H.R. 2048 and H.RES. 30

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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C O N T E N T S

LEGISLATIVE HEARING ON H.R. 2048, A BILL TO EXTEND THE PERIOD FOR REIMBURSEMENT UNDER THE FISHERMEN'S PROTECTIVE ACT OF 1967, AND TO REAUTHORIZE THE YUKON RIVER RESTORATION AND ENHANCEMENT FUND; AND H.RES. 30, A RESOLUTION CONCERNING THE SAN DIEGO LONG-RANGE SPORTFISHING FLEET AND RIGHTS TO FISH THE WATERS NEAR THE REVILLAGIGEDO ISLANDS OF MEXICO.

Thursday, May 22, 2003
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room 1334, Longworth House Office Building, Hon. Wayne T. Gilchrest [Chairman of the Subcommittee] presiding.

Present: Representatives Gilchrest, Pallone, Saxton, and Cunningham.

STATEMENT OF THE HON. WAYNE T. GILCHREST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GILCHREST. The Subcommittee will come to order.

The Ranking Member, I understand, will be here in just a few minutes.

Before I begin this morning, I would like to ask unanimous consent that our colleague Congressman Duke Cunningham be allowed to sit at the dais and participate in today's hearing.

Hearing no objection, so ordered. Duke is not going to object.

I want to thank the witnesses for coming this morning. We look forward to your testimony on a number of issues. We will review two pieces of legislation: H.R. 2048 and H. Res. 30. In addition, we have asked the witnesses to address issues of interest to the Subcommittee concerning our obligations under various international fishery and marine mammal conservation management treaties.

The first bill is H.R. 2048, which authorizes two laws dealing with international fisheries: The Fishermen's Protective Act and the Yukon River Salmon Act.

The second piece of legislation is H. Res. 30, introduced by my friend and colleague, Congress Duke Cunningham. This resolution calls on the Departments of State and Commerce, both of which are represented on the panel before us, to work with their counterparts in the Mexican Government to allow charter fishermen from San Diego to regain access to a number of islands in Mexican waters that these fishermen have had access to in the past.

Finally, we have asked our witnesses a number of questions regarding their activities on the international front. For instance, I understand there are three new treaties that deal with either marine mammal management or cooperative fisheries management. I also understand there have been a number of international fishery management bodies that have met in the past year or will meet in the near future, and some of the issues being discussed will affect domestic management of our fishery resources.

One such issue is the management of the Patagonian Toothfish, also known as Chilean Sea Bass, which was a topic of much debate on the recent CITES meeting. I hope we will hear what the U.S. is doing to implement a domestic catch verification scheme to ensure that what is on the market in the U.S. is coming from a country that is following the international rules. This fishery is a clear case where illegal, unregulated, and unreported, or IUU fishing is having a negative impact on a fishery that is under international management.

As all of our members know, this Subcommittee has jurisdiction over international fishery agreements, and while this hearing will just scratch the surface of our jurisdiction, I hope it will highlight some of the issues or international agreements upon which we should spend some more time later on in this year.

We look forward to hearing from our witnesses this morning, and I want to thank all of you for coming back so many times to Capitol Hill. And when Mr. Pallone gets here, we will give him time for his opening statement.

I will yield now for any time he may want to use to Mr. Cunningham from California. Do you have any statement you want to say up front?

[The prepared statement of Mr. Gilchrest follows:]

Statement of The Honorable Wayne T. Gilchrest, Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans

Today, the Subcommittee will review two pieces of legislation—H.R. 2048 and H.Res. 30. In addition, we have asked the witnesses to address issues of interest to the Subcommittee concerning our obligations under various international fishery and marine mammal conservation and management treaties.

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I look forward to hearing from all of our witnesses today. I also ask unanimous consent that the statement of Mr. Robert Fletcher, President of the California Sportfishing Association, be entered into the record at the appropriate point.

I am pleased to recognize the Ranking Democratic Member of the Subcommittee, The Honorable Frank Pallone.

Mr. CUNNINGHAM. Thank you, Mr. Chairman. Do you want me to go through my resolution right now?

Mr. GILCHREST. You may. If you want to make a comment or statement —

Mr. CUNNINGHAM. Do you want me to wait for Mr. Pallone?

Mr. GILCHREST. I think you can begin, Mr. Cunningham.

STATEMENT OF THE HON. RANDY "DUKE" CUNNINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CUNNINGHAM. Well, thank you, Mr. Chairman, my classmate.

I sat there on that side when I first got here 12 years ago in Congress when the great Walter E. Jones was the Chairman. I want to tell you he worked in a very bipartisan way. He was a great man, and now his son sits right here in this position next to me here. And since that time, I think we have done a lot of good. The Chairman focuses on the environment, on wildlife and fisheries management, and I have been proud to fly his wing on many, many issues, and I want to thank you.

Mexico has allowed fishing in the Revillagigedo Islands since 1970, and in late 1994, Mexico declared that the islands would become part of a biosphere reserve and a closed area. I worked with Secretary Comacho, who was then Secretary of Fisheries and a great man, and again, in a very bipartisan way, we sat down for almost a year going through Mexican law, environmental law, and came up with a plan to where U.S. and Mexico could sportfish within the islands and it was a good plan.

In 1995, Mexico reopened the islands to sportsfishing and said they would allow it until a management plan was completed. To date, Mexico announced that the management plan was due in March, but we haven't seen it yet, and most scientific studies point out that sportsfishing's impact on the ecosystem is positive. The problem is commercial long-liners.

Are there certain fish species that have been depleted? I fish. As a matter of fact, on the 30th of this month, I am going down yel-

lowfin fishing with sportsfishermen, and I have been about four times this year, and I have caught a record number in large mature fish every single time. I have caught wahoo. I have caught yellow tail and some good species.

But one long-line fishing vessel that comes in illegally catches more than an entire season of every sportsfisherman's take. They deplete the resource. Now, you as citizens can go out for a weekend. You go down to a boat. You pay your money, and you go out with a single line and catch fish. That doesn't deplete the resource. The real problem, we feel, are the long-liners and the commercial fishermen.

The sportsfishermen, Mr. Chairman, actually turn away illegal fishermen in the areas around the islands because that is where the fish respond. The Mexican authorities do not adequately accomplish this function. You know, whether it is border control or fishing, they are just not as responsive—they have a law, but they just don't back it in up in many cases. And the ecosystem has actually benefited from our sportsfishermen.

San Diego stands to lose literally thousands of jobs. We are talking mostly Portuguese families that have fished for hundreds of years and had the right to do that, and they maintain those stocks. If they deplete the stocks, their livelihood, they lose. So just as farmers are, I think, the best managers of wildlife, our sportfishermen are the best managers of our seas—the sportsfishermen, not necessarily the commercial fishermen.

And I would say the fleet has already lost an entire season. If fish disappear and the fleet loses their livelihood, they are not only out of business, but the fisheries system, the ecosystem, is also depleted.

Welcome, Mr. Pallone.

The fleet has offered to stop trolling in the area. Trolling is taking the boat with long lines in the back and fish. They have agreed not to do that within six miles of the island, and most of the fish are inside that level, to reduce the individual take of wahoo from 15 fish to personally 10 fish per season, to carry observers from Mexico itself to make sure that they don't violate the laws. Every boat that goes out will have a Mexican observer on it to make sure that this is done.

Secretary Evans and his staff have been quite helpful in trying to resolve this issue, and I am proud of my record, not only on this Committee, but for the last 12 years. The Tuna-Dolphin Bill was mine in which we saved species, young species, and bycatch that was being pulled up and discarded. The Shark Finning Bill was my bill. As a sportsman, I found that fisherman were catching sharks, cutting the fins off, and then dropping the carcass back. That is just wrong. I am not and extreme environmentalist, but I am a conservationist, and I want the species for my children and for Mr. Pallone's children and our families to exist.

That goodwill is in jeopardy, Mr. Chairman. I have supported NAFTA. I supported when the peso devaluation came forward, working with our sister country in San Diego on immigration issues and stuff, but I want to tell you there is a large group of us, Republicans and Democrats that are not going to take this last slap in the face from Mexico.

This resolution sends a strong message to the Mexican Government and Vincente Fox to help us resolve this issue, save the ecosystem, save jobs for Mexico all the way from Cabo San Lucas up to northern San Diego and help us do that. It is a good resolution. It is a bipartisan resolution.

There was a study done by free divers. This is about 15,000 hours of diving around the islands. Well, guess what. If I am hunting elk and I hunt elk the desert. I am going to tell you there aren't any elk in there and the species is depleted. Where I go up is Montrose, Colorado to hunt elk or other areas which they have been brought in, and the islands where these divers dive in this study just isn't where the species are. I mean, they are migratory and they travel all over, but where the Wahoo, what the yellowfin, and the fish are do not relate to this.

[The letter referred to follows:]

LETTER FROM DR. JAMES JOSEPH, FORMER DIRECTOR, INTER-AMERICAN TROPICAL TUNA COMMISSION

April 17, 2002

Robert C. Fletcher
President
Sportfishing Association of California
1084 Bangor Street
San Diego, California
92106

Dear Bob,

I enjoyed visiting with you the other day and hearing about current events in the offshore sportfishery. After thinking about some of the things you told me, and reading a few documents floating around the docks which pertain to the status of the fish stocks in the area of the Revillagigedo Islands, I became concerned that based on these documents, erroneous conclusions might be drawn on the status of the tuna stocks in the eastern Pacific Ocean (EPO), and particularly in the waters surrounding the Revillagigedo Islands.

As you know, the Inter-American Tropical Tuna Commission (IATTC), an international organization which counts in its membership most of the Latin American Nations bordering the EPO including Mexico, has responsibility for the scientific study, conservation and management of the tuna and tuna-like stocks of the region. Since I directed that organization for more than 30 years (1968-1999), I am quite familiar with its work and its conclusions regarding the status of the fish stocks falling within its area of responsibility. The IATTC employs a staff of internationally recruited, world renowned scientists to conduct assessment studies of the tuna and tuna-like species of the EPO. Such studies have been underway since 1950, and are based on one of the most complete databases of fisheries and biological information for tunas in the world. The results of these studies demonstrate that during the last decade the population of yellowfin tuna has been at the highest levels of abundance since the early 1960s. In fact, due to very high levels of recruitment, the catch of yellowfin during 2001 was at a record high.

Tunas are highly migratory, they undertake extensive migrations, moving from one area to another, crossing zones of national jurisdiction as readily as you and I cross the street. This fact was recognized by the nations of the world when drafting the U.N. Law of the Sea Convention. Recognizing their migratory nature and the fact that no nation can successfully manage tuna unilaterally, Article 64 of that Convention calls on nations to work cooperatively through appropriate regional bodies, to carry forward appropriate scientific study and rational management and conservation of these resources. This is precisely what is being accomplished through the IATTC.

The abundance of yellowfin tuna in the waters surrounding the Revillagigedo Islands is a reflection of their abundance throughout the EPO, and as mentioned that abundance is high. The results of the studies conducted by the scientists of the IATTC are reported in the scientific literature and I would refer anyone interested in the status of the yellowfin stock to consult the scientific reports of the IATTC.

Another species that is receiving a lot of attention in the waterfront documents I referred to above is wahoo. Unfortunately this magnificent species is not as well studied as the tunas. It is a species that should receive more attention because of its importance as a game fish and because of the large numbers that are discarded by commercial vessels as a bycatch. The scientists of the IATTC have been collecting information on bycatch, and it would be useful if good information for the recreational fisheries could be collected and archived as well. In one of the documents which I believe was written by Sea Watch, a series of observations and anecdotal information by divers is presented and discussed. An estimate is given of the numbers of Wahoo in the waters around San Benedicto Island. Based on this information it is concluded in the article that Wahoo around the Revillagigedo Islands are seriously overfished . I applaud the authors of this report for attempting to provide an assessment of the wahoo stock, but because the wahoo occurring around the Revillagigedos are probably part of a larger population, one that occurs throughout the EPO, I would caution placing very much reliance on any conclusions drawn from the data presented in the report. One needs only look at the wide confidence intervals around most measures of abundance for pelagic species that were estimated using well designed statistical sampling programs based on line-transect theory to imagine the kind of error that would result in estimates based on sparse data collected through casual observation. I don't know how many wahoo the SAC vessels take from the area of the Revillagigedos in a year, but I would guess it is less than 15,000 individuals. When one compares this number with the approximately 300 to 500 thousand wahoo that are dumped annually as a bycatch of commercial vessels in the waters of the equatorial EPO, conclusions about the relative impact of catches of Wahoo on their population abundance would have to be viewed with great caution, and indeed some skepticism. I hope these few facts will stimulate SAC to help generate a greater interest in studies of Wahoo in the EPO.

The estimation of animal numbers is a difficult task even on land. When attempting to estimate numbers of animals in the ocean, where only a small fraction of the population can be seen and/or counted, is a daunting task indeed. The best estimates of abundance for yellowfin tuna in the EPO indicate that the population is healthy and in good shape, and at the highests levels of abundance in the recent history of the fishery. Unfortunately similar information is not available for Wahoo, and I would caution drawing conclusions when there is a lack of good scientific information.

Sincerely yours,

JAMES JOSEPH

Mr. CUNNINGHAM. I laud them for trying to do a study, but it is just not accurate, and I would thank the Chairman.

[The prepared statement of Mr. Cunningham follows:]

Statement of The Honorable Randy "Duke" Cunningham, a Representative in Congress from the State of California

Mr. Chairman, I am pleased to be here today before the Subcommittee on Fisheries Conservation, Wildlife and Oceans to discuss my legislation, House Resolution 30. When I was first elected to the House of Representatives, I sat on the Merchant Marine and Fisheries Committee. Since that time I have fought to protect our resources and I appreciate all that is done in this Subcommittee to ensure the safest and most efficient methods overseeing our fisheries.

The long-range sportfishing fleet of San Diego has fished the waters off Mexico's Revillagigedo Islands (the Islands) since the early 1970s. This activity has occurred under agreements with various agencies of the Mexican Government including the Mexican Navy, the National Ecology Institute, and the Department of Environment, Natural Resources, and Fisheries. These longstanding agreements made for a safe

business environment and resulted in major capital expenditures by the San Diego sportfishing fleet, namely long-range sportfishing boats.

In 1994, the President of Mexico declared that the Islands would become part of a biosphere reserve and ordered an overall management plan, to include fishing regulations, to be completed within one year. In late 1994, the Mexican Navy closed the Islands to fishing until the management plan was complete.

After negotiations, in January of 1995, the Mexican Government agreed to issue provisional permits to the San Diego sportfishing fleet to fish the waters more than 500 meters from the islands until such time as a management plan was completed. It was understood that the final fishing regulations concerning the biosphere reserve would be included in the management plan. To date the management plan has not been completed.

On March 26th, 2002, without warning, the Mexican Government revoked all permits to fish within 6 nautical miles of the islands. This essentially closed the islands to sportfishing, as the large tuna that are sought in these waters are not to be found outside the six mile limit.

This action, in direct conflict with previous agreements, is having a devastating impact on the San Diego long-range sportfishing fleet, its employees, and tourism associated with the fleet. Mexico's continued refusal to allow the sportfishing fleet access to the islands' waters will cause serious economic harm to this important San Diego industry including lay-offs, loss of boat sales, bankruptcies, and a negative annual economic impact of $5,500,000.

The season runs from October through June, so the fleet has already lost one entire season. Their normal customers are not interested in fishing the local waters for smaller fish and instead head to Hawaii or foreign countries to catch their world class sportfish. Many companies will not be able to recover from this lost revenue. While our efforts to convince Mexico to restore grant permits to the sportfishing fleet in the nearshore waters around the four islands have been consistent, this issue still remains unresolved, frustrating my constituents who have lost their livelihood.

I wish to commend the efforts of Commerce Secretary Donald Evans and his staff in working with me to resolve this problem. Secretary Evans has initiated many talks with Secretary Derbez, his counterpart in Mexico, to find a solution. The two have developed an excellent relationship and were engaged in negotiations on the Revillagigedo Archipelago issue throughout the past eight months. As you may know, Secretary Derbez was appointed to the position of Foreign Minister earlier this month. We have yet to see how this will effect Secretary Evans' efforts and hope that this will not be a setback to the resolution of this time sensitive issue.

The Sportfishing Association of California (SAC) also deserves to be recognized for their dedication to resolution of this issue. Bob Fletcher, President of SAC, has traveled to Mexico on numerous occasions to meet with both U.S. and Mexican officials. He keeps an open mind and works to educate Mexico on the adverse effects this decisions has had on both countries. Earlier this year, he was present in La Paz and Manzanillo and actively involved in the discussions of the management plan for the Islands. He has worked to develop healthy relationships with Mexican officials in order to find a resolution that will hopefully sustain the livelihood of this fishing fleet. SAC has tried to sensitive to Mexico's environmental concerns, offering to stop trolling all together, reduce their yield of wahoo, carry Mexican observers, and other actions as spelled out in my letter on their behalf to Secretary Evans, dated December 19, 2002 (attached). They are willing to work with the Mexican government on this issue.

I am proud of my record of cooperation with Mexico in the trade arena and have worked hard for years to sustain and improve the history of working together that San Diego and Mexico enjoy. That goodwill is in jeopardy, however, as I watch my constituents suffer tremendous losses with seeming indifference from the Mexican Government. I am disheartened by delays of the Mexican Government to swiftly resolve this issue. The environmental enforcement agency of the Mexican Government, PROFEPA, has claimed that the failure to complete a management plan has necessitated the revocation of permits. An objective review of the facts, however, will clearly lay the blame for this crisis at the door of the Mexican Government, for failing to complete the management plan by June of 1995, as required by the Presidential Decree that created the Revillagigedo Archipelago Biosphere Reserve. A plan was in fact completed in draft form and forwarded to the U.S. Embassy in mid–1997, and that plan, a very acceptable document, was then left to gather dust for years.

This issue can be easily resolved, if President Vicente Fox will amend the 1994 Presidential Decree that created the Biosphere Reserve of the Revillagigedo Archipelago. An amendment to the Presidential Decree would solve the issue once and

for all. At present, the Decree mandates a 6 nautical mile nucleus zone be in place around all four islands in the Archipelago. If the Decree were amended to 500-meter nucleus zones around each of the four islands, it would still protect the species of concern and their habitats, while opening the waters outside 500-meters to limited sportfishing use. The 1994 Decree intended for the allowance of sportfishing within that area.

Mr. Chairman, House Resolution 30 sends a strong message to the Mexican government that reneging on this a long standing agreement will not go unnoticed. The suspension of these fishing permits has caused hardship for both the U.S. and Mexican economies. While our fishing boats lose their livelihood, Cabo San Lucas loses tourism revenue. This Resolution will hopefully prove to President Fox and the Mexican government that resolution of this issue can be swift and beneficial to both of our countries. We have sought to become better neighbors with our friends to the South through trade agreements such as NAFTA and diplomatic efforts under this administration. This Resolution will show them how they too can be better neighbors to the United States.

Mr. GILCHREST. Thank you, Mr. Cunningham, for your resolution and your statement this morning.

I yield for an opening statement to Mr. Pallone.

STATEMENT OF THE HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman, and let me say on behalf of our colleague, Mr. Cunningham, I appreciate his input into this, and with regard to House Resolution 30, I am interested to hear testimony that might clarify the Mexican Government's position on the islands in Mexico and the developments over the past year leading to the Mexican Government's decision to exclude San Diego's recreational fishing fleet.

I respect the sovereign right of every nation to manage their fisheries within their waters, but it appears in this situation we need additional clarification. So hopefully we will get that during the panel discussion.

Let me say, Mr. Chairman, I think this hearing is important, particularly with regard to the international fisheries agreements that are important, I think, for a variety of economic and ecological reasons, not least of which is that the improper or unfair management of international fisheries costs our constituents millions of dollars in lost revenues. Clearly global fisheries management is vital not only to the livelihoods of commercial fisherman in our nation and around the world, but also to the effect of conservation of highly migratory species and the so-called straddling stocks, those species that straddle borders of two or three nations.

I think that our efforts to guarantee international compliance with fisheries agreements are not only justified, but crucial to avoid seriously adverse economic impacts on our own fishermen and to protect global fisheries in the long term. Illegal, unregulated, and unreported fishing is an enormous problem as the New Jersey-based Bluewater Fishermen's Association attested to in this past Sunday's Boston Globe. Poachers fishing in foreign waters sell their catch at a much lower price than our law-abiding commercial fishermen can afford. In addition, the decline of highly migratory species such as Atlantic white marlin forces even non-commercial fishermen to be stringently regulated.

I wanted to call attention: In last week's issue of the scientific journal "Nature", two scientists from Dalhousie University in Nova Scotia addressed the problem of global overfishing. The authors performed statistical analyses using global government and fishing industry data from the past 50-plus years. They concluded that the industrialization of the commercial fishing industry has obliterated 90 percent of each of the world's large ocean fish species.

U.S. fishermen are expected to adhere to national and international laws that are in place to protect these highly migratory fish species, but fish piracy resulting in illegal and unreported catches around the world is a serious problem that needs to be addressed on a global scale.

These illegal fishing practices will result in fewer and smaller fish for everyone unless we devote significant time and effort to more effectively managing international fisheries. Clearly, the U.S. cannot ignore the global fisheries crisis if it hopes to maintain a sustainable domestic fishing industry. Furthermore, the U.S. needs to take a much stronger position on international compliance with these agreements. If all member nations in these agreements would simply enforce the approved regulations, the over-fishing of highly migratory fish species would undoubtedly be decreased to a large degree. It is entirely unfair to our commercial fisherman that rogue fishing vessels are allowed to get away with fishing illegally under the flags of other nations.

I just wanted to say in conclusion that hopefully we will gain greater insight today regarding the cooperation and effectiveness of those international fisheries agreements to which the U.S. is a party, and I am hopeful the U.S. will be able to convince our partner nations of the importance of increased cooperation in international fishery matters, and I am looking forward to hearing from our witnesses about recent accomplishments and goals in these international treaties.

If I could just submit the article that I mentioned, Mr. Chairman, from Nature, I would appreciate that.

Mr. GILCHREST. Without objection, so order.

Mr. PALLONE. Thank you.

[The NATURE article follows:]

Rapid worldwide depletion of predatory fish communities

Ransom A. Myers & Boris Worm

Biology Department, Dalhousie University, Halifax, Nova Scotia, Canada B3H 4J1

Serious concerns have been raised about the ecological effects of industrialized fishing[1–3], spurring a United Nations resolution on restoring fisheries and marine ecosystems to healthy levels[4]. However, a prerequisite for restoration is a general understanding of the composition and abundance of unexploited fish communities, relative to contemporary ones. We constructed trajectories of community biomass and composition of large predatory fishes in four continental shelf and nine oceanic systems, using all available data from the beginning of exploitation. Industrialized fisheries typically reduced community biomass by 80% within 15 years of exploitation. Compensatory increases in fast-growing species were observed, but often reversed within a decade. Using a meta-analytic approach, we estimate that large predatory fish biomass today is only about 10% of pre-industrial levels. We conclude that declines of large predators in coastal regions[5] have extended throughout the global ocean, with potentially serious consequences for ecosystems[6,7]. Our analysis suggests that management based on recent data alone may be misleading, and provides minimum estimates for unexploited communities, which could serve as the 'missing baseline'[8] needed for future restoration efforts.

