

Blue Water Fishermen's Association  
American Bluefin Tuna Association  
General Category Tuna Association  
North Shore Community Tuna Association  
Garden State Seafood Association  
North Carolina Fisheries Association

September 11, 2009

Mr. Robert R. Gabrel, Chief  
Division of Management Authority  
U.S. Fish and Wildlife Service  
4401 North Fairfax Drive  
Room 212  
Arlington, VA 22203

Re: Cop15 & Northern Atlantic Bluefin Tuna

Dear Mr. Gabrel:

The above organizations represent United States commercial and recreational fishermen who fish and trade in Atlantic bluefin tuna, bigeye tuna, yellowfin tuna and swordfish along with other highly migratory species. Our membership and businesses span from Maine to Texas representing the interest of thousands of fishermen and individuals employed in industries supporting the catching processing and transportation of these valuable fish. In short, we are adamantly opposed to any CITES listing for Atlantic bluefin tuna and reject suggestions that US support for a listing is an acceptable strategy for creating pressure to coerce the International Commission for Atlantic Tunas (ICCAT) and the European Community to follow the international scientific advice to reduce eastern Atlantic catch quotas, fishing mortality and effort to sustainable levels. We believe such a coercive strategy to be fundamentally flawed as we will explain.

Before providing our rationale for our opposition to a CITES listing allow me to provide some background. I was very involved, as your files will indicate, through the East Coast Tuna Association in the 1992 effort by Carl Safina and Michael Sutton of WWF to utilize Sweden to propose a CITES 2 listing at the Kyoto meeting (which I also attended). The Sweden proposal was, of course, opposed by ICCAT and the U.S. and ultimately defeated. I have attended every ICCAT meeting since then and have experienced first-hand the irresponsible bluefin policies, inaction and deceitful practices of France and Spain at ICCAT until the European Community assumed responsibility for all EC members in 1997 and institutionalized the irresponsible bluefin fishery management policies and took them to an even higher, more outrageous and blatantly irresponsible level since 1997. I want to provide just a few examples of the EC's and other North African country outrageous actions at ICCAT in recent years.

- Despite stinging, repeated, criticism from ICCAT's Standing Committee on Research and Statistics (SCRS), the EC consistently fails to provide basic catch data, provides inaccurate and incomplete data and provides minimal data too late to be included in stock assessments. This has hindered the scientific capability to conduct high quality stock assessments and to have high confidence in results and advice beyond the certainty that gross eastern Atlantic and Mediterranean overfishing is occurring and threatening the eastern fishery and possible population collapse
- Despite repeated advice from SCRS of non compliance with minimum sizes, the EC has allowed continued catches of fish under the original 6.4 kg sometimes constituting as much as 55% of the total catch estimated by ICCAT scientists
- In response to sharp, multiple year Compliance Committee criticism on catches of undersize fish the EC responded by lying on future compliance reports by claiming zero catches of undersize fish. At the ICCAT meeting in Marseille, France in May of 2004, I purchased and brought to the ICCAT meeting undersized fish found at markets within 500 yards of the meeting hall. We published photographic evidence of the continuing abuse of the minimum size limit in US trade publications
- At the Rio de Janeiro, Brazil 1999 meeting the EC on behalf of France retroactively and unilaterally increased its quota by 10,223 mt to cover prior overages. The U.S. fought for 3 years to get the EC to retract the blatant illegal quota grab to no avail despite repeated NOAA General Counsel legal memorandum of their impossible interpretation of the prior quota agreement
- Without question however, the most dastardly and irresponsible action of the EC began in 2001 at the Murcia, Spain meeting. Here the EC, on the last day of the meeting, proposed their 4 year "stability" plan purportedly to provide all eastern parties time to develop domestic management infrastructure necessary to collect and submit data and control their Mediterranean fisheries to stay within quota. To achieve this they demanded the quota start at 35,118 mt which exceeded scientific advice for maximum "replacement yield" of 25,000. Fortunately, our Commissioners Rollie Schmitt and Glenn Delaney, with full support of US ICCAT delegation decided to block consensus, a major break with historical US policy. The US action stunned the EC especially given their normal strategy of waiting to the last day to submit a proposal backfiring due to some of their parties leaving early and denying them the necessary votes to override the US block.
- Unfortunately, at the 2002 meeting the EC came prepared with the votes to ram the outrageous 4 year "stability" plan through and they also threaten to deny the US primary objective for an agreement protecting billfish, should we have decided to attempt a blocking coalition. They got their 4 year plan which in hindsight was a complete fraud designed to dramatically build up, with major EC subsidies and investments of Japanese conglomerates, farm capacity (from a handful of farms to more than 60 today) and fishing capacity and no significant steps were taken to develop monitoring, enforcement, or data collection and submission capabilities as promised. The proof is that estimated catches rose dramatically during this period from the mid 30,000 mt range to an SCRS/WWF estimate of in excess of 61,000 mt, in 2007 while the scientific advice was dropping to a recommended level of 15,000 mt or less due to a worsening resource condition.
- Finally, the EC is not the only guilty party. Morocco and Algeria continued to object to the shares established by the EC and continued with their "autonomous quotas" set higher than their historical catches. Turkey also ignored the quota in several years and rapidly developed their farm capacity during the so called "stability" period.

