

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON COUNCIL
OPERATING PROCEDURE FOR MAKING HIGHLY MIGRATORY SPECIES
RECOMMENDATIONS TO REGIONAL FISHERY MANAGEMENT ORGANIZATIONS

Memorandum of Understanding

The Highly Migratory Species Advisory Subpanel (HMSAS) reviewed the draft Memorandum of Understanding (MOU) in conjunction with the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) and recommends that the MOU be amended to allow for broader and more balanced stakeholder representation on the Western and Central Pacific Fisheries Commission (WCPFC) Advisory Committee. Specifically, the HMSAS is concerned that the MOU is biased towards the Western Pacific region. As such, HMSAS advises the Council to amend Section V.C of the MOU to: (1) designate an additional seat for the Chair of the Pacific Fishery Management Council's HMSAS; and (2) replace the seat for one Pacific Council area albacore troll fishery representative with two or three commercial-at-large fisheries representatives from the Pacific region. Likewise, the three seats allocated to representatives of the Western Pacific longline, troll, and hook and line fisheries should be re-designated more generally as two or three commercial-at-large fisheries seats.

Council Operating Procedures

The HMSAS also reviewed the draft Council Operating Procedure (COP) document which is designed to facilitate coordination and communication of management advice between the Regional Fishery Management Councils and the Regional Fishery Management Organizations (RFMOs) that operate in the Pacific. Attached to this report and incorporated by reference is a red-line version of the draft COP document.

Magnuson-Stevens Act Reauthorization

The HMSAS submits these initial comments with regard to annual catch limit accountability measures under Agenda Item J.5. These comments apply equally and should be considered along with other comments on Agenda Item C.2. HMSAS members expressed the following concerns:

- (1) Does Section 104(b) of the reauthorized MSA exempt HMS fisheries that are managed internationally from the Council's jurisdiction (Section 303(a)(15)), and thus is the Council responsible or able to establish annual catch limits?
- (2) If HMS fisheries are not exempt from Section 303(a)(15), then are they exempt due to the current measures of the IATTC & WCPFC qualifying as measures "provided under international agreement?"

The HMSAS would like clarification about how these new provisions of the Magnuson-Stevens Act will affect this Council's authority to set regulations for U.S. HMS fisheries, and if that new authority will, in some way, disadvantage U.S. vessels relative to the fleets of other nations.

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COUNCIL OPERATING PROCEDURE
**Highly Migratory Species Management Recommendations
to Regional Fishery Management Organizations**

Approved by Council:
Reviewed:

PURPOSE

To facilitate effective coordination and communication of management advice, in concert with the Western Pacific Fishery Management Council (WPFMC) and through the appropriate U.S. commissions, U.S. advisory committees and, to the extent practicable, the members of the U.S. delegation, between the Councils and regional fishery management organizations (RFMOs) involved in HMS management in the Pacific Ocean. This Operating Procedure will be consistent with the Memorandum of Understanding described at §503(f) in the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

BACKGROUND

Highly migratory species are wide-ranging, likely to be fished by multi-national fleets beyond U.S. waters, have productivity potentials ranging from very low to very high, and can seldom be directly surveyed for abundance. Their management usually requires international cooperation, for which there must be active U.S. participation at international forums. The principal forum is the Inter-American Tropical Tuna Commission (IATTC), a multi-lateral organization, which, through its member nations and parties, manages in HMS in the eastern Pacific Ocean, generally east of 150° W longitude. The IATTC normally holds an annual meeting in June, during which parties may adopt resolutions outlining measures to be implemented through member states and parties, for example by domestic regulation. The Western and Central Pacific Fisheries Commission (WCPFC), through agreement by member states and parties, has jurisdiction over HMS in the Pacific Ocean generally west of 150° W longitude. The WCPFC normally holds its annual meeting in December. In addition, one of the five U.S. Commissioner seats for this organization is reserved for the chairman or member of the Pacific Council. Many of the species in the management unit are also within the management unit for the WPFMC's Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region there is a need to coordinate management advice with the WPFMC. This operating procedure outlines measures to facilitate the communication of recommendations from the Council to RFMOs and for the Council to consider RFMO actions requiring a response within the domestic management framework.

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PARTICIPATION IN RFMO MEETINGS

Subject to the Memorandum of Understanding referenced above, representatives of the Council participate in the U.S. delegations to Pacific Ocean RFMOs and are included in all delegation meetings. Participation may include Council members, members of the HMSMT and HMSAS, and Council staff.

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REVIEW OF STOCK ASSESSMENT AND OTHER SCIENTIFIC INFORMATION

NMFS SWFSC will provide a report to the Council annually on stock assessments completed in the previous year and any other scientific reports relevant to issues taken up by RFMOs (e.g., bycatch, fleet capacity). The SWFSC will also report on upcoming stock assessments and/or reports to facilitate Council planning. (Stock assessments for HMS are typically prepared by organizations outside the purview of the Council, such as the IATTC, International Scientific Committee for Tuna and Tuna-like Species, and the Scientific Committee of the WCPFC.) The Council may ask its SSC to review and provide advice on stock assessments. If a stock assessment will form the basis for a Secretarial status determination (i.e., overfishing or overfished) the SSC shall be directed to review and report, and the Council to comment, before the status determination is formally communicated.