Ecological communities on continental shelves and in the open ocean contribute almost half of the planet's primary production[9], and sustain three-quarters of global fishery yields[1]. The widespread decline and collapse of major fish stocks has sparked concerns about the effects of overfishing on these communities. Historical data from coastal ecosystems suggest that losses of large predatory fishes, as well as mammals and reptiles, were especially pronounced, and precipitated marked changes in coastal ecosystem structure and function[5]. Such baseline information is scarce for shelf and oceanic ecosystems. Although there is an understanding of the magnitude of the decline in single stocks[10], it is an open question how entire communities have responded to large-scale exploitation. In this paper, we examine the trajectories of entire communities, and estimate global rates of decline for large predatory fishes in shelf and oceanic ecosystems.

We attempted to compile all data from which relative biomass at the beginning of industrialized exploitation could be reliably estimated. For shelf ecosystems, we used standardized research trawl surveys in the northwest Atlantic Ocean, the Gulf of Thailand and the Antarctic Ocean off South Georgia, which were designed to estimate the biomass of large demersal fish such as codfishes (Gadidae), flatfishes (Pleuronectidae), skates and rays (Rajiidae), among others (see Supplementary Information for detailed species information). In all other shelf areas for which we could obtain data, industrialized trawl fisheries occurred before research surveys took place. For oceanic ecosystems, we used Japanese pelagic longlining data, which represent the complete catch-rate data for tuna (Thunnini), billfishes (Istiophoridae) and swordfish (Xiphiidae) aggregated in monthly intervals, from 1952 to 1999, across a global $5° \times 5°$ grid. Pelagic longlines are the most widespread fishing gear, and the Japanese fleet the most widespread longline operation, covering all oceans except the circumpolar seas. Longlines, which resemble long, baited transects, catch a wide range of species in a consistent way and over vast spatial scales. We had to restrict our analysis of longlining data to the equatorial and southern oceans, because industrialized exploitation was already underway in much of the Northern Hemisphere before these data were recorded[11,12]. Longlining data were separated into temperate, subtropical and tropical communities (see Methods).

For each shelf and oceanic community, i, we estimated

$$N_i(t) = N_i(0)[(1 - \delta_i)\,e^{-r_i t} + \delta_i] \qquad (1)$$

where $N_i(t)$ is the biomass at time t, $N_i(0)$ is the initial biomass

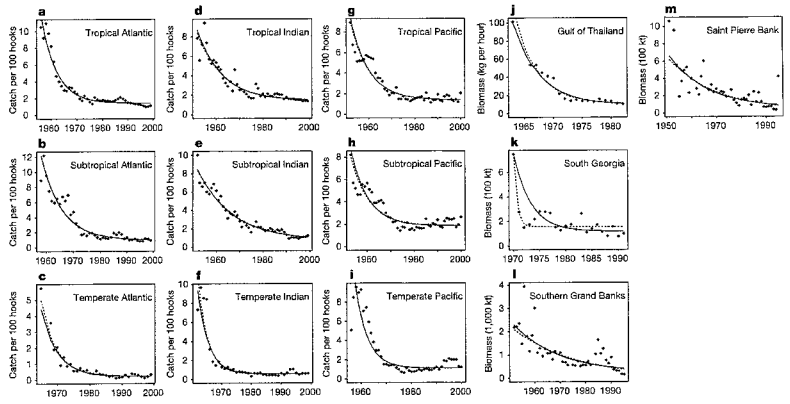

Figure 1 Time trends of community biomass in oceanic (**a–i**) and shelf (**j–m**) ecosystems. Relative biomass estimates from the beginning of industrialized fishing (solid points) are shown with superimposed fitted curves from individual maximum-likelihood fits (solid lines) and empirical Bayes predictions from a mixed-model fit (dashed lines).

Table 1 **Meta-analysis of time trends in predatory fish biomass**

Region	r_i (× 100)			δ_i (× 100)		
	Individual fit	CL	Mixed model	Individual fit	CL	Mixed model
Tropical Atlantic	16.6	13.5–19.7	16.7	12.1	10.0–14.5	11.9
Subtropical Atlantic	12.9	10.1–15.7	13.0	8.1	6.4–10.2	8.3
Temperate Atlantic	21.4	15.8–26.9	20.3	4.7	3.2–6.9	5.3
Tropical Indian	9.2	7.1–11.4	9.5	17.8	14.9–20.6	16.8
Subtropical Indian	6.5	5.1–7.8	6.8	8.2	5.5–12.3	9.2
Temperature Indian	30.7	23.7–37.8	27.7	5.5	3.9–7.7	6.3
Tropical Pacific	12.1	9.4–14.8	12.4	15.5	13.0–18.6	14.9
Subtropical Pacific	12.8	8.5–17.1	13.6	23.5	18.9–29.3	21.5
Temperate Pacific	20.8	14.3–27.3	20.4	8.2	5.6–12.1	8.5
Gulf of Thailand	25.6	18.2–33.0	22.2	9.3	6.8–12.6	9.8
South Georgia	166.6	2.2–331.1	30.8	20.9	17.5–25.0	16.0
Southern Grand Banks	4.0	2.9–5.1	5.7	0.0	-	10.0
Saint Pierre Banks	5.1	0.1–10.1	6.3	2.7	0.0–36600	7.9
Mixed model mean			16.0			10.3
Mixed model CL			10.7–21.3			7.7–13.9
Distribution			4.5–31.6			4.6–23.6

Two parameters were estimated: r_i is the initial rate of decline (in per cent per year), and δ_i the residual biomass proportion at equilibrium (in per cent). Point estimates and 95% confidence limits (CL) are presented for the individual maximum likelihood fits, and for the mixed-effects model that combined all data (see Methods for details). The random-effects distribution (95% limits) provides a measure of the estimated parameter variability across communities.

before industrialized exploitation, and r_i is the initial rate of decline to δ_i, the fraction of the community that remains at equilibrium. The initial rate of decline in total biomass—that is, the fraction lost in the first year—is $(1 - \delta_i)(1 - e^{-r_i})$. Then we combined all data using nonlinear mixed-effects models[13], where $r_i \sim N(\mu_r, \sigma_r^2)$ and $\log \delta_i \sim N(\mu_\delta, \sigma_\delta^2)$, to estimate a global mean and variance of r_i and δ_i.

In the open ocean communities, we observed surprisingly consistent and rapid declines, with catch rates falling from 6–12 down to 0.5–2 individuals per 100 hooks during the first 10 years of exploitation (Fig. 1a–i). Rates of decline were similar in tropical and subtropical regions, but consistently highest in temperate regions in all three oceans (Fig. 1c, f, i and Table 1). Temperate regions also showed the lowest equilibrium catch rates (Table 1). Spatial pattern of expansion and decline of pelagic fisheries are shown in Fig. 2. During the global expansion of longline fisheries in the 1950s to 1960s, high abundances of tuna and billfish were always found at the periphery of the fished area (Fig. 2a–c). Most newly fished areas showed very high catch rates, but declined to low levels after a few years. As a result, all areas now sustain low catch rates, and some formerly productive areas have been abandoned (Fig. 2d). In shelf communities, we observed declines of similar magnitude as in the open ocean. The Gulf of Thailand, for example, lost 60% of large finfish, sharks and skates during the first 5 years of industrialized trawl fishing (Fig. 1j). The highest initial rate of decline was seen in South Georgia (Fig. 1k), which has a narrow shelf area that was effectively fished down during the first 2 years of exploitation[14]. Less-than-average declines were seen on the Southern Grand Banks

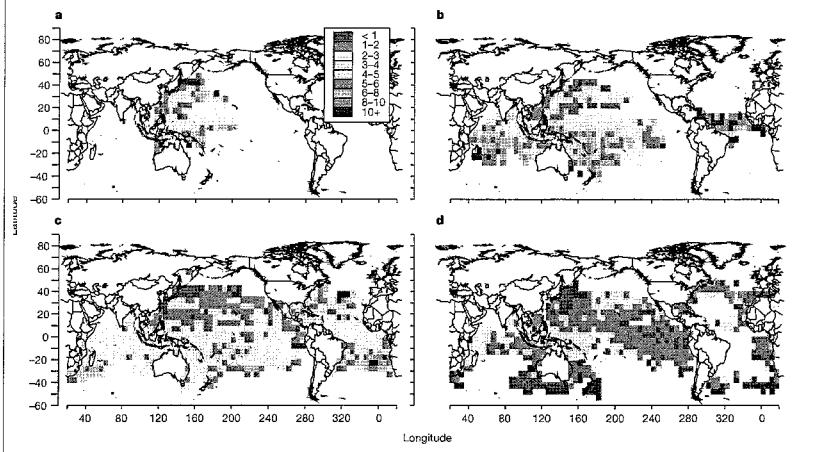

Figure 2 Spatial patterns of relative predator biomass in 1952 (**a**), 1958 (**b**), 1964 (**c**) and 1980 (**d**). Colour codes depict the number of fish caught per 100 hooks on pelagic longlines set by the Japanese fleet. Data are binned in a global 5° × 5° grid. For complete year-by-year maps, refer to the Supplementary Information.

(Fig. 1l) and Saint Pierre Bank (Fig. 1m); these communities may already have been affected by intense pre-industrial fisheries[15].

By combining all data using a mixed-effects model, we estimated that the mean initial rate of decline, r_i, is 16% per year, and the mean residual equilibrium biomass, δ_i, is 10% of pre-exploitation levels (Table 1). So, an 80% decline typically occurred within 15 years of industrialized exploitation, which is usually before scientific monitoring has taken place. The proportion of residual biomass, δ_i, showed remarkably little variation between communities (Table 1): the mixed-effects model estimates imply that 95% of communities would have a residual biomass proportion between 5% and 24%. We believe that these still represent conservative estimates of total predator declines for the following reasons: (1) pre-industrial removals from some of the shelf communities[15]; (2) gear saturation at high catch rates in the early longlining data, as well as higher initial levels of shark damage leading to an underestimation of initial biomass[16] (see Supplementary Information); (3) increasing fishing power of longline vessels over time owing to improved navigation and targeting of oceanographic features[17]; and (4) targeting of some migratory species, such as southern bluefin tuna (*Thunnus maccoyii*), at their tropical spawning grounds before widespread exploitation in temperate areas occurred[18]. Furthermore, declines in other large predators such as sharks are not fully captured by our data, but may be of similar or greater magnitude than those of bony fishes[19,20].

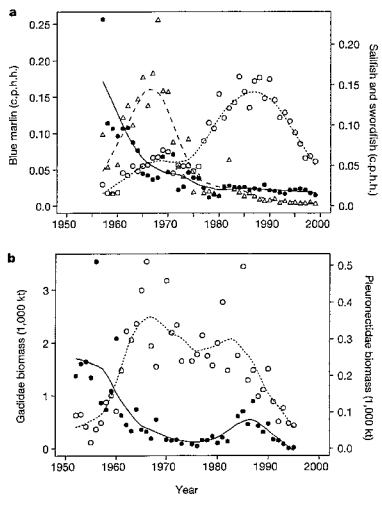

Figure 3 Compensation in exploited fish communities. **a**, Oceanic billfish community in the tropical Atlantic, showing the catch per 100 hooks (c.p.h.h.) of blue marlin (*Makaira nigricans*; solid circles, solid line), sailfish (*Istiophorus platypterus*; open triangles, dashed line) and swordfish (*Xiphias gladius*; open circles, dotted line). **b**, Demersal fish community on the Southern Grand Banks, showing the biomass of codfishes (Gadidae; solid circles, solid line) and flatfishes (Pleuronectidae; open circles, dotted line). Lines represent best fits using a local regression smoother.

One mechanism that could compensate for the effects of overfishing is the increase in non-target species due to release from predation or competition[21]. In our analyses, we see evidence for species compensation in both oceanic billfish and shelf groundfish communities (Fig. 3). According to the longlining data and to early surveys[11,12], blue marlin was initially the dominant billfish species, but declined rapidly in the 1950s (Fig. 3a). Simultaneous increases in faster-growing species such as sailfish were observed, followed by a decrease, possibly due to increased 'bycatch' mortality (Fig. 3a; neither species was targeted by the Japanese fleet). Coincidentally, swordfish catch rates increased until these fish became prime targets of other fleets in the late 1980s. Surprisingly consistent patterns of compensatory increase and decline were seen in most pelagic communities (see Supplementary Information). Similarly, in the North Atlantic demersal communities, we observed rapid initial declines, particularly in large codfishes, but also in skates and rockfish. Although the dominant codfishes declined sixfold between 1952 and 1970, sixfold increases were seen in the flatfishes, which were not initially targeted by the trawl fishery (Fig. 3b). Some increase in the gadoids occurred when implementation of the 200-mile limit in 1977 curtailed foreign overfishing in Canadian waters. However, as in the billfish data, we observed an ultimate decline in all species groups (Fig. 3b) as fishing pressure from Canadian and other fleets intensified in the late 1980s, leading to the collapse of all major groundfish stocks[10]. We conclude that some species compensation was evident, but often reversed within a decade or less, probably because of changes in targeting or bycatch.

Our analysis suggests that the global ocean has lost more than 90% of large predatory fishes. Although it is now widely accepted that single populations can be fished to low levels, this is the first analysis to show general, pronounced declines of entire communities across widely varying ecosystems. Although the overall magnitude of change is evident, there remains uncertainty about trajectories of individual tuna and billfish species. Assessments of these species are continually improved by the international management agencies. However, most scientists and managers may not be aware of the true magnitude of change in marine ecosystems, because the majority of declines occurred during the first years of exploitation, typically before surveys were undertaken. Management schemes are usually implemented well after industrialized fishing has begun, and only serve to stabilize fish biomass at low levels. Supporting evidence for these conclusions comes from the United Nations Food and Agriculture Organization (FAO) data set, which indicates declining global catches[22] and a consistent decline in the mean trophic level of the catch[23], which is a result of removing predatory fishes. Furthermore, on seamounts and on continental slopes, where virgin communities are fished, similar dynamics of extremely high catch rates are observed, which decline rapidly over the first 3–5 years of exploitation[24]. We suggest that this pattern is not unique to these communities, but simply a universal feature of the early exploitation of ecosystems.

Our results have several important management implications. First, we need to consider potential ecosystem effects of removing 90% of large predators. Fishery-induced top–down effects are evident in coastal[5] and shelf[22] ecosystems, but little empirical information is available from the open oceans. This is worrisome, as any ecosystem-wide effect is bound to be widespread, and possibly difficult to reverse, because of the global scale of the declines (Fig. 2). Another serious problem in heavily depleted communities is the extinction of populations, particularly those with high ages of maturity[26]. Local extinctions can go unnoticed even in closely monitored systems such as the northwest Atlantic[27], let alone in the open ocean. Finally, the reduction of fish biomass to low levels may compromise the sustainability of fishing, and support only relatively low economic yields[3]. Such concerns have motivated a recent UN resolution to restore fish stocks to healthy

levels[4]. Our analysis shows that it is appropriate and necessary to attempt restoration on a global scale, and provides a benchmark against which community recovery could be assessed. □

Methods

Data selection

For shelf communities, we compiled data from research trawl surveys from the Southern Grand Banks (43–46° N, 49–53° W) and Saint Pierre Banks (45–47° N, 55–58° W) (ref. 28), the Gulf of Thailand (9–14° N, 100–105° W) (ref. 29) and South Georgia (53–56° S, 35–40° W) (ref. 14). All other trawl data sets that we considered (for example, North Sea, Georges Bank and Alaska) did not capture the beginning of industrialized exploitation. We included only demersal predators; pelagic species, which were not well sampled by the trawl gear, were excluded. Longlining data obtained from the Japanese Fishery Agency were divided into temperate (Atlantic, 40–45° S; Indian, 35–45° S; Pacific, 30–45° S), subtropical (Atlantic, 10–40° S; Indian, 10–35° S; Pacific, 15–30° S) and tropical communities (Atlantic, 20° N–10° S; Indian, 15° N–15° S; Pacific, 10–15° S). These divisions were based on their dominant species: yellowfin (*T. albacares*), albacore (*T. alalunga*) or southern bluefin tuna (*T. maccoyii*), respectively, and excluded areas previously fished by the Japanese, Spanish and US fleets. Running the models with alternative divisions (±5°) did not change the results significantly. The catch rates in each community were determined as the sum of the catches divided by the sum of the effort in each region in each year. Years with very low effort (<20,000 hooks for the entire region) were excluded. Alternative treatment of the data, including removing seasonal effects and taking the average catch rates over 5° × 5° squares, had little effect on the results. For longlines, we assume that the catch rate is an approximate measure of relative biomass, which is probably conservative because the average individual weights of fish in exploited populations tend to decline over time. Our data capture the abundance of larger fishes that are vulnerable to baited hooks and bottom trawls, respectively. Many smaller species have low catchabilities and are not recorded reliably by these methods. Changes in the longline fishery occurred around 1980 when the fishery began to expand into deeper regions; however, this was only after the declines in biomass were observed. For more details on species composition, data treatment and interpretation of trends, refer to the Supplementary Information.

Data analysis

Our model (equation (1)) assumes that for each community, i, the rate of decline to equilibrium is exponential with rate r_i from a pre-exploitation biomass $N_i(0)$, where $t = 0$ is the first year of industrialized fishing. Exploitation continues until equilibrium is approached, where a residual proportion, δ_i, of the biomass remains. We fit this model separately to each community under the assumption of a lognormal error distribution using nonlinear regression (Procedure NLIN in SAS, version 8). We also used nonlinear mixed-effects models[31] to determine whether the patterns were similar across communities. Mixed-effect models were fitted by maximizing the likelihood integrated over the random effects using adaptive gaussian quadrature (Procedure NLMIXED in SAS). To account for the fact that biomass was recorded in different units (kilotonnes (kt), catch rates), the initial biomass, $N_i(0)$, was assumed to be a fixed effect for each community with appropriate units. For South Georgia, $N_i(0)$ was fixed at the first biomass estimate to capture the high initial rate of decline. This first estimate (750 kt; ref. 14) was considered to be realistic because it was very close to the sum of total removals (514 kt; ref. 30) plus the residual biomass estimate (160 kt; ref. 14) after the first 2 years of fishing. Autocorrelation in the residuals of some time series may cause the standard errors to be underestimated. The results were robust to alternative error assumptions (separate error variances for the time series and alternative error distributions); for example, under the assumption of normal errors, the rate of decline was 13.9% and residual biomass was 10.9%, respectively.

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Attractor dynamics of network UP states in the neocortex

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The cerebral cortex receives input from lower brain regions, and its function is traditionally considered to be processing that input through successive stages to reach an appropriate output[1,2]. However, the cortical circuit contains many interconnections, including those feeding back from higher centres[3–6], and is continuously active even in the absence of sensory inputs[7–9]. Such spontaneous firing has a structure that reflects the coordinated activity of specific groups of neurons[10–12]. Moreover, the membrane potential of cortical neurons fluctuates spontaneously between a resting (DOWN) and a depolarized (UP) state[11,13–16], which may also be coordinated. The elevated firing rate in the UP state follows sensory stimulation[16] and provides a substrate for

Mr. GILCHREST. Thank you, Mr. Pallone.

Mr. Saxton, any opening comment?

Mr. SAXTON. No.

Mr. GILCHREST. Our witnesses this morning: Ambassador Mary Beth West, Deputy Assistant Secretary for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

Welcome, Ambassador.

Dr. William T. Hogarth, Assistant Administrator of Fisheries, National Marine Fisheries Service, has been with us many, many times. Welcome back, Mr. Hogarth.

And Mr. Marshall Jones, who has also been here on a number of occasions, Deputy Director, U.S. Fish and Wildlife Service, Department of the Interior.

Again, welcome all of you, and we look forward to your testimony this morning.

Ambassador West, you may begin.

STATEMENT OF AMBASSADOR MARY BETH WEST, DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES, BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Ambassador WEST. Thank you, Mr. Chairman.

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear before the Subcommittee today to talk about international fisheries. My oral statement will cover a few issues of particular interest to the Subcommittee. My written statement, which I would like to submit for the record, provides more detail on these issues and reviews a number of other matters as well.

Mr. GILCHREST. Without objection, your written testimony will be submitted to the record.

Ambassador WEST. Thank you. First a bit of an overview: In general, profound changes have reshaped international fisheries in the past decade. In many key areas, the fishing capacity of vessels has outpaced the reproductive capacity of fish stocks. Many fishing vessels, particularly those flying flags of convenience, do not abide by agreed rules. Concerns have also arisen about the effects of fishing on other marine life and on the marine environment as a whole.

To confront these daunting challenges, the U.S. has negotiated a wide range of international instruments designed to promote sustainable fisheries worldwide. Effective implementation of these instruments is critical to reaching this goal.

Turning to bilateral issues with Canada, let me say that relations with Canada on fisheries issues are better than they have been in many years. The 1999 Pacific Salmon Agreement resolved longstanding issues between the two sides and has allowed the Pacific Salmon Commission to function effectively once again.

We have also concluded three other bilateral fisheries agreements with Canada since 1999 that will help both of us, both the U.S. and Canada, conserve and manage shared fish stocks. The first is an agreement to manage salmon fisheries on the Yukon River. This agreement was concluded by exchange of notes in

December of 2002. As envisioned in H.R. 2048, there is an ongoing need for authorization and appropriation of funds to implement the agreement. In that respect, I would note that the Administration has some minor technical suggestions for that bill which we have already provided to your staff.

Second, the U.S. and Canada have agreed to amend the 1981 Albacore Tuna Treaty to provide for limits on the level of fishing permitted by vessels of each country in the waters of the other country. Such changes are necessary to stem a growing Canadian fishery in U.S. waters and also to permit future management of the stock by both sides. The Administration hopes that the Senate will act favorably on the treaty amendment and that Congress as a whole will enact implementing legislation in the very near future.

Third, we have concluded negotiations with Canada on a new agreement to manage and share the valuable transboundary stock of Pacific whiting, also known as Pacific hake. Disagreements over this stock have led to overfishing in the past. The United States was taking approximately 80 percent of the allowable catch while Canada was taking more than 30 percent, meaning that we were overfishing the stocks. This agreement, once it enters into force, should remedy that problem effectively. We look forward to working with Congress in developing implementing legislation for this agreement.

Regarding sportfishing around the islands off Mexico, the Department of State fully understands the concerns raised by Congressman Cunningham and others about permits for U.S. sportfishing vessels to fish in the waters around those islands. Over the past year, we have raised this issue to senior levels in the Government of Mexico and we will certainly continue these efforts in coordination with you, Congress Cunningham, with Congress, and our colleagues in the Commerce Department.

I would now like to turn to two developments concerning tuna fishing in the Pacific. These are both issues in which I have been personally involved for a lot of my time over the last several years. In 2000, the U.S. and 18 other nations signed a new treaty to manage tunas and other highly migratory species in the western and central Pacific. The area covered by this convention produces more than half of the world's annual tuna catch. This treaty, which is not yet in force, enjoys strong support from the U.S. tuna industry and the conservation community. We are now actively participating in the preparatory conference process to set up the commission that will manage these stocks. Once the treaty is submitted for Senate advice and consent, we will look forward to working with the Senate and also to working with both houses of Congress in developing necessary implementing legislation.

We have also reached agreement with the Pacific island parties to extend the South Pacific Tuna Treaty, the successful existing treaty that allows U.S. vessels to fish for tuna in the waters of 16 Pacific island nations. This extension will run through June of 2013, in other words, 10 years from this coming June. Nearly all of the tuna caught pursuant to this treaty, which has an estimated value of between 250 and 40 million per year for the U.S., is landed and canned in American Samoa.

In extending the treaty regime, the parties also adopted a number of amendments, including one that will allow U.S. long-line vessels to operate in the high seas portion of the treaty area. A minor amendment to the South Pacific Tuna Act of 1988 would be necessary to take account of this.