Nothing in my following comments should be construed as an excuse for the reckless and dastardly policies of the EC cited above and other Mediterranean countries and their representatives implementing their greedy, self serving industry pressured policies. A review of the ICCAT documents from 1996 reveal the identities of the major players for current and future generations desiring to know the identities of the EC individuals responsible for the condition of the eastern Atlantic stock now at risk of fishery collapse according to ICCAT Standing Committee on Research Statistics (SCRS), which (the SCRS) constitutes the most competent body of scientist qualified to provide advice on the status of the eastern and western stock components.

### **CITES LISTING IS NOT THE REMEDY FOR THE EASTERN/MEDITERRANEAN FAILURE TO CONSERVE**

Article II Fundamental Principles of the Text of the CITES states as follows:

1. Appendix I shall include all species threatened with extinction which are or may be affected trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances. (See January 1978 Fish and Wildlife Service, U.S. Department of the Interior TEXT of the Convention on International Trade in Endangered Species of Wild Fauna and Flora)

We understand the definition of "extinct" from the American Heritage Dictionary of the English Language to mean "(2) No longer existing in living form; having died out" and extinction as "the act of extinguishing or making extinct".

The latest 2008 ICCAT SCRS stock assessment provides no evidence or suggestion of a threat of northern Atlantic bluefin tuna (BFT) going biologically extinct. Indeed, we have not seen any suggestion by any mainstream, credible bluefin tuna scientists to the effect that there is any significant level of capability of a fishery or mankind to fish a species with the reproductive strategy of a highly migratory, highly fecund, widely distributed tuna species such as the Atlantic bluefin tuna. The known minimal historical distribution range of BFT is from Argentina in the South Atlantic to off Northern Norway close to the Southern boundaries of the Arctic Circle. A single mature eastern BFT from 3 or 4 years of age and above is capable of anywhere from 2 million to 300 million eggs during the spawning cycle. Bluefin tuna electronic tagging data demonstrates diving and swimming capabilities to well over depths of 1,000 meters beyond the capability of most commonly used fishing gears for highly migratory species.

Clearly, catch rates would simply be astonishingly uneconomic for fishermen to undertake the pursuit of the last several hundred or several thousand pairs of mature BFT given the range and migratory speed of the animal. Nearly 40 years ago, Frank Mather demonstrated by conventional tagging that giant BFT could travel from the Bahamas to Norway in 55 days, nearly a 6,000 mile journey.

Further, Table 4 of the latest stock assessment suggest a remarkable capacity of the eastern Atlantic spawning stock to not only be abused but to compensate. Over the last 52 years the spawning stock biomass estimated by the Virtual Population Analysis

suggest an average biomass of approximately 219,692 fish and an average recruitment of approximately 2,152,828 fish. In the last 10 years the average spawning stock biomass has dropped almost in half to 123,065 but average recruitment has increased to 2,408,603 fish, a quarter of million increase in fish recruiting. This is not to suggest justification of irresponsible lack of control on fishing mortality of the SSB. Rather, the point is just to note, given the numbers recruiting with declining SSB, a stock recruitment relationship cannot be the justification for an argument of extinction or CITES listing

