DRAFT

ENVIRONMENTAL ASSESSMENT,

INITIAL REGULATORY FLEXIBILITY ANALYSIS,

AND

REGULATORY IMPACT REVIEW

FOR A

PROPOSED RULE

TO IMPLEMENT TRADE RESTRICTIVE MEASURES RECOMMENDED AT THE 2002 AND 2003 MEETINGS OF THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS

April 2004

United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Office of Sustainable Fisheries
Highly Migratory Species Management Division
1315 East-West Highway
Silver Spring, Maryland 20910

Proposed Rule to Implement Trade Restrictive Measures Recommended at the 2002 and 2003 Meetings of the International Commission for the Conservation of Atlantic Tuna

Framework Adjustment to the Fishery Management Plan for Atlantic Tunas, Sharks, and Swordfish

Proposed Actions: Consistent with ICCAT recommendations, adjust country-specific import prohibitions for Atlantic bigeye tuna, bluefin tuna, and swordfish; implement measures and require chartering permit for chartering arrangements; and prevent trade with vessels engaged in illegal, unreported, and unregulated fishing as well as those vessels not listed on ICCAT's vessels larger than 24 meters in length list.

Type of Statement: Proposed Rule Documents: Environmental Assessment, Initial Regulatory Flexibility Analysis, and Regulatory Impact Review

Lead Agency: National Marine Fisheries Service, Office of Sustainable Fisheries

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Abstract:
Under the Atlantic Tunas Convention Act (ATCA), the United States promulgates regulations as necessary and appropriate to implement conservation and management recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT). The proposed rule would lift the import prohibition on Atlantic bigeye tuna from Honduras, and lift the prohibition on Atlantic bigeye tuna, from St. Vincent and the Grenadines and Belize. Bigeye tuna imports from Sierra Leone, Bolivia, and Georgia would be prohibited. The import prohibitions on Atlantic bluefin tuna and Atlantic swordfish would be lifted from Honduras and from Belize. Bluefin tuna and swordfish imports from Sierra Leone would be prohibited. The proposed rule would also prohibit imports from vessels assumed to be engaged in illegal, unreported, and unregulated (IUU) fishing and vessels not listed on ICCAT's list of authorized large scale fishing vessels. Additionally, the proposed rule would prohibit importation of tuna or tuna-like species, placed in cages for farming and/or transshipments, harvested in the ICCAT convention area and caught by a fishing vessel engaged in IUU fishing. Furthermore the proposed rule would require prior notification by vessel owner to National Marine Fisheries Service (NOAA Fisheries), and approval by NOAA Fisheries via issuance of a chartering permit, before a U.S. documented or registered vessel begins to fish under a chartering arrangement.

FINDING OF NO SIGNIFICANT ENVIRONMENTAL IMPACT

The Highly Migratory Species (HMS) Management Division of the Office of Sustainable Fisheries submits the attached Environmental Assessment (EA) for the implementation of the trade restrictive measures recommended at the 2002 and 2003 meetings of ICCAT for Secretarial review under the procedures of the Magnuson-Stevens Fishery Conservation and Management Act. This EA was developed as an integrated document that includes an Initial Regulatory Flexibility Analysis (IRFA) and a Regulatory Impact Review (RIR). Copies of the proposed rule and the EA/IRFA/RIR are available from NOAA Fisheries at the following address:

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The proposed action would:

- Lift bans on imports from Belize of bigeye tuna, bluefin tuna, and swordfish,
- Lift bans on imports from Honduras of bigeye tuna, bluefin tuna, and swordfish,
- Lift bans on imports from St. Vincent and the Grenadines of bigeye tuna,
- Prohibit imports from Bolivia of bigeye tuna,
- Prohibit imports from Sierra Leone of bigeye tuna, bluefin tuna, and swordfish,
- Implement a reporting and permit requirement before chartering arrangements can be finalized,
- Prohibit trade with vessels engaged in illegal, unreported, and unregulated (IUU) fishing,
- Prohibit importation of tuna or tuna-like species, placed in cages for farming and/or transshipments, harvested in the ICCAT convention area and caught by a fishing vessel engaged in IUU fishing, and
- Prohibit trade with vessels that are not listed on ICCAT's record of vessels larger than 24 meters in length that are authorized to fish in the Convention Area.

Having reviewed the EA, I have determined that this action would not have a significant impact on the quality of the human environment, thus preparation of an environmental impact statement on the action is not required by Section 102(2)(c) of the National Environmental Policy Act or its implementing regulations.

Approved: DRAFT _____

William T. Hogarth, Ph.D. Date
Assistant Administrator for Fisheries

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1.0 PURPOSE AND NEED FOR ACTION

1.1 Management History

The United States fisheries in the Atlantic Ocean for tuna and tuna-like species are managed by the National Marine Fisheries Service (NOAA Fisheries) under the authority of the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The ATCA authorizes the promulgation of regulations, as necessary and appropriate, in order to implement approved recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The measures proposed in this rulemaking were recommended at the 13th Special Meeting of ICCAT held in Bilbao, Spain during the fall of 2002 and at the 18th Annual Meeting of ICCAT held in Dublin, Ireland during the fall of 2003.

Based on recommendations from previous ICCAT meetings, NOAA Fisheries has implemented a number of measures to prohibit imports of specific fish species from identified countries or lift import prohibitions (see Table 1.1 for current prohibitions). In 1997, NOAA Fisheries promulgated a final rule that banned imports of Atlantic bluefin tuna (BFT) and its products in any form harvested by vessels of Panama, Honduras, and Belize (62 FR 44422, August 21, 1997). In 2000, the prohibition on importation of BFT from Panama was lifted, the importation of BFT and its products from Equatorial Guinea was prohibited, and the importation of Atlantic swordfish and its products from Belize and Honduras was prohibited (65 FR 77523, December 12, 2000). In 2002, NOAA Fisheries implemented Atlantic bigeye tuna (BET) trade recommendations from the 2000 ICCAT meeting. As a result, all shipments of BET and its products harvested by a vessel from Belize, Cambodia, Equatorial Guinea, or St. Vincent and the Grenadines are denied entry into the United States (67 FR 70023, November 20, 2002). While ICCAT recommended that BET imports from Honduras be prohibited in 2000, the United States did not implement this recommendation because ICCAT could not reach consensus in 2001 regarding whether Honduras had brought its fishing practices into conformity with ICCAT management measures.

Table 1.1 Current Import Prohibitions of Highly Migratory Species

Country	Species Banned	Date and Federal Register (FR) cite
Belize	Bigeye Tuna	November 20, 2002, 67 FR 70023
	Bluefin Tuna	August 21, 1997, 62 FR 44422
	Swordfish	December 12, 2000, 65 FR 77523
Cambodia	Bigeye Tuna	November 20, 2002, 67 FR 70023
Equatorial Guinea	Bigeye Tuna	November 20, 2002, 67 FR 70023
	Bluefin Tuna	December 12, 2000, 65 FR 77523
Honduras	Bluefin Tuna	August 21, 1997, 62 FR 44422
	Swordfish	December 12, 2000, 65 FR 77523

St. Vincent and the Grenadines	Bigeye Tuna	November 20, 2002, 67 FR 70023

NOAA Fisheries has also implemented measures to limit illegal, unreported, and unregulated (IUU) fishing in the United States through various permitting and reporting requirements on both vessels and dealers.