Turning to the FA0, in the past decade, we have sought to reenergize the FAO as a forum for addressing international fisheries policy issues. We believe that we have succeeded in good measure. The FAO has adopted ground-breaking instruments to guide the pursuit of sustainable fisheries, including the High Seas Fishing Vessel Compliance Agreement which just entered into force in late April, we are delighted to be able to report; the code of conduct for responsible fisheries; and four international plans of action on specific topics, including fishing capacity and IUU, illegal, unreported, and unregulated, fishing.

At the most recent meeting of the FAO Committee on Fisheries, we made progress in addressing IUU fishing, in seeking to minimize the bycatch of sea turtles in fisheries, and improving the collection and dissemination of fisheries data. The future work program of FAO on these matters will include policy-level meetings to promote implementation of the plans of action on fishing capacity and on IUU fishing as well as a meeting to focus on reducing bycatch of sea turtles in fisheries. I would also note that FAO will host a major conference on deep sea fisheries in New Zealand in December of 2003.

Finally, in the interest of time, let me defer to Dr. Hogarth of the National Marine Fisheries Service on matters concerning whaling and the International Whaling Commission since the U.S. commissioners to that body are from the National Marine Fisheries Service.

Thank you very much for the opportunity to address the Subcommittee, and at the appropriate time, I would be pleased to answer any questions that you may have. Thank you.

[The prepared statement of Ambassador West follows:]

Statement of Ambassador Mary Beth West, Deputy Assistant Secretary of State for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State

Mr. Chairman and Members of the Subcommittee:

Today's meeting is taking place against the backdrop of profound changes that have reshaped international fisheries in the past decade. We face a world in which the fishing capacity of the fleets operating in many key areas has outpaced the reproductive capacity of the fish stocks in those areas. The past decade has seen a growing incidence of fishing vessels that do not abide by agreed rules. Serious concerns have also arisen about the effects of fishing operations on other marine life and on the marine environment as a whole.

To confront these daunting challenges, the United States has negotiated, and is working with others in the international community to implement, a wide range of instruments designed to promote sustainable fisheries worldwide. Some of these are global in scope, others are regional and still others are bilateral. Some have binding legal force, others are voluntary in nature. Effective implementation of these agreements and arrangements presents the best chance of meeting the challenges we face in the field of international fisheries.

My statement today begins with a brief summary of the general situation as we see it and then reviews a number of more specific issues, with a particular focus on those for which the Administration believes congressional action is necessary or desirable. In some cases, the testimony of my colleagues from the Department of Commerce and the Department of the Interior will elaborate on these specific issues.

GENERAL SITUATION

In 2002, the Food and Agriculture Organization of the United Nations (FAO) reported that global production from capture fisheries and aquaculture is currently the highest on record. Worldwide, the tonnage of fish caught in the oceans and inland areas has remained relatively stable in recent years, while the tonnage of fish produced by aquaculture has continued to increase markedly. International trade in fish products has also risen tremendously.

These trends mask a number of very serious problems, however. Many of the world's primary fishery resources are under stress. A number of key fish stocks have collapsed from overfishing and environmental degradation (such as cod in the Northwest Atlantic), while others have become depleted (such as Atlantic bluefin tuna). While stocks in the Pacific Ocean are generally thought to be in somewhat better shape, increasing fishing effort on a number of those stocks gives us reason to be concerned.

In 2002, FAO estimated that, among the major marine fish stocks or groups of stocks for which information is available, about 47 percent are fully exploited, while another 18 percent are overexploited. An additional 10 percent of such stocks have been depleted or are recovering from depletion. In short, there are relatively few major fisheries that can absorb additional fishing effort. Meanwhile, we see a growing demand for fisheries products and many vessels looking for new places to fish.

Many factors have contributed to this situation. Most international management of fisheries relies upon "open access" approaches that can create incentives toward overfishing. Moreover, improvements in fishing technology, coupled with substantial government subsidies to fishers, have greatly increased harvesting capacity worldwide. To make matters worse, environmental degradation has spoiled some fish habitat. The ability of vessels to operate outside governmental controls, including by adopting "flags of convenience," has rendered fisheries enforcement less than effective in many circumstances. The use of certain kinds of fishing gear and fishing techniques has also led to serious concerns about the "bycatch" of other species (including some endangered species) and harm to the marine environment.

Fortunately for the fish, and for the fishers whose livelihoods depend on them, we have worked to create a network of agreements designed to address these critical problems. Building on the general international law framework for these matters established in the 1982 United Nations Convention on the Law of the Sea, the past decade has witnessed a veritable explosion of new agreements and standards for the conservation and management of fisheries worldwide. Some of the important instruments are:

- The 1995 UN Fish Stocks Agreement
- The 1993 FAO Compliance Agreement
- The 1995 FAO Code of Conduct for Responsible Fisheries
- Four FAO International Plans of Action on specific matters
- The 1996 Inter–American Sea Turtle Convention
- The 1999 Agreement on the International Dolphin Conservation Program
- The 2000 Central and Western Pacific Tuna Convention (not yet in force)

Much remains to be done to ensure effective implementation of the full range of these instruments. Working with Congress, U.S. constituent groups and our partners in the international community, we hope to realize the goal of sustainable fisheries worldwide.

Now, I would like to turn to a number of specific issues that we are confronting:

SPECIFIC ISSUES

Bilateral Issues with Canada

Relations with Canada over fishery issues are better than they have been in many years. The 1999 Pacific Salmon Agreement appears to have resolved long-standing problems and has allowed the Pacific Salmon Commission to function effectively once again. The agreements on Yukon River salmon, on the amendments to the 1981 Albacore Treaty and on managing the transboundary Pacific whiting stock, described below, are noteworthy achievements as well.

The 1981 U.S.–Canada Albacore Treaty allows vessels of each country to fish for albacore, without limitation, in waters of the other country. In 2002, the United States and Canada agreed to amend the Treaty to provide for limits on such fishing. Such changes are necessary to limit a recently fast-growing Canadian fishery in U.S. waters and also to permit future management of the stock by both sides. President Bush transmitted the amendment to the Treaty to the Senate in January 2003 and we are hopeful that the Senate will act favorably on this matter in the near future. In addition, we need legislation to implement the Treaty, both in its existing form and as revised. Such legislation was introduced in the 107th Congress

(H.R. 1989). The Senate passed this legislation in November 2002, but the House did not take action on the bill before final adjournment. We hope that Congress will pass the legislation in the very near future.

Most recently, U.S. and Canadian delegations have reached consensus on the text of an agreement to manage and share the valuable transboundary stock of Pacific whiting, also known as Pacific hake. Disagreements over sharing arrangements have led to overfishing in the past, as the United States took 80 percent of the allowable harvest, while Canada took more than 30 percent. This agreement, once it enters into force, should remedy that problem effectively. We look forward to working with Congress in developing implementing legislation for this agreement.

The United States and Canada reached agreement on a management regime for salmon fisheries on the Yukon River in Alaska and the Yukon Territory in March 2001. U.S. and Canadian officials concluded the agreement through an exchange of notes in December 2002. As this is an executive agreement, it did not require Senate advice and consent to ratification, nor was any additional legislation needed to implement to agreement. However, as described in the testimony from the Department of the Interior, there is an on-going need for the authorization and appropriation of funds to implement the Agreement, including for the Restoration and Enhancement Fund established under the Agreement, as envisioned in H.R. 2048. In that respect, I would note that the Administration has some minor technical suggestions on that bill, which we have already provided to the staff of this Subcommittee.

Finally, I would note that we are exploring ways to gain greater access for U.S. vessels to ports in Atlantic Canada. We are also engaged in efforts to resolve a dispute over lobster fishing in waters around Machias Seal Island off the coast of Maine.

Sport Fishing around the Revillagigedo Islands

We are very much aware of congressional interest in this issue, as reflected in the draft Resolution introduced by Mr. Cunningham of California. That resolution would urge the Administration to continue discussions with the Government of Mexico in order to obtain permits for the San Diego based long-range sportfishing fleet to fish in the waters around the Revillagigedo Islands. In fact, over the past year, the Department of State, through our Embassy in Mexico City, has raised this issue to senior levels in the Government of Mexico, including with the Secretary of the Environment and other senior officials in his Department and other agencies involved in this issue. Throughout this period, we have stressed our interest in seeking to obtain permits for these vessels in a manner consistent with applicable Mexican law. Our discussions with Mexico on this issue will continue. The Department of Commerce will soon present a report requested by the Congress on the substance of these discussions and the status of this issue.

Fishermen's Protective Act Reauthorization

The Administration supports reauthorization of the Fishermen's Protective Act, as envisioned in H.R. 2048. This Act has provided compensation to owners of U.S. fishing vessels that have been seized by foreign governments on the basis of claims to jurisdiction that the United States did not accept. Although there have not been claims under the Act for several years, there is always the prospect that such situations could arise again in the future.

Bilateral Issues with Russia

Relations with the Russian Federation over fisheries issues in the North Pacific Ocean and Bering Sea are contentious. The failure of Russia to ratify the 1990 Maritime Boundary Treaty continues to create uncertainty, while corruption and lack of government resources have led to serious overfishing in Russian waters. A large-scale overhaul by the Government of the Russian Federation of its bureaucratic structure for managing fisheries is at present complicating efforts to address these matters. We are nevertheless actively looking for new ways to cooperate with Russia to improve this situation, including through the development of two new agreements, one on cooperation in marine science and the other on fisheries enforcement.

Regional Fishery Management Organizations

The United States is a member of more than a dozen international fisheries commissions and related organizations. These organizations adopt measures to conserve and manage fisheries under their auspices, conduct related scientific research and provide venues for undertaking new policy initiatives in the field of marine conservation.

Funding to support U.S. participation in these organizations comes from appropriations to the International Fisheries Commissions account. Specifically, this account covers the U.S. share of operating expenses of nine international fisheries

commissions and organizations, one sea turtle convention, the International Whaling Commission, two international marine science organizations, and travel and other expenses for non–Federal U.S. Commissioners.

In recent years, Congress has appropriated roughly $20 million for this account annually. For FY '03, the Administration requested $19.78 million. Congress appropriated only $17.1 million. In the Conference Statement accompanying the Fiscal Year 2003 Omnibus Appropriations Bill, no funding was allocated for the operating expenses of the Pacific Salmon Commission and five other commissions. The Administration is in the process of submitting a notice to Congress on reprogramming funds within the International Fisheries Commission. The reprogramming will allow for the smallest feasible amount of funding so the Pacific Salmon Commission may continue operations and full funding of the smaller commissions. The Great Lakes Fisheries Commission and the International Pacific Halibut Commission will both be taking reductions in order to have all fish commissions in this account operating this fiscal year.

For Fiscal Year 2004, the Administration's budget request for International Fisheries Commissions amounts to $20.04 million, which includes $75 thousand for the Antarctic Treaty. We hope that Congress will appropriate the full amount.

International Commission for the Conservation of Atlantic Tunas (ICCAT). This commission manages tunas (and tuna-like species, such as swordfish) in the Atlantic Ocean. Key conservation issues facing ICCAT include maintenance of rebuilding programs for North Atlantic swordfish, pressing for greater compliance with ICCAT rules, cracking down further on "IUU" fishing of ICCAT species, reviewing ICCAT's practice of managing eastern and western bluefin tuna as separate stocks, and pressing for measures to conserve sea turtles and sharks incidentally captured in these fisheries. Recent attention has been focused on the EU's activities in ICCAT, and in fact a coalition of environmental groups and several state governors submitted a request to certify the EU under the Pelly Amendment to the Fishermen's Protective Act of 1967 for diminishing the effectiveness of ICCAT. We are working closely with the Department of Commerce on this issue.

Northwest Atlantic Fisheries Organization (NAFO). This Commission manages a wide variety of fisheries on the high seas of the northwest Atlantic Ocean, many of which remain seriously depleted. Some stocks, however, are rebounding after years of sharply restricted fishing, including yellowtail flounder. U.S. priorities in NAFO include seeking greater access for U.S. vessels to such recovering stocks and modifying the NAFO system for allocating quotas more generally. The United States has taken an active role in NAFO and held many positions of leadership in the organization; however, we are considering the proper balance between our level of participation in NAFO and the benefits we accrue there. The Department of Commerce witness will also address this issue in more detail.

Western and Central Pacific Fisheries Commission (WCPFC). Negotiations to establish a Western and Central Pacific Fisheries Commission concluded in September 2001. The United States and 18 other States have signed the Convention that will create the WCPFC, but it has not yet entered into force. The area covered by this Convention encompasses the last major area of the world's oceans not covered by a regional management regime for tunas and other highly migratory species. This region produces more than half the world's annual tuna catch. The United States is actively participating in the WCPFC Preparatory Process.

One key issue that we hope to see addressed under this new Convention is that of excess fishing capacity—too many vessels catching too many fish. While the stocks of tuna in the Western and Central Pacific are not currently considered to be over-fished, excess capacity complicates adoption and implementation of effective conservation and management measures and has significant implications for the economic viability of these fisheries in the longer term.

This Convention, which enjoys strong support from the tuna industry and conservation organizations, will require Senate advice and consent to ratification. New legislation to implement the Convention will also be necessary before the United States could become a party to it. We look forward to working with the Committee on such legislation.

Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). The 24-member Commission for the Conservation of Antarctic Marine Living Resources governs the harvesting of marine resources in the Southern Ocean. Concern has grown over the illegal harvesting of Patagonian toothfish, a high-value, long-lived fish species marketed in the U.S. as Chilean sea bass. CCAMLR designed an innovative catch documentation system in 2000 and, at its last meeting in November, adopted changes to distinguish better between legal and illegal catches and is instituting a list of fishing vessels which have engaged in IUU fishing. CCAMLR

also is moving towards an internet-based document and tracking system to reduce the possibilities for fraud.

Other Commissions. The United States participates in a number of other international fisheries commissions as well. Two of them, the International Pacific Halibut Commission and the Great Lakes Fishery Commission, involve Canada as the only other member. Two others, the North Atlantic Salmon Conservation Organization and the North Pacific Anadromous Fish Commission, have missions to conserve salmon stocks in their respective regions, including by ensuring that such stocks are not fished on the high seas. Finally, we are a longtime member of the Inter–American Tropical Tuna Commission, which regulates tuna fishing in the Eastern Pacific and is involved with our efforts to protect dolphin stocks in that region, as discussed below.

South Pacific Tuna Access Agreement

This Treaty, which allows U.S. vessels to fish for tuna in the waters of 16 Pacific Island States, entered into force in 1988 and was amended and extended in 1993 for a ten-year period, through June 14 of this year. In 2002, the United States and the Pacific Island Parties concluded negotiations to extend the operation of this Treaty for an additional ten-year period, through June 14, 2013. The amendments to the Treaty and its Annexes will, among other things, enable use of new technologies for enforcement, streamline the way amendments to the Annexes are agreed, and modify the waters that are open and closed under the Treaty. President Bush submitted the amendments to the Treaty to the Senate for advice and consent in February 2003. Minor amendments to Section 6 of the South Pacific Tuna Act of 1988, Public Law 100–330, will be necessary to take account of the Amendment to paragraph 2 of Article 3, "Access to the Treaty Area," which permits U.S. longline vessels to fish on the high seas of the Treaty Area.

The Treaty provides considerable economic benefit to all parties, with the value of landed tuna contributing between $250 and $400 million annually to the U.S. economy. Nearly all of this fish is landed in American Samoa and processed in two canneries located there, one of which is owned by U.S. interests. These canneries provide more than 80 percent of private sector employment in that territory.

Issues Relating to Particular Species

Whales and International Whaling Commission (IWC) issues. The United States supports the IWC's commercial whaling moratorium, and opposes lethal scientific/research whaling, whaling within the sanctuaries established by the IWC, and international trade in whale products. We continue to support aboriginal subsistence whaling. In addition, we support active work on science and progress on the Revised Management Scheme (the management scheme that would apply if the commercial moratorium were ever lifted). In 2003, the United States will continue to monitor the whaling activities of Japan and Norway. We will also monitor the activities of Iceland, which is now a member of the IWC with a reservation to the moratorium on commercial whaling. In particular, we are concerned that Iceland may begin a research whaling program later this summer. The United States is disappointed that Iceland has joined the IWC with a reservation to the moratorium, but we recognize Iceland as a party to the International Convention for the Regulation of Whaling. We are also monitoring international trade in whale products since Norway resumed such trade during 2002, sending about 38,000 kilograms to Iceland. This year Norway may export whale products to Japan and the Faroe Islands. The next IWC meeting is scheduled for the week of June 16–19, 2003 in Berlin, Germany.

Sea turtles. Section 609 of Public Law 101–162 prohibits the importation of shrimp and products of shrimp harvested in a manner that may adversely affect sea turtle species. By May 1 of each year, the Department certifies to Congress those nations meeting criteria set forth in the statute relating to the protection of sea turtles in the course of shrimp trawl fishing. In 2003, we certified 39 nations and one economy (Hong Kong) as meeting the requirements of Section 609. Haiti did not meet certification requirements for 2002 and Indonesia remained uncertified from the previous year. Earlier in 2003, we removed Honduras and Venezuela from the list of certified countries.

The United States is a leading participant in two groundbreaking international agreements to protect sea turtles, one in the Americas and another in the Indian Ocean region. Although both regimes are just getting off the ground, they hold considerable promise for reversing the declines of these endangered species. The Department of State leads the U.S. delegation to meetings held pursuant to these agreements. Congress has supported these agreements through the appropriations process.

We are also working with NOAA Fisheries and the international community in a variety of fora to address the specific problem of the bycatch of sea turtles in longline fisheries. In 2002, the Department participated in the Second International Fishers' Forum, hosted by the Western Pacific Fisheries Management Council in Hawaii. The Department also helped sponsor and participated in the International Technical Expert Workshop on Marine Turtle Bycatch in Longline Fisheries in February 2003 in Seattle. In February 2003, we secured a commitment of FAO to convene an international technical consultation among members of FAO on the bycatch of sea turtles in longline and other commercial fisheries. The Department views this as the next step in a global campaign to seek solutions to this serious problem. In advance of that meeting, however, we are considering ways to work within some regional fisheries management organization (RFMOs), such as the Inter–American Tropical Tuna Commission (IATTC), to provide input from those organizations into that process.

Tuna/dolphin. Following enactment of the 1997 International Dolphin Conservation Program Act, the United States and other countries whose vessels participate in the purse seine tuna fishery of the Eastern Pacific Ocean entered into negotiations to create an effective, binding agreement to protect dolphins from harm in this fishery. The resulting 1999 Agreement, which built on an earlier voluntary regime, has been a solid success, bringing observed dolphin mortalities down to extremely low levels through the use of proper incentives for vessel captains and a strong oversight program that includes mechanisms for transparency otherwise unknown in the field of international fisheries. Under the resulting 1999 Agreement and the earlier voluntary regime, dolphin mortalities have been reduced more than 98 percent from as recently as 1987.

We are aware of concerns regarding the level of compliance with this Agreement by some fishing countries. While the level of reported infractions represents a small percentage of overall activity under the Agreement, the Departments of State and Commerce are working with the other participants in the International Dolphin Conservation Program to address these concerns and to ensure that compliance with the Agreement is at the highest possible level. It should be noted, however, that the other countries whose vessels operate in this fishery entered into the 1999 Agreement with the expectation that the United States would adopt a new definition of "dolphin-safe" tuna. However, the International Dolphin Conservation Program Act made such a change in definition contingent on the outcome of certain studies and a finding by the Secretary of Commerce, a matter that remains in litigation.

FAO Initiatives

The United Nations Food and Agriculture Organization (FAO) Committee on Fisheries (COFI) held its 25th meeting in Rome February 24–28, 2003. Major achievements include a strong work program for the next biennium on illegal, unreported and unregulated (IUU) fishing within FAO, agreement on the need for a government meeting on sea turtle interactions with fishing gear, and the adoption of a strategy to improve fisheries data collection and reporting. In addition, FAO made progress on the U.S. led initiative to foster cooperation between FAO and CITES, though outstanding divisions led COFI to establish an open-ended informal group to continue work on this issue.

The United States is leading an effort in FAO to strengthen implementation of the four FAO International Plans of Action (IPAO), in particular the IUU and capacity reduction Plans. In support of the IPOA on IUU fishing, we are now in the process of finalizing the U.S. national plan of action on IUU, which will serve as a model for other countries. We are also contributing resources and technical expertise to an FAO conference on fisheries enforcement to be held in Malaysia in 2004, one goal of which is to provide practical training for and increased cooperation between fisheries enforcement professionals in developing countries. Working through the U.S. Joint Subcommittee on Aquaculture, the United States will be actively engaged in the new FAO work program on aquaculture with a view to improving the environmental and economic sustainability of the sector. Our colleagues in the Department of Commerce will be discussing U.S. activities relating to capacity reduction efforts in the FAO and elsewhere.

FAO will host a major conference on deep-sea fisheries in New Zealand in December 2003. Deep-sea fisheries take place in some of the least understood ecosystems on the planet. Although available technology allows fishing vessels to operate around previously unreachable seamounts and oceanic ridges, very few international agreements are in place to provide a basis for managing these fisheries effectively, and very few if any management measures for these fisheries have been adopted.

WTO and fish subsidies

The Administration is pleased with the progress being made at the WTO on reducing or eliminating subsidies that contribute to overfishing, given the correlation between certain forms of subsidies to the fisheries sector and problems of overcapacity and IUU fishing. On the details of the negotiations and the U.S. strategy for achieving our objectives in the Doha Development Agenda, we will defer to the Department of Commerce.

White Water to Blue Water Initiative

This partnership initiative, launched in 2002 at the World Summit on Sustainable Development, involves U.S. Federal agencies, the United Kingdom, France, Canada and the Netherlands, Caribbean governments, the Caribbean Environment Program, CARICOM, other international organizations, non-governmental organizations and the private sector. The partnership initiative is designed to integrate the management of watershed, coastal and marine resources in the Wider Caribbean region, beginning with upstream sectors (watersheds, inland forests, agricultural areas and population centers) and extending through wetlands, mangrove swamps and coral reefs into the ocean. It aims to improve capabilities of coastal States to manage watershed and coastal-marine ecosystems for sustainable development. We also seek to promote regional coordination among the partners to increase economies and efficiencies. National teams from government, civil society and the private sector will participate in a March 2004 conference in Miami designed to identify new partnerships and provide technical training. We hope that the initiative may later be adapted for other regions, such as Africa and the South Pacific.

CONCLUSION

Thank you very much for this opportunity to address the Subcommittee. I would be pleased to try to answer any questions that you may have.

Mr. GILCHREST. Thank you, Madam Ambassador.

Dr. Hogarth.

STATEMENT OF DR. WILLIAM T. HOGARTH, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Dr. HOGARTH. Thank you, Mr. Chairman, Members of the Subcommittee. It is nice to be here again to present testimony on topic related to international fishery conservation and management.

I do believe that NOAA Fisheries and their Federal partners at the Department of Interior and the State Department, working in concert with state, tribal, and other Native American groups, have and continue to accomplish an impressive program of international living marine resource conservation and management. I would like to emphasize, however, that the problems and challenges we are addressing in domestic fisheries management are the same ones that we have to address internationally. Indeed, many of these problems, including the management needs of highly migratory species, salmonids, straddling and shared fish stocks, and many protected species stocks cannot be effectively addressed here in the U.S. in the absence of international cooperation.

