UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

JAN 15 2009

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

I am pleased to submit the enclosed information regarding the activities of the Northwest Atlantic Fisheries Organization for 2007, as required by the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.).

Sincerely,

Dr. William J. Brennan
Acting Under Secretary of Commerce
for Oceans and Atmosphere

Enclosure

THE ADMINISTRATOR

Printed on Recycled Paper

UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

JAN 15 2009

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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JAN 15 2009

The Honorable Nick J. Rahall, II
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

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Sincerely,

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JAN 15 2009

The Honorable Doc Hastings
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Hastings:

I am pleased to submit the enclosed information regarding the activities of the Northwest Atlantic Fisheries Organization for 2007, as required by the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.).

Sincerely,

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JAN 15 2009

The Honorable John D. Rockefeller
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to submit the enclosed information regarding the activities of the Northwest Atlantic Fisheries Organization for 2007, as required by the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.).

Sincerely,

Dr. William J. Brennan
Acting Under Secretary of Commerce
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UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

JAN 15 2009

The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Senator Hutchison:

I am pleased to submit the enclosed information regarding the activities of the Northwest Atlantic Fisheries Organization for 2007, as required by the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.).

Sincerely,

Dr. William J. Brennan
Acting Under Secretary of Commerce
for Oceans and Atmosphere

Enclosure

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IDENTICAL LETTERS TO:

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Honorable Nick J. Rahall, II
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Honorable Doc Hastings
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Hastings:

The Honorable John D. Rockefeller
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Senator Hutchison:

NORTHWEST ATLANTIC FISHERIES CONVENTION ACT
2007 ANNUAL REPORT

I. Legislative Requirements:

Section 212 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5611) requires the Secretary of Commerce prepare an annual report for Congress on the activities of the Northwest Atlantic Fisheries Organization (NAFO) Fisheries Commission, the General Council, the Scientific Council, and the Consultative Committee established under Section 208 of the Act. The functions assigned to the Secretary of Commerce under the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.) have been delegated to the Under Secretary for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

Section 213(a) of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5612(a)) requires the Secretary of Commerce, acting through the Secretary of State, promptly seek to establish a new practice for allocating quotas under the Convention that–

(1) is predictable and transparent;

(2) provides fishing opportunities for all members of the Organization; and

(3) is consistent with the Straddling Stocks Agreement.

Section 213(b) of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5612(b)) requires the Secretary of Commerce include in annual reports under Section 212–

(1) a description of the results of negotiations held pursuant to subsection (a);

(2) an identification of barriers to achieving such an allocation practice; and

(3) recommendations for any further legislation that is necessary to achieve such a new practice.

II. Report of the 2007 Activities of NAFO Bodies and the Consultative Committee :

Pursuant to 16 U.S.C. 5611, this section contains details of the 2007 activities of the Northwest Atlantic Fisheries Organization (NAFO) Fisheries Commission, the General Council, the Scientific Council, and the NAFO Consultative Committee established under 16 U.S.C. 5607.

(1) 2007 Activities of NAFO Bodies: The majority of the 2007 activities of NAFO bodies are summarized in the Reports of the General Council and Fisheries Commission from the 29th NAFO Annual Meeting, held in Lisbon, Portugal, September 24-28, 2007. The reports from this meeting are attached as **APPENDIX 1.** Due to the size of the June 2007 NAFO Scientific Council Meeting Report, it is not included as an appendix. This report is available online at: http://archive.nafo.int/open/sc/2007/parta.pdf.

The following NAFO meetings were held during 2007:

a) General Council Intersessional
Montreal, Quebec, Canada, April 19-20, 2007;

b) Technical Editing Working Group
Brussels, Belgium, May 22-23, 2007;

c) STACTIC Meeting
Gdynia, Poland, Canada, June 5-7, 2007;

d) Scientific Council Meeting
Dartmouth, Nova Scotia, Canada, September 7-21, 2007;

e) 29th NAFO Annual Meeting
Lisbon, Portugal, September 24-28, 2007;

f) Scientific Council Symposium
Lisbon, Portugal, October 1-3, 2007;

g) Scientific Council Shrimp Assessment Meeting
Dartmouth, Nova Scotia, Canada, October 24- November 1, 2007.

Reports of all NAFO meetings are available from the NOAA Office of Legislative Affairs (202-482-4981). In addition, many NAFO reports are available online at: http://www.nafo.int.

(2) Report of the 2007 Activities of the NAFO Consultative Committee (NCC): During early 2007, there were a number of informal staff and interagency meetings relating to U.S. participation in the NAFO reform process as well as other key areas of U.S. concern in NAFO. In addition, there were a number of consultations among the U.S. Commissioners to NAFO and with NCC members on these issues. The first formal meeting of the NCC occurred via teleconference on February 23, 2007 (see attached Agenda at **APPENDIX 2)**. The purpose of

this meeting was to: 1) review the events of the 2006 NAFO Annual Meeting and relevant bilateral meetings; 2) update NCC members and Commissioners on U.S. progress to secure an allocation of NAFO yellowtail flounder; 3) discuss preparations for the April 2007 NAFO Special General Council Meeting and the June 2007 NAFO Scientific Council Meeting; and 4) discuss U.S. participation and goals in preparation for the 2007 annual meeting.