At the 2002 and 2003 meetings, ICCAT recommended measures to lift bans or set bans regarding imports, oversee chartering operations, and to limit the incidence of illegal, unreported, and unregulated (IUU) fishing in the Convention area. Specifically, ICCAT recommended that: (1) Contracting Parties prohibit imports of Atlantic BET, BFT, and SWO from Sierra Leone and Atlantic BET from Bolivia and Georgia, (2) Contracting Parties remove prohibitions on imports of BET, BFT, and SWO from Honduras, Belize, and BET prohibitions from St. Vincent and the Grenadines, (3) Contracting Parties adopt several requirements to ensure compliance by chartered vessels with relevant ICCAT management measures, (4) Contracting Parties enact measures to prevent vessels flying their flag from transshipping with a vessel on the IUU list, (5) Contracting Parties take measures to prohibit the fishing for, the retaining on board, the transshipment, and landings of tuna and tuna-like species by vessels larger than 24 meters in length which are not listed on the ICCAT record, and (6) Contracting Parties take the necessary measures to prohibit landings from fishing vessels, placing in cages for farming and/or the transshipment within their jurisdiction of tunas or tuna-like species caught by IUU fishing activities. This proposed rule, would implement these recommendations for U.S. Fisheries.

1.2 Need for Action and Objectives

The purpose of this framework action is to implement the 2002 and 2003 ICCAT recommendations regarding trade measures (ICCAT 02-16; 02-17; 02-18; 02-19; 02-20; 02-21; 02-22; 02-23; 03-16; 03-17; and 03-18) consistent with the Atlantic Tunas Convention Act (ATCA), the HMS FMP, the Magnuson-Stevens Act, and other domestic regulations. The proposed measures are necessary to ensure compliance with ICCAT conservation and management measures. In this EA/RIR/IRFA, NOAA Fisheries considers the biological, social, and economic impacts of implementing the 2002 and 2003 ICCAT recommendations based on reviews of landings, logbook, and permitting data.

1.3 Other Concerns

NOAA Fisheries is concerned about the incidence of IUU fishing in the Atlantic Ocean. The creation of the two lists regarding vessels over 24 meters known not to be engaged in IUU fishing (also referred to as the “positive list”) and vessels known to be engaged in IUU fishing (also referred to as the “negative list”) should allow Contracting Parties to reduce the incidence of IUU fishing. The United States submitted its positive list to ICCAT on July 22, 2003 and plans to update this list upon the request of ICCAT. Because the basin-wide effectiveness of these measures is contingent upon other Contracting Parties implementing the ICCAT

recommendations, NOAA Fisheries urges other countries to comply with these recommendations.

2.0 SUMMARY OF THE ALTERNATIVES

This section provides a summary and basis for the alternatives considered in this rulemaking. The preferred alternative proposed in this rulemaking encompasses the recommendations from the 2002 and 2003 ICCAT meetings. Maintaining compliance with the ICCAT management measures serves as the basis for alternative A1. The other alternative addresses the impacts if the ICCAT recommendations are not implemented (i.e., no action). No other alternatives were considered because they would not meet the purpose and need as outlined in Chapter 1 of this document.

Preferred Alternative

Alternative A1: *Implement the ICCAT recommendations regarding import prohibitions, chartering, and IUU fishing*

This alternative would lift the import prohibition on Atlantic bigeye tuna from Honduras, St. Vincent and the Grenadines, and Belize. The import prohibitions on Atlantic bluefin tuna and Atlantic swordfish would be lifted from Honduras and Belize. ICCAT has decided to lift the import restrictions because these countries have shown improved compliance. Bigeye tuna imports from Sierra Leone, Bolivia, and Georgia would be banned. Bluefin tuna and swordfish imports from Sierra Leone would be banned. These prohibitions and lifting of bans are summarized in Table 2.1. The proposed rule would also prohibit imports from vessels on the ICCAT negative list (i.e., list of vessels presumed to have carried out IUU fishing in the ICCAT convention area), vessels not authorized on the positive list (i.e., record of vessels larger than 24 meters in length that are authorized to fish in the Convention area), as well as vessels, placing in cages for farming and/or the transshipment within their jurisdiction of tunas or tuna-like species caught by IUU fishing activities. The proposed rule would also require prior notification from vessels owners and approval, via issuance of a chartering permit, from NOAA Fisheries before a vessel enters a chartering arrangement. ICCAT felt that authorizing imports from vessels on the positive list, prohibiting imports from vessels on the negative list, prohibiting imports from vessels placing in cages tunas or tuna-like species for farming and/or transhipment caught by IUU fishing activities, and the notification of chartering arrangements could improve compliance with existing conservation and management measures.

Table 2.1 Summary of Proposed Country-Specific Trade Restriction Measures

Country	Bigeye Tuna	Bluefin Tuna	Swordfish
Belize	Lift	Lift	Lift
Bolivia	Ban		
Honduras	Lift *	Lift	Lift
Georgia	Ban		
Sierra Leone	Ban	Ban	Ban
St. Vincent and the Grenadines	Lift		

* The prohibition on imports of bigeye tuna from Honduras was never finalized so cannot be formally lifted.

Not Selected at this Time

Alternative A2: *No Action*

This alternative would maintain the status quo and would not implement measures to adjust the import prohibitions regarding HMS, monitor chartering arrangements, or curtail IUU fishing (see Table 1.1)

3.0 DESCRIPTION OF AFFECTED ENVIRONMENT

Detailed descriptions of the life histories and population status of the species managed by the HMS Management Division are given in the HMS FMP (NOAA Fisheries, 1999) as well as the 2003 and 2004 Stock Assessment and Fishery Evaluation (SAFE) Reports (NOAA Fisheries, 2003; 2004) and are not repeated here. Detailed information on catch and bycatch of HMS by fishery is also provided in the 2003 and 2004 SAFE Reports (NOAA Fisheries, 2003; 2004).

3.1 Status of the Stocks

Atlantic Bigeye Tuna

The stock is exploited primarily by three gears types (longline, baitboat and purse seine) throughout its range in the Atlantic Ocean. Over the past ten years, the BET catch has fluctuated between about 96,000 metric tons (mt) whole weight (ww) and 132,000 mt ww. A stock assessment conducted in 2002 was hampered by the lack of detailed information from some of the major fisheries. Some of the sources of uncertainty include catches made by IUU longliners, the species composition of Ghanaian fisheries that target tropical tunas, and the lack of reliable indices of abundance for small BET. The range of maximum sustainable yield (MSY) estimates obtained from the 2002 stock assessment models was 79,000 to 105,000 mt ww. The current level of fishing mortality leads to the conclusion that the bigeye stock is overfished. Thus, the Standing Committee on Research and Statistics (SCRS) recommended that ICCAT consider limiting the total catches made by all countries fishing in the Atlantic to 100,000 mt or less (SCRS 2002).