These problems and challenges include: eliminating overfishing, rebuilding overfish stocks, managing fisheries sustainably, recovering protected species, conserving habitats, improving the scientific basis of living marine resource management, working toward ecosystem-based management, and addressing problems of bycatch and overharvesting.

I will provide an overview of our efforts to address these issues in several international fora, including, one, ICCAT, which is the

International Commission for the Conservation of a Atlantic Tunas; two, CCAMLR, which is the Convention for the Conservation of Antarctic Marine Living Resources; three, IWC, which is International Whaling Commission; and four, NAFO, which is Northwest Atlantic Fisheries Organization; and five, we are going to talk about international bycatch reduction initiatives. My written testimony provides greater detail for the topics listed above and includes information on other international conservation management issues that may be of interest to the Committee.

ICCAT coordinates the international management of tunas and tuna-like species. The primary U.S. objections over the last several years have included seeking measures to rebuild overfished stocks, improving adherence to the ICCAT rules by members and non-embers nations and addressing bycatch issues. With regard to rebuilding, we have had a number of successes, including the adoption of rebuilding plans of western blue fin tuna, North Atlantic swordfish, and blue and white marlin. As you know, the sacrifices made to rebuild North Atlantic sword fish began to show results last year with the significant increase in biomass which led to the increase in quota allocations.

On the compliance front, ICCAT has adopted a variety of state-of-the-art measures. ICCAT can and has imposed penalties, for example, quota reductions, trade sanctions, against members for infractions. These measures have been successful in reducing illegal, unregulated, and unreported fishing in the convention area. We are in the process now of working on a positive list of fishing vessels that will be made available so that the nations will only be buying from those vessels who are on this positive list, to try to address the problem with those unregulated vessels.

Despite the strides made at ICCAT, particularly over the last decade, a number of difficult issues remain, one of which is data collection for stock assessments, the stock structure of the Atlantic blue fin tuna and ICCAT rebuilding plans, and the IUU issues.

CCAMLR: Due to the scale of IUU fishing for toothfish in and beyond waters subject to CCAMLR, a catch documentation scheme for toothfish was adopted in 1999. The document identifies the origin of toothfish imports, determines if the toothfish were harvested consistent with CCAMLR convention measures, monitors international trade, and provides catch data for stock assessments in the convention area. Although NOAA Fisheries have fully implemented the documentation scheme in the United States, we have recently published final regulations streamlining the administration of the program and enhancing efforts to prevent the import of illegal harvested toothfish.

Effective June 16, 2003, NOAA Fisheries will operate a pre-approval system for toothfish imports. Pre-approval will allow the agency to review toothfish catch documents sufficiently in advance of import to facilitate enforcement and provide additional economic certainty to U.S. businesses in the toothfish trade.

IWC: NOAA Fisheries has currently preparing for the 55th annual meeting of the International Whaling Commission which will be held in Berlin June 16th through 19th. The longstanding principles that guide U.S. policy at this meeting are that the United States supports IWC's commercial whaling moratorium, supports

aboriginal subsistence whaling, opposes lethal research whaling, and opposes the international trade of whale products.

NAFO: NAFO manages groundfish, flatfish, and shellfish in the waters of the northwest Atlantic beyond the areas of national jurisdiction, many of which are under zero directed take regimes. Some of these stocks are rebuilding, and one, the yellowtail flounder, has recovered sufficiently to re-establish a directed fishery. A U.S. priority with NAFO was to reform allocation practices and obtaining greater access for U.S. vessels to fish for recovering stocks.

International bycatch activities: In the September 2000 Annual Report to Congress on International Bycatch Agreements, required by Section 202(h) of the Magnuson-Stevens Fishery Conservation and Management Act, NOAA Fisheries concluded and the Department of State concurred that seeking international agreements with foreign nations conducting pelagic long-line fishing operations for Atlantic and Pacific highly migratory species was necessary and appropriate to protect endangered and threatened sea turtles. An international strategy was developed in detail in the June 2001 report to Congress.

In January 2002, I appointed an interagency International Bycatch Reduction Task Force to carry out this strategy. It has since been fully integrated into our broader NOAA Fisheries National Bycatch Strategy. The task force has prepared a report of its activities during the first year of operation. I will be happy to provide copies of this report to you when completed.

H.R. 2048: NOAA Fisheries has no objection to this bill and feels that it should be reauthorized.

H.Res. 30 concerning the San Diego long-range fishing fleet and rights for the fishing near the islands in Mexico—I notice all of us have avoided trying to say what the island really is. We just call it the Mexican islands. I spent 10 minutes yesterday trying to get the pronunciation right and decided we will just call it the Mexican island.

The U.S. long-range sportfishing fleet has for nearly 30 years fished in the waters of the Mexican Biosphere Reserve. The activity has been estimated to provide about $5.5 million in benefits to the U.S. economy annually and $2.9 million to the Mexican economy. In addition, the U.S. fleet every Christmas will take a boat-load of supplies down to the islands where they fish to the local community, such as food and Christmas gifts, in addition to the other things that they do for fishing there.

In 1994, the Mexican president created by decree the Biosphere Reserve, and this decree established a nucleus zone or core zone of six nautical miles around the four islands of the reserve. Sportfishing, as Congressman Cunningham said, was permitted to continue in the reserve to within 500 meters. The 1994 decree also provided for the development of a management plan. However, in March 2002, the Federal Attorney's Office for Environmental Protection in Mexico ruled that no fishing could take place in the biosphere reserve nucleus zone and noted that a December 1996 amendment to the Mexican environmental law prohibited fishing in the nucleus zone of a biosphere reserve.

The Government of Mexico then revoked the permits that had been issued to the U.S. sportfishing vessels to fish within the 500

meters of shore at the reserve. U.S. recreational operators claimed that their fishing operations do not have a significant impact on the species and habitats of concern to the reserve and have asked the U.S. Government to help resolve the matter. As part of that effort and in compliance with a request for Congress, NOAA Fisheries is preparing a report to Congress that will address the issues surrounding sportfishing in the reserve.

In addition, Secretary Evans has had several conversations with the secretary in Mexico. We are aware of the correspondence, and we are trying to work through it. The problem we are having there is it has been taken away from fisheries, and our dealings with the fishery agency of Mexico has now gone to the Navy for enforcement basically. So we are trying to work with the State Department and work with the Ambassador to see if we can work with Mexico on the management plan, if we can support this or whatever needs to be done to try to get this fishery open.

Thank you, Mr. Chairman, for this opportunity to review how NOAA Fisheries is conducting the tasks assigned to it pursuant to the many international fishery treaties and conventions in which the United States is involved. We are committed to working with our state and Federal partners for the effective management of our Nation's fishery resources.

Mr. Chairman, this concludes my testimony, and I will be happy to respond to any questions.

[The prepared statement of Dr. Hogarth follows:]

Statement of William T. Hogarth, Ph.D., Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to this hearing to present testimony on topics related to international fishery conservation and management. I am William T. Hogarth, the Assistant Administrator for Fisheries in the National Oceanic and Atmospheric Administration, Department of Commerce.

I believe NOAA Fisheries and our Federal partners at the Department of the Interior and the State Department, working in concert with state, tribal, and other Native American groups, have and are continuing to accomplish an impressive program of international living marine resource conservation and management.

I would like to emphasize, however, that the problems and challenges we are addressing in domestic fisheries management are the same ones we are addressing internationally. Indeed, many of these problems, including the management needs of highly migratory species, salmonid, straddling, and shared fish stocks and many protected species stocks cannot be effectively addressed at home in the absence of international cooperation. These problems and challenges include eliminating overfishing, rebuilding overfished stocks, managing fisheries sustainably, recovering protected species, conserving habitats, improving the scientific basis of living marine resource management working toward ecosystem-based management, and addressing problems of bycatch and harvesting capacity. I will provide an overview of our efforts to address these issues in several international fora including (1) ICCAT (International Commission for the Conservation of Atlantic Tunas), (2) CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources), (3) IWC (International Whaling Commission), (4) NAFO (Northwest Atlantic Fisheries Organization), (5) FAO (Food and Agriculture Organization of the United Nations), (6) WTO (World Trade Organization), and (7) CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora).

ICCAT (International Commission for the Conservation of Atlantic Tunas)

ICCAT coordinates the international management of tunas and tuna-like species. The organization currently has 35 members. Primary U.S. objectives over the last several years have included seeking measures to rebuild overfished stocks and im-

prove adherence to ICCAT rules by members and non-members. Seeking measures to address bycatch issues has also been a focus of the United States.

With regard to rebuilding, we have had a number of successes, including the adoption of rebuilding plans for western bluefin tuna (1998), North Atlantic swordfish (1999) and blue and white marlins (2000). As you may know, the sacrifices made to rebuild North Atlantic swordfish began to show results last year with a significant increase in biomass which led to increases in quota allocations. On the compliance front, ICCAT has adopted a variety of state-of-the-art measures. ICCAT can and has imposed penalties (e.g., quota reductions, trade sanctions) against members for infractions. The Commission has also adopted action plans that contemplate the use of trade sanctions against countries that diminish the effectiveness of ICCAT, and sanctions have been imposed in several instances. These measures have been successful in reducing illegal, unregulated, and unreported (IUU) fishing in the Convention area. Most recently in its fight against IUU fishing, ICCAT adopted a vessel list program that provides a basis to limit market access to only those products taken by authorized vessels.

Regarding bycatch issues, ICCAT has adopted proposals to improve data collection and reporting on sharks and seabirds and is considering a similar proposal concerning sea turtles. The latter will be on the agenda for the 2003 ICCAT meeting. Regarding sharks, an assessment is planned for 2004. The ICCAT measure also encourages releasing sharks taken as bycatch, and minimizing shark waste and discards.

Despite the strides made at ICCAT, particularly over the last decade, a number of difficult issues remain. Data collection and reporting continue to be a challenge for some parties, and a special meeting will be held in the fall 2003 to consider this matter. Moreover, the stock structure of Atlantic bluefin tuna, currently managed as two separate stocks, remains in question and ICCAT agreed to convene a meeting of scientists and managers in November 2003 to look into this issue. In addition, ensuring ICCAT rebuilding plans stay on course and that new programs are developed for other overfished stocks (such as bigeye tuna) will be important. Also, we intend to ensure that ICCAT continues to make needed progress in improving member compliance and non-member cooperation, including addressing IUU issues.

With respect to compliance issues in ICCAT fisheries, the Secretary of Commerce recently (April 25, 2003) sent letters to the European Commission (EC) [namely, Commissioner for Trade Pascal Lamy and Commissioner for Agriculture, Rural Development, and Fisheries Franz Fischler]. Secretary Evans noted the importance of the conservation of marine fisheries and expressed concern about actions and positions taken by the EC at ICCAT in 2002—particularly regarding EC support of an eastern bluefin tuna total allowable catch far in excess of scientifically recommended, sustainable levels. Secretary Evans stated that positions such as these have the potential to threaten the long-term future of shared resources and to lead to serious friction in U.S.- EC trade relations. As an example, the Secretary pointed to a petition filed by a recreational fishing organization under Section 301 of the Trade Act of 1974 that sought relief from allegedly unjustifiable acts, policies, and practices of the EC related to ICCAT. This petition was withdrawn. In his letter, the Secretary urged the EC to take prompt action to improve EC compliance with existing ICCAT measures and to reconsider accepting science-based conservation measures in the future.

In addition to this action, NOAA Fisheries has received a request to certify the EC pursuant to the Pelly Amendment to the Fishermen's Protective Act of 1967 for diminishing the effectiveness of ICCAT. The decision on certification has been left open for the time being while we monitor the activities of the EC and its Member States. In this regard, I recently sent a letter to the EC Director General for Fisheries explaining the request, noting its seriousness, and indicating that I intend to investigate it fully. I have also been in contact with the head of the EC delegation to ICCAT concerning this matter, and we will continue our dialogue at the upcoming ICCAT intersessional meetings in Madeira in late May 2003. I have been stressing the importance of EC implementation of its ICCAT commitments and will continue to do so.

CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources)

Due to the scale of IUU fishing for toothfish in and beyond waters subject to CCAMLR, a Catch Documentation Scheme (CDS) for toothfish was adopted in 1999. The CDS identifies the origin of toothfish imports, determines if the toothfish were harvested consistent with CCAMLR conservation measures, monitors international trade, and provides catch data for stock assessments in the Convention Area. Although NOAA Fisheries has fully implemented the CDS in the United States, it recently published final regulations streamlining administration of the program and

enhancing efforts to prevent the import of illegally harvested toothfish. Effective June 16, 2003, NOAA Fisheries will operate a pre-approval system for toothfish imports. Pre-approval will allow the agency to review toothfish catch documents sufficiently in advance of import to facilitate enforcement and provide additional economic certainty to U.S. businesses in the toothfish trade.

Scientific information provided to CCAMLR has indicated high levels of IUU fishing in the Convention Area. The majority of CCAMLR Members agreed that catches reported as harvests from FAO Statistical Areas 51 and 57, high sea areas in the Indian Ocean adjoining the Convention Area, were not credible and were in all likelihood fish pirated from within the Convention Area. They also expressed concerns, shared by the United States, that information reported in catch documents did not match scientific understanding of toothfish distribution and potential biomass of toothfish on the high seas. Therefore, also as of June 16, 2003, no imports of fresh or frozen toothfish represented as harvested within FAO Areas 51 or 57 will be allowed entry into the United States. Importers applying for a pre-approval certificate for fish that has been harvested from either of these areas will be denied pre-approval.

IWC (International Whaling Commission)

The 55th Annual Meeting of the International Whaling Commission (IWC) will be held in Berlin June 16th through 19th. The longstanding principles that will guide United States policy at this meeting are that the United States supports the IWC's commercial whaling moratorium, supports aboriginal subsistence whaling, opposes lethal research whaling, and opposes the international trade of whale products.

Iceland recently rejoined the IWC with a reservation to the commercial whaling moratorium. The U.S. accepts Iceland as a member of the Commission, but is disappointed Iceland conditioned its membership with a reservation. In addition, Iceland recently submitted to the IWC a plan to conduct lethal research on whales. The United States opposes lethal research and urge Iceland not to begin this program. Likewise, Japan continues to conduct lethal research with the take of up to 700 whales per year. The United States continues to urge Japan to cease the killing of whales under scientific permits. Germany will put forth a resolution on scientific whaling that we intend to support.

In addition, Norway and Iceland have initiated the first international trade of whale products in 14 years. The U.S. has urged both countries to halt this trade. Last year, Japan submitted a resolution for the consideration of Japanese community-based whaling. This resolution contained a marked change from previous proposals whereby the quota would be non-commercial, and based on the advice of the Scientific Committee. Japan is expected to present a proposal regarding this matter. The U.S. has not yet seen this proposal, but will only consider supporting it if these two criteria (non-commercial—i.e., the proposal would establish sufficient safeguards to ensure that whales that would be taken under the program are not used for commercial purposes—and based upon the advice of the IWC Scientific Committee), at a minimum, are met.

Mexico plans to put forward a resolution to create a Conservation Committee that is meant to reaffirm the conservation objective of the Convention. The U.S. intends to support the creation of this committee as it would improve the governance of the Commission's conservation work.

Italy intends to put forth a resolution on bycatch of whales. The U.S. intends to support this resolution since we recognize bycatch as a serious conservation issue and it would be synergistic with the National Bycatch Strategy recently issued by NOAA Fisheries.

The U.S. continues to work in good faith to establish a Revised Management Scheme (RMS) for commercial whaling. However, the last round of working group meetings were disappointing in that representatives of the whaling nations and their supporters did not accept any compromise put forth by the United States and others. The United States has repeatedly demonstrated its willingness to develop a science-based and enforceable RMS. Our efforts, however, have been thwarted by the pro-whaling nations, which, to date, have been unwilling to agree to the incorporation of adequate monitoring measures into the RMS. At the annual meeting, Japan will likely put forth a proposal on the RMS. Japan's proposal last year lacked the necessary components for a credible scheme and would have eliminated the commercial whaling moratorium and whale sanctuaries.

Finally, the U.S. intends to support Australia and New Zealand in their proposal to establish a South Pacific Sanctuary, and Brazil's proposal to establish a South Atlantic Sanctuary. Both of these sanctuary proposals are science-based and would help the recovery of depleted whale stocks.

NAFO (Northwest Atlantic Fisheries Organization)

NAFO manages groundfish, flatfish, and shellfish in the waters of the northwest Atlantic beyond areas of national jurisdiction, many of which are under zero directed take regimes. Some of these stocks are rebuilding and one, yellowtail flounder, has recovered sufficiently to reestablish a directed fishery. A U.S. priority within NAFO is to reform allocation practices and obtain greater access for U.S. vessels to fish for recovering stocks. NOAA Fisheries hosted a NAFO Working Group meeting in Miami earlier this year to press for more progress in this area, but progress has been slow. On the other hand, we have made considerable progress within NAFO on transparency, implementing a risk-based approach, effectively dealing with problems of fishing by non-members, and upgrading NAFO mechanisms and processes for monitoring compliance by NAFO members. Nevertheless, the issue of obtaining benefits for U.S. fishermen commensurate with the considerable financial and other contributions the United States makes to NAFO has led us to begin a reassessment of our proper role within NAFO.

NOAA has provided leadership on U.S. delegations to NAFO meetings since the United States joined NAFO in 1996, and NOAA Fisheries provides a required annual report to Congress on U.S. activities concerning NAFO.

COFI/Capacity (Committee on Fisheries, Food and Agriculture Organization of the United Nations)

A major and common problem that plagues a large number of domestic and world fisheries is overcapacity in the harvesting sector. The United States has recognized this global problem for more than a decade and has worked for years to address the issue of overcapacity in the harvesting sector through technical and policy-level consultations held under the sponsorship of FAO. Accordingly, we agreed in 1997 to consultations leading to an international plan of action for the management of fishing capacity (IPOA) and joined all the other FAO Members in approving the IPOA on this subject in 1999. NOAA Fisheries played an active role in the technical and policy-level meetings to bring these negotiations to a successful conclusion. In particular, I would like to single out the efforts of NOAA Fisheries technical experts who developed definitions and measures of capacity and overcapacity for marine capture fisheries that were later endorsed by FAO and have become the world standards.

The IPOA for the management of fishing capacity included a provision calling on all signatories to develop a national plan of action for the management of fishing capacity, and NOAA Fisheries has been working on this task for the last few years. Crafting a national plan of action for the management of fishing capacity has been a challenge. The Magnuson–Stevens Fishery Conservation and Management Act does not mandate the regulation of fishing capacity, and certain tools that would enable the Councils and NOAA Fisheries to manage capacity were either legally unavailable—in the case of individual fishing quotas until October 2002—or were untried and therefore untested—in the case of Fishing Capacity Reduction Programs under Section 312(b)–(e). Nevertheless, NOAA Fisheries has prepared a draft national plan of action that we believe is consistent with our legal mandates and authorities.

Our national plan of action has gone through internal and public review. We are in the process of making changes in response to comments provided by our constituents through a Federal Register notice of availability. The comment period closed in March of this year. We expect to send the final plan to FAO this year.

The United States, through the Committee on Fisheries (COFI), also provided leadership in the development of IPOAs regarding seabirds, sharks, and IUU fishing. The United States has completed development of its NPOAs relative to seabirds and sharks and has developed a draft NPOA on IUU fishing, which was presented at COFI earlier this year.

CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora)

The United States continues to believe that CITES can serve as a useful adjunct to traditional fisheries management through its comprehensive permitting and trade control protocols. Such systems can deter IUU fishing and assist in promoting domestic management programs for commercially exploited marine species. CITES was designed to support sustainable international trade in fauna and flora, but is not a substitute for complementary scientific management and domestic regulation of fishery resources. In instances where no RFMO is in place (as is the case with queen conch and sturgeon), a CITES listing can encourage the establishment of regional management mechanisms. In the case of queen conch (listed in 1992), since 1996, NOAA–Fisheries and the Caribbean Fishery Management Council have orga-

nized the International Queen Conch Initiative, which provides a forum for countries in the Wider Caribbean to develop coordinated approaches to regional management of the species. In the case of sturgeon (listed in 1997), regional cooperation among range States has led to the setting of intergovernmental quotas for sturgeon species in the Caspian Sea region. Closer cooperation between CITES and FAO should further strengthen these efforts, as FAO is experienced in supporting regional fisheries management organizations in developing regions of the world.

The United States has also supported cooperative efforts between CITES and CCAMLR to improve the management and enforcement of measures taken to conserve toothfish and potentially other Southern Ocean species. In addition, the United States continues to advocate the continued linkage of CITES listings with actions taken by the IWC to conserve whale stocks, such that the applicable trade prohibitions under CITES reflect the decisions on commercial whaling established by the recognized international management authority.

Fish Subsidies

Many commercially-traded fish stocks are fully exploited or over exploited. While it is generally acknowledged that ineffective or poorly enforced management regimes in global fisheries are the principal culprits in the decline of certain stocks, there is reason to believe that global levels of subsidies (estimated at between $10–15 billion) have exacerbated the problem. For this reason, World Trade Organization (WTO) Ministers agreed in Doha, Qatar in December 2001 to clarify and improve existing WTO rules on fisheries subsidies. The World Summit on Sustainable Development (WSSD), held in Johannesburg South Africa in September 2002, further committed the global community to reduce and eliminate subsidies that lead to overcapacity and overfishing.

The United States has actively supported and contributed to work on fisheries subsidies in a variety of fora, and has long advocated WTO action on this issue. We believe that the fisheries subsidies negotiations are an important part of the WTO's commitment to making trade, development, and environmental policies mutually supportive: in other words, a demonstration that trade liberalization is a "win-win-win." We have therefore been working hard in Geneva, along with a group of like-minded countries, known as the "friends of fish," to fulfill the Doha mandate and establish better disciplines on fisheries subsidies. Although a few countries (Japan and Korea, most vocally) have slowed the negotiations somewhat, progress toward a successful conclusion is being made.

International Bycatch Reduction Activities

In the September 2000 Annual Report to Congress on International Bycatch Agreements, required by Section 202(h) of the Magnuson–Stevens Fishery Conservation and Management Act, NOAA Fisheries concluded, and the Department of State concurred, that seeking international agreements with foreign nations conducting pelagic longline fishing operations for Atlantic and Pacific highly migratory species was necessary and appropriate to protect endangered and threatened sea turtles. An international strategy was developed and detailed in the June 2001 Report to Congress.

In January 2002, I appointed an interagency International Bycatch Reduction Task Force to carry out the strategy. Although the initial focus of this effort was to reduce sea turtle bycatch in longline fisheries internationally, it also took on responsibilities relating to bycatch issues involving sharks and seabirds. It has since been fully integrated into our broader NOAA Fisheries National Bycatch Strategy. We continue to host and participate in international working groups in support of bycatch mitigation. A few examples of these include:

- Participation and financial support for the Second International Fishermen's Forum in November 2002, which focused on sea turtle and seabird bycatch mitigation;
- Planning and hosting an international technical workshop on reducing sea turtle interactions with longline gear in February 2003, in Seattle, Washington;
- Planning for an interdisciplinary workshop to be co-sponsored by the International Center for Living Aquatic Marine Resource Management and others on the conservation needs of sea turtles in the Pacific Basin, planned for November 2003 in Bellagio, Italy;
- Participating in and financially supporting an Asia–Pacific Economic Forum Fisheries Working Group Shark Workshop, which included bycatch issues, in Huatulco, Mexico in December 2002; and
- Securing State Department funding to support the meeting of the Parties to the First Inter–American Sea Turtle Convention, to be held in San Jose, Costa Rica, in August 2003.