The latest 2008 ICCAT eastern stock assessment by ICCAT's SCRS stock assessment does suggest a risk of fishery collapse for the eastern Atlantic and Mediterranean stock not to be confused with species extinction should the Mediterranean fisheries catch and effort for BFT remain out of control. Through the years there are many examples of fishery collapses which have not led to biological extinction of any tuna stock. Many scientists now seem to prefer describing BFT as "metapopulations" or "contingent hypothesis" group theories with one of the implications being survival of the species even if one or more of the sub-populations is under extreme stress and fishing pressure. Though much progress has been made in the last two decades, much remains unknown about BFT stock structure, life history, migration habits and spawning practices throughout the North Atlantic Ocean. Dr. David Secor in 1999 described the divergent migration behaviors and population or habitat use within a population by quoting Clark (1968) referring to striped bass as:

"A contingent is ... a group of fish ... (which) appears to maintain its integrity by engaging in a distinct pattern of seasonal migration not shared by fish of other contingents"

Dr. Douglas Clay (Canada, DFO) also in the early 1990's, after monitoring more than a decade of seasonal catches in the "Hell Hole" (a fishing ground between southern Nova Scotia and Northern Georges Bank) described a similar view but described the theory more simply in terms of BFT "assemblages" that appeared to remain together mostly for their life span adopting the same spawning, feeding and migration pattern. Clay suggested that the "assemblages" appeared to remain intact until fishing and natural mortality reduced the assemblage to the point it disappeared or became so small that survivors might attach to another encountered assemblage for the remainder of their life.

In recent years, there seems to be some consensus that, at least three distinct populations of BFT exist: an eastern Mediterranean population which while potentially mixing with western Mediterranean BFT rarely leave the Mediterranean Sea; the largest spawning stock of BFT the western Mediterranean stock which migrates and feeds throughout the Mediterranean Sea and the western Atlantic Ocean (with the exception of the Gulf of Mexico) and the western Atlantic BFT which spawns in the Gulf and migrates and feeds on both sides of the Atlantic and may enter the Mediterranean (4.5% of a sample of farmed fish through microconstituent analysis) but does not likely spawn when present there. More recent electronic tags seem to be leading at least two prolific BFT tagging scientists to suspect a third spawning assemblage in the Atlantic possibly locating in the central Atlantic, northeast of Bermuda or east of Bahamas or the Caribbean Sea. Prior evidence of bluefin larvae in the Gulf of Guinea and off North Carolina has been published.

To say the least, the current understanding of population structure is complex and could be better. For the non-scientists, (such as myself) where the current theories and data seem to converge is that there are distinct "contingents" or "assemblages" coming from multiple origins that appear to stick together

through most of their travels, feeding and spawning. One can view this as “assemblages”, “contingents” or waves of young of the year leaving the spawning grounds after several months of growth and beginning these discrete patterns of migrations to feeding grounds some of which may or may not include coastal areas or established traditional fishing grounds. It is possible that for several years some assemblages avoid entirely fishing mortality of any significance due to their migration pattern and at some point alter a migration habit and begin a routine or not so routine visit to a fishing ground. The change may be environmentally induced by factors such as water temperature or absence or declining feed in a traditional location. There is no authority in the world that can claim an adequate understanding of the migratory patterns of all assemblages of BFT on the basis of less than two thousand electronic tags or several thousand conventional tags.

We believe that the view described above is the proper context to view the potential eastern “fishery collapse” of a contingent or assemblage i.e. there is no threat of extinction to the stock but may well be danger to an assemblage, maybe a very large assemblage of BFT being fished down or out.

In 2008 Dr. Jean –Marc Fromentin describes the sudden collapse of the BFT collapse in the Norwegian Sea and North Sea and opines on the possible causes including changes in migratory routes, recruitment failure or eradication of a sub-population (metapopulation or assemblage?). He also offers alternative hypotheses of a strong link to Spanish trap fisheries and development of fisheries along the coast of the Northwest Atlantic e.g. U.S. and Canadian purse seine fisheries and recreational fisheries on juveniles, all plausible contributory causes but no definitive identification. He concludes that “this retrospective analysis finally leads to an original – albeit more speculative- hypothesis concerning Atlantic bluefin tuna population structure, therein conjectured as an assemblage of at least three sub-populations”.