West Atlantic Bluefin Tuna

Bluefin tuna in the Atlantic Ocean are managed as an eastern stock and a western stock. At the 2002 meeting of the SCRS of ICCAT, stock assessment analyses were prepared for the western and eastern Atlantic stocks of BFT. For western Atlantic BFT, two stock assessment scenarios were prepared based on assumptions regarding recruitment. The results of projections based on the low recruitment scenario for the western Atlantic stock indicated that a constant catch of 2,500 mt ww per year has a 97 percent probability of allowing rebuilding to the associated biomass at MSY by 2018. A constant catch of 2,500 mt ww per year has about a 35 percent probability of allowing rebuilding to the 1975 stock size by 2018. Under the high recruitment scenario, a constant catch of about 2,500 mt ww has about a 60 percent probability of allowing rebuilding to the 1975 stock size; a catch of 2,700 mt ww has about a 52 percent chance of reaching this stock size. The SCRS cautioned that these conclusions do not capture the full degree of uncertainty in the assessments and projections. The immediate rapid projected increases in stock size are strongly dependent on estimates of high levels of recent recruitment, which are the most uncertain part of the assessment. The implications of stock mixing between the east and west Atlantic add to the uncertainty. At the 2002 meeting, ICCAT adopted a recommendation to increase the annual quota of BFT in the western Atlantic Ocean from 2,500 mt ww to 2,700 mt ww, consistent with the western BFT rebuilding program established in a

1998 ICCAT recommendation. NOAA Fisheries published a final rule to implement these recommendations (October 2, 2003, 68 FR 56783).

East Atlantic Bluefin Tuna

For the eastern stock the SCRS noted that many of the recent catch statistics are undergoing revision. In conducting the 2002 stock assessment, the SCRS had difficulty in preferring one type of analysis over the other due to the low quality of the data. The new assessment indicates that the sustainable biomass of BFT in 2000 was about 86 percent of the 1970 level and that the 2000 level of fishing mortality was almost 2.5 times higher than that which maximizes yield per recruit. The SCRS expressed concern about the status of East Atlantic (including Mediterranean) BFT resources in the light of assessment results, the historically high reported catches and possible under-reporting since 1998. Analyses suggest that at current levels of recruitment and the present level of large- and small-fish fisheries, catch levels of 26,000 mt ww or more are not sustainable over the long-term. Because of the lack of confidence in the input data and in the assessment results, the SCRS was not in a position to give or suggest any strong management recommendations for the short or medium term. Based on these recommendations, ICCAT set the total allowable catch (TAC) for the eastern stock at 32,000 mt ww for the years 2003-2006.

North Atlantic Swordfish

North Atlantic swordfish are considered overfished. In 1999, assessments of the North Atlantic swordfish stock indicated that the decline in stock biomass had been slowed or arrested (SCRS, 1999). ICCAT noted positive signs from the fishery in terms of catch rates, and concluded that the observed high recruitment of age one fish in 1997 and 1998 should allow for increases in spawning stock biomass in the future, if these year classes are not heavily harvested. Prior to the 2002 meeting, ICCAT conducted another stock assessment examining North Atlantic swordfish. The SCRS concluded that the 2002 stock assessment indicated that the stock could support an increase in the TAC of North Atlantic swordfish. According to the stock assessment, the biomass at the start of 2002 was estimated to be 94 percent of the biomass needed to produce MSY. The SCRS felt that there was a greater than 50 percent chance that a TAC of 14,000 mt ww would allow the stock to rebuild to MSY by the end of 2009. NOAA Fisheries published a proposed rule to implement these recommendations (June 20, 2003, 68 FR 36967). A new stock assessment for North Atlantic swordfish is scheduled for 2006.

South Atlantic Swordfish

South Atlantic swordfish are considered fully fished and overfishing may be occurring. The SCRS conducted a stock assessment of South Atlantic swordfish in 2002. Due to discrepancies between several of the datasets, reliable stock assessment results could not be produced. In general, the SCRS noted that the total catches have decreased since 1995 as recommended. Based on this information, significant changes in the management regime were not required. NOAA Fisheries published a proposed rule to implement these recommendations (June 20, 2003, 68 FR 36967). A new stock assessment for South Atlantic swordfish is scheduled for 2006.

3.2 Fishery Participants, Gear Types, and Affected Area

BET, BFT, and swordfish are harvested throughout the Atlantic Ocean by many countries using baitboat, hook and line, longline, purse seine, and trap fisheries. In comparing the U.S. versus the international catch of HMS, the U.S. fisheries account for 8.02 percent of Atlantic swordfish, 5.58 percent of Atlantic BFT, and 0.79 percent of Atlantic BET catch (NOAA Fisheries, 2004). Because of the current demand for seafood in the U.S., many countries export HMS to the United States. ICCAT is comprised of 35 contracting parties and is tasked with managing tuna and tuna-like species in the Atlantic Ocean. Information about the operation of U.S. HMS fisheries can be found in the 2003 and 2004 SAFE Reports (NOAA Fisheries, 2003; 2004).

3.3 Habitat

The 2003 and 2004 SAFE Reports as well as the HMS FMP address the habitat utilized by the various species targeted by HMS fisheries. Typically, the commercial fisheries targeting BET, BFT, and swordfish exist off-shore in deep water, so there is no interaction with bottom substrate or other essential fish habitat.

3.4 Protected Species

Several of the fisheries for HMS, particularly the pelagic longline fishery, interact with protected species. On June 14, 2001, NOAA Fisheries released, under Section 7 of the Endangered Species Act (ESA) a Biological Opinion (BiOp) for Atlantic HMS Fisheries. This BiOp analyzed the impacts of the U.S. pelagic longline fishery on listed marine mammals and sea turtles and found that the continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of the leatherback and loggerhead sea turtles and that other HMS fisheries were not likely to jeopardize these species. On July 9, 2002, NOAA Fisheries implemented a final rule (67 FR 45393) to implement the Reasonable and Prudent Alternative outlined in the BiOp. NOAA Fisheries has also implemented the Reasonable and Prudent Measures and some of the Terms and Conditions of the BiOp including, but not limited to, continuing bottom longline observer program, requiring net checks in the drift gillnet fishery, and requiring pelagic and bottom longline fishermen to post sea turtle handling and release guidelines. Recently, NOAA Fisheries reinitiated consultation in the pelagic longline fishery because the fishery exceeded its incidental take statement for leatherback and loggerhead sea turtles in 2001 and 2002.

Under Section 118 of the Marine Mammal Protection Act (MMPA), NOAA Fisheries publishes a List of Fisheries (LOF) that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. On July 15, 2003 (68 FR 41725), NOAA Fisheries announced that the pelagic longline fishery continues to be a category I fishery (animals injured or killed include humpback, minke, and pilot whales and Risso's, bottlenose, Atlantic spotted, and common dolphins). NOAA Fisheries continues to work with fishermen to

reduce protected species interactions in this fishery. In 2000, NOAA Fisheries estimated that the pelagic longline fleet interacted with 403 marine mammals.