Mr. Chairman, the Task Force is preparing a report of its activities during the first year of operation, and I would be happy to provide copies of it when completed.

H.R. 2048 (International Fisheries Reauthorization Act of 2003)

H.R. 2048 would extend the period for reimbursement under the Fishermen's Protective Act and would reauthorize the Yukon River Restoration and Enhancement Fund. NOAA Fisheries has no objection to the bill.

H.RES 30 (Concerning the San Diego long-range sportfishing fleet and rights to fish the waters near the Revillagigedo Islands of Mexico)

The U.S. long-range sportfishing fleet has for at least the last thirty years fished in the waters of the Revillagigedo Islands. This activity has been estimated to provide about $5.5 million in benefits to the U.S. economy and an additional $2.9 million to the Mexican economy annually.

In 1994, Mexico's president created by decree the Revillagigedo Archipelago Biosphere Reserve. The decree established a "nucleus zone" or "core zone" of six nautical miles around the four islands in the Reserve. Sportfishing, however, was permitted to continue in the Reserve to within 500 meters. The 1994 decree also provided for the development of a management plan.

In March 2002, the Federal Attorney's Office for Environmental Protection (PROFEPA) in Mexico ruled that no fishing could take place in a biosphere reserve "nucleus zone," noting a December 1996 amendment to Mexican environmental law that prohibited fishing in "nucleus zones" of a biosphere reserve. The Government of Mexico then revoked the permits that had been issued to U.S. sportfishing vessels to fish to within 500 meters (m) of shore at the Reserve.

U.S. recreational operators claim that their fishing operations do not have a significant impact on the species and habitats of concern to the reserve and have asked the U.S. government to help resolve the matter. As a part of that effort and in compliance with a request from Congress, NOAA Fisheries is preparing a Report to Congress that will address the issues surrounding sportfishing in the reserve.

Thank you, Mr. Chairman, for this opportunity to review how NOAA Fisheries is conducting the tasks assigned it pursuant to the many international fisheries' treaties and conventions with which the United States is involved. We are committed to working with our state and Federal partners for the effective management of our Nation's fisheries resources. Mr. Chairman, this concludes my testimony. I am prepared to respond to any questions Members of the Subcommittee may have.

Mr. GILCHREST. Thank you, Dr. Hogarth.

Mr. Jones.

STATEMENT OF MARSHALL P. JONES, JR., DEPUTY DIRECTOR, FISH AND WILDLIFE SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. JONES. Thank you, Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to be here with my colleagues from NOAA Fisheries and the Department of State to provide the testimony of the U.S. Fish and Wildlife Service on H.R. 2048 and also on the pending U.S.-Russia Polar Bear Agreement. I am Marshall Jones, the Deputy Director of the Fish and Wildlife Service.

Mr. Chairman, salmon know no borders, not only in the open ocean, but also when their spawning streams cross from the United States into Canada. In March of 2001, after 16 years of sometimes painful deliberations, the United States and Canada reached agreement on catch shares and conservation measures for Canadian-origin salmon harvested by both United States and Canadian fisherman in the Yukon River.

The Yukon River Salmon Agreement, which amended the Pacific Salmon Treaty, was signed in December 2002. The agreement establishes a restoration and enhancement fund to support projects conducted by residents and fishermen either in the United States

or in Canada that contribute to the restoration, conservation, enhancement, and stewardship of Canadian-origin salmon. The U.S. Fish and Wildlife Service participated in these negotiations and is now working with the State of Alaska, the U.S. fishing community, native organizations as well as the Department of Commerce, Canada, Department of State to rebuild depressed Canadian-origin salmon populations and to protect and restore spawning and rearing habitats in Canada.

Mr. Chairman, as Ambassador West noted, we also have a technical correction that we would like to offer to H.R. 2048 which affects which agreement is referred to since there was both a 1995 interim agreement and legislation for that and then a subsequent 2000 legislation which addressed the final agreement. We look forward to working with you and this Committee as you work to reauthorize this important legislation.

Mr. Chairman, we also appreciate the opportunity to testify today on the U.S.-Russia Polar Bear Agreement. The United States and Russia share the Bering-Chukchi Sea Polar Bear population which is now facing significant unregulated harvest. Although a 1956 ban on hunting polar bears in the former USSR is still in effect today in Russia, harvest is now occurring at a level that when combined with the legal subsistence harvest in Alaska, may soon deplete the shared polar bear population.

In recognition of the need for unified management of the Bering-Chukchi Sea polar bear population, the United States and representatives of the Russian Federation negotiated a bilateral agreement on the conservation and management of this population, which was signed in Washington, D.C. in October of 2000. The primary purpose of the polar bear agreement is to ensure long-term science-based conservation of this shared Alaska-Chukotka polar bear population and particularly to reconcile the widely different harvest management regimes and practices in the United States and Russia. The agreement creates a management framework to ensure a viable population in the future.

The Administration submitted this agreement to the U.S. Senate for advice on consent in July of 2002. The Administration is now considering draft legislation to implement the agreement which is undergoing review by the various agencies within the Administration involved with the process. This agreement and the implementing legislation would represent a major step forward for polar bear conservation and would enhance our collaborate efforts with Russia to conserve our shared natural resources. We look forward to working with this Subcommittee to ensure the introduction and passage of the implementing legislation.

Mr. Chairman, in closing, I would like to state that this Administration is committed to conserving and managing salmon and polar bears by working closely with our partners in a cooperative fashion. In particular, I want to emphasize the commitment and the continued collaboration between U.S. and Canadian fishermen, the State of Alaska, and especially our partners in the Alaska Native community to conserve and manage these species. We believe we can be more effective at addressing our conservation responsibilities, and we look forward to working with you, Members of the Subcommittee, to reauthorize the Yukon River Salmon Act and to im-

plement the U.S.-Russia Polar Bear Agreement during this session of Congress.

Mr. Chairman, with your permission, I would submit my written testimony for the record, and I would be happy to answer any questions you have.

[The prepared statement of Mr. Jones follows:]

Statement of Marshall Jones, Deputy Director, Fish and Wildlife Service, U.S. Department of the Interior

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to provide the testimony of the U.S. Fish and Wildlife Service regarding H.R. 2048, the "International Fisheries Reauthorization Act of 2003" and the U.S.-Russian Polar Bear Agreement. I am Marshall Jones, Deputy Director of the U.S. Fish and Wildlife Service.

We look forward to working with the Subcommittee to reauthorize the Yukon River Salmon Act of 2000 and with regards to ratifying and developing implementing legislation for the U.S.-Russia Polar Bear Agreement.

H.R. 2048

After 16 years of deliberation between the U.S. and Canada, negotiators reached an agreement in March 2001, on catch shares and conservation measures for Canadian-origin salmon harvested by U.S. and Canadian fishers. The Agreement, which amends Annex I and IV of the Pacific Salmon Treaty, was signed as an Executive Agreement at a ceremony in Washington D.C. in December 2002.

The Agreement establishes a Yukon River Panel, comprised of representatives from the U.S. and Canada, to make recommendations to management entities on both sides of the border concerning the conservation and management of salmon originating in the Yukon River in Canada. In the U.S. the Panel consists of a representative of the State of Alaska (chair), the Federal Government, and four members from communities along the Yukon River. The U.S. Fish and Wildlife Service is currently the Federal Government's representative and the alternate representative is from NOAA Fisheries. Technical support to the Panel is provided by the Joint Technical Committee (JTC) on which the U.S. Fish and Wildlife Service has membership.

The Agreement also establishes the Yukon River Salmon Restoration and Enhancement Fund to support projects, on either side of the Alaska–Yukon border, that contribute to the restoration, conservation, enhancement, and stewardship of Canadian-origin salmon. The U.S. agreed to make annual contributions of $1.2 million to the Fund beginning in Fiscal Year 2002 subject to the availability of appropriations. About 60 projects are funded annually from this Fund. Projects are conducted by Yukon River drainage residents and fishers; agencies do not compete for these funds.

A large portion of Canadian-origin salmon are harvested by U.S. fishers; U.S.-origin fish are also harvested by U.S. fishers. Fulfilling U.S. commitments of the Agreement requires an enhanced understanding of Yukon River salmon stocks to ensure that escapements to the Canadian border are achieved without unnecessarily limiting harvests of U.S. and Canadian-origin salmon in U.S. waters. The Joint Technical Committee is currently developing a joint research and monitoring plan for Yukon River salmon stocks to address this need.

The U.S. Fish and Wildlife Service participated in these negotiations and is now working with the State of Alaska, U.S. fishers, Department of Commerce, and Canada under the Agreement to rebuild depressed Canadian-origin salmon populations and to bolster efforts to protect and restore spawning and rearing habitats in Canada.

The Yukon River Salmon Act of 2000 authorizes $4 million for implementing U.S. obligations under the Agreement. We believe that this is an important measure and support reauthorization of the Yukon River Salmon Act of 2000.

U.S.-Russia Polar Bear Agreement

Amendments to Section 113(d) of the Marine Mammal Protection Act enacted in 1994 authorize the Service, for the United States, to enter into negotiations with Russia to enhance the conservation and management of polar bear stocks. We have acted on this authorization. Since 1990, the Service has worked to improve cooperative research and management programs with Russia for the conservation of polar bears. Significant progress has been made in this effort. Building on this progress, United States and Russian representatives negotiated a bilateral agreement on the

conservation and management of the shared Chukchi/Bering Seas polar bear population in February 1998. That agreement was signed by the two nations in Washington, D.C., on October 16, 2000.

The proposed U.S.–Russia Agreement would establish a common legal, scientific, and administrative framework for the conservation and management of the Alaska–Chukotka polar bear population. A particular concern addressed by the agreement is the widely different harvest provisions and practices of the U.S. and Russia. Despite the 1956 all-union ban on hunting polar bears in Russia, harvest is now occurring at levels that, combined with the legal subsistence harvest in Alaska, could deplete the population. While lawful harvest by Alaska Natives for subsistence purposes occurs in Alaska, United States law does not allow restrictions of this harvest unless a polar bear population becomes "depleted" under the MMPA. In Russia, the Agreement has been approved through their political process; administrative steps necessary prior to implementation are underway and will be completed soon. When this happens, there will be a need for the coordination of harvest restrictions on both sides of the border to prevent an unsustainable combined harvest that could lead to the Alaska–Chukotka polar bear population becoming depleted under the MMPA and listed under the Endangered Species Act. The Agreement will create a management framework to prevent this from happening.

The Administration submitted the Agreement to the United States Senate for advice and consent on July 11, 2002, but additional steps may need to be taken before the United States Government will proceed to bring the Agreement into force: enactment of necessary implementing legislation and promulgation of regulations.

The Administration is preparing draft legislation to implement the Agreement, which is undergoing review by the various agencies involved with the process. The implementing legislation will be fully consistent with the 1973 multilateral agreement on the Conservation of Polar Bears and will further the goals of applicable domestic legislation. The Agreement and its implementing legislation will represent a major step forward for polar bear conservation, and will enhance our collaborative efforts with Russia to conserve shared natural resources. We look forward to working with the Subcommittee to ensure introduction and passage of the implementing legislation.

Conclusion

Mr. Chairman, in closing, I would like to state that this Administration is committed to conserving and managing salmon and polar bears by working with our partners in a cooperative fashion. In particular, I want to emphasize the commitment to continued collaboration with U.S. and Canadian fishers, the State of Alaska, and our partners in the Native community to conserve and manage these species. We believe we can be more effective at addressing our conservation responsibilities, and look forward to working with you and members of the Subcommittee and full Committee to reauthorize the Yukon River Salmon Act and legislation to implement the U.S.-Russia Polar Bear Agreement during this Congress.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions.

Mr. GILCHREST. Thank you, Mr. Jones. Without objection the rest of your statement will be submitted to the record.

We, as I said in my earlier testimony, won't scratch the surface of the myriad of issues that are facing each one of your departments and agencies today, but I would hope that we could continue to pursue this over the next coming months as some of these agreements come on line, some of them need more funding, and some of them we will continue to ask how the U.S. Congress can be helpful in implementing this and funding sources for this and leveraging through public pronouncements that the Congress is angry about this or that and we are going to do something about it or we are going to cutoff trade or whatever it takes to continue to be an active relentless participant in all of these issues.

The first question I have, I know many members on the dais will ask this in a similar or different fashion, and that deals with the articles that recently appeared in the "New York Times", the "Washington Post", "Nature Magazine", and so on talking about

the huge depletion of a number of species in the world's oceans, and that seemingly runs counter to some of the rebuilding measures that we have heard over the last year or two. But I would like to, instead of asking specific questions about the Canadian analysis or specific species and their stock analysis, and I will leave that up to my colleagues, I want to ask a little bit more of a conceptual philosophical question as to our approach to fisheries management.

The Canadian analysis goes back to the 1950's and they are basically saying that if we look at the 1950's status of stock report and then we look at the status of stock reports today, we are well below what they were in the 1950's, and that is an analysis, I guess, to show how far away we are from really rebuilding the stock to a sustainable level. Some years ago, I read a book by the now famous or infamous, depending on your perspective, Farley Mowat, called "The Sea of Slaughter", in which he went back to the 1500's, 1600's, 1700's, much in English or in Great Britain, to determine what the status of stock reports were in those centuries based on their observations from the fishermen, from the early scientists, and so on. And if we went back 500 years ago or 400 or 300, we can see that the number of fish species, shore birds, and so on was huge compared to what we have today.

As you go through fisheries analysis and your relationship with agreements with the international community, is there any baseline upon which you develop data to determine whether a stock is sufficiently rebuilt enough or whether a stock is sufficiently healthy, and upon which frame of reference do you base that or make that decision? Is there some sense that the stock is a lot different today than it was in 1950's or in the early 1600's?

I guess if each of you could give a comment on that.

Dr. HOGARTH. I guess I will start. That is a very interesting question. I don't think there is any doubt that the fishery stocks are probably lower than they were in the 1600's or even 1940 or 1950. I think the question is, though, if you are going to manage fisheries, you are going to expect a reduction in the stock, and if you manage the optimum yield, 50 percent reduction in a population is sort of—it is accepted. I mean, you have got a spawning stockpile mass there, and so you would not expect, you know, stocks not to decrease.

The thing that you have to look at very carefully, though, is when it goes below its optimum yield or its maximum, as we call it the maximum sustained yield and optimum yield and look at the spawning stock biomass, the problem on an international basis is getting the data. A lot of these countries don't have the expertise or don't have the finances to get data, and that is one of the things that concerns me most, is that some of these stocks, like bluefin tuna, some of the countries are not reporting their data in the manner we think they need to report it.

I have offered and we will have a workshop for ICCAT species to talk about data and the data needs to do the stock assessment. On an international basis, we do stock assessments very similar to the way we do stock assessments in the U.S. So we know at the levels at which we should be fishing. For example, we put in a rebuilding plan for North Atlantic swordfish. They met those criteria.

Last year at ICCAT, we were able to increase the quota. We were not really happy with that.

Mr. GILCHREST. If I could interrupt just for a second, Dr. Hogarth.

Dr. HOGARTH. Yes.

Mr. GILCHREST. Would you say—you based those fishing agreements with ICCAT on the data that was collected and you are dealing with maximum sustainable yield criteria. Would you say that the Canadian analysis is a legitimate analysis and that some of that needs to be taken into consideration?

Dr. HOGARTH. Well, I think it should be. I mean I think we have not been able to look at all the background for which they make the analysis, and I would say we do agree if you go unregulated, then you are going to have a—we have the fishing power now that is capable of rapidly depleting the stock. We do realize that on a national basis, international, and even on a domestic basis, we have too much capacity. We need to look at capacity. That is one issue that even Japan is talking to us now about, wanting to know if we will sponsor a workshop internationally to look at capacity. There are too many longlines, to many purse seines, and we need to be looking at the capacity both on an international basis as well as a domestic basis.

So, you know, I think the point of the report is that what he said is many of these declines occurred more than 50 years ago. A lot of management has been in place, has really started—even looking at the U.S., our Sustainable Fishery Act of 1996 with the Magnuson-Stevens Act gave us rebuilding plans, gave us a 10-year. So a lot of the fishery management has taken place over the last 10, 15 years, and this data was based on 50-years plus ago. So you would expect, if you look at that, that the stocks are not—we now, I think, have recognized the problem, which I don't think the report gave us credit for, that we have to have, you know, scientific surveys. We have to get the data on a national basis, which these agreements are doing.

So I think, you know, the same issues that we are dealing with domestically, we are dealing with internationally, and I think we do need a stock assessment, but we have to have—many of these developing countries, have nothing much but fisheries. So they want to develop their fisheries, but they don't have the infrastructure to then collect the data and things that you need to do.

We are doing more observers on these vessels now to get data. We are trying to work with better resolutions to make countries come into compliance.

Mr. GILCHREST. Thank you.

Ms. Ambassador.

Ambassador WEST. Thank you, Mr. Chairman. Let me just pick up on a couple of things that Dr. Hogarth has mentioned. I think we clearly recognize that there is no doubt that many of the world's fish stocks are in serious condition, and as I said, we have developed a number of agreements to try to deal with it. Some are global. Some are regional.

The critical challenge facing us right now is to get these agreements implemented, to stop illegal fishing in violation of the agreements or by vessels of countries that are not party to the agree-

ments, and to reduce capacity overall in the world's fishing fleets. But another thing we need to remember is approximately 90 percent of the world's fish catch is taken within 200-mile zones around the world. Many of those zones, are off developing countries that don't have the capacity to manage and enforce their stocks.

One of the things we really need to concentrate on in addition to making this framework of international agreements work, is to help build capacity among developing countries to manage and, even more so, to enforce management of the stocks in their own zones.

Thank you.

Mr. GILCHREST. Thank you very much.

Mr. Jones, I was going to yield to Mr. Pallone, but if you had a comment.

Mr. JONES. Mr. Chairman, just very briefly, obviously the Department of Interior and the Fish and Wildlife Service does not have a responsibility for fish in the ocean, and we would defer to NOAA and to the Department of State, expect except that we are responsible for the implementation of CITES, Convention on International Trade in Endangered Species, and fisheries issues such as the bluefin tuna, more recently the Patagonian toothfish, have now been introduced into the CITES debate. We have worked very closely with the Department of State, with NOAA, in developing U.S. positions on those issues, and it is still an open question about whether CITES is a right vehicle, but the point is we think we need consider the usefulness of every tool which is out there to help us protect our population of fisheries, and CITES is one of those tools that is still under consideration, though we have other instruments more directly focused on fishery resources that we hope can do the job.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you very much.

The gentleman from New Jersey.

Mr. PALLONE. Thank you, Mr. Chairman.

I could ask this, I guess, Mr. Hogarth or Ambassador West, you could both answer it, but I know that Dr. Hogarth mentioned this black list issued by ICCAT which lists vessels suspected of IUU fishing as well as a white list which names those fishing vessels that comply with the ICCAT regulations, and I am also told that if Japan and the European Union and U.S. were to fully cooperate on the implementation of these two lists, about 33,000 metric tons of illegally caught fish would be off the market. And, of course, this sounds to me like a really good idea.

So I want today ask either of you, start with Dr. Hogarth, does NOAA fisheries intend to submit a proposed rule on this measure so that your office and U.S. Customs can act cooperatively to stop illegal catches from entering the U.S. market, and then maybe Ambassador West could tell us whether the State Department intends to urge other ICCAT member nations to use these lists to stifle illegal catch.

Dr. HOGARTH. First of all, we do. We are in the process now of trying to develop this list, and we want to make sure that we get our list developed as quickly as, say, Japan or some other countries do so that we don't become sort of the country for dumping if they

get the list in place first. So we are work closely with Japan, the EU, and we want to get this list out as quickly as possible. So we are all working on it.

We are also working with the other countries. At the last ICCAT meeting, we had—in fact, Japan asked us to work with the Taiwanese particularly because of this same issue. There has been 240 vessels that have been identified, and we met with them and tried to cut this list down of illegal boats. So, yes, we are working on it.

Mr. PALLONE. Is it going to be like an agency rule, though, or regulation?

Dr. HOGARTH. Yes. It will be a listing of those vessels by the U.S. that are legal.

The question of what we would do on the negative list and the black list is sort of being discussed now, because most countries felt like it would be more positive and more important to get the list of vessels that are legal that you should be buying from. It would be easier to keep that list up than the other way. So we are putting more emphasis now on the positive list.

Mr. PALLONE. And Ambassador?

Ambassador WEST. You asked if we would encourage other ICCAT member nations to —

Mr. PALLONE. To use the list.

Ambassador WEST. Use the list and enforce it. Absolutely. And let me also say that in this respect, as it has been in some other respects, ICCAT is at the forefront of developing some of these new tools to try to clamp down on illegal fishing, and so we are addressing the question of where else we might use things such as a positive list. Japan is very interested in talking with us and has already asked us to give some thought to what other fishery management organizations might benefit from similar kinds of management measures, and we are doing that.

Mr. PALLONE. OK. You know that several Atlantic coast states along with the Recreational Fishing Alliance and the World Wildlife Fund wrote a letter to urge certification under the Pelly Amendment to the Fishermen's Protection Act last October outlining the failure of countries in the European Union to comply with international regulations under ICCAT, and specifically these regulations will provide for the protection and recovery of bluefin tuna and white marlin, the very species that the Nature article that I mentioned highlighted as being under severe fishing pressure. In response to the petition, the Secretary wrote a letter to the EU trade minister raising these concerns, and I just wanted to know what plans the Administration has at the upcoming annual meeting of ICCAT to pressure the European Union to comply with these international standards.

Dr. HOGARTH. Mr. Congressman, there are two avenues going on now. One of them is the 301 trade issue which the Secretary wrote. It has gotten a little confused, because under the Pelly certification, I am the one that is handling that for the Secretary because it is different from the 301 trade. What we have done, I have written a letter to the EU and telling that we are in the process of evaluating their performance, so to speak, on ICCAT, that we know we

passed resolutions last year to prohibit the harvest of small fish, that they signed on to this.

I met with them once already to see what progress they are making, and what we are doing now is following the progress they are making with that resolution to reduce the small fish to fish under 3.2 kilograms or 6.4 kilograms and particularly for the bluefin. And so we have the resolution. We are following them, and we will make a determination under the Pelly probably after the next year's ICCAT meeting to see what data they have submitted and what progress they have made.

So we meet with them on a regular basis. In fact, I am supposed to leave tomorrow for an ICCAT meeting, and we will be talking to EU about it, and we have a bilateral with the European Union here in I think it is late June, and these issues are forefront and we are following up on them. We take this very serious. I mean, we have got to have compliance, and the EU is a big player and the Mediterranean and the number of small fish being taken is crucial to the rebuilding of bluefin.

Mr. PALLONE. All right. Thank you, and I think that is probably good. Right? We don't need the Ambassador unless she wants to respond.

Ambassador WEST. Well, I would just say that we agree that these are serious concerns and we are certainly working with the Commerce Department on them.

There is a kind of funny dichotomy on ICCAT. ICCAT, as I said earlier, is at the absolute forefront of developing some of the most creative measures to address illegal fishing. On the other hand, it also has problems with compliance within its own ranks, and so we need to try to work on that. We have raised these issues with the EU at high levels, and we will continue to work them.

Mr. PALLONE. Thank you.

Mr. GILCHREST. Thank you, Mr. Pallone.

Mr. Duke Cunningham.

Mr. CUNNINGHAM. [Off mic.]—on a president-to-president level to maybe resolve this issue, and I would like to thank the panel for your efforts.

Mr. GILCHREST. We will submit the letter for the record.