The second formal meeting of the NCC occurred via teleconference on September 6, 2007 (see attached Agenda at **APPENDIX 2**). The purpose of this meeting was to: 1) update NCC members and Commissioners on U.S. progress to secure an allocation of NAFO yellowtail flounder; 2) update NCC members and Commissioners on NAFO reform efforts and discuss strategies of furthering USG goals for NAFO reform at the 2007 annual meeting; and 3) discuss details of U.S. participation and issues of interest for the 2007 annual meeting.

III. Report of Issues Relating to the NAFO Quota Allocation Practice:

The goals set out in 16 U.S.C. 5612(a) require the Secretary of Commerce, acting through the Secretary of State, promptly seek to establish a new practice for allocating quotas under the Convention that: 1) is predictable and transparent; 2) provides fishing opportunities for all members of the Organization; and 3) is consistent with the Straddling Stocks Agreement. These goals have not yet been achieved.

16 U.S.C. 5612(b) requires the Secretary of Commerce include in annual reports under 16 U.S.C. 5611: 1) a description of the results of negotiations held pursuant to subsection (a); 2) an identification of barriers to achieving such an allocation practice; and 3) recommendations for any further legislation that is necessary to achieve such a new practice. This information is contained below.

(1) Negotiations relating to the NAFO quota allocation process during 2007:

Historic allocations: For over 20 years, NAFO Division 3LNO yellowtail flounder was allocated exclusively to two Contracting Parties (Canada and the European Union), with a very small amount allocated to the "others" category—available to member countries that do not have a specific national allocation. In 2005, the European Union (EU) agreed to forgo its allocation so it could be given to France (on behalf of St. Pierre and Miquelon). Canada still receives the majority (over 97 percent) of the allocations.

Stock recovery and subsequent allocations: The NAFO Scientific Council provides advice on the status of the 3LNO yellowtail flounder stock biennially. This advice has resulted in a series of NAFO Fisheries Commission increases to the total allowable catch (TAC) for this stock (from 13,000mt in 2002 to 15,500mt in 2007-2008). In response to a U.S. request for advice at its 2006 meeting, the Scientific Council indicated the current harvest rate for the stock could be increased from F=65 percent maximum sustainable yield (msy) to F=75 percent msy (or even

F=85 percent msy) with only a slight decrease in catch biomass over the next 10 years (but generating a greater accumulated harvest). The risk of the stock exceeding buffer limits for this stock under the precautionary approach at any of these harvest rates was miniscule.

U.S. Proposals in NAFO: In response to each of the TAC increases to this stock, the United States has tabled a number of proposals for a (first time) national allocation based on: the relative (and increasing) good health of the stock; a demonstrated U.S. history of fishing for this stock in the NAFO Regulatory Area; and the principle that the agreed increase in TAC for this stock should be shared among all those with a history in the fishery. In all instances, although TAC increases were adopted, U.S. proposals for a share received little support.

Bilateral efforts: In addition to its efforts to secure a useable share of Div. 3LNO yellowtail flounder "at the table" within NAFO, the United States has engaged in repeated bilateral meetings with Canadian government and fishing industry representatives. Although an early attempt was made to set up an industry-to-industry arrangement within the Canadian Exclusive Economic Zone, the Canadian Government has been consistently unwilling to support the United States in NAFO on this issue. Over the years, U.S. efforts to secure this support have included: bilateral meetings, diplomatic communications, an official visit by Department of State and National Marine Fisheries Service (NMFS) officials with key Canadian Members of Parliament in Ottawa, and similar consultations between senior NMFS, National Oceanic and Atmospheric Administration (NOAA), and Canadian Department of Fisheries and Oceans officials (including the Canadian Minister of Fisheries). Although the Canadian Government has continually expressed its understanding of the U.S. position on NAFO yellowtail flounder, the Canadian fishing industry (particularly in Newfoundland and Nova Scotia) are not in favor of creating any new allocations within any existing Grand Banks fisheries. Specifically, they do not support the addition of another Party to the NAFO allocation key for yellowtail flounder, even if the TAC is increased such that there is no loss of fish for Canadian vessels/processors. Furthermore, they have stated (despite the scientific advice) they have conservation concerns that would prevent them from supporting a change to the harvest rate for yellowtail flounder.

During 2007, the United States continued to communicate with the Canadian Government on the issue of NAFO yellowtail flounder. In intersessional consultations preceding the 2007 NAFO Annual Meeting, Canada offered to permanently transfer 500mt to the United States in exchange for the current U.S. allocations of shrimp (360mt) and redfish (69mt). While no U.S. vessels were fishing these allocations, the U.S. industry was increasingly dissatisfied that every Canadian proposal came with "strings attached." As the September 2007 NAFO Annual Meeting convened, Canada offered an additional 250mt of yellowtail, but with additional (unacceptable) requirements for the United States to gain access to the transfer.