The U.S. fleet is a small part of the international fleet that competes on the high seas for catches of tunas and swordfish. Although the U.S. fleet landed as much as 35 percent of the swordfish from the north Atlantic, north of 5ºN. latitude in 1990, this proportion decreased to 25 percent by 1997. For tunas, the U.S. proportion of landings was 23 percent in 1990, decreasing to 16 percent by 1997. Based on available information, the U.S. fleet accounts for none or virtually none of the landings of swordfish and tuna from the Atlantic Ocean, south of 5ºN. latitude, and does not operate at all in the Mediterranean Sea. Tuna and swordfish landings by foreign fleets operating in the tropical Atlantic and Mediterranean are greater than the catches from the north Atlantic area where the U.S. fleet operates. Even within the area where the U.S. fleet operates, the U.S. portion of fishing effort (in numbers of hooks fished) is less than 10 percent of the entire international fleet's effort, and likely less than that due to differences in reporting effort between ICCAT countries (NOAA Fisheries SEFSC, 2001). Since other ICCAT nations do not monitor incidental catches of protected species, an exact assessment of their impact is not possible. However, as NOAA Fisheries has estimated the U.S. pelagic longline fishing effort in the Atlantic Ocean to be approximately 5 to 6 percent of the total Atlantic fishing effort, the U.S. fleet may represent a small portion of the catch of protected species in this basin.

4.0 ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVES CONSIDERED

The environmental, social, and economic consequences of the alternatives considered are described below and in Sections 6.0, 7.0, and 8.0.

4.1 Trade Restriction Alternatives

A1: *Implement the ICCAT recommendations regarding import prohibitions, chartering, and IUU fishing* (preferred)
A2: No Action

Ecological Impacts

Implementing the ICCAT recommendations concerning import prohibitions (A1) would have positive ecological impacts on HMS because they would discourage IUU fishing and maintain compliance with ICCAT recommendations. Prohibiting imports of BET from Bolivia and Georgia as well as BET, BFT, and SWO from Sierra Leone would likely benefit the stocks as it would discourage IUU fishing and aid the SCRS in evaluating management measures in light of the need for rebuilding these stocks. These actions could also have positive impacts on other HMS and protected species if they reduce the level of IUU fishing. Pelagic longline vessels frequently catch other species: sea turtles, seabirds, marine mammals, billfish, bluefin tuna, and sharks. Large-scale illegal fishing is likely to have a negative impact on many species; this impact, however, is not quantifiable at this time. Not implementing the import prohibitions (A2) would have negative impacts on target, non-target, and protected species. It would allow the U.S. market to remain open to imports from these countries which could encourage continued IUU fishing activities.

Lifting the import prohibitions on BET, BFT, and SWO from Belize; BFT, and SWO from Honduras; and BET from St. Vincent and the Grenadines (A1) would not be expected to have adverse ecological impacts on HMS. When deciding to lift the prohibitions, ICCAT noted that these countries have made progress in addressing the vessels that were diminishing the effectiveness of ICCAT conservation and management measures and in implementing management measures to achieve compliance with ICCAT recommendations. By recommending that the import prohibition be lifted, ICCAT is signifying that the fishing activities of these countries would not have an adverse impact on target species and that these countries must abide by the conservation and management programs for the target species, which are established by ICCAT. By fishing in an ICCAT-approved manner, NOAA Fisheries feels that lifting the import prohibition would not pose adverse ecological impacts to protected species. Not lifting the import prohibitions (A2) could undermine support for the ICCAT management process and it does not comply with the 2002 ICCAT recommendations.

Implementing measures to monitor chartering arrangements, via the issuance of chartering permits, (A1) would not be expected to have adverse ecological impacts. NOAA Fisheries would submit information regarding charters to ICCAT to assist in reporting landings. The measure would not be expected to alter fishing effort or catch levels. Maintaining the status quo

(A2) would not be expected to have significant ecological impacts. As this measure involves the monitoring of chartering transactions, it is not expected to greatly affect fishing activities.

The proposed measures (i.e., prohibiting imports from vessels on the ICCAT negative and positive lists) to limit IUU fishing (A1) would be expected to have a positive ecological impact. If the identified IUU vessels are prohibited from landing or transhipping their catch, the conservation and management of HMS would be improved. ICCAT assumes that these vessels would cease their illegal operations targeting HMS which would also reduce the impacts on non-target and protected species. Due to the lack of reporting from these vessels, NOAA Fisheries cannot predict the extent of the impact at this time. Taking no action (A2) could have impacts on target, non-target, and protected species. The IUU fishing vessels could continue to fish and land their catch in the United States. Their fishing activities would be outside the realm of ICCAT management which would threaten to undermine the existing management regimes for ICCAT species. Additionally, there would be unmonitored interactions with non-target and protected species.

Social and Economic Impacts

The economic and social impacts from these alternatives (A1 and A2) are anticipated to be minor. Belize did not export BET, BFT, or SWO to the United States prior to the prohibition being promulgated, so NOAA Fisheries does not expect lifting the import ban to have an impact. Bolivia has not exported BET and Sierra Leone has not exported BET, BFT, and SWO to the United States within the past ten years, so NOAA Fisheries does not expect an impact from the alternatives. Lifting the BFT, and SWO import prohibitions against Honduras would be expected to have a positive social and economic impact. There have been BET imports from Honduras in 2002 and 2003 (due to the prohibition not being formally implemented) and there have been imports of SWO in 1997, 1998, and 2003. Lifting the prohibition would increase trade opportunities for importers and dealers in the United States. Lifting the import prohibition on BET from St. Vincent and the Grenadines could have positive economic impacts. In 2001, there were imports of BET from the country. Following the lifting of the ban, these could continue which would increase trade opportunities for importers and dealers in the United States. Currently, NOAA Fisheries cannot quantify the estimated impact of lifting or imposing the trade prohibitions.

As described in Chapter 6, implementing a chartering permit program to increase the monitoring of chartering arrangements is not expected to have significant economic or social impacts. The measure would gather information from vessel owners who are chartering their vessels. NOAA Fisheries would report the information to ICCAT as a means of monitoring the transaction. NOAA Fisheries will issue permits only if it is determined that the chartering arrangement is in conformance with ICCAT's conservation and management programs. NOAA Fisheries does not anticipate major economic impacts to domestic vessels as a result of permit denial, given that these vessels will continue to be able to fish in domestic waters for HMS and market prices for HMS may be higher in the United States than in other countries.

The proposed measures to prevent IUU fishing, creating a list of vessels over 24 meters authorized to fish for HMS and a list of vessels presumed to engage in IUU fishing (A1), are not expected to have economic or social impacts. NOAA Fisheries currently believes that there are few IUU vessels trading with U.S. entities. While the amount and extent of the imports are unknown, NOAA Fisheries feels that the statistical document program currently in place has minimized the occurrence. The no action alternative (A2) would not be expected to have economic or social impacts as the current regulatory system would be maintained. In the long-term, however, if the U.S. is seen as not complying with ICCAT recommendations, then the U.S. could loose negotiating status at ICCAT or could have restrictions placed on the country that could impact domestic vessels and dealers.