Our point in raising the collapse of the Nordic fisheries some 51 years ago, is to recall Japanese joint ventures with both Iceland and Norway in the 1990’s for exploratory fisheries which produced catches sometimes exceeding 100 tons. Clearly an uneconomic fishery situation, but no doubt some evidence that collapsed fisheries cannot be interpreted as being based on extinction of the populations once supporting strong fisheries. Occasional catches since the collapse of the Brazilian fishery in the 1960’s might also suggest collapse cannot be linked with extinction. Without investigating whether there has been any level of targeted effort, Brazil still occasionally reports landings of BFT such as in 1999 when 13 metric tons were reported to ICCAT. Japanese reported catches of BFT to ICCAT do not distinguish catches from which region in the formal stock assessment report, although the data is in the hands of their scientists.

### **Southern Bluefin Tuna**

This is to include a short note about the relevance/similarity of the northern bluefin tuna situation to the southern bluefin tuna now under the management of the Commission for the Conservation of Southern Bluefin Tuna (CCCSBT) since the establishment of the Commission in 1994. In the early 1960’s catches of southern bluefin tuna reached in excess of 80,000 metric tons. Catches began a fairly significant decline and by 1989 the recognition of stock collapse was accepted by the participating fishing nations when the total catch (with no formal international agreement implementing any restrictive catch measures) dropped to the 10,000 to 15,000 mt level. 20 years later the Total Allowable Catch for the “collapsed” fishery is now set by the CCCSBT at 11,810 mt. Another example to demonstrate that with a

highly migratory, highly fecund tuna species -- collapse of the fishery is not an indication of threat of extinction or imminent extinction of the species.

### **Downside of CITES I Listing of Northern Atlantic Bluefin Tuna**

There is a formal "objection" provision to CITES listing of any species that any CITES Treaty signatory can avail themselves of to preserve their sovereignty and legitimate view. Such a formally lodged objection frees the objecting nation from the CITES restrictions on international trade. Japan is the major importer of tuna species worldwide. Japan has objected 7 times to any CITES listing of any marine species. There is little rational reason to suspect a change in this CITES objection policy given the cultural, social, economic and health dependence on tuna species to the citizenry of Japan.

The implications of a Japanese objection – open Japan market to imports – on the integrity of CITES or the effectiveness of a CITES I listing need to be considered. The most serious negative ramification resulting from the Japanese objective would likely be an incentive to Libya (one of the last productive eastern Mediterranean spawning grounds), Turkey, Algeria, Taiwan, Philippines, etc. to see the obvious likely windfall profits in price increases due to supply shortages from countries likely to abide by the CITES decision. If this were to occur, the precedent would be set (if not already established) and undermine future legitimate candidate species for CITES protection. This is a potential downfall for consideration by all those suggesting CITES as a leverage play to apply pressure to the EC – i.e. what if it passes and the Japanese market remains open? Will this not encourage additional opportunistic objections?

### **Western Northern Atlantic Bluefin Tuna**

Since 1981, indeed since 1974, the U.S. and other western Atlantic parties to ICCAT have been following the scientific advice of the ICCAT SCRS. It is worthy of recognition, that the U.S bluefin tuna and pelagic longline industry have participated in the ICCAT scientific analysis and domestic and international scientific research into questions of stock structure, mixing issues and abundance levels, both in the bluefin and swordfish arena with circle hook and bycatch reduction fishing practices. We have pressed relentlessly for an effective, efficient and equitable BFT conservation plan based on the best science and when we felt the science was inadequate we have pressed further to improve the science to get effective conservation underway. This insistence and costly efforts to our industries has produced much progress in scientific understanding and environmental friendly fishing practices even though we have mostly failed to convince the U.S. government to not engage in unilateral highly migratory species measures or to not give up leverage by "leading with our chin or by example" which has proved to be an utterly failed strategic policy with the EC and others and one exceptional costly to the American economy and coastal fishing families and businesses.

In any case, the biological situation with BFT in the western Atlantic tuna is quite distinct from the eastern situation which is driving the current efforts for a CITES listing. The latest western stock assessment demonstrates that with the 2010 reduction in western quota to 1,800 mt (actual catches are already considerably less) we technically will no longer be overfishing the

resource. Under ICCAT's SCRS guidance, a conservative scenario of 1,800 mt catch the western stock will be rebuilt to the biomass that produces maximum sustainable yield under the low recruitment scenario by 2015, essentially in 5 years or less given current catches below the suggested TAC.

