

---

---

# □ CREATING AND IMPLEMENTING INTERNATIONAL FISHERIES CONSERVATION AGREEMENTS

---

*By Dean Swanson, Chief, International Fisheries Division, National Marine Fisheries Service*

*The way the United States approaches negotiation and implementation of fisheries agreements could serve as a model, says Dean Swanson of the National Marine Fisheries Service of the U.S. Department of Commerce. The inclusive, transparent process means all the difference in achieving results, he says.*

---

A remarkable process has evolved in the United States for negotiating and implementing international agreements for the conservation and management of living marine resources. It is remarkable for the close partnerships that have evolved between federal agencies, Congress, state governments, constituent groups, and the general public. It is remarkable for a process wherein lead responsibility for negotiations and implementation is constantly shifting among key agencies. And it is remarkable for the leadership exercised by the United States in achieving good negotiated agreements over decades.

## **THE PARTNERSHIPS**

A key ingredient to the inspiration, negotiation, and implementation of international agreements is a transparent and inclusive process. The inclusion of constituent representatives at all stages of the negotiation enriches the process itself, particularly in position development, communication, and intelligence gathering. It is not only because most such agreements will be subject to the advice and consent to ratification of the U.S. Senate that it is important to consult with congressional staffs; working with these staffs ensures that legislative programs are well informed and that a broader constituent base is reached.

The partnerships nurtured between the Department of State, the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA Fisheries), and the U.S. Coast Guard are central to negotiating these agreements. The State Department provides negotiating authority and expertise; NOAA Fisheries provides information on the state of the living marine resource; and U.S. and foreign fishers provide perspectives on implementation of the prospective

agreement, including aspects of enforcement. The U.S. Coast Guard has primary responsibility for monitoring and enforcing international agreements on living marine resources on the water. In some cases, state governments and U.S. native peoples also participate. Bringing together these complementary responsibilities and sources of expertise is the sine qua non of success in producing these agreements.

## **SHIFTING RESPONSIBILITIES**

Creation of an international agreement is achieved in three phases: pre-negotiation, negotiation, and implementation.

In the pre-negotiation phase, the State Department typically takes the lead, using its foreign policy authority and responsibility for handling communication through diplomatic channels to organize the negotiation activity, collect intelligence, and coordinate the development of U.S. positions. Among the involved federal agencies, NOAA Fisheries provides information and expertise regarding the resource and its users, implementation, and enforcement while the U.S. Coast Guard provides advice and expertise based on its enforcement responsibilities.

Representatives of these three agencies, other agencies, state governments and constituent groups typically become a team that plans for the negotiation and, with congressional input, serves as the U.S. delegation during the negotiation phase. Reaching agreement can take anywhere from a single session to decades.

If such a negotiation concludes successfully, implementing the agreement requires different responsibilities. Legislation from Congress for implementing the agreement usually confers living marine resource conservation and management duties on the secretary of commerce, who oversees NOAA Fisheries. NOAA Fisheries typically drafts this legislation and promulgates the regulations. Senior NOAA Fisheries officials assume decision-making roles on behalf of the U.S. government in any organization or arrangement created by the new agreement, such as serving as a U.S.

commissioner. While leadership shifts during the implementation stage, the agencies and groups participating in the process stay the same.

The monitoring and enforcement part of the implementation process becomes a shared responsibility with the U.S. Coast Guard responsible at sea and NOAA Fisheries onshore. When violations occur, NOAA Fisheries investigates and, in cooperation with the Coast Guard and the Department of Justice, prosecutes the cases. NOAA Fisheries collects data on the resource and its utilization, providing conservation and management activities with the best available scientific advice.

### **PRODUCTION OF RELEVANT INTERNATIONAL AGREEMENTS**

This team approach has produced numerous state-of-the-art living marine resource conservation and management agreements over recent decades. The approach evolved as national jurisdiction over the seas was extended in the 1970s and 1980s. It evolved further in the 1990s as

fisheries management had to start considering sustainability, food security and fair trade. One recent effort to assess progress made over the last decade may be found online at:

[www.nmfs.noaa.gov/sfa/international/Reportcard\\_final.pdf](http://www.nmfs.noaa.gov/sfa/international/Reportcard_final.pdf).

By any reckoning, the transparent, inclusive approach to creating and implementing living marine resource conservation and management agreements is a resounding success. Intrinsic to it is recognizing and employing the unique responsibilities and expertise of the involved federal agencies, Congress, and a wide variety of private-sector organizations and individuals. Working together, they will continue to secure the international cooperation necessary to provide for the conservation and management of living marine resources. □