Conclusion

NOAA Fisheries is authorized to implement ICCAT recommendations under ATCA. ICCAT recommendations are part of an international cooperative effort to rebuild, conserve, and manage tuna and tuna-like species. The preferred alternative would satisfy the United States' obligation to implement the binding conservation and management measures that have been adopted by ICCAT. Alternative A1 is consistent with ICCAT recommendations, the ATCA, the Magnuson-Stevens Act, and the HMS FMP. NOAA Fisheries does not expect any negative ecological, economic, or social impacts from implementing the alternative.

4.2 Impacts on Essential Fish Habitat

The measures proposed in the this rule would mostly impact fishing outside the U.S. Exclusive Economic Zone (EEZ). Because essential fish habitat (EFH) is defined as areas within the U.S. EEZ, the preferred alternative would not impact EFH.

4.3 Impacts on Other Finfish Species

The proposed actions are not expected to significantly alter U.S. fishing practices or effort and therefore should not have any impact on other finfish species that have not already been considered in the HMS FMP or the supplemental environmental impact statements finalized since then. The proposed measures may decrease the fishing effort of IUU vessels. If this occurs, then the incidence of bycatch of other finfish species in foreign fleets may be decreased.

4.4 Impacts on Protected Species Listed under the Endangered Species Act or Marine Mammal Protection Act

The proposed alternatives are not expected to alter U.S. fishing practices or effort. As noted earlier, NOAA Fisheries recently reinitiated consultation on the Atlantic pelagic longline fishery and its impacts on sea turtles.

4.5 Environmental Justice Concerns

Executive Order 12898 requires that federal actions address environmental justice in the decision-making process. In particular, the environmental effects of the actions should not have a disproportionate effect on minority and low-income communities. The proposed actions in this document would not have any effects on human health. Additionally, the proposed actions are not expected to have any social or economic effects and should not have a disproportionate effect on minority and low-income communities.

4.6 Coastal Zone Management Act Concerns

NOAA Fisheries has preliminarily determined that the proposed regulations would be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management programs. The proposed regulations will be submitted to the responsible state agencies for their review under Section 307 of the Coastal Zone Management Act.

4.7 Comparison of Alternatives

Table 4.1 **Comparison of Proposed Alternatives.** This table compares the impacts of the alternatives considered in this section. The symbols +, -, 0 refer to positive, negative, and zero impacts respectively. Minor impacts and impacts that are possible but unlikely are noted with + or -. More than minor impacts are noted with ++ or --, and significant impacts are noted with +++ or ---. Refer to the proceeding sections for details of the impacts of each alternative.

Management Measure	Ecological Impacts	Economic Impacts	Social Impacts
A1: **Preferred**	+	+	+
A2	-	0	0

4.8 Cumulative Impacts of the Alternatives

On May 28, 1999, NOAA Fisheries published a final rule (64 FR 29090) that implemented the HMS FMP and Amendment One to the Atlantic Billfish FMP, and that consolidated regulations for Atlantic HMS into one C.F.R. part. The Final Environmental Impact Statements (FEIS) associated with these FMPs addressed the rebuilding and ongoing management of Atlantic tunas, swordfish, sharks, and billfish. Alternatives to rebuild and manage the Atlantic swordfish and tuna fisheries included, among other things, quotas levels, retention and size limits, upgrading restrictions, overharvest and underharvest adjustment authority, and permitting and reporting requirements, including a limited access system. The HMS FMP concluded that the cumulative long-term impacts of these and other management measures would be to rebuild overfished fisheries, minimize bycatch and bycatch mortality, to the extent practicable; identify and protect

essential fish habitat; and minimize adverse impacts of fisheries regulations on fishing communities, to the extent practicable.

Since the HMS FMP, NOAA Fisheries has finalized two supplemental environmental impact statements that affect pelagic longline fishing. The first one, published in June 2000, analyzed management measures, particularly time area closures, to reduce bycatch, bycatch mortality, and incidental catch in the pelagic longline fishery. The final actions were expected to have negative direct, indirect, and cumulative economic and social impacts for pelagic longline fishermen and were expected to have positive benefits regarding reduction in bycatch and bycatch mortality.

The second supplemental environmental impact statement, published in July 2002, implemented the measures in a June 14, 2001, Biological Opinion addressing of sea turtle bycatch and bycatch mortality in HMS fisheries. Certain measures in this rulemaking, such as the closure of the Northeast Distant Area (NED) to pelagic longline vessels, are expected to have negative direct, indirect, and cumulative economic and social impacts on pelagic longline fishermen, which are mitigated in the short-term for vessels that participate in an experimental fishery in the NED. Other measures, such as requiring gangions to be 10 percent longer than floatlines, requiring the use of corrodible, non-stainless steel hooks, reporting lethal sea turtle takes within 48 hours, and posting sea turtle handling and release guidelines in the wheelhouse were not expected to have serious impacts.

NOAA Fisheries recently published a notice of intent to adjust HMS management measures such as allocations of quotas and streamlining the limited access program. The scoping process for this rulemaking has not yet begun, however NOAA Fisheries does not anticipate significant cumulative impacts as a result of this proposed activity.

Taking into consideration the HMS FMP, the August 2000 bycatch and time area rule, the July 2002 rule implementing the BiOp measures, and the newly proposed seaturtle bycatch mitigation rule for the pelagic longline fishery, NOAA Fisheries expects no adverse cumulative impacts from the preferred alternative. The measures that comprise alternative A1 are not expected to have significant ecological, economic, or social impacts. It is possible that there will be some impacts on foreign fleets or vessels, but NOAA Fisheries cannot quantify these impacts at this time.

5.0 MITIGATION AND UNAVOIDABLE ADVERSE IMPACTS

5.1 Mitigating Measures

NOAA Fisheries does not expect the proposed alternative to have significant ecological, economic, or social impacts. Thus no mitigating measures are proposed at this time. NOAA Fisheries has requested comments on the preferred alternative. If the submissions indicate impacts that require further consideration, mitigating measures will be considered.

5.2 Unavoidable Adverse Impacts

The proposed alternative is not expected to have any unavoidable adverse impacts.

5.3 Irreversible and Irretrievable Commitment of Resources

The proposed alternative is not expected to result in any irreversible or irretrievable commitments of resources.

6.0 ECONOMIC EVALUATION

This section primarily addresses the economic impacts of the proposed alternative implementing the trade measures from the 2002 and 2003 ICCAT meetings.

6.1 Number of Fishing and Dealer Permit Holders

The preferred alternative addresses trade measures, particularly, HMS imported from other countries or fishing vessels. Dealer permits are required for commercial receipt of Atlantic tuna, swordfish, and sharks. In recent years, the number of dealer permit holders has declined slightly, but the trend does not appear to be significant (see Table 6.1). The majority of the tuna dealers are located in Massachusetts (22%), New York (14%), New Carolina (8%), and New Jersey (8%). The primary concentration of swordfish dealers is in Florida (35%), followed by Massachusetts (11%), California (10%), and New York (10%). The measures preventing the importation of specified HMS species from certain countries and the prohibiting of HMS imports from IUU fishing vessels could impact these entities.