Thus, an Appendix I listing to bluefin would punish, inflict severe economic injury, devastate fishing families of the countries most responsible for improving scientific understanding of the resource and following the scientific advice. What possible justification can be given for such a cruel and unfair treatment of U.S. and Canadian fishermen in the West Atlantic? This would be a particularly dishonorable international disgrace and injustice when you realize there is no real threat of extinction of the stock anywhere but a strong desire on the part of a few groups/governments lacking the political will to force the violating countries into compliance. All of the measures are in place for trade restrictions in Japan and the U.S. to accomplish the objective of restricting catches by denying markets and profitable farming and fishing.

In the U.S recent changes to the Magnuson-Stevens Act and the Driftnet Moratorium Protection Act (promoted by the Blue Water Fishermen's Association) allow the U.S to deny access to countries including ICCAT member nations that are violating ICCAT conservation agreements, minimum sizes, quotas, closed areas, practicing Illegal, Unregulated and Unreported (IUU) fishing or not employing similar ecosystem friendly fishing practices. At ICCAT, the 2008 thirty one page agreement "Amending The Recommendation by ICCAT to Establish a Multilateral Recovery Plan for Bluefin Tuna in the Eastern Atlantic and Mediterranean", if implemented, provides the infrastructure and capability to get the eastern fisheries under control for the first time. What is lacking is EC leadership, U.S State and Commerce Department prioritization to make it clear that bluefin conservation will become a reality or else there will be serious international ramifications.

Some have suggested that a CITES listing could be employed only to bring under control the eastern fisheries and that the western fisheries could continue their domestic fisheries under authorized ICCAT quotas and essentially retain status quo. The reality of the North American markets for bluefin defy this interpretation. First, Canada has no significant domestic market for its bluefin tuna nor for swordfish. In the U.S., although we are a net importer of BFT (and swordfish) the U.S. market would not absorb our legitimate, sustainable production of BFT in the timeframe that they are traditionally available to our fishery i.e. June through October. The eastern U.S. seaboard lacks the minus 60 degree freezer capacity to store surplus seasonal production for the sashimi market and even if the capacity developed the product would likely lose significant value.

The 2008 Eastern ICCAT agreement fails to follow the scientific advice and the U.S. industry has already urged the U.S. government to demand reopening of the issue at the 2009 meeting in Recife, Brazil to change the recommendation and follow the scientific advice on catch limits and closed seasons. As noted, the 31 page agreement on the East, if implemented, develops the fishery management infrastructure to monitor and restrict fisheries to follow the scientific advice and properly manage eastern and Mediterranean bluefin tuna stock.

### **CITES Similar in Appearance Clause**

CITES Appendix II (b) makes provision for the inclusion of so-called "look-alike species" which are defined as species that are not threatened but, because they cannot be readily distinguished from the

threatened species, must also be included in the listing and prohibited from trade. It seems clear to us that this would most likely include, at a minimum, at least bigeye tuna, yellowfin tuna, Pacific bluefin tuna and Southern bluefin tuna. In 2006, 108,160 mt of Atlantic Ocean yellowfin tuna and in 2007 67,000 mt of bigeye tuna were caught and would likely be at risk. In the Pacific Ocean in 2008 an astonishing 539,786 mt of yellowfin tuna and 157,054 mt of bigeye catch would be at risk. The previously noted 11,000 mt of southern bluefin tuna would be at risk. We are aware that artificially propagated tunas might receive an exemption from the ban on international trade. Pacific bluefin tuna would also be affected but I do not have access to recent production levels.

In essence, a CITES I listing for northern Atlantic bluefin tuna could end worldwide international trade in tuna species affecting millions employed in tuna businesses or support industries and denying public access to one of the healthiest, most nutritious sources of life prolonging Omega 3 and Omega 6 and selenium available on the Earth.

We urge the U.S. Fish and Wildlife Service to reject and vigorously fight at CITES 2010 any listing of bluefin tuna. **There is no threat of extinction to northern Atlantic bluefin tuna despite the irresponsible fishing in the eastern Atlantic and the Mediterranean Sea!!!** We request your support of NOAA and the State Department to utilize any and all leverage with the EC to follow the ICCAT SCRS advice and ICCAT Convention Treaty to adopt conservation policies that will allow sustainable maximum yields of eastern Atlantic and Mediterranean bluefin tuna.

Sincerely,

Richard Ruais  
Executive Director  
Blue Water Fishermen's Association  
American Bluefin Tuna Association  
And on behalf of the above Coalition of organizations opposed to a Bluefin CITES listing

