior to meetings of the WCPFC and IATTC and their subsidiary bodies, or
9 other international fishery organizations that deal with Pacific HMS stocks, the
10 DOC and DOS shall meet with Council-designated representatives in a timely
11 manner so as to provide the opportunity for discussion of relevant
12 recommendations and the development of U.S. positions in advance of the
13 meetings.
14

15 C. Coordination of final U.S. positions.

- 16 1. At meetings of the WCPFC or its subsidiary bodies, including the Northern
17 Committee, U.S. Commissioners shall strive for consensus in developing final
18 U.S. positions for presentation or motion making
19

20 **VI. Recommending Domestic Fishing Regulations that are Consistent with the Actions of**
21 **the International Fishery Organization, for Approval and Implementation under the**
22 **Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)**
23

24 Representatives of the Councils, DOC and DOS will, as soon as practicable after each
25 WCPFC or IATTC plenary meeting, review the outcomes of the meetings and, in the event
26 that the United States subsequently approves the decisions resulting from such meetings,
27 identify regulatory actions that might be needed to ensure domestic fishing regulations are
28 consistent with such approved decisions of the two organizations and appropriate legal
29 authority(ies). To the extent permitted by Section 505(a) of the WCPFC Implementation
30 Act, the Councils may recommend to the Secretary of Commerce those domestic fishing
31 regulations that are consistent with the actions of the international fisheries organization for
32 promulgation under that Section, the Magnuson-Stevens Fishery Conservation and
33 Management Act, or other authorities as appropriate.
34

35 **VII. Miscellaneous Matters**
36

- 37 A. If any new international fishery organizations are formed that have a substantial interest
38 in HMS in the Pacific, the Councils, DOS and DOC will review this MOU and modify,
39 as appropriate.
40
41 B. Following U.S. ratification of the Antigua Convention, the elements of this MOU that
42 refer to the IATTC shall apply, *mutatis mutandis*, to the Antigua Convention, unless
43 enacted implementing legislation significantly alters existing U.S. responsibilities,
44 protocols, or procedures, in which case the provisions of Section VII.A shall apply.
45

1 C. This MOU shall be reviewed for efficacy of the mechanisms and established protocols
2 on a regular basis.
3

4 **II. Agreement**
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6 The terms of this MOU are agreed to and remain in effect until notice of termination by any
7 party with six months notice. By authorized signature and date,
8

9 Department of Commerce:
10

11 _____
12 Signature Title Date
13

14 Department of State:
15

16 _____
17 Signature Title Date
18

19 Western Pacific Fishery Management Council:
20

21 _____
22 Signature Title Date
23

24 Pacific Fishery Management Council:
25

26 _____
27 Signature Title Date
28

29 North Pacific Fishery Management Council:
30

31 _____
32 Signature Title Date
33