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ABTA Position Statement: The Precautionary Approach

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There has been much discussion in the last few years regarding a proposal to incorporate the precautionary approach and the ecosystem based approach into the ICCAT Convention. This paper discusses the precautionary approach.

Presently, there is no mention in the Convention text of the "precautionary approach" yet many conservation and management measures taken by ICCAT have utilized the precautionary approach. Why? Because there is nothing in the Convention text that precludes ICCAT from using the precautionary approach. The U.S.'s position is that (ICCAT) decisions should be based upon the best available science and should reflect the precautionary approach.

The big question is: Should ICCAT emphasize the importance of the precautionary approach by taking it into account more fully in new recommendations and management measures? The answer is, ICCAT can and should do this whether or not the Convention includes specific reference to the precautionary approach but first, the precautionary approach benefits from further elaboration.

The chief problem with the concept of the precautionary approach is that, for all its rhetorical appeal, it is deeply incoherent. It is of course true that ICCAT should take precautions against certain speculative dangers. But there are always risks on both sides of a decision; inaction can bring danger, but so can action. Precaution, in other words, itself creates risks – and hence, the approach bans what it simultaneously requires.

The precautionary approach is an outgrowth of increased environmental awareness since the 1970's. The conviction took hold that humanity finds itself in a historically unprecedented situation in which our technology capacity and the potential scale of our actions far exceeds our predictive knowledge. Following that logic, if an activity raises threats of harm to the environment, the precautionary approach may be justifiable.

It is important to acknowledge a bias inherent in the use of the precautionary approach: the bias infers that the precautionary approach exclusively mandates for a "contraction" or "diminution" of the human activity in question. This bias does not take into account that precaution is a double-edged sword. The Oxford English Dictionary defines precaution as "prudent foresight" or "a measure taken in advance to prevent something dangerous, unpleasant or inconvenient from happening." Therefore, as but one example, there are conditions in which it can be dangerous to reduce, increase or maintain fishing quota for the following year particularly if, in this instance, we are to take into account another guiding principle: maximum sustainable catch.

Concepts such as "maximum sustainable yield" or "maximum sustainable catch" are unambiguous but the same cannot be said of the precautionary approach. The problem is that the concept, "precautionary approach", as a standalone concept, fails to spell out the precise conditions that have to be fulfilled before the precautionary approach may be invoked or before determining the nature of the preventative action to be taken.

The condition referred to as "scientific uncertainty" is most often presented as the event that would trigger a precautionary approach. However, absent an elaboration of the concept, as a minimum, we lack a minimal threshold of scientific certainty or plausibility before we may (or should) undertake preventative action. The condition we refer to as "uncertainty" is too ambiguous. There are varying degrees of uncertainty. Therefore, we need guidelines.

If there is no minimal threshold of plausibility or, in this case, we say, uncertainty, we lack the means with which to specify the "triggering condition". By doing this, we reduce the concept to that of an absurdity. So, it is possible that even a low level of uncertainty can trigger the condition that will result in our implementing the precautionary approach.

Absent specificity, the precautionary approach can be likened to such expressions as, "better safe than sorry" or "an ounce of prevention is worth a pound of cure". These are fairly vacuous guidelines for safeguarding the environment and for public policy in general. Taken literally, the precautionary approach is either wholly arbitrary or incoherent. In its stronger formulations, without specificity, it actually has the potential to do harm. Efforts to impose the precautionary approach through regulatory policy will inevitably intend to accommodate competing concerns or, more likely, become a Trojan Horse for ideological crusades.

We believe that the precautionary approach can be sound policy in the context of quantifiable scientific uncertainty or not wholly known environmental risks. A broad framework could be developed on the basis of the guidelines incorporated in the UN Fish Stocks Agreement, as one of the general principles for the conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks, Articles 5(c), 6 and Annex II. Another way to develop a broader framework would be by taking up

where ICCAT's Standing Committee on Research and Statistics' Working Group on the Precautionary Approach left off when they last met in 1999.

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