Table 6.1 Number of U.S. dealer permits issued for tuna and swordfish in 2000 - 2003 (excluding those in other countries). (NOAA Fisheries, 2003)

Year	Atlantic Tuna	Atlantic Swordfish
2000	544	295
2001	522	286
2002	479	305
2003	516	302

The proposed measure to monitor the vessel chartering arrangements would primarily affect pelagic longline vessel owners. The number of active pelagic longline vessels has been decreasing since 1994, as shown in Table 6.2 which lists the number of active vessels from 1990 to 2001.

Table 6.2 **The number of vessels that reported fishing with pelagic longline gear in the pelagic logbook.** Source: Bertolino, 2003.

Year	Number of active vessels	Year	Number of active vessels
1990	416	1996	367
1991	333	1997	350
1992	337	1998	286
1993	434	1999	224
1994	501	2000	199
1995	489	2001	184

Currently, NOAA Fisheries is not aware of the number of vessels engaged in IUU fishing in the Atlantic Ocean. ICCAT is composing a list and has asked that contracting parties submit a list of vessels that are known to be engaged in IUU fishing by July 15 of each year. ICCAT will then make the list available to participating nations. NOAA Fisheries is not aware of any U.S. vessels that are participating in IUU fishing.

6.2 Gross Revenue of Fishermen

For a recent description of some of the variable costs and gross revenues for the pelagic longline fishery, please see Section 8.1 of the FSEIS for the Final Rule to Reduce Sea Turtle Bycatch and Bycatch Mortality in HMS Fisheries (NOAA Fisheries, 2002). Beginning in 2003, NOAA Fisheries initiated mandatory cost earnings reporting for selected vessels in order to improve the economic data available for all HMS Fisheries.

The measure concerning the monitoring of chartering arrangements, via issuance of a chartering permit, is the only measure impacting U.S. vessels. At this time, NOAA Fisheries is uncertain of the gross revenue generated by vessel owners for leasing their vessels, but requiring these vessels to tell NOAA Fisheries about the arrangement is unlikely to result in any change in gross revenues.

NOAA Fisheries will only issue permit if it is determined that the chartering arrangement is in conformance with ICCAT's conservation and management programs. In the event of a permit denial, NOAA Fisheries does not anticipate major economic impacts to domestic vessels, given that these vessels would continue to be able to fish in domestic waters for HMS and market prices for HMS may be higher in the U.S. than in other countries.

6.3 Variable Costs and Net Revenues

For a recent description of some of the variable costs and net revenues for the pelagic longline fishery, please see Section 8.1 of the FSEIS for the Final Rule to Reduce Sea Turtle Bycatch and Bycatch Mortality in HMS Fisheries (NOAA Fisheries, 2002). Beginning in 2003, NOAA

Fisheries initiated mandatory cost earnings reporting for selected vessels in order to improve the economic data available for all HMS Fisheries. None of the management measures proposed would change the variable costs and net revenues of fishermen.

6.4 Trade Information

In examining data concerning imports of HMS into the United States from the countries ICCAT recommended trade measures against, NOAA Fisheries does not expect any significant impacts from the proposed measures. Belize and Sierra Leone have not exported any tuna or swordfish into the United States between 1992 and 2002. There is no data concerning imports from Bolivia. Georgia exported to the United States 15,626 kg of non-specified tuna in 1995. Honduras exported to the United States 1,418 kilograms (kg) of BET in 2002 and 2,476 kg in 2003 worth $4,844 and $24,760 respectively. BET from Honduras was less than 0.01% of all BET imports during 2002. Honduras also exported 6,763 kg of swordfish in 1997, 871 kg in 1998, and 6,256 kg in 2003 worth $29,820, $5,778, and $43,792 respectively. Swordfish from Honduras is only 0.05% of all swordfish imports to date during 2003. In 2001, St. Vincent and the Grenadines exported to the United States 14,552 kg of BET worth $80,206. BET from St. Vincent and the Grenadines was only 0.31% of all BET imported during 2001. The measures proposed in this rule could allow continued imports from Honduras and St. Vincent and the Grenadines. Due to the limited nature of the historical imports, NOAA Fisheries does not anticipate a significant impact on the revenues of dealers in the United States.

6.5 Expected Economic Impacts of the Alternatives Considered

As mentioned previously, NOAA Fisheries does not expect significant economic impacts from the preferred alternative. Lifting the prohibitions on BET, BFT, and SWO from Belize is not expected to increase the amount of fish imported into the Unites States. From 1992 through 2003, Belize has not exported any of those fish species to the U.S. If this changes in the future and BET, BFT, and swordfish are exported to the U.S., it could improve the economic situation of HMS dealers. Conversely, it could impact fishermen by lowering the market price of the imported species.

As noted in Chapter 4 of this document, lifting the prohibition on BFT and SWO (the BET prohibition was never implemented) from Honduras may result in positive economic impacts. Honduras did not export any BFT to the United States between 1992 and 2002. In the same time frame, Honduras exported 1,418 kg of BET worth $4,844 in 2002 and has exported 2,476 kg of BET worth $24,760 in 2003 through May. Regarding SWO, Honduras exported 6,763 kg worth $29,820 in 1997, 871 kg worth $5,778 in 1998, and 6,256 kg worth $43,792 through May 2003.

Lifting the prohibition on BET from St. Vincent and the Grenadines could have slight positive impacts on U.S. fish dealers. In 2001, prior to the prohibition, 14,552 kg of BET worth $80,206 was exported to the U.S. from St. Vincent and the Grenadines. If the exports of BET resume

after the prohibition, there could be a positive impact on U.S. fish dealers. However, that could have potential negative impacts on U.S. fishermen if it lowers market prices.

The preferred alternative of prohibiting imports of BET from Bolivia and Georgia as well as BET, BFT, and SWO from Sierra Leone is not expected to have any negative impact. There have been no imports into the United States of these species from those countries between 1992 and October 2003. Because of this, NOAA Fisheries does not anticipate any significant negative impacts from this provision.

Establishing measures to monitor and report chartering arrangements is not expected to have a negative economic impact on U.S. vessel owners. Although there were approximately 199 actively fishing pelagic longline vessels during calendar year 2000, NOAA Fisheries presumes less than 10 of these vessels to be engaged in chartering arrangements. Therefore, the number of impacted parties seeking out chartering permits would be small and the associated burden of filling out the necessary paperwork would be light. The estimated time to prepare and submit the required information is 40 minutes per report, for a total time of 6.7 hours per year.

As noted earlier, NOAA Fisheries will only issue permit if it is determined that the chartering arrangement is in conformance with ICCAT's conservation and management programs. In the event of a permit denial, NOAA Fisheries does not anticipate major economic impacts to domestic vessels, given that these vessels would continue to be able to fish in domestic waters for HMS and market prices for HMS may be higher in the U.S. than in other countries.

The measures impacting the IUU fishing vessels are not expected to have significant economic impacts. Requiring that imports of HMS, if from vessels greater than 24 meters, come from vessels on the ICCAT positive list will not impact U.S. vessels. NOAA Fisheries does not know of any U.S. fishing vessel over 24 meters in length that would be on this list. Prohibiting imports from vessels on the IUU negative list could potentially impact U.S. dealers, but NOAA Fisheries does not believe any HMS is imported from those vessels.