The 2007 Annual Meeting: The U.S. yellowtail flounder proposal tabled at the 2006 annual meeting remained on the table for consideration at the 2007 Annual Meeting. However, it was decided that the bilateral approach with the Canadians held more promise, so the United States made no effort to reopen discussions on its 2006 yellowtail proposal.

Upon arrival at the meeting, bilateral consultations were reinitiated with Canada, and the United States once again clarified that it needed at least 850mt of yellowtail in order to prosecute a fishery. In addition, U.S. delegation industry representatives began to express their concern that the economics of NAFO fin fisheries made U.S. harvests of yellowtail flounder increasingly unlikely, and that trading away the existing U.S. shrimp allocation was unacceptable. Thus, the U.S. delegation agreed it would not accept the Canadian proposal that required such a *quid pro quo*. Following this change of position, it became clear no bilateral agreement would be forthcoming for 2007. It was agreed by both sides that a "cooling off" period would be beneficial and discussions could resume at some point early in 2008.

During 2006 and 2007, NAFO Contracting Parties undertook the development of revisions to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, the Convention underlying NAFO, in order to modernize it by incorporating authorities for applying an ecosystem approach to fisheries management and the precautionary approach, adding definitions, and clarifying the duties of Contracting Parties, flag states, and port states, among other purposes. The United States succeeded in advancing its interests in the area of allocation by adding the italicized language to the first sentence of Article VI (12) of the revised Convention: "Measures adopted by the Commission for the allocation of fishing opportunities in the Regulatory Area shall take into account the interests of Contracting Parties whose vessels have traditionally fished within that area ***and the interests of the relevant coastal States.***" This addition somewhat strengthens the U.S. pursuit of usable quota allocations from NAFO on the level of principle.

(2) Identification of barriers to achieving a new quota allocation practice in NAFO: The barriers to achieving a new quota allocation practice were clearly identified in the 2003 Report of the Working Group on Allocation of Fishing Rights to Contracting Parties (see the 2003 Report to Congress for details). Because the Working Group has not convened since 2003, the United States has focused its efforts on getting a usable quota allocation of yellowtail flounder.

During 2007, the United States continued to speak out in support of amendments to the NAFO Convention relative to the decision-making process (particularly as it pertains to allocations) and the dues assessment process. The United States made it clear that these key issues would continue to be priorities for the United States and the resolution of these issues would have a major impact on U.S. participation in NAFO in the future. In final discussions of the revision of the Convention during 2007, the dues assessment process was addressed to the satisfaction of the United States. However, it also became apparent that NAFO Contracting Parties were unwilling to measurably improve transparency and inclusiveness of the allocation decision-making process, leaving such matters to be addressed in an ad-hoc manner.

(3) Recommendations for any further legislation that is necessary to achieve such a new practice:

No recommendations at this time.

APPENDIX 1

REPORTS OF THE ACTIVITIES OF THE NAFO GENERAL COUNCIL AND FISHERIES COMMISSION AT THE 29TH NAFO ANNUAL MEETING

LISBON, PORTUGAL, SEPTEMBER 24-28, 2007.

APPENDIX 2

NAFO CONSULTATIVE COMMITTEE AGENDAS

NAFO Consultative Committee Meeting
February 23, 2007

Agenda

I. Recent Developments

- Brief highlights of 2006 Annual Meeting
- Relevant bilateral meetings

II. Upcoming Events

- Yellowtail flounder

- NAFO Special General Council Meeting (April 19-20 / Montreal)
  - -Agenda
  - -Draft Chair's Text (rev4)
  - -Canadian redline
  - -SC comments
  - -U.S. positions/approaches

- Scientific Council Meeting (June 1-15 / Dartmouth)
  - -key issues

- NAFO Annual Meeting (September 17-21 / Portugal)
  - -Key issues (YTF, GH measures, pelagic redfish, closed areas, others)

III. Follow-up / Assignments

IV. Other

Thursday, September 6, 2007
NAFO Consultative Committee Meeting

Agenda

I. Yellowtail Flounder

- Status of bilateral consultations with Canada
- Possible U.S. response to Canadian YTF proposal
- Building up a future U.S. allocation

II. NAFO Reform

- Special General Council Meeting (April 2007)
- Montreal technical editing meeting (May 2007)
- Outstanding issues
- Strategies for the 2007 NAFO Annual Meeting

III. NAFO Annual Meeting (September 24-28 / Portugal)

- Canadian proposals on VMEs, shrimp, and cod
- Key Scientific Council issues (see attached 2007 SC Meeting summary)
- STACTIC issues (Chair?)
- Thorny skates and other potential elasmo issues
- U.S. Delegation and Logistics

IV. Other Issues

V. Follow-up / Assignments