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The RFMO science issues report will normally be delivered at the **September** or **November** Council meeting.

RECOMMENDATIONS TO THE IATTC – U.S. SECTION

The HMSMT will prepare a report containing draft recommendations for a Council position on issues that will be addressed at the next annual IATTC meeting. The HMSAS will review this report and provide their comments. They may provide a separate set of recommendations or combine them with those made by the HMSMT. To promote greater coordination and communication between the WPFMC and the PFMIC, the HMSMT shall solicit input from the WPFMC's Pelagics Plan Team.

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The Council will review the HMSMT and HMSAS reports and any other relevant information and finalize Council recommendations to the U.S. Section to the IATTC. These recommendations will be forwarded to the U.S. Section through the NMFS SW Regional Administrator with copies made to the Chair of the General Advisory Committee for the IATTC and the Executive Director of the WPFMC.

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The recommendations to the IATTC will normally be forwarded after the **April** Council meeting. In some circumstances the Council may need to revisit their recommendations at the **June** Council meeting because of extraordinary developments. Because the IATTC annual meeting normally occurs shortly after the June Council meeting, special arrangements may be needed to communicate revised recommendations to the U.S. Section. This could be accomplished by inviting U.S. Commissioners to the June meeting and/or having Council members, advisory body members, or staff attend the IATTC meeting as part of the U.S. delegation.

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IATTC MEASURES – DOMESTIC IMPLEMENTATION

The NMFS SW Regional Administrator will report to the Council on any action by the IATTC that requires the implementation of domestic management measures under the HMS FMP. The report may include the time period within which Council action is required.

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Depending on the type of action required, the Council follows established procedures (in either the Operating Procedures or the FMP) for an FMP amendment, regulatory adjustment within the FMP framework, or other type of action.

The Regional Administrator's report on IATTC activities will normally be delivered at the **September** Council meeting.

RECOMMENDATIONS TO THE WCPFC – COUNCIL COMMISSIONER

Section 503(a) of the Magnuson-Stevens Reauthorization Act of 2006 states that one of the five Commissioners for the WCPFC will be the chairman or member of the Pacific Council. The Council will forward its advice through this Commissioner for the development and negotiation of the U.S. position on issues before the WCPFC. Subject to the Memorandum of Understanding referenced above, other members of the Council, members of the HMSMT and HMSAS, and Council staff may join the U.S. delegation.

The HMSMT will prepare a report containing advice for the Council with respect to issues that will be addressed at the next annual WCPFC meeting. The HMSAS will review this report and provide their comments. They may provide a separate set of recommendations or combine them with those made by the HMSMT. To promote greater coordination and communication between the WPFMC and the PFMC, the HMSMT ~~shall~~ solicit input from the WPFMC's Pelagics Plan Team.

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The Council will review the HMSMT and HMSAS reports and any other relevant information and formulate any recommendations for the Council member serving on the U.S. Commission. Recommendations formulated by the Council also may be communicated to the Executive Director of the WPFMC in advance of the WCPFC annual meeting.

The development of recommendations to the Commissioner will normally occur at the **November** Council meeting.

WCPFC MEASURES – DOMESTIC IMPLEMENTATION

The NMFS SW Regional Administrator will report to the Council on any action by the WCPFC that requires the implementation of domestic management measures under the HMS FMP. The report may include the time period within which Council action is required.

Depending on the type of action required, the Council follows established procedures (in either the Operating Procedures or the FMP) for an FMP amendment, regulatory adjustment within the FMP framework, or other type of action.

The Regional Administrator's report on WCPFC activities normally will be delivered at the **April** Council meeting.

ADJUSTMENTS TO THE TIMING OF COUNCIL ACTIVITIES

Although Council meetings at which RFMO-related activities will normally occur have been identified in this COP, the Council may reschedule these activities as appropriate.

NOMINATIONS FOR RFMO ADVISORY COMMITTEES

Advisory committees to the U.S. Commissioners for both the IATTC and WCPFC have been established under U.S. law (§953 of the Tuna Conventions Act and §503(d) of the Western and Central Pacific Fisheries Convention Implementation Act, respectively). IATTC Advisory Committee members serve for a three-year term; the WCPFC Advisory Committee members serve for a two-year term. Members are selected by the Secretary of Commerce (WCPFC) or State (IATTC) from nominees who represent various groups concerned with fisheries in the respective RFMO regions. When nominations are solicited, the Council may propose nominees. Council nominees should be active in the Council process and willing to present viewpoints consistent with any Council policies related to HMS management, in addition to representing the viewpoints of their own group. In identifying nominees, the Council should consider representatives from the following groups: commercial [West Coast HMS fisheries](#), West Coast recreational fisheries for HMS species, West Coast HMS processors, and nongovernmental conservation organizations. West Coast HMS processors may include companies that have facilities and operations in areas other than the West Coast, but have some West Coast presence (for example, their company headquarters).

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