

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON  
FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

The Highly Migratory Species Advisory Subpanel (HMSAS) respectfully request that the Council put on its September 2013 meeting agenda as an action item to comment on two pending bills which should have been reviewed by the Legislative Committee of the Council. These two bills are **S.269** and **H.R. 69** and they relate to implementing legislation for the Antigua Convention. The background on this legislation follows.

The Antigua Convention is the revised Inter-American Tropical Tuna Convention (IATTC) convention, which the U.S. was instrumental in negotiating over 10 years ago. The U.S. has not deposited its instrument of ratification yet, since to date no implementing legislation has been passed, even though the Senate several years ago gave its advice and consent to the Convention.

The implementing legislation for the original IATTC treaty is called the Tuna Conventions Act of 1950, (16 U.S.C. 951). Title IV of **H.R. 269** amends the Act to bring it up to date with the revised Convention. Fortunately, the drafters of the revision kept existing language which benefits U.S. commercial fishermen. We believe this original language, which does not contravene the revised Convention, needs to be retained. That section states that in making regulations, the Secretary of Commerce shall:

in no event . . . [make those regulations effective] . . . prior to an agreed date for the application by *all countries* whose vessels engage in fishing for the species covered by the Convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the Commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary *shall suspend* the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the Commission's recommendations. (Emphasis added.)

The language in Section 405 of Title IV of **S. 269** correctly amends Section 6 of the Tuna Conventions Act, by inserting subsections (a) and (b) and leaving Section 6(c) of the Tuna Conventions Act intact. The problem is that the companion bill in the House, **H.R. 69** takes a different approach. In Title II, Section 206, of that bill the language replaces the entire Section 6 of the Tuna Conventions Act by inserting the same language in subsections (a) and (b) that are in **S.269** but deletes subsection (c). Eventually, these bills will have to be rectified in a Conference Committee. It is extremely important that the language of subsection (c) be retained.

This language is critically important to assure that the U.S. fleet fishing for highly migratory species is not disadvantaged in the face of competition from foreign fleets fishing for the same

species. The history of regional fisheries management organizations is replete with examples of the U.S. passing and enforcing regulations to conserve and manage marine resources, only to

have other countries, members of the same organization, fail to pass, or more often, fail to enforce similar regulations. This has often had the effect of putting U.S. fishermen out of business when they are following the spirit and intent of internationally agreed to measures, but their foreign counterparts are not being similarly regulated by their governments.

PFMC

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