[The letter referred to follows:]

RANDY "DUKE" CUNNINGHAM
51ST DISTRICT, CALIFORNIA

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DEFENSE
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION
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December 19, 2002

Secretary Donald Evans
Department of Commerce
Fourteenth Street & Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Evans:

I am writing to you concerning your negotiations with Secretary Durbez over the sportfishing rights in the Revilla Gigedo Islands.

As discussed, the San Diego sportfishing fleet ("the fleet") is willing to concede the following if necessary in order to further the negotiations:

- The fleet will not troll within six (6) miles of the Revilla Gigedo Islands.
- The fleet will reduce the individual take of wahoo from fifteen (15) fish per person to ten (10) fish per person.
- The fleet will carry observers appointed by the Mexican government.
- The fleet will participate in studies and fish tagging requested by the Mexican government.
- The fleet will report all other vessels in the area to the Mexican government.
- The fleet will release all fish caught within the six (6) mile limit that are not either yellow fin tuna or wahoo.
- The fleet will drop it's total number of annual trips to the Revilla Gigedo Islands from sixty (60) to fifty (50) (while the fleet is willing to concede this point, they ask that it only be used as a last resort).

The fleet is willing to concede these items under the understanding that prohibited fishing area surrounding the Revilla Gigedo Islands is reduced from six (6) miles to five hundred (500) meters. Most fish do not dwell in seas that have a depth of fifty (50) fathoms or more. The current restriction of six (6) miles eradicates the possibility of the Revilla Gigedo Islands area as a suitable location for sportfishing based on the fifty (50) fathom or less requirement. The fleet also wishes to maintain the current individual take of yellow fin tuna at fifteen (15) fish per person.

Thank you again for your assistance in this matter. Should you or your staff have any additional questions, please contact me or Kathleen Shields on my staff at (202) 225-5452.

Sincerely,

Randy "Duke" Cunningham
Member of Congress

Mr. GILCHREST. Thank you, Duke.

Mr. CUNNINGHAM. Thank you.

Mr. GILCHREST. The gentleman from New Jersey, Mr. Saxton.

Mr. SAXTON. Thank you, Mr. Chairman.

I don't know quite where to start. I guess maybe—I brought Jennifer with me because she keeps me calm. She is a calm person, and as Dr. Hogarth knows, when I get involved in these issues, sometimes I don't stay calm. So Jennifer promised me that I should tell you that she is going to keep me calm when I talk about these issues.

And I as you can tell, my voice is calm, at least for now, and I would just like to proceed by saying that I think our international fishery regulatory regime can only be described as a failure. I have worked hard with you, Mr. Chairman, and with Mr. Pallone and with Dave and other staff members. I even wore one staff member out completely. He left the Fisheries Subcommittee because he couldn't take it anymore.

The international effort to regulate fisheries through ICCAT and other organizations is a failure, and I think it is a failure for a number of reasons, but I think that the biggest reason for our failure is the lack of U.S. Government leadership in international fisheries matters. As I was sitting here thinking about all the things that we do on an international basis where we have been successful, we have got a great track record internationally. We lead the way in taking down the Iron Curtain. We led the way internationally in putting in place international policies that provided for the dissolution of the Soviet Union, and today we are leading the way economically helping the former Soviet Republic to recover from that terrible experience. We recently led the way in taking down the Taliban—it was an international effort—and freeing the Iraqi people.

They were difficult problems, a lot of international debate, and the United States showed the leadership to solve these very difficult international problems or at least to take steps toward solving them. We played a major role in leading the world to establish the United Nations, and we lead every day at the United Nations in discussions to try to make the world a better place to live. It is all because of the United States leadership.

We have built an economy based on a number of factors including international trade. International trade is the backbone to the world economy. None of us are independent anymore. We are all cooperative and make the international marketplace a place where it makes life better in the world.

We have even lead the way in establishing an international space station. Wow. We do impossible things. And we help underdeveloped countries as the leader and the No. 1 participant in the International Monetary Fund and the World Bank, but we can't find the way to provide the leadership that it takes to solve these international conservation, ocean conservation, problems. Somehow there is something missing from our regime of regulatory leadership capability, and it frustrates the life out of me, as David knows. He worked with me four or 5 years ago, and Rob Howarth, the guy that we wore out, in trying to come to grips with some of the problems this Canadian study and report talk about.

And we failed. I failed. David failed. This Subcommittee failed. The Resource Committee failed. You failed. We collectively failed to provide the leadership that we needed to solve this terrible international problem, and the Canadians are very forthright. Let me just read this.

Quote: "International fishing practices have decimated every one of the world's biggest and most economically important species of fish according to a new and detailed global analysis that challenges current fisheries protection policies. Fully ninety percent of each of the world's large ocean species, including cod, halibut, tuna, swordfish, marlin have disappeared from the world's oceans in recent decades according to the Canadian analysis, the first to use historical data dating to the beginning of the large-scale fishing in the 1950's."

"The new research found that fishing has become so efficient that it typically takes 15 years to remove 80 percent or more of any species that becomes a focus of the fleet's attention. If current fishing practices continue," Meyers said, "the world can expect serious economic—this copy doesn't include a word here. I think it is dislocations and shortages—" in seafood-dependant nations and a lasting damage to marine—again the word is blocked out—"and shortsighted environmental policies."

If we can solve all these problems, all these other international problems, why can't we find the leadership ability to lead the way in solving the problems this study talks about and the studies we have talked about on this Subcommittee since at least 1994 when this reconfiguration of the Subcommittee took place, or 1995 I guess it was.

So I guess my question is this, very much like the question that the Chairman asked in his opening question: What is it that we need to do different? Do we need to have a special commission to look at the way this Subcommittee is laid out and how NMFS is laid out and how the Department of Commerce, which negotiates international agreements, and the State Department carries out the international agreements? There is something terribly wrong with our ability to do this job, because it can only be characterized as failure.

I would just like to hear your perspective on this.

Ambassador WEST. Thank you. I will go first this time.

Let me say that the U.S. has been a leader in developing the framework that we now have. Had it not been for the U.S., we would not have a Straddling Stocks Agreement. We would not have the Compliance Agreement. We would not have the new treaty that we just negotiated that will conserve and manage the tuna stocks out in the central and western Pacific. We would not have the Code of Conduct for responsible fisheries, or the plan of action on IUU fishing.

But I do agree with you. We have the structure, but I do agree with you that our challenge, and one that we have not met as well as I wish, is to get these things implemented to stop illegal fishing, and to reduce capacity. These are things on which we are trying to develop new approaches, such as the black list and white list in ICCAT. But we have a lot of challenges ahead of us. As I mentioned, I think that one important element that we should con-

centrate on in the future is in developing capacity in the developing countries to manage the fisheries within their 200-mile zones. This is something we ought to think about putting more time and resources into.

Finally, I would say, as you are well aware, the Pew Oceans Commission will issue its report next week, I think on June 4th, and the Oceans Policy Commission will issue its report probably in September. Those will give us the opportunity, I think, together collectively to address some of the systemic questions and the governance questions that you have raised, and we certainly will want to work with Congress on that.

Dr. HOGARTH. Congressman Saxton, I know how you feel about these issues. We have talked quite about white marlin, and I do take some of it a little personal, I guess, since I am the leader of the National Marine Fisheries Service for the last 2 years. And I agree. I think we have made process. I do.

One of the things that bothers me very much is compliance on an international basis. I am sitting here thinking how to say this and whether I should say it or not, but we have the same problems domestically as we have internationally. Look at our fisheries on a domestic basis and the will to regulate. We have got a shrimp fishery in the Gulf which is the largest fishery money-wise. We, until last year, were unable to get a permit system to know how many vessels were even fishing in the shrimp fishery. We got stopped every time we turned around to do it. Now that shrimp fishery is suffering terribly from not being able to compete with agriculture and imports, but it is probably about 55 percent of those vessels could come out of the fishery. Those left would be harvesting the same amount of shrimp as that. That is what is happening on an international basis. Taiwan and Japan, those countries, fisheries is big to them and they are building vessels every day.

So we have the same problem domestically with the will to manage fisheries as you would have internationally. Also, I agree that, you know, that we have to figure a way to get compliance. We get these things done, as the Ambassador said, but then have to get the compliance with it, is the trade measures, and that is very difficult to implement trade measures. The U.S. now is importing about 60 to 70 percent of all the seafood we utilize. About 80 percent of all the shrimp we use in this country are coming from imports.

Fisheries are tough. Fisheries are tough. I wish I was a young man so I could go back and retrain to do something else. I am stuck for the next 2 years to try to make things better, but it is tough; and, you know, we have a fishery in the U.S. that is one of our biggest fisheries that has not met the quota or any fishing mortality levels in 20 years, and we are fighting now and the courts are in control of it to try to get regulations in place.

So what I am saying is fisheries is tough to manage both domestically and internationally. We have the same problem with the will in countries to manage when that is all they have to do. To tell Japan, even, that you have got to close this area due to small fish, that we have done in the U.S. to small swordfish, is very difficult. But what we are trying to do now to fisheries, I am trying

to develop gear technology that we can export to these countries, which I think that they will take and utilize.

But I will take any advice I can get. One thing I want you to realize, and I hesitate to say this, but this report by Dr. Meyers, and I can give you several comments on it why we are not surprised what he said, but I think there are real issues there; but it was funded by the same group that is funding the Pew Ocean Commission, and right now they are getting ready to come out with their report on June 4th. So there is a lot of publicity ahead of this that is pointing to all the problems to get the public's attention.

At the same time, NOAA Fisheries put out our Status of Stocks Report for 2002. I haven't found but one newspaper that bothered to carry the news release which pointed out the positive things that we have done on our fisheries, but the negatives points are being carried by everybody.

So we have got to do a better job, I admit, and I will take any advice that this Committee and any other Committee would like to give us, but fisheries is tough. It is really tough to get these things done. I think we are leaders. I think we are not the leader we used to be because we don't have the fisheries that we used to have. Our tuna fleet is probably about a third of what it used to be on a national basis.

Mr. SAXTON. Well, I know it is tough. So was Iraq. So was the Taliban. So was the Soviet Union. So was the space station. They are all international efforts. They ain't any tougher than fish. We just don't have the national will to do these things.

You mentioned your black list, good example, the black list of nations. Why don't we go after them? We have got the law in place to do it. Why don't we go after them? We don't have the will to do it.

My time is up.

Mr. GILCHREST. The gentleman from New Jersey has been very eloquent and passionate, and we will pursue our efforts fueled by his ingenuity and initiative.

Thank you, Mr. Saxton.

What we want to do is, you know, politics is a strange thing. International politics is even more strange, the nooks and crannies of the human condition, how do we deal with it.

Madam Ambassador, you talked about three critical things: implement agreements, reduce capacity, find resources for underdeveloped nations to be able to manage those agreements, implement those agreements and then enforce those fisheries agreements. And I can tell you that this Subcommittee and hopefully this Congress will be even more relentless and aggressive to back up what you do and go even further from what you do with passing a bill out of this Subcommittee or a resolution out of this Subcommittee saying that the nations on this black list, we are going to implement the Pelly Amendment to the fullest extent of the law and start doing as many aggressive things as we possibly can.

Inherent in all of this is political, is newspaper reports or people that put a certain slant on it that have an agenda. Each one of us has an agenda for sure, but inherent in all of this is we are hoping we can help, as far as you are concerned, with the best available science, and we will continue to provide the resources to ensure

that that takes place, whether we can look through the maze of differing opinions and come up with the best available data and then engage the international community as a leader to enforce that.

I just have two questions. One is sort of out of the ball park, and I only thought of it while Mr. Saxton was talking, and I don't know if any of you has jurisdiction over the issue of persistent toxic chemicals, mercury in particular, that is contained in fish fat, and there are protocols and recommendations all over the world, including the United States and especially people who are dependent upon fish for their main source of food and subsistence. Is there anything discussions that you have dealing with that issue of fish consumption, persistent toxic chemicals, mercury in particular, being dealt with in any of these agreements?

Dr. HOGARTH. I am not aware of anything that is being done in any of the agreements. I am aware that the U.S. Tuna Foundation has been spending a lot of money on the mercury issue because there are so many different opinions.

I have talked to the—we are talking to the National Research Council about getting involved with their medical group to get involved with the mercury issue, because it does affect us. We manage, for example, king mackerel in the U.S. and we manage to a size that probably would have the higher mercury levels. So what does it mean for domestic management also? So we have a real concern even domestically.

So we are going to take a look at this and get some expert advice, but internationally right now, I am not aware of anyone that is dealing with it.

Mr. GILCHREST. Yes.

Ambassador WEST. The one thing I would say is these issues, as some of you know, are of serious concern up in the Arctic, and we are through the Arctic Council working on persistent toxic chemicals as they get into the environment in the Arctic and show up in the fisheries and marine mammals. That is the only thing I can think of right now.

Mr. GILCHREST. Is it an issue that is fairly well—it is an issue that is beginning to be—people are beginning to become cognizant of it domestically, and there are problems domestically, and I know in the Chesapeake Bay, I am going to ask the Governor of Maryland that at every fishing spot, every public landing, public dock, there should be a notification about the number of catfish that you consume, because there has been reports that under certain circumstances, you shouldn't eat of any of it, and under the best of circumstances, you should really significantly limit the amount of fish that you consume.

So we are becoming cognizant. I am just wondering as you discuss these issues on an international basis, is anybody else talking about this.

So I don't know, Mr. Jones, if you wanted to make a comment on it as well.

Mr. JONES. Well, Mr. Chairman, just to endorse what Ambassador West said, the Fish and Wildlife Service, through the Arctic Council and its efforts to look at the conservation of Arctic fauna and flora as has been focusing on the amount of persistent organic pollutants which are showing up particularly in the diets of

Alaskan Natives who consume on a subsistence basis both marine mammals and fish that come from Arctic waters. So it certainly is an issue there, but I think in that Arctic Council context, it is being discussed among the other Arctic nations.

That is the only perspective that I can give on this, Mr. Chairman, but it is something that we recognize as important.

Mr. GILCHREST. Yes, sir.

Ambassador West.

Ambassador WEST. I understand a couple of things. One is that UNEP is apparently addressing some of these issues and that I would be happy to provide you more detail. And, in addition, I think some of the food safety issues would be dealt with by Codex Alimentarius, which is FAO and WHO, but if we provide you a subsequent more fulsome answer on this, we can try to deal with that.

[The information referred to follows:]

Response of Ambassador West

This issue you have raised is one that has risen to prominence over the last decade on the international scene, and concern over this was one of the primary motivations for negotiating the Stockholm Convention on Persistent Organic Pollutants—a global agreement controlling production, use and release of certain toxic chemicals known to persist over long periods in the environment and to bioaccumulate in the food chain. With regard specifically to mercury, the U.S. government has been working with our international partners on cooperative efforts to deal with this important issue. On a regional basis, we negotiated an international agreement with Canada and many European countries to deal with three heavy metals, including mercury, that will help to reduce releases of mercury to the environment. More recently, the United States took the lead in establishing a 'Mercury Program' in the United Nations Environment Program to provide technical assistance to developing countries to facilitate their efforts to address human health and environmental impacts related to mercury. In addition, the eight member states of the Arctic Council, including the United States, have cooperatively monitored and assessed levels of mercury and persistent organic pollutants (POPs) in the Arctic environment where fish represent an important element of both the modern and subsistence economy and the diet of indigenous communities and marine mammals. The latest assessment is titled, Arctic Pollution 2002, and is available on the web at www.amap.no.

Mr. GILCHREST. Thank you very much.

Do we have the black list? Does the Subcommittee have the black list? Could we call it something else other than the black list? The offenders list?

Dr. HOGARTH. We have talked about the positive list and the negative list.

Mr. GILCHREST. Do we have the positive list and the negative list?

Dr. HOGARTH. They have not been completed yet. They are in process. You know, we have got to make sure of this, that we are careful who goes on it, and then we have got to make sure we put them on the positive list if they actually belong there and we don't leave someone off that is going to impact them from a trade standpoint. So we are trying to verify that list at the present time so we can get it in the Federal Register.

Mr. GILCHREST. This positive and negative list, is this specific —

Dr. HOGARTH. Vessels.

Mr. GILCHREST. It is vessels flagged by convenience? It is also members of ICCAT that turn their heads under certain circumstances, or is it just basically vessels, flags of convenience?

Dr. HOGARTH. These will be all vessels by the countries that they are legal fish, that they are flagged properly, registered properly, and that we feel like are legal vessels and they report the data, that they are legally registered vessels, and they report data and the whole, you know —

Mr. GILCHREST. Is the Pelly Amendment at all useful as we move through this, something we could begin actually holding hearings on and discuss to help your efforts?

Ambassador WEST. Mr. Chairman, ICCAT is structured so that it requires countries to take trade measures against vessels that are offending, basically, the ICCAT rules. The U.S. already has the wherewithal to do that. So Pelly would not be necessary in this process.

Mr. GILCHREST. Well, whether it is necessary or not necessary, whether there is a structure or not a structure, we just want to stay connected with you as you go through this process and try to implement some of these agreements, and when there are countries or vessels that are not pursuing this in an appropriate manner, then we want to bring international attention to that and certainly domestic attention to that.

Thank you very much.

Mr. Pallone.

Mr. PALLONE. I just wanted to say, Mr. Chairman, I appreciate your asking those questions about mercury, because it is a major concern, you know, not only nationally, but particularly in my state it has come up quite a bit.

Just because I want to ask this before I forget, the 55th Annual Meeting of International Whaling Commission is going to convene next month in Berlin, and just two questions I guess for Dr. Hogarth: Will the U.S. continue to support the global moratorium on commercial whaling, and will the U.S. continue to oppose illegal scientific whaling by Japan and Norway?

Dr. HOGARTH. Yes, sir.

Mr. PALLONE. For both?

Dr. HOGARTH. Both.

Mr. PALLONE. All right. Thank you.

I wanted to go back to the Polar Bear Treaty. I am probably mispronouncing it. What is it? Chukotka. And this is for Mr. Jones. The Administration has yet to forward to Congress a proposal of draft enabling legislation to implement the U.S.-Russia treaty that was signed by the parties in October 2000. It is my understanding that ongoing negotiations inside the Administration have delayed the transmittal of this guidance.

Two questions: One is it has been over 2 years. What issues are holding things up, if you could tell us, and in the interim, what management regulations are in effect for the polar bear population to ensure that any level of harvest by either Russian or Alaskan Natives is sustainable and within the conservation standards under the treaty? We are hearing, obviously, that there is still a lot of poaching on the Russian side, by way of background.

Mr. JONES. Mr. Pallone, if I could take your questions in reverse order.

Mr. PALLONE. Sure.

Mr. JONES. Let me start first with where we are right now. We are hearing the same thing. Clearly, the Russian Federation, I don't think this is a matter of will. They want to regulate things better in Russia. It is a matter of capability right now, and it depends on their relationship with the natives of Chukotka, which is a region of Siberia, just as, even though we operate under a different legal framework in this country, we are very much dependant on our relationship with Alaska Natives, because in this country, Alaskan natives have the right to an unlimited subsistence harvest of marine mammals; and the great breakthrough which was made in the negotiation of this treaty with Russia was the fact that each country recognized we could not succeed unless we had natives, Alaska Natives, natives of Siberia present.

And so we involved the Alaskan Nanuuq Commission from the United States and the Union of Marine Mammal Hunters from Siberia as coequal partners with the governmental representatives. So there is a common agreement that we need to regulate the harvest, and Alaska Natives thus have voluntarily agreed that they would be bound by the framework which would be put together by this treaty.

In the meantime, we are concerned that unregulated harvest on the Russian side combined with the subsistence harvest on our side of border could be a problem. In the last few years, I think we have had an average over the last decade or so of about 50 bears taken for subsistence purposes on the U.S. side of the border. The Russian side, we are not sure. The best Russian estimates put it somewhere between 100 and 400 bears per year on their side of the border from this same shared population.

So adding that together, you could be anywhere from 150 to 450 bears being taken every year. We have done some population projections based on what we know of the population size. We also are not sure how many bears there are, but the IUC has estimated that there are somewhere between 2,000 and 5,000 bears. If we pick a number in the middle of that range and look at what are the effects of the harvest that we know is taking place in the United States combined with a much larger harvest that we believe is taking place in Russia, we would project a decline in the population and eventually elimination of the population over 30 years.

Now, those are hypothetical numbers, but that is what the modeling would show. The good news is, back to what I said, we believe that the Government of Russia does have the will and they are looking for this treaty to give them the international framework and structure, working with the United States, to do a better job of regulating this.

Mr. PALLONE. But is anything being done in the interim, and what is holding up the treaty since it has been 2 years? We are asking the same questions again.

Mr. JONES. Right. Back to your first question, then, negotiations are still going on within the Administration.

The Department of Justice has raised some questions about certain aspects of this. These are legal matters, Mr. Pallone, that I don't think it would be appropriate for me to comment on the details of this, but we have ongoing discussions right now between the Department of Interior, the Department of Justice, and OMB

about what the appropriate implementing legislation would be for this. We hope that these issues will be resolved very soon and that there will be an Administration legislative proposal, but I can't predict exactly when.

Mr. PALLONE. But in the interim, there really isn't anything positive, then, to say about it, because obviously you think that the population is declining.

Mr. JONES. Mr. Pallone, what I can say is I think there is some goodwill. I think there is a recognition, and I believe that there, as a result, has been some lessening of the harvest by native groups on both sides of the border, but we can't really document exactly how much that is, and certainly we don't have any legally enforceable way right now of engineering that until the treaty goes into effect.

Mr. PALLONE. All right. Thank you.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Pallone.

As a quick follow-up to that, and maybe you said it and I didn't catch it, are the native groups in any way being employed on either side of the border to help with enforcement?

Mr. JONES. Right now, it is voluntary, but the Alaskan Nanuuq Commission and the North Slope Borough and others have been working with us, recognizing the need for restraint here. Most of the problems are not on the U.S. sides of the border.

Mr. GILCHREST. Are most of the problems on the Russian side poaching or is it just —

Mr. JONES. Poaching, because there still is a complete ban on all hunting of polar bears in Russia.

Mr. GILCHREST. There isn't?

Mr. JONES. There is.

Mr. GILCHREST. There is?

Mr. JONES. There is. That has been in effect since 1956. Unfortunately, they don't have the capacity to enforce that. They need cooperation. This agreement gives a much better—will put us in a much better context for getting cooperation from the Siberian hunters working with their counterparts.

Mr. GILCHREST. What is the status of this agreement now?

Mr. JONES. The agreement itself is pending before the Senate Foreign Relations Committee now for advice and consent, and we hope we will have an Administration proposal for implementing legislation presented to this Committee soon.

Mr. GILCHREST. By the fall? Now, I guess the proposal for this agreement presented to this Subcommittee could happen—we could schedule it next week. We can schedule this. We are ready to with the proposal for this agreement. We will give your office a call and we will schedule the date.

Mr. JONES. OK. Thank you, Mr. Chairman.

Mr. GILCHREST. Yes, sir. Is most of the poaching done by people who sell these on the so-called black market? Is it the natives or subsistence hunters that are responsible for this poaching? Do we know who is responsible?

Mr. JONES. There is certainly—there is native subsistence take in Siberia. There is concern that there may also be some sport hunting, which would be illegal, on the Russian side, but that may

be taking place. Unfortunately, it is obviously one of the most remote areas on Earth. There also could be poaching for gallbladders which could be sold in international commerce. That would be—any international movements of gallbladders or other polar bear parts would be contrary to CITES. Polar bear is listed in Appendix II of CITES, not because it is endangered, because it is vulnerable.

