
□ THE GLOBAL FISH MARKET AND THE NEED FOR MULTILATERAL FISHING DISCIPLINES

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Without participation by all relevant markets, fisheries conservation schemes have no chance to succeed, says Justin LeBlanc of the National Fisheries Institute. A powerful existing international convention for protecting endangered species might help enforce conservation measures some day, but for now it lacks expertise, he says. The National Fisheries Institute represents fishing vessel owners, aquaculturalists, processors, importers, exporters, distributors, retailers and restaurants.

U.S. commercial fishers are often challenged by the low prices of an increasingly competitive global marketplace while at the same time bearing substantial conservation burdens imposed by strict U.S. laws and regulations. These burdens, whether based on sound science or other policy objectives, may place U.S. fishers at a considerable disadvantage by increasing costs, decreasing yields, or both. Making U.S. fishermen more competitive by relaxing these conservation requirements is unlikely and, in many cases, undesirable.

Increasing the conservation commitment of the world's other commercial fishers to levels approaching that of U.S. fishers is a complicated task involving rigorous conservation and management regimes, education and training, and the participation of major markets for fish and seafood products. In recent years, international fisheries bodies have begun to supplement traditional conservation and management measures with controversial market-based constraints in response to the challenges (financial and logistical) of enforcing conservation and management measures, particularly on the high seas.

In general, market-access restrictions must be consistent with the international trade rules of the World Trade Organization (WTO), should be multilateral, and should be initiated by the relevant fisheries management authority. To be truly effective, market constraints must be adopted by all countries participating in that market—a situation that can be difficult to attain. Existing high-seas fisheries management regimes often fail to secure

such full participation. A new mechanism may be needed.

THE GLOBAL NATURE OF SEAFOOD TRADE AND THE U.S. SEAFOOD MARKET

Thousands of forms of fish and seafood products are traded internationally. The United Nations Food and Agriculture Organization (FAO) reports that international trade in fishery commodities has exceeded \$50 billion a year in recent years and is approaching \$55 billion a year. According to FAO, approximately one-third of all global fish and seafood production enters international trade.

The United States is the fifth-largest fishing nation in the world, with commercial landings of 4.3 billion kilograms valued at \$3.2 billion in 2001, according to the National Marine Fisheries Service (NMFS) in the U.S. Department of Commerce. NMFS also reports that the United States is the third-largest importer, with seafood imports valued at \$9.9 billion in 2001, while U.S. seafood exports of \$3.2 billion for the same year rank the U.S. as the third-largest exporter.

This trade deficit can be even more acute in certain species. For example, U.S. commercial shrimp landings have remained relatively stable over the past 10 years at about 91 million kilograms while shrimp imports have increased from 318 million kilograms to 544 million kilograms in 2001. U.S. swordfish fishers land approximately 7 million kilograms per year while facing imports of 14 million kilograms. Other popular seafood products in the United States, such as Chilean sea bass, are totally import dependent and may compete for the so-called "center of the plate" with domestically produced substitutable products.

U.S. CONSERVATION BURDENS

While confronting a market often dictated by imports, U.S. fishers carry considerable obligations to protect the environment from the potential negative impacts of commercial fishing. These obligations often carry considerable economic consequences by requiring new

fishing gear, closing productive areas or times to fishing, or otherwise changing fishing operations to make them less efficient and, therefore, less profitable.

All federal U.S. fisheries are governed by the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), which requires all fishery management plans to prevent overfishing, minimize bycatch, and protect essential fish habitat. In addition, NMFS requires application of the precautionary principle — simply put, the less certain you are the more cautious you should be — to fishery management decisions. All fishery management plans must also have an associated environmental impact statement prepared under the National Environmental Policy Act.

Certain marine species, such as sea turtles, are protected by the Endangered Species Act, which requires incidental takes of these animals by commercial fishing operations to be reduced to levels that do not jeopardize the survival of the species. Hence, U.S. shrimpers must install turtle excluder devices (TEDs) in their fishing nets, losing anywhere from 5 to 20 percent of their shrimp catch through the hole, and U.S. swordfish fishers have had vast tracts of productive ocean denied to them as fishing grounds to reduce sea turtle interactions. Marine mammals are protected by the Marine Mammal Protection Act, which requires commercial fishing takes of marine mammals to be reduced to levels approaching zero, regardless of the status of the marine mammal population.

These obligations are among the strictest sets of environmental standards for commercial fishing in the world and are by and large effectively enforced by NMFS and the U.S. Coast Guard. For example, the Gulf of Mexico shrimp fishery is 99-percent compliant with TEDs requirements. Most U.S. commercial fishers are committed to conservation and generally support the goals of these laws and regulations if not their actual case-by-case application. While some are interested in easing the conservation burdens these laws impose, others are more interested in getting other nations to impose similar burdens on their commercial fishing fleets in order to "level the playing field" in this global marketplace.