In considering the measures together, NOAA Fisheries does not expect significant positive or negative economic impacts. The preferred alternative could impact primarily foreign vessels. The countries that would have their exports of certain HMS prohibited do not regularly trade in those species with the United States. Because of the statistical document programs for several HMS fish, prohibiting imports from known IUU vessels should not have a significant economic impact because there is not a high incidence of occurrence.

7.0 REGULATORY IMPACT REVIEW

This section assesses the economic impacts of the alternatives presented in this document. The RIR is conducted to comply with E.O. 12866 and provides analyses of the economic benefits and costs of each alternative to the nation and the fishery as a whole. Certain elements required in an RIR are also required as part of an EA. Thus, this section should be considered only part of the RIR, the rest of the RIR can be found throughout this document.

7.1 Description of the Management Objectives

Please see Section 1 for a description of the objectives of this rulemaking.

7.2 Description of the Fishery

Please see Section 3 for a description of the fisheries that could be affected by this rulemaking.

7.3 Statement of the Problem

Please see Section 1 for a description of the problem and need for this rulemaking.

7.4 Description of Each Alternative

Please see Section 2 for a summary of each alternative and section 4 for a complete description of each alternative and its expected ecological, social, and economic impacts.

7.5 Economic Analysis of Expected Effects of Each Alternative Relative to the Baseline

NOAA Fisheries does not believe that the national net benefits and costs would change significantly in the long run as a result of implementation of the preferred alternative compared to the baseline of no action. The trade import prohibitions are not expected to have significant economic benefits or costs associated with them, the charter arrangement provision has primarily a monitoring function, and the IUU fishing measures would primarily impact foreign entities.

Table 7.1 Summary of benefits and costs for each alternative.

Management Measure	Net Economic Benefits	Net Economic Costs
A1: Implement the ICCAT recommendations regarding import prohibitions, chartering, and IUU fishing **Preferred**	*Long-term:* Some expected. *Short-term:* Some expected.	*Long-term*: None expected. *Short-term*: None expected.
A2: No Action	*Long-term*: None expected. *Short-term*: None expected.	*Long-term*: Some expected. *Short-term*: None expected.

7.6 Summary

Under E.O. 12866, an action is considered significant if the regulations result in a rule that may:

1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

The proposed action described in this document and in the proposed rule do not meet the above criteria. Therefore, under E.O. 12866, the proposed rule is not a significant regulatory action.

8.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS

The IRFA is conducted to comply with the Regulatory Flexibility Act (5 USC 601 et. seq.) and provides analyses of the economic impacts of the various alternatives on small entities. Certain elements required in an IRFA are also required as part of an environmental assessment. Thus, this section should be considered only part of the IRFA, the rest of the IRFA can be found throughout this document.

8.1 Description of the Reasons Why Action is Being Considered

Please see section 1 of this document for a description of the need for the proposed rule.

8.2 Statement of the Objectives of, and Legal Basis for, the Proposed Rule

Please see section 1 of this document for a description of the objectives and legal basis for the proposed rule.

8.3 Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

NOAA Fisheries considers all permit holders to be small entities. A description of the fisheries affected can be found in Section 3.0 of this document. As described in section 6.1, there are currently 516 Atlantic Tuna and 302 Atlantic Swordfish dealer permit holders, most of which do not import HMS from the fishing vessels of other countries. Additionally there are 206 directed Atlantic Swordfish and 235 Atlantic Tuna permit holders (NOAA Fisheries, 2004). During 2000 only 199 permit holders reported actively fishing pelagic longline gear. While these 199 permit holders could arrange to charter their vessels, NOAA Fisheries anticipates less than 10 of these vessels to enter into chartering arrangements. Section 6.0 discusses the economic impacts on impacted small entities.

8.4 Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule

Some of the proposed measures in this document result in additional reporting, record-keeping, and compliance requirements. The monitoring of chartering arrangements would require vessel owners to submit information concerning the details of the arrangement, via an application for a chartering permit, to NOAA Fisheries. This reporting requirement would not require any additional skills. The other reporting requirements apply to NOAA Fisheries and will not impact HMS fishery constituents.

8.5 Identification of all Relevant Federal Rules which may Duplicate, Overlap, or Conflict with the Proposed Rule

Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NOAA Fisheries strives to ensure consistency among the regulations with Fishery Management Councils and other relevant agencies. NOAA Fisheries does not believe that the proposed alternative would conflict with any relevant regulations, federal or otherwise.

8.6 Description of any Significant Alternatives to the Proposed Rule that Accomplish the Stated Objectives of Applicable Statutes and that Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

One of the requirements of an IRFA is to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below and in other sections of this document. Additionally, the Reg Flex Act (5 U.S.C. § 603 (c) (1)-(4)) lists four general categories of "significant" alternatives which should be discussed. These categories (all of which assume the proposed action could impact small entities differently than large entities) are:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and
4. Exemptions from coverage of the rule for small entities.

Under the first and fourth categories listed above, NOAA Fisheries considers all permit holders to be small entities, and thus, in order to meet the objectives of this proposed rule and address the management concerns at hand, NOAA Fisheries cannot exempt small entities or change the reporting requirements for small entities. The second and third alternatives are relevant but are not practical under this proposed rule. NOAA Fisheries is proposing this alternative to comply with ICCAT recommendations which are negotiated between many countries. Thus, the proposed measures cannot easily be adjusted or modified. Additionally, the proposed measures are adjustments to current regulations and do not significantly change compliance measures.

The alternative proposed by NOAA Fisheries would implement trade restrictions on Bolivia, Georgia and Sierra Leone and lift restrictions against Belize, Honduras, and St. Vincent and the Grenadines. It also would require vessel owners to submit information about chartering arrangements, via an application for a chartering permit, to NOAA Fisheries. Finally, the proposed rule would prohibit imports of HMS from IUU fishing vessels. This proposed rule is expected to have few, if any, economic impacts on small entities. No other alternatives exist that would meet the purpose and need for this action.

9.0 COMMUNITY PROFILES

Mandates to conduct social impact assessments come from both the National Environmental Policy Act (NEPA) and the Magnuson-Stevens Act. NEPA requires federal agencies to consider the interactions of natural and human environments by using a "systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences...in planning and decision-making" [NEPA section 102(2)(a)]. Moreover, agencies need to address the aesthetic, historic, cultural, economic, social, or health effects which may be direct, indirect, or cumulative. Consideration of social impacts is a growing concern as fisheries experience increased participation and/or declines in stocks. With an increasing need for management action, the consequences of these actions need to be examined in order to mitigate the negative impacts experienced by the populations concerned.

Social impacts are generally the consequences to human populations that follow from some type of public or private action. They may include alterations to the ways people live, work or play, relate to one another, and organize to meet their needs. In addition, cultural impacts, which may involve changes in values and beliefs that affect people's way of identifying themselves within their occupation, communities, and society in general, are included under this interpretation. Social impact analyses help determine the consequences of policy action in advance by comparing the status quo with the projected impacts. Although public hearings and scoping meetings provide input from those concerned with a particular action, they do not constitute a full overview of the affected constituents.