Mr. GILCHREST. How will this agreement once it is in effect help the Siberia side? Is it resources from the U.S. to help bolster and buttress their enforcement capabilities? Will it affect our subsistence hunters on our side at all by requiring them to reduce their catch of polar bears?

Mr. JONES. The treaty establishes a framework whereby a commission, a polar bear commission, composed of representatives from governments and the native groups from both countries, would set annual harvest quotas which could be no more than the allowable subsistence take. Those would be enforceable either by the governments themselves or by the Alaska Native organizations through cooperative agreements with them provided they have the right capabilities and other things, and we think we could work with the Alaskan Nanuuq Commission. We have had an agreement in place for many, many years and very successful cooperation. They in turn could work with their native counterparts in Siberia. There would be some technical assistance from the Fish and Wildlife Service that would go into that. We can provide training. We can provide some financial incentives, although clearly they are the ones that have to do the work, but this would be a huge step toward and we think it would make a big difference.

Mr. GILCHREST. Thank you.

Just one last question, and we will recess for lunch until we get back next week for the polar bear agreement discussion.

Mr. PALLONE. Or during the break.

[Laughter.]

Mr. GILCHREST. Yes. We are going to come back during the break in Mr. Pallone's district.

Mr. PALLONE. We could always go to Siberia.

Mr. GILCHREST. I am for that. We could hike up through those beautiful regions of the planet.

The question is specifically dealing with the polar bear agreements. This is probably out of the ball park as well, but as the studies go through whether it is in this region or other regions, but particularly this region where it looks like in 30 years if nothing is done, we could have no polar bears there, and the modeling that predicts that, is there any need or is there any discussion when you consider the effect on this northern region from climate change and some of the predictions about the loss of sea ice and further habitat for polar bears? Is any of that discussion a part of these agreements or discussions that you have?

Mr. JONES. Well, Mr. Chairman, whatever the cause, we are aware that sea ice is different today than it was two or three decades ago. That certainly could have an affect on polar bears of all species. It is the one large mammal which is totally dependant on sea ice. That is where they live.

This agreement does address conservation of habitat for polar bears. Now, it focuses on denning areas, for example, and it builds

on a broader agreement. There is a 1973 agreement on the conservation of polar bears which involves not only the U.S. and Russia, but also Canada, Norway, and Denmark on behalf of Greenland, and in that 1973 treaty, which is in force in all countries, there is a commitment to protecting the habitat of polar bears. Through that plus the effort through the Arctic Council and the Conservation of Arctic Fauna and Flora, there certainly is research and thought being given to sea ice and whether the retreat of sea ice, what are the projections for the future and whether that could have an effect on polar bear population.

So far, we believe it has not, and so far, the good news is polar bears overall, their population are very healthy; but overharvest and any retreat or change in sea ice certainly could affect their populations. It is not something we can give you anything definitive about today, but it is certainly something that we are watching. Mr. Chairman.

Mr. GILCHREST. Thank you very much.

Ambassador West, Dr. Hogarth, Mr. Jones, I appreciate your testimony this morning, and we would like to continue to stay engaged.

I have to say one political announcement or whatever this is, commercial. I ask unanimous consent that the testimony of Mr. Bob Fletcher, President of the Sportfishing Association of California be submitted for the record.

Without objection, so ordered.

[The information referred to follows:]

SPORTFISHING ASSOCIATION OF CALIFORNIA

1084 BANGOR STREET
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(619) 226-6455 FAX (619) 226-0175

ROBERT C. FLETCHER
PRESIDENT

W. A. NOTT
PRESIDENT-EMERITUS

May 22, 2003

The Honorable Wayne T. Gilchrest, Chairman
Subcommittee on Fisheries Conservation, Wildlife & Oceans
H2-188 FHOB
300 D St., SW
Washington, DC 20515

Dear Chairman Gilchrest:

The Sportfishing Association of California (SAC) has since 1972 represented the interests of the commercial passenger-fishing vessel (CPFV) fleet in southern California. The largest boats in the SAC fleet have traditionally operated from the port of San Diego, and a number of those boats helped pioneer the fishery at the Revillagigedo Archipelago in the early 1970's. For many years this small fleet of boats caught record size yellow fin tuna and wahoo, while complying with all relevant Mexican laws and regulations.

In 1994 the Mexican government issued a Presidential Decree that created a Biosphere Reserve of the four islands in the chain, and while identifying nucleus zones out to 6 miles around the islands, the government allowed 'sub-zoning' of these nucleus zones that provided for limited sportfishing in to 500 meters from all the islands. Sub-zoning was allowed under the national environmental law in effect at the time. These regulations continued in place, with a few short interruptions, until late March of 2002 when the Mexican environmental enforcement agency, known by the acronym PROFEPA, announced that all permits for sportfishing within the Reserve would be immediately withdrawn.

PROFEPA argued that changes to the national environmental law that took place in late 1996 now prohibited any extractive use inside a nucleus zone in a Reserve. SAC believes that this inappropriate ruling uses the environmental law retroactively, and fails to consider previous government accords, permits and government authorizations. In addition, a management plan for the Reserve, now in development, should recognize the intent of the Presidential Decree, which was to allow sportfishing by using sub-zoning; an option that was legal at the time the Decree was issued in 1994.

HR 30 accurately summarizes the history of sportfishing at the Revillagigedo Archipelago, and SAC would only like to point out that in addition to our vessels' loss of access to these historically productive fishing grounds, the entire fleet of Mexican sportfishing boats is similarly prevented from fishing the islands. This negative

economic impact extends beyond the boatowners, as local support businesses in Cabo San Lucas and San Diego are hurt by these closures.

As indicated earlier, a Presidential Decree created the Revillagigedo Archipelago Biosphere Reserve in 1994-in accord with the national environmental law (known by the acronym LGEEPA) that had been in effect since 1988. The Decree established nucleus zones out to six miles around each of the four islands of the Reserve. As it was recognized that sportfishing, to be successful, had to be carried out within the nucleus zones, and as the 1988 law and regulations allowed fishing within areas of nucleus zones that are sub-zoned, the distances were set at the arbitrary six nautical miles but fishing was authorized up to a sub-zoned 500-meters of the shoreline of each island.

The virtual closure to all fishing in the Reserve is not only unwarranted, it is a direct blow to the spirit of NAFTA and the long history of development, cooperation and negotiated agreements between the two countries. HR 30 sends a needed message to the Departments of State and Commerce and SAC urges this Subcommittee to support it. It is critical that officials of the Mexican government at the highest levels be encouraged to resolve this issue, so that the negative economic impacts on U.S. and Mexican businesses that have occurred over the last 14 months can be ended.

Chairman Gilchrest, I have attached a letter I wrote prior to a meeting I had with Ambassador Antonio Garza, the U.S. Ambassador to Mexico. The letter goes into additional background on the permits issue. SAC encourages your Subcommittee to support Congressman Cunningham's HR 30, and thanks you for your consideration.

Sincerely,

Robert C Fletcher

Robert C. Fletcher, President

attachments

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ROBERT C. FLETCHER
PRESIDENT

W. A. NOTT
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January 28, 2003

The Honorable Anthony Garza
U. S. Ambassador to Mexico
U. S. Embassy Mexico City
FAX: 01152 555 2070091

Subject: Background information on Revillagigedo Islands Permits Issue.

Dear Ambassador Garza:

The Revillagigedo Archipelago Biosphere Reserve, established in 1994 by presidential decree, was legally based on the General Environmental Protection and Ecological Equilibrium Law of 1988 (LGEEPA, *Ley General del Equilibrio Ecológico y la Protección al Ambiente*) that unconditionally allowed fishing in marine nucleus zones (and sub-zoned nucleus zones) of natural protected areas and biosphere reserves. As fishing was authorized in said areas, and for whatever other reasons, the presidential decree established arbitrary nucleus zone limits of six [6] nautical miles around each of the reserve's four islands based on the legal allowances, as the intent of the decree specifically states that fishing was and is to be permitted. As well, everyone recognized then — and recognizes now — that the only areas where sportfishing can be successful are located within the reserve's nucleus zones, in to 500 meters from the islands. It should also be noted that the LGEEPA and its regulation(s) require that nucleus zones be set according to guidelines and standards, and not arbitrarily.

In 1995 Mexican officials sought to establish sub-zoned polygons of 1.5 miles around each of the islands, however after lengthy talks and negotiations it was agreed that the actual areas where endemic species and habitat protection were necessary are inside 500-meters from the shoreline of each island. On that basis, an agreement was reached with Mexican officials setting the protected area polygons at 500-meters. Based on that negotiated and lawful agreement, sportfishing authorizations for activities within the nucleus zones continued to be issued to Sportfishing Association of California (SAC) vessels — that is until officials from PROFEPA declared the government issued and authorized permits unlawful in late March of last year.

In addition, the 1994 presidential decree mandated that a "management plan" for the Revillagigedo Archipelago Biosphere Reserve be established within 365 days, a "formulate" requirement also set forth in law. But today, nearly nine years later, a management plan has yet to be officially accepted.

In 1997, a management plan for the Revillagigedo Archipelago Biosphere Reserve was completed and given to the SAC by officials of the American Embassy in Mexico City, who had

formally received the document from those Mexican officials and agencies responsible for its formulation. Subsequently however Mexican officials supposed the document to be a draft, always saying that it was still under review and that to be legal it had to be published in the *Diario Oficial de la Federación* in full.

The 1997 "draft" management plan, in keeping with the spelled-out intent in the decree to allow fishing within the reserve (which by extension must be within the nucleus zones as that is where fish can be found), established lawfully authorized sub-zoning of the nucleus areas.

Furthermore, and acknowledging that Mexican officials subsequently declined to accept the 1997 management plan as legally promulgated, it was always seen as what would eventually be put into place, plus it was consistent with the word of Mexican officials in agreements reached in 1995. As well, the 1997 document specifically set the protection polygon at 500-meters, and it authorized sportfishing to take place in sub-zoned areas up to the 500-meter limit from the shoreline of each island.

At present, however, a "new" management plan is under official review, with public hearings scheduled for January 31 (La Paz) and February 11 (Manzanillo). Unfortunately, this management plan is based entirely on LGEEPA as amended in 1997 & 2000, and new article 49-III, and it thus prohibits any and all fishing in nucleus zones. And adding insult to injury, among other things this draft includes sub-zoning of the 6 nautical mile buffer zones (that extend out from the marine nucleus zones) to include no fishing within a 2.5-mile strip that is to be contiguous with the nucleus zones. In other words, those responsible are seeking to close fishing within 8.5 miles of the islands of the Revillagigedo reserve.

In 1997, and again in 2000, amendments were made to the LGEEPA. Those revisions included additions to Article 49 of the law (informal translation):

Article 49. In the nucleus zones of natural protected areas it will be strictly prohibited:
III. To conduct hunting or exploitation and use activities of wild fauna and flora species.

In 2002 the PROFEPA elected to enforce the prohibition on fishing within the nucleus zones of the Revillagigedo Archipelago Biosphere Reserve as required in the 2000 amendments to the LGEEPA, virtually making the agency's 2002 opinion retroactive. No allowances were given to the intent of the presidential decree that created the Revillagigedo reserve, or to the laws as they applied during any and all work that took place up until the decree was completed and published on June 6, 1994. In essence, PROFEPA used the amendments to the LGEEPA to close the very fishing areas that the presidential decree had specified were to be open to fishing, using the legal maneuvering **to create a non-tariff trade barrier with a severely negative impact on all traditional and legally authorized users of the area** — sportfishing service providers who have always made every effort possible to protect the unique area and species, and to comply with all laws, rules and agreements.

Since March of 2002 continuous efforts have been made to reopen this fishery in accordance with the presidential decree and longstanding agreements, however to date all parties involved have been unsuccessful — with many officials in Mexico passing the buck and/or declining to become involved. Furthermore, no one has been willing to take this issue that has become so devastating to the SAC long-range fleet to the level of government in Mexico where decisions can be made and solutions can be found. As the Revillagigedo Archipelago Biosphere Reserve was created by presidential decree and based on applicable requirements and administrative laws, this issue needs to be brought to the attention of President Fox.

Among other things, Article 49-III should not be applicable or used retroactively, especially as it was not part of the 1988 LGEEPA and it is in violation of the letter and intent of the presidential decree. As well, the nucleus zoning of the reserve should be declared null and void until such time as proper nucleus areas around the four islands can be set according to science and standards — a 500 meter nucleus around the islands would protect all marine resources of concern. And in the interim provisional season sportfishing permits need to be issued that will allow sportfishing up to 500-meters from the shoreline of each of the four islands.

For all of this to be done, Mr. Ambassador, it is obvious that President Fox himself must intervene and become involved. In order to accomplish this, we respectfully request that you consider interceding personally on behalf of the US sportfishing interests represented by the Sportfishing Association of California.

Thank you for the time you are giving to me and my consultant, Barnard Thompson, and I look forward to our meeting next Monday. We will be staying at the Maria Isabel Sheraton.

Sincerely,

Robert C Fletcher

Robert C. Fletcher, President

ENCLOSURES

Mr. GILCHREST. Thank you all for your testimony, and we would like to stay fully engaged, and we know one of the professors up here is a very hard grader with passing out failing grades or passing grades or whatever, but we will all work on the same team to get this job done.

Thank you very much. The hearing is adjourned.

[Whereupon, at 11:40 a.m., the Subcommittee was adjourned.]

[NOAA's response to questions submitted for the record follow:]

Response to questions submitted for the record by the National Oceanic and Atmospheric Administration for the Subcommittee on Fisheries Conservation, Wildlife and Oceans Hearing on International Fishery Conservation and Management Issues, May 22, 2003

1. Question: Quite a bit of controversy has been generated by a letter to the editor in Nature Magazine regarding the depletion of predatory fish populations. This letter to the editor seems to contradict the conclusions of the recently released Status of the Stocks Report. Can you comment on the letter to the editor or on how you believe fisheries management is progressing both domestically and internationally? Isn't it true that ICCAT has recently declared the international Atlantic swordfish rebuilding plan to be ahead of schedule and the stock almost rebuilt? Can you please detail the efforts that the U.S. has taken at international fora to advance sustainable management?

Answer: The Nature article is consistent with the current scientific view of impacts of global fisheries on marine ecosystems, but determining that fish stocks worldwide have declined is not a new conclusion. NOAA Fisheries scientists share

many of the views identified by the authors of the article. However, there continues to be significant uncertainty regarding the dynamics of fish populations before data were collected systematically. Although some conclusions reached by the authors (e.g., regarding overfishing and resource declines) are widely shared in the scientific community, the conclusions reached about specific fisheries and specific ocean areas are affected by the uncertainty of what fish populations and the ocean environment was before data were routinely collected.

We recognize that world ecosystems have been, and will continue to be, altered as a result of human activities. Rebuilding stocks to healthy levels includes a human impact component that must be considered. Therefore, NOAA is increasingly focusing its attention on scientific research into the impacts of marine fishing on our ecosystems. Because this is a global issue, we are working with the international community to address the multiplicity of issues that surround sustainable utilization of living marine resources. That said, we are not satisfied with the current state of international fisheries management, and we will continue to promote the establishment of rebuilding programs for overfished stocks, as we have done in International Convention for the Conservation of Atlantic Tunas (ICCAT) and Northwest Atlantic Fisheries Organization (NAFO), and improved, science-based management, as we are doing in all the regional fisheries management organizations of which we are a member. With regard to swordfish, it is true that ICCAT's most recent assessment showed North Atlantic swordfish to be significantly ahead of its rebuilding schedule. The stock climbed from about 65% of the biomass needed to produce MSY to about 96% - within three years. This is something to be proud of and demonstrates that with the cooperation of our foreign partners we can rebuild overfished international fisheries. For a comprehensive description of the international conservation and management regimes of interest to NOAA Fisheries and our efforts to promote sustainable international fisheries, please visit <http://www.nmfs.noaa.gov/sfa/international/2003int%271agrmts.pdf>.

2. Question: Due to court intervention, the western Pacific domestic longline fleet has been essentially put out of business and yet the fishing effort and sea turtle bycatch in the area has remained constant because of an increase in fishing by foreign fleets. How do you justify the restrictions on the domestic fleet when there is no protection for sea turtles by the foreign fleets that fish in the same waters? Has the virtual elimination of the domestic fleet made any difference in reducing sea turtle bycatch? Are there gear modifications that could allow the domestic industry to re-enter this fishery?

Answer: Federal agencies are required under the Endangered Species Act to ensure that our actions are not likely to jeopardize the continued existence of a species in the wild. As a result, we often must avoid or reduce the adverse effects of our actions and provide protection for threatened and endangered sea turtles, regardless of what foreign nations are doing. This requirement extends to our fishery actions on the high seas. NOAA Fisheries recognizes that the United States is responsible for a small percentage of the total fishing effort in the Western Pacific and that in order to more permanently protect sea turtles we need to find solutions to reduce or eliminate turtle takes by international fleets. We continue to develop scientifically proven gear solutions that can be transferred to the international community through various international fisheries management bodies and though bilateral efforts. Those efforts are ongoing and include a multinational workshop held in February 2003 to evaluate possible solutions to reducing sea turtle interactions in longline fisheries.

The restrictions on swordfish fishing have had a dramatic effect in reducing overall turtle takes. Tuna fishing, which continues, is relatively safer for turtles (fewer turtles are taken) because of the deeper fishing of hooks in the water column.

Several promising solutions are currently the subject of intense scientific research. NOAA Fisheries has pursued an aggressive research program to reduce turtle capture in the longline swordfish fishery for the past several years in the Atlantic Ocean. Measures such as placement of hooks from a float, the types of hooks and different baits are being tested. Any successful modifications in our Atlantic highly migratory species fishery will be implemented through regulations and brought to the attention of the international community. We are preparing a comprehensive environmental impact statement to assess the continuation of similar research in the Pacific Ocean. We are also in the early planning stages of working with Inter–American Tropical Tuna Commission in sharing our gear modifications with Central America.

3. Question: During the questioning of Dr. Hogarth, Congressman Pallone asked a question regarding the U.S. position on the "illegal" whaling activities by Japan and Norway. Can you clarify the U.S. position on

whether the U.S. considers the activities of either Norway or Japan to be "illegal ?

Answer: The United States does not view the whaling activities conducted by Japan and Norway to be illegal. Japan takes about 700 whales annually for scientific research purposes in accordance with the International Convention for the Regulation of Whaling. These research permits are issued under Japan's laws and do not require the approval of the International Whaling Commission (IWC). Norway conducts commercial whaling with a reservation to the commercial whaling moratorium. Therefore, the United States does not consider the whaling activities of Japan and Norway to be illegal under the IWC. However, it is the view of the United States that these whaling activities undermine the spirit of the IWC and in particular, the work of the IWC in its development of a Revised Management Scheme, should the commercial whaling moratorium be lifted.

4. Question: You mention in your testimony that Italy will propose a resolution on whale bycatch at the IWC meeting this year. Does this concern you that the IWC might be heading toward an attempt at regulating fisheries that have whale bycatch? Isn't this entirely possible since some nations have argued that the IWC should regulate domestic whale watching and regulate the take of small cetaceans?

Answer: At IWC 55, Italy sought to propose a resolution on whale bycatch. However, the resolution was deferred to a later date in order to continue further consultation with member countries. Italy's resolution is intended to foster research and the sharing of ideas on how to reduce bycatch of whales; it is not an attempt to regulate fisheries. Bycatch is viewed in the IWC as a separate issue from whale watching and small cetaceans. The IWC has not made a decision on whether it can regulate whale watching and take of small cetaceans. However, the IWC does generally discuss whale watching and take of small cetaceans.

5. Question: Much of the international overfishing problem is caused by IUU fishing. How is the U.S. attempting to address this problem?

Answer: Recognizing that international cooperation was absolutely necessary to any future success in combating Illegal, Unreported and Unregulated (IUU) fishing, NOAA is a key participant in the preparation of the National Plan of Action to Prevent, Deter and Eliminate IUU Fishing and the International Monitoring, Control, and Surveillance Network (IMCS).

The IMCS Network is an arrangement of national organizations and institutions in charge of fisheries-related MCS activities, which have been designed to coordinate and cooperate in order to prevent, deter and eliminate IUU fishing. At present, there are at least 15 countries or entities (European Union and the Forum Fisheries Agency) participating. The MCS Network is intended to give agencies support in meeting national fisheries responsibilities as well as international and regional commitments in relation to the United Nations Convention on the Law of the Sea, the FAO Code of Conduct for Responsible Fishing, the United Nations Fish Stocks agreement and the International Plan of Action to combat IUU.

NOAA is an active participant in the IMCS Network and administers the Network's Website (http://www.imcsnet.org). The Network has fostered beneficial working relationships between NOAA Office of Law Enforcement (OLE) personnel and their international counterparts. Due to this, OLE has made significant strides in addressing IUU fishing in the CCAMLR area, sharkfin trade, highseas driftnetting and many other vital areas.

6. Question: The issue of Chilean sea bass was raised at the CITES meeting recently. What steps has the international fishery management body (CCAMLR) [taken] to regulate the harvest and trade of this species? What steps has the U.S. taken to implement a catch verification scheme to prevent IUU fish from entering the U.S. markets?

Answer: Due to the scale of IUU fishing for toothfish in and beyond waters subject to CCAMLR, a Catch Documentation Scheme (CDS) for toothfish was adopted in 1999. The CDS identifies the origin of toothfish imports, determines if the toothfish were harvested consistent with CCAMLR conservation measures, monitors international trade, and provides catch data for stock assessments in the Convention Area. Although NOAA Fisheries has fully implemented the CDS in the United States, it recently published final regulations streamlining administration of the program and enhancing efforts to prevent the import of illegally harvested toothfish. On June 16, 2003, NOAA Fisheries began to operate a pre-approval system for most toothfish imports. Pre-approval allows the agency to review toothfish catch documents sufficiently in advance of import to facilitate enforcement and provide additional economic certainty to U.S. businesses in the toothfish trade.

Information provided to CCAMLR has indicated high levels of IUU fishing in the Convention Area. The majority of CCAMLR members agreed that catches reported

as harvests from FAO high sea areas in the (Statistical Areas 51 and 57) Indian Ocean adjoining the Convention Area were not credible and were in all likelihood fish pirated from within the Convention Area. They also expressed concerns, shared by the United States, that information reported in catch documents did not match scientific understanding of toothfish distribution and potential biomass of toothfish on the high seas. Therefore, also as of June 16, 2003, no imports of fresh or frozen toothfish represented as harvested within FAO statistical Areas 51 or 57 have been allowed entry into the United States. Importers applying for a pre-approval certificate for fish that has been harvested from either of these areas will be denied pre-approval.

7. Question: How can the U.S. identify those nations or ports that are assisting in the illegal landings and shipments of IUU-caught Chilean sea bass? Once they have been identified, how can the U.S. take action to stop these illegal practices?

Answer: Through the implementation of the pre-approval system, the United States has provided the opportunity to ask some very specific questions of flag states, landing states, and exporting states before issuing permission to import. With this process in place, the United States can request and examine information surrounding the harvest, landing or exporting of toothfish prior to its arrival in the United States. Over the course of the past three years, since the first implementation of the CDS, several vessels have allegedly been sighted fishing illegally in restricted waters. CCAMLR has provided a mechanism for alerting member states of these alleged sightings, which in turn, allows the United States to exercise extra scrutiny concerning the verification of harvest location and circumstances of the landing. CCAMLR has also identified certain ports as "ports of convenience" in addition to identifying "flags of convenience." The United States has supported CCAMLR in sending demarches to these port states identified as ports of convenience. Since the inception of the CDS, several of these port states have formally advised that they will participate in the CDS and/or have become members of CCAMLR.