UNILATERAL ACTIONS HAVE LIMITATIONS

Recognizing that not all nations have the resources and infrastructure of the United States to enforce conservation and management measures, one approach to level the

playing field supported by some sectors of the U.S. commercial fishing industry is to prescribe conditions for or even proscribe access to the U.S. market for products that are not caught in compliance with conservation and management measures or do not meet the threshold of conservation imposed on U.S. fishers. That is why all shrimp imports into the U.S. must be turtle safe, why the debate continues on market access for tuna not eligible for a dolphin-safe label, and why juvenile Atlantic swordfish imports are prohibited.

Such unilateral actions must be consistent with WTO trade rules, thereby making them more difficult to design and implement. They may prompt retaliatory trade restrictions by major export markets for U.S. seafood products. Most importantly, while such actions may make U.S. consumers feel good about the products on their dinner plates, they do little for true conservation on the water as producers simply shift to less-restrictive markets. Hence, juvenile swordfish go to the European Union instead of the United States, and turtle un-safe shrimp is diverted to markets that do not require turtle protection. In addition, unilateral measures may be implemented not for true conservation reasons but rather to use conservation as a guise for protectionist measures.

MULTILATERAL AGREEMENTS DO MORE

Given these inherent limitations to the utility of unilateral trade actions, a better approach is to seek a multilateral agreement among interested countries to collectively limit access to their markets. For high-seas fisheries, regional fishery management organizations pose the ideal venue for developing and implementing such multilateral arrangements, but other arrangements are possible. The advantages of multilateral agreements are obvious: A greater percentage of the marketplace is placed off limits to non-compliant producers. The opportunity for such producers to shift distribution to avoid market-access restrictions is lessened. And the competitive position of seafood traders relative to other buyers in the global marketplace is maintained.

Multilateral instruments — such as the catch documentation scheme for Chilean sea bass developed by the Commission for the Conservation of Antarctic Marine Living Resources — can be particularly effective at combating illegal, unregulated, and unreported (IUU) fishing as called for by an FAO international plan of action. Making such schemes effective requires standards for implementation to create familiarity with and

confidence in the systems. But such systems can also have limitations, especially where major market countries do not participate in the conservation and management of the resource and therefore have no incentive to comply with the trade restrictions.

MAKING AGREEMENTS MORE MULTILATERAL

Since not all multilateral trade agreements can engage all market countries to the fullest extent possible, some are calling for other mechanisms to be applied to global seafood trade. Recently, there has been considerable interest in submitting seafood to the Convention on International Trade in Endangered Species (CITES). CITES offers promising and potentially powerful mechanisms to engage all market countries in restricting market access for fish and seafood products. CITES members agree to ban all trade in certain species, such as tigers, that are threatened or endangered with extinction.

Unfortunately, CITES is currently ill equipped to contend with the complexities of international trade in what is primarily a food product. Fundamental questions about the applicability of CITES to fish and seafood remain. Overfishing, IUU fishing, and unsustainable fishing practices can certainly threaten the productivity of fishery resources, but they rarely threaten these resources with extinction.

Serious questions remain about how CITES would work with commercial fish and seafood.

For example, CITES says species that "look alike" to species of concern should also be listed and subjected to trade mechanisms. To avoid such listings, a layperson must be able to distinguish between the species. This can be extremely difficult for even trained scientists when it comes to fish species, let alone processed whitefish fillets. The CITES convention cannot deal with so-called "split

listings," that is, the listing of a portion of a species but not the entire species — for example, listing Russian pollock but not U.S. pollock.

CITES also lacks clear mechanisms to de-list a species for which it bans trade. Fisheries are dynamic and can change rapidly and sometimes suddenly. CITES is not equipped to address these rapid changes with de-listing procedures that can respond to stock recovery.

CONCLUSION

Before CITES can become meaningfully involved in regulating trade of commercial fish and seafood products, it must gain access to fish and seafood expertise. At a minimum, such expertise should be sought through a consultative process with the FAO, the only international venue where government fisheries experts regularly convene at a global level. This consultative process should be highly structured as called for by the FAO Subcommittee on Fish Trade. Even better, CITES should be amended to require CITES to defer to the expertise of relevant regional fishery management organizations. Only then will the capacity of CITES to affect market access combine with fisheries conservation and management expertise to become truly effective. □

Note: The opinions expressed in this article do not necessarily reflect the views or policies of the U.S. government.