As mentioned in previous sections, the proposed alternative is expected to have little economic impact on the fishery and the dependent communities. Additionally, the proposed alternative is expected to have few, if any, significant social impacts. None of the alternatives drastically modify the HMS fisheries as they currently exists. The primary impact will be on foreign fishing fleets or IUU fishing vessels. In the United States, dealers importing HMS from these foreign fleets or fishing vessels may be impacted positively or negatively by the lifting or imposing of trade sanctions. However, based on the small amount of BET, BFT, and SWO imported into the U.S. from the specified nations, NOAA Fisheries does not anticipate a significant impact from the trade measures. The other measure that would impact U.S. entities is the chartering permit requirement, which would allow the U.S. to monitor and track chartering arrangements. NOAA Fisheries anticipates that the impact of this measure would be minimal as it requires a submission of information upon the start and termination of a vessel chartering agreement. While NOAA Fisheries may occasionally deny a chartering permit because of concerns regarding the chartering countries compliance with ICCAT recommendations, NOAA Fisheries does not believe this will lead to large social or economic impacts due to the small number of vessels likely to enter into a chartering agreement. Thus, the preferred alternative is not expected to have significant social impacts.

10.0 OTHER CONSIDERATIONS

10.1 National Standards

The analyses in this document are consistent with the National Standards (NS) set forth in the 50 C.F.R. part 600 regulations.

This proposed rule is consistent with NS 1 in that it would implement measures that are part of an international conservation and management effort to prevent the overfishing of BET, BFT, and SWO in the Atlantic Ocean. Because the alternatives are based on the recommendations of the 2002 ICCAT meeting which took into consideration the most recent stock assessments for the impacted species, the alternatives considered are based on the best scientific information available (NS 2), including self-reported, observer, and stock assessment data which provide for the management of the species throughout their ranges (NS 3). The proposed alternative does not discriminate against fishermen in any state (NS 4) nor does it alter the efficiency in utilizing the resource (NS 5). With regard to NS 6, the proposed alternative takes into account any variations that may occur in the fishery and the fishery resources. Additionally, NOAA Fisheries considered the costs and benefits of these management measures economically and socially under NS 7 and 8 in sections 6, 7, 8, and 9 of this document. The proposed measures would ensure that bycatch and impacts to protected species are minimized by implementing regulations that encourage countries and IUU vessels to comply with ICCAT conservation and management measures (NS 9). Finally, this proposed rule would not require fishermen to fish in an unsafe manner (NS 10).

10.2 Paperwork Reduction Act

This action contains a collection-of-information requirement for purposes of the Paperwork Reduction Act. NOAA Fisheries anticipates that the number of impacted parties would be small and that the burden of filling out the necessary paperwork is light. Specifically, NOAA Fisheries expects that there would be no more than 10 respondents that had engaged in a chartering arrangement. The estimated time to prepare and submit the required information is 40 minutes per report, for a total time of 6.7 hours per year.

10.3 Federalism

This action does not contain regulatory provisions with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132.

11.0 CONSIDERATION OF NOAA AND CEQ SIGNIFICANT IMPACT CRITERIA

The NOAA Administrative Order 216-6 (revised May 20, 1999) identifies nine criteria, in addition to the Council on Environmental Qualities's (CEQ) regulations at 40 CFR § 1508.27, for determining the significance of the impacts of an action for purposes of the National Environmental Policy Act. For the EA in this document, the NAO 216-6 and CEQ criteria are addressed as follows:

(*1*) *Can the action be reasonably expected to jeopardize the sustainability of any target species that may be affected by the action?*

Implementation of the proposed rule would not jeopardize the sustainability of any target species. The measures in the rule would impact trade and chartering and would have little impact on the sustainability of target species. By reducing IUU fishing, the rule may enhance the sustainability of target species.

(2) Can the action be reasonably expected to jeopardize the sustainability of any non-target species?

The action is not expected to jeopardize the sustainability of any non-target species. As mention previously, the proposed measures will have little direct impact on fishing activities, but may enhance the sustainability of non-target species by reducing IUU fishing.

(3) Can the action be reasonably expected to allow substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in FMPs?

The proposed alternative primarily affects foreign fishing vessels which do not fish in U.S. waters, thus, there is no danger of damaging U.S. ocean and coastal habitats or EFH. Additionally, the proposed measures would not impact entities in the National Register of Historic Places or cause destruction to significant scientific, cultural, or historic resources.

(4) Can the action be reasonably expected to have a substantial adverse impact on public health or safety?

The measures proposed in this rule would primarily impact foreign fishing vessels and U.S. fish dealers, and U.S. vessels that enter chartering arrangements. This proposed rule is not expected to have substantial adverse impacts on U.S. public health and safety.

(5) Can the action be reasonably expected to have an adverse impact on endangered or threatened species, marine mammals, or critical habitat of these species?

Recently, NOAA Fisheries reinitiated consultation on the pelagic longline fishery. NOAA Fisheries doesn't expect that this proposed action will significantly harm or increase fishery interactions with endangered species or their habitat.

(6) Can the action be reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

The proposed rule is not expected to result in cumulative adverse effects that could have a substantial effect on target or non-target species. As stated in Section 4.0, the catch level of target and non-target species will not be significantly impacted by this action.

(7) Can the action be reasonably expected to have a substantial impact on biodiversity and ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

The action is not expected to have a substantial impact on biodiversity and ecosystem function. Section 4.0 discusses the impacts of all the measures and examines their expected impacts. This action would not result in the introduction of nonindigenous species.

(8) Are significant social or economic impacts interrelated with significant natural or physical environmental effects?

NOAA Fisheries has conducted an economic analysis, a RIR, and IRFA and determined that the economic impacts of these actions would be minimal. The preferred alternative would prohibit the importation of several HMS species from two countries while lifting prohibitions against three others in addition to imposing monitoring of chartering arrangements and prohibiting the import of HMS species from IUU fishing vessels. As NOAA Fisheries does not believe the IUU vessels and prohibited countries contribute a significant amount of HMS to U.S. markets, the measures are not anticipated to have an economic impact. Thus, the overall cumulative effects of this proposed rule are not significant.

(9) To what degree are the effects on the quality of the human environment expected to be highly controversial?

NOAA Fisheries does not believe that the proposed rule would have controversial effects on the human environment. NOAA Fisheries is accepting public comments on the proposed actions and will examine them for indications of harmful effects on the human environment.

12.0 LIST OF PREPARERS

This document was prepared by a team of individuals currently employed by the Office of Sustainable Fisheries of the National Marine Fisheries Service including:

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Individuals in other offices within NOAA contributed including the Office of Protected Resources and the Office of General Counsel.

13.0 LIST OF AGENCIES AND PERSONS CONSULTED

Discussions pertinent to formulation of the proposed action involved input from a variety of scientific and constituent interest groups including the U.S. delegation to ICCAT (including commercial and recreational fishermen, and environmental advocates), ICCAT's SCRS, ICCAT (35 member states), and staff from the International Fisheries Division of NOAA Fisheries and the NOAA's General Counsel for Fisheries. Letters were also sent to the consulting parties required in section 305 of the Magnuson-Stevens Act seeking their comments. Public comments will be accepted during a 45-day comment period and there will be 3 public hearings.

14.0 REFERENCES

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