

RECORD OF DECISION  
FINAL ENVIRONMENTAL IMPACT STATEMENT  
FRAMEWORK ADJUSTMENT 4 TO THE ATLANTIC MACKEREL, SQUID, AND  
BUTTERFISH FISHERY MANAGEMENT PLAN

National Marine Fisheries Service

This document comprises the National Marine Fisheries Service's (NMFS) Record of Decision (ROD) for Framework Adjustment 4 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) as required by the National Environmental Policy Act (NEPA). The ROD is based on and incorporates, as described below, the Northeast Regional Administrator's (RA) Decision Memorandum dated on May 11, 2004, Framework Adjustment 4 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan Final Environmental Impact Statement (FEIS), and all other analytical documents prepared for this action.

Background:

Prior to the 1980's, the fishery for *Illex* squid in the US Exclusive Economic Zone was prosecuted primarily by the foreign distant water fleets. With the implementation of the Atlantic Mackerel, Squid, and Butterfish FMP and subsequent Amendments, the fishery has become fully "Americanized". At the same time that the domestic fishery was undergoing development, new biological data became available which indicated that *Illex* is an annual species. This resulted in downwardly revised estimates of the sustainable yield from this fishery.

The simultaneous growth of the domestic fishery and reduction in the estimate of sustainable yield resulted in the *Illex* fishery moving towards a fully capitalized and exploited state. As a result, a limited entry program became necessary and was implemented in Amendment 5. However, due to concerns that capacity might be insufficient to fully exploit the annual quota, a five year sunset provision was placed on the *Illex* moratorium when it was implemented in Amendment 5. The sunset provision for the moratorium on entry into the *Illex* fishery, implemented in 1997, was set to expire in July 2002, but was extended for one year under Framework 2. The *Illex* moratorium was subsequently set to expire in July 2003 until remedial action was taken by the Council under Framework 3, which extended the moratorium until July 2004. The sole purpose of Framework 4 is to temporarily extend the moratorium on entry to the *Illex* fishery while the Council addresses a permanent resolution to this issue in Amendment 9 to the FMP.

#### Proposed Measures and Alternatives for Framework 4

Three alternatives were analyzed in the EIS. The first alternative was to extend the moratorium on entry to the *Illex* fishery for an additional five years. Under this alternative, the moratorium on entry to the *Illex* fishery would expire in 2009 unless superceded by actions taken by the Council in a future amendment. This alternative was considered as the preferred by the Council and also was the most restrictive alternative considered by the Council. This alternative also maintains the status quo for five years. The second alternative would extend the moratorium on entry to the *Illex* fishery for an additional two years. Under this alternative, the moratorium on entry to the *Illex* fishery would expire in 2006 unless superceded by actions taken by the Council in a future amendment. This alternative also maintains the status quo for two years. The third alternative was no action. Under this option, the *Illex* moratorium would expire in July of 2004 and the fishery would revert to open access conditions.

One alternative was considered but rejected; namely, extending the moratorium on entry into the *Illex* fishery without sunset provision. This option was rejected from further analysis because the Council considered the measure to be beyond the scope of a framework action. This action is currently being considered in Amendment 9, which is under development by the Council. The framework adjustment process set forth at 50 C.F.R. §648.24 is a mechanism to add management measures to or adjust management measures in the FMP. As a consequence, the *Illex* squid moratorium limitation in the FMP is subject to an adjustment through this framework adjustment process. As reflected in the administrative record underlying the adoption and implementation of this process, this process was developed to make revisions to the measures in the FMP that did not represent major changes to the cornerstone provisions of the FMP. One of the cornerstone provisions in the FMP is the moratorium on entry into the *Illex* squid fishery, which, by virtue of Amendment 5 to the FMP, is of limited duration. Eliminating the sunset provision on the moratorium would extend the moratorium indefinitely. This would ostensibly close the door on new entry into the fishery. Such a change goes beyond an adjustment to the *Illex* squid moratorium provision of the FMP that can be effected through the framework adjustment. This is the basis for the conclusion that Alternative 4 should be rejected. Such a major shift in the direction of the FMP will be controversial, particularly as access to other overfished fisheries in the Northwest Atlantic has been severely curtailed. The framework process involves a somewhat truncated administrative process that incorporates the opportunity for public participation at two Council meeting, which are currently held some six weeks apart. Extending the *Illex* moratorium indefinitely demands a more deliberative and widespread public process. Under the Magnuson-Stevens Fishery Conservation and Management Act, the process of amending the FMP is the appropriate mechanism to extend the moratorium indefinitely.

#### Factors Considered in Making a Decision on the Proposed Action

Through the FEIS as documented in this ROD, NMFS analyzed alternatives, associated environmental impacts, the extent to which the impacts could be mitigated, and considered the objectives of the proposed action. NMFS has also considered public and agency comments

received during the NEPA and Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) review periods.

### Decision on the Proposed Action

After careful review of the proposed measures, the associated analyses, and the public comments that NMFS received on Framework Adjustment 4 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, NMFS is approving the measure recommended by the Council (Alternative 1).

Extending the moratorium five years, as opposed to two, was selected because the five-year window is likely to provide enough time for the implementation of Amendment 9, thereby avoiding the need to take up the issue of extending the moratorium yet again prior to such implementation. Based on the Council's analyses, extending the moratorium for five years, as opposed to two, would have no further environmental or socioeconomic effects.

The no-action alternative was rejected because the Council's analyses shows that allowing the *Illex* fishery to revert to open access could result in problems for the resource. In 2002, there were 72 vessels permitted to participate in the directed *Illex* fishery, however, only 50 percent of those vessels (36 vessels) landed any *Illex* squid in 2002. The *Illex* squid vessels currently permitted to participate in the fishery have the capability to harvest the total harvest level. In fact, in 1998, permitted vessels were able to land the total harvest level and the fishery was closed early that year. That year, more than 99 percent of the total *Illex* squid landings were made by 37 vessels or about 50 percent of the vessels holding *Illex* moratorium permits. The remaining 1 percent of the *Illex* squid landings were made by 71 vessels holding incidental catch permits. The elimination of the moratorium of entry to the *Illex* fishery will not affect the manner in which the total harvest level for this species is established. The *Illex* fishery is managed through annual specifications and management measures, which are designed to assure that the target harvest level is not exceeded. Thus, overall *Illex* landings will not be affected. However, if a significant number of additional vessels enter the fishery as a consequence of Alternative 3, it is possible that the open access condition may affect the current revenue structures of participants and/or create derby-style fishing practices which could potentially lead to an early closure. This situation may create market gluts and price instability in the fishery.

NMFS has determined that, overall, the approved measure represents the environmentally preferable alternative when considering the balance of environmental and economic effects and benefits that might accrue from these measures within the context and strictures of the Magnuson-Stevens Act. Further, NMFS has determined that this alternative will promote the national environmental policy as discussed in Section 101 of NEPA. NMFS also concludes that all practical and legally justifiable means to avoid, minimize, or compensate for environmental harm from the proposed action have been adopted. NMFS has considered responses to all applicable public comments received on Framework Adjustment 4 and its proposed implementing rule. These comments have been considered by NMFS, as described in the RA's

decision memorandum dated [insert date]. Responses to all comments on Framework 4 Adjustment and its proposed rule will be included in the final rule implementing Framework Adjustment 4.

Further information regarding this ROD may be obtained by contacting George H. Darcy, Northeast Region, NMFS, 1 Blackburn, Gloucester, MA 01930, (978) 281-9331.

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Assistant Administrator, National Marine  
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