8. Question: As you are aware, a number of this Committee's Members have been concerned about the bycatch of blue and white marlin by foreign-flag vessels from both ICCAT-member nations and non–ICCAT member nations. How is the U.S. addressing this problem and how can Congress help to reduce this bycatch? Can Pelly Amendment sanctions be used against ICCAT-member nations that continue to ignore the ICCAT rebuilding targets?

Answer: Because of the bycatch nature of most marlin catches in the Atlantic, which makes both data collection and stock management difficult, marlin conservation has been a challenging issue to address at ICCAT, but we believe we are making progress. As you may know, we were successful in pursuing adoption of a rebuilding plan at ICCAT in 2000. As a first step, the plan calls for parties to reduce their white marlin landings by 67% and their blue marlin landings by 50%. Because this program only came into force for the later half of the 2001 fishing season, it is difficult to fully evaluate how well parties are implementing it. Nevertheless, based on discussions at ICCAT last year, some ICCAT members appear to be harvesting in line with the restrictions while a few others have been less successful. Under ICCAT's compliance rules, however, parties must explain over-harvests and pay them back in future years. The United States has been working vigorously within ICCAT to implement and improve its compliance regime, and we will continue to do so. Moreover, since the quality of data for these bycatch species is a continuing concern, we successfully pursued the establishment by ICCAT of a data working group. This group will hold a meeting in October 2003 to identify data gaps and their causes and consider ways to improve data acquisition for marlins and other species. This should help us get a better understanding of non-member fishing as well, which is largely unreported and otherwise hard to track because of the limited market for these animals.

The next stock assessment of marlins will be in 2005, at which time ICCAT will consider steps to further address marlin conservation. In the meantime, as noted, we will continue to press internationally for full implementation of ICCAT's marlin and compliance rules. Implementation of the so-called positive and negative vessel lists may also help us control these fisheries. Although the Pelly Amendment may be applicable, in order for this rebuilding plan to be successful, we need the cooperation of ICCAT's membership, and we believe we are obtaining that cooperation. At this stage, we do not think it would be wise to take any unilateral action.

9. Question: Can the Pelly Amendment be used to address IUU fishing practices?

Answer: The consistent implementation of the Pelly Amendment over the past 30 years suggests that it not likely to be an effective tool to combat IUU fishing. In

the fisheries realm, the Pelly Amendment provides for the certification of and potential application of trade measures on foreign governments whose nationals, "directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international fishery conservation program." The Administration has therefore consistently looked to see whether the foreign government authorized or was complicit in such trade or taking. This is generally not the case in IUU fishing. The typical IUU case involves a vessel that has done everything possible to evade controls by the flag state. The challenge lies in identifying vessels rather than governments involved in wrongful fishing. Fortunately, a number of more appropriate tools have been or are being developed in order to directly address vessels that wrongfully fish, including port state controls, fish product tracking systems, and eco-labelling.

10. Question: The U.S. fishing industry (in particular the North Pacific fishing industry) took the lead on voluntary practices on reducing seabird bycatch. How can these practices be encouraged for other nations" fishing fleets and how can the international fishery management bodies take action to require seabird bycatch reductions without penalizing those who have taken the lead voluntarily and who have been leaders in this effort?

Answer: NOAA Fisheries required the mandatory use of seabird avoidance measures in the demersal groundfish longline fisheries off Alaska in 1997 and the following year in the longline fishery off Alaska for Pacific halibut. The federal regulations are currently being revised to incorporate improvements in deterrent effectiveness as scientifically documented in a 2-year research study by scientists at the Washington Sea Grant Program and the University of Washington. Mandatory seabird avoidance measures have also been required in the pelagic longline fisheries of Hawaii since 2001. U.S. scientists (including NOAA Fisheries staff) in Alaska and Hawaii have participated in international collaborative research efforts to further advance the effectiveness of seabird deterrent devices. Efforts such as these that include scientists, fishery managers, fishermen, and other interested stakeholders will do much to advance the technology transfer of effective seabird mitigation practices in longline fleets throughout the world. These efforts may include but are not limited to: scientific research on active fishing vessels, outreach on mitigation methods and seabird identification, exchange of technical information and advice on observer program protocols for seabird bycatch data collection, technical workshops, international fishermen fora, and assistance with seabird bycatch assessments of longline fisheries.

International Cooperation One of the most effective ways that we can encourage other nations" fishing fleets and regional fishery management organizations (RFMOs) to adopt effective bycatch reduction methods is to vigorously support and model implementation of the United Nations Food and Agricultural Organization's International Plan of Action on Reducing the Incidental Catch of Seabirds in Longline Fisheries (IPOA–Seabirds). NOAA Fisheries, in concert with the Department of State (DOS) and the U.S. Fish & Wildlife Service (USFWS), has promoted the implementation of the IPOA–Seabirds and the development of national plans of action (NPOA–Seabirds) (or similar instruments) through various avenues such as:

Bilateral Fisheries Meetings and RFMOs In 2002/2003, the United States met bilaterally on fisheries issues, including seabird bycatch, with: People's Republic of China, European Union, Canada, Chile, Japan, Russia, and Spain. The United States was one of the sponsors for a seabird resolution adopted at ICCAT in 2002. The ICCAT resolution calls on all parties to implement the IPOA–Seabirds and to provide the Commission with information about fishery interactions with seabirds. Since 2001, the United States has actively participated in a scientific working group of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) that specifically addresses issues of seabird bycatch. The adoption of strong and effective resolutions by RFMOs to implement the IPOA–Seabirds is one way that the seabird bycatch issue can be effectively and consistently addressed in those fisheries where a bycatch problem exists.

Communication with 23 Longline Nations (Entities) In 2002, the United States approached 23 nations (entities) with longline fisheries and arranged meetings of embassy staff with appropriate government officials. The United States urged them to implement the IPOA–Seabirds, conduct needed longline fishery assessments, and develop an NPOA–Seabirds if a seabird bycatch problem was determined to exist. In-country contacts within government agencies of many of these fishing nations have been established and dialogue initiated. In 2003, we are collaborating with Chile to jointly submit a seabird bycatch proposal to APEC. We also plan to participate in a technical seabird bycatch workshop in early 2004 that will focus on the Asian longline fleets.

Second International Fishers Forum (IFF2) The Western Pacific Regional Fishery Management Council hosted the Second International Fishers Forum (IFF2) in Hon-

olulu, Hawaii, November 19–22, 2002. NOAA Fisheries and USFWS provided financial support and numerous staff from NOAA Fisheries, USFWS, and DOS attended. The mission of the forum was to convene an international meeting of fishermen to address possible solutions to incidental bycatch of sea turtles and seabirds by longline fishing gear. This mission was successfully achieved and plans are already underway for IFF3.

BirdLife International (BLI) Seabird Bycatch Workshop NOAA Fisheries has been invited to participate in a technical seabird bycatch workshop being proposed by BLI in 2004 in Taiwan. The proposed workshop has been endorsed by the Fisheries Administration of Taiwan and will focus on the Asian longline fleets. NOAA Fisheries will participate and is able to contribute financial support as well.

Asia–Pacific Economic Cooperation Fisheries Working Group (APEC FWG) Chile and the United States have submitted a proposal to APEC's FWG. This project would assess and mitigate seabird bycatch in the longline fisheries in the Pacific and develop a bycatch database that can be used to generate regional and local bycatch assessments for at-risk seabird species in the Pacific. Chile will be used as a case study of how bycatch can be assessed and mitigated in other APEC economies.

[The Department of the Interior's response to questions submitted for the record follows:]

Response by the Department of the Interior to Questions Submitt4ed for the Record on H.R. 2048, the International Fisheries Reauthorization Act of 2003

1. You testified that there are approximately 60 projects that are funded annually through the appropriation to the Yukon River Salmon Restoration and Enhancement Fund. Can you tell us a little bit about the types of projects that are funded and, if possible, the ratio of projects in the U.S. to those in Canada?

The Restoration and Enhancement Fund supports projects that fall into five categories:

1. Salmon stock assessment and monitoring to provide U.S. and Canadian managers with information necessary to ensure adequate salmon spawning escapements and for meeting harvest objectives;
2. Salmon habitat assessment and restoration projects to identify and restore important salmon habitats in Canada;
3. Projects that promote the conservation and stewardship of salmon and their habitats;
4. Stock rebuilding via small-scale egg incubation to increase production in systems thought to be severely depressed, and voluntary reductions in harvests to increase spawning escapements; and
5. Management planning.

The allocation of funds among these categories has varied between 2002 and 2003 (see attached table). An emphasis in both years was placed on stock assessment and monitoring, and habitat assessment and monitoring. The Yukon River Panel is currently developing a strategic plan for use of the Restoration and Enhancement Fund to maximize benefits accrued from the Fund. Projects were funded at less than $1.2 million to allow for administration of the Fund, to provide for contingencies in the exchange rate, and to meet unforeseen needs as projects are implemented.

The Yukon River Salmon Agreement also stipulates that:

(1) Fifty percent of the Fund shall be used for programs, projects, and associated research and management activities on either side of the Alaska-Yukon border directed at the restoration, conservation and enhancement of Canadian origin salmon stocks. These Funds are disbursed at the direction of the Yukon River Panel.

(2) Fifty percent of the Fund shall be used for programs and projects that are directed at developing stewardship of salmon habitat resources and maintaining viable salmon fisheries in the Yukon River in Canada. These funds are disbursed on Canadian programs and projects approved by the Canadian section of the Panel when found with the Yukon River Panel as a whole to be consistent with the Principles and Guidelines for the Fund.

Nine U.S. projects, totaling about $200,000 per year, were funded in 2002 and 2003; these focused on assessment and monitoring needs to meet U.S. commitments for border passage (see attached table). More proposals are received from Canada than from the U.S. In 2003, 9 of 15 U.S. proposals were funded and 49 of 106 Cana-

dian proposals were funded. Three Canadian projects, totaling $160,000, provided Canadian support to a large-scale, drainage-wide chinook salmon radio telemetry project being conducted by the Alaska Department of Fish and Game, National Oceanic and Atmospheric Administration—Fisheries (NOAA Fisheries), and the U.S. Fish and Wildlife Service (Service).

Projects funded by the Yukon River Panel with the Restoration and Enhancement Fund in 2002.

	U.S.		Canada		Total	
	Number of Projects	Funding $1,000s	Number of Projects	Funding $1,000s	Number of Projects	Funding $1,000s
Stock Assessment and Monitoring	7	185.0	13	323.0	20	508.0
Habitat Assessment and Restoration	0	-	26	358.2	26	358.2
Stewardship	1	7.0	6	64.9	7	71.9
Stock Rebuilding	1	15.8	3	45.6	4	61.4
Management Planning	0	-	1	25.0	1	25.0
	9	207.8	49	816.7	58	1024.5

Projects funded by the Yukon River Panel with the Restoration and Enhancement Fund in 2003.

	U.S.		Canada		Total	
	Number of Projects	Funding $1,000s	Number of Projects	Funding $1,000s	Number of Projects	Funding $1,000s
Stock Assessment and Monitoring	6	146.1	16	450.3	22	596.4
Habitat Assessment and Restoration	0	-	12	134.5	12	134.5
Stewardship	2	32.0	5	191.9	7	223.9
Stock Rebuilding	1	15.8	3	38.0	4	53.8
Management Planning	0	-	4	61.9	4	61.9
	9	193.9	40	876.6	49	1070.5

2. Your testimony talks about restoring Yukon River salmon populations. Does this include enhancement projects?

The Yukon River Salmon Agreement defines "restoration" as returning a wild salmon population to its natural production level and "enhancement" as expanding a wild salmon stock beyond its natural production level. Because Canadian-origin, Yukon River salmon stocks are thought to be below their natural production level, we are currently in a restoration mode.

Is there interest in hatchery production and if so, is there concern that more hatchery production may reduce ocean productivity for other species of salmon?

There is little support for use of hatchery production for the restoration or enhancement of Yukon River salmon. This lack of support for hatchery production is evidenced in the "Principles and Guidelines for Restoration, Conservation and Enhancement Programs and Projects," Appendix 1 to Attachment C of the Yukon River Salmon Agreement, which states in pertinent part:

Principles

1. Restoration, conservation and enhancement programs and projects shall be consistent with the protection of existing wild salmon stocks and the habitats upon which they depend.
2. Given the wild nature of the Yukon River and its salmon stocks, and the substantial risks associated with large-scale enhancement through artificial propagation, such enhancement activities are inappropriate at this time.
3. Artificial production shall not be used as a substitute for effective fishery regulation, stock and habitat management or protection.

Guidelines

The priorities for implementing programs and projects using monies disbursed from the Restoration and Enhancement Fund shall be in this order with regard to Attachment C, paragraph 1 (a):

(1) Restoring habitat and wild stocks;
(2) Conserving habitat and wild stocks;
(3) Enhancing habitat; and
(4) Enhancing wild stocks

There is only one large-scale production facility on the Yukon River. It produces chinook salmon to offset the loss of juvenile salmon that pass over the spillway or

through the turbines of a hydroelectric dam located on the Yukon River in Whitehorse, Yukon Territory, Canada. Funding for its operation does not come from the Restoration and Enhancement Fund.

In 2003 the Restoration and Enhancement Fund provided funds for two small-scale, egg incubation projects to rebuild depressed salmon stocks in Canada. A primary objective of both projects is to foster stewardship of salmon and their habitats within local communities; as such, both provide for student involvement.

3. Although the U.S. and Russia have completed negotiations on a treaty on the conservation and management of polar bears, there has been some concern about the harvest in Russia this year. What is the situation and how can the U.S. help alleviate this situation?

The Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population was signed on October 16, 2000, in the United States; however, it has not yet been ratified. The President submitted the Agreement to the Senate on July 11, 2002, to begin the ratification process, and the Senate Foreign Relations Committee held a hearing June 17, 2003. In addition to ratification, authorities to implement key provisions of the Agreement are necessary and must be attained through passage of implementing legislation by Congress. A fundamental provision of the Agreement is the process to determine sustainable harvest limits and allocation of those limits between the two countries. Polar bears represent a valuable species, both commercial and otherwise, for the native people of the State of Alaska, satisfying traditional subsistence needs and providing the raw material for the manufacture and sale of handicrafts and clothing in interstate commerce. Implementation of the Agreement is dependent upon successful completion of these legislative actions.

There is a growing concern that a significant, but unquantified, level of harvest in Chukotka, combined with the closely monitored Alaska harvest, could be causing population declines. If unchecked, the projected level of harvest could severely depress the population and require years for recovery. Current harvest levels are similar to or potentially greater than levels of the 1960s that resulted in significant population declines. A Service report entitled "Chukchi Sea Polar Bears: A population concern" provides details (attached).

In order to avoid depletion of the Chukchi Sea polar bear population, full implementation of the Agreement must be attained as soon as possible. In the United States, this requires ratification of the Agreement and passage of implementing legislation. The Russian equivalent to ratification of the Agreement was completed as a governmental requirement prior to signing the Treaty. The only step remaining in Russia is signature of an administrative action or "normative" act by the Ministry of Natural Resources. We are informed that the administrative action is prepared and will be signed when the United States is prepared to implement the Treaty.

The excessive Russian harvest has captured the attention of conservation organizations and the Alaska and Chukotka native polar bear hunting organizations. Representatives of the Alaska Nanuuq Commission and the Chuktoka Association of Traditional Marine Mammal Hunters signed a joint statement urging our respective countries to fulfill the commitments of the Agreement in Anadyr on May 27, 2003 (see attached).

4. The issue of trade in Chilean sea bass was raised at the recent CITES meeting. Despite the fact that the international fisheries body that regulates fishing in the range of the Chilean sea bass had developed a catch reporting scheme, there was pressure to involve CITES. Since the problem appears to be a result of IUU fishing, isn't it appropriate that the fishery management body and the member nations deal with this rather than CITES? If not, does this mean that CITES will be the forum for all of the discussions about commercially harvested fisheries that have IUU fishing problems?

IUU fishing for Patagonian and Antarctic toothfish in the Southern Ocean is a problem that the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) has been facing for several years. In an attempt to address this problem, the CCAMLR countries have implemented the Catch Documentation Scheme (CDS) to reduce opportunities for IUU toothfish landings to be traded. Regional management organizations like CCAMLR have primary responsibility for managing the harvest and trade of marine fish such as toothfish, and CCAMLR is taking significant steps to address problems related to IUU fishing.

CITES has demonstrated its ability to complement existing management and trade controls, especially for commercially exploited species in international trade, and therefore has the potential to aid in the control of trade in toothfish. At the most recent CITES meeting (COP12, November 2002), Australia, as both a CITES

and CCAMLR Party, proposed the listing of toothfish in CITES Appendix II. Many prominent fishing nations such as Japan, Norway and Iceland oppose actions under CITES regarding commercial fish stocks. Australia submitted this proposal under the premise that the mandatory permitting requirements of CITES, coupled with its near-global membership, would complement the CCAMLR CDS and help prevent IUU fisheries from undermining efforts to manage the harvest of toothfish. However, Australia withdrew its proposal after working with the Chilean and U.S. delegations on a resolution to foster cooperation between CITES and CCAMLR. This resolution, adopted by consensus, came into effect in February 2003 and calls on CITES Parties to voluntarily adopt the CDS, report to the CITES Secretariat yearly on their progress, and ensure that ships flying their flag do not undermine CCAMLR's conservation program for toothfish. The CCAMLR Secretariat was called on to consider how further cooperation between CITES and CCAMLR could be best achieved. The CITES Secretariat was directed to make a full report on Parties' CDS implementation at the next CITES meeting, scheduled to occur in October 2004.

While Australia's decision to submit a CITES listing proposal for toothfish was generally not supported by CCAMLR Parties at their meeting prior to CITES COP12, the proposal resulted in the CITES Parties taking meaningful steps to conserve toothfish and reduce IUU fishing in and outside of the CCAMLR Convention Area, and did so without listing the species in the CITES appendices. The CITES Parties took meaningful steps to conserve toothfish and reduce IUU fishing in and outside of the CCAMLR Convention Area. CITES can provide a framework for improved control of trade in marine fishery resources when species are taken in international waters outside the jurisdiction of other agreements, or when IUU fisheries go unaddressed and threaten the viability of exploited populations. CITES can complement fisheries agreements that do not have trade provisions and when the fisheries are driven by international trade. Finally, the FAO sub-committee on Fisheries has recently agreed on the technical details of how to work with CITES on evaluating future listing proposals on living marine resources, but implementation of such measures is hampered by lack of agreement within FAO on text for an overall Memorandum of Agreement on fisheries issues with CITES.

[The Department of State's response to questions submitted for the record follows]

Questions submitted for the record by Ambassador Mary Beth West to the House Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, May 22, 2003

Question 1:

H. Res. 30, introduced by Congressman Cunningham, calls upon your department to work with your Mexican counterparts to regain access to certain Mexican waters for American sportfishing vessels. You testified that your department has already done so. Why is the Mexican government reluctant to allow this access when it was allowed up until a year ago? What else can be done by your department or by Congress to resolve this issue?

Answer:

Over the past year, State Department officials, including our Ambassador to Mexico, Anthony Garza, have raised this issue with senior Mexican government officials including Secretary of the Environment Victor Lichtinger, as well as the head of Mexico's National Commission on Natural Protected Areas, the Environmental Attorney General, and others. In each case, the response from the Government of Mexico has been the same: the fishing activity by sportfishing vessels around the Revillagigedo Islands occurs in the "core zone" of the marine biosphere reserve established around the islands in 1994 by presidential decree. Sportfishing was allowed to continue in the reserve under special permit pending the development of a management plan that set more specific rules. However, Mexican law related to the management of natural protected areas, including such biosphere reserves, was amended in 1996 to prohibit any "extraction" of resources in any biosphere reserve core zone. The current Mexican administration has expressed its commitment to implement and enforce Mexico's environmental and fisheries laws and maintains that the permits previously issued to U.S. vessels were not consistent with the applicable Mexican laws. While prospects for resolving this issue in the short term appear limited, we hope to continue discussions with Mexican counterparts in the hopes of finding a way forward, including the possibility of a study of the environmental impact of sportfishing in the Revillagigedo Islands.

A Department of Commerce report to Congress on this matter is awaiting OMB clearance and will be delivered to Congress shortly.

Question 2:

Funding for the Pacific Salmon Commission was inadvertently omitted from the fiscal year 2003 appropriations. Can you explain how this happened, what is being done to fix the oversight, and whether this has been fixed for 2004?

Answer:

For fiscal year 2003, the Administration requested a level of funding that would have allowed the United States to meet all financial obligations to international fishery commissions. The amount appropriated by Congress for FY '03 fell more than $1.7 million below the requested amount. The report that accompanied the appropriations act specified that the Pacific Salmon Commission and several other international fishery commissions should receive no funding.

The level of appropriations in FY '03 for international fishery commissions, and the specification that certain commissions must receive no funding, is causing considerable hardship and jeopardizing U.S. interests related to international fisheries. In the short term, the Administration has requested authority to reprogram some of the funds within this appropriation so that all of these commissions will receive at least enough contributions from the United States to carry out the bare minimum of their responsibilities.

The Administration is encouraged that the Subcommittee regards the shortfall of funding in FY '03 as "inadvertent" and something that needs to be "fixed." We note that, with very limited exceptions, U.S. contributions to international fishery commissions are not voluntary, but rather represent mandatory treaty commitments. Moreover, U.S. participation in each of these commissions supports U.S. economic and environmental interests that far exceed the dollar value of our contributions. Failure of the United States to pay our dues to the Pacific Salmon Commission, for example, could easily prevent that Commission from establishing harvest regimes, which could in turn cause U.S. fishers to be prohibited from harvesting the fish in question.

For FY '04, the Administration has again requested a level of funding that would allow the United States to meet all its financial obligations to international fishery commissions.

Question 3:

You mention several new treaties that either have been negotiated or are about to be finalized. Many of these will require Senate advice and consent. They will also require domestic implementing legislation. Should Senate action on the treaties precede the passage of any implementing legislation?

Answer:

No legal requirement exists for Senate action on legally binding international agreements to precede the adoption of domestic implementing legislation. In fact, because both the treaty ratification process and the passage of implementing legislation can be time-consuming procedures, pursuing them sequentially would result in unnecessary delay in U.S. ratification. It has proven efficient and in the best interests of the United States to proceed with Senate consideration of a treaty and the enactment of implementing legislation simultaneously, on parallel tracks, as it were. It is the policy of the United States not to express its consent to be bound by a Treaty by depositing its instrument of ratification until any necessary implementing legislation has become law. That does not, however, preclude the accomplishment of all steps in the ratification process up to that point, so that the United States can express its consent to be bound as soon as the legislation becomes law. We nonetheless look forward to early Senate action on the Agreement between the United States and the Russian Federation on the Conservation and Management of the Alaska–Chukotka Polar Bear Population (Treaty Doc. 107–10) and two fisheries agreements——Amendments to the 1987 Treaty on Fisheries Between the United States and the Governments of Certain Pacific Island States (Treaty Doc. 108–2) and the Agreement Amending the Treaty with Canada Concerning Pacific Coast Albacore Tuna Vessels and Port Privileges (Treaty Doc. 108–1).

We believe that Senate support for these important international agreements will spur the adoption of respective implementing legislation. Such action will enable the United States to become a party to these agreements at the earliest possible time and thus to strengthen its hand in conserving marine mammals and protecting fish stocks from further precipitous declines.

Question 4:

A proposal to create a new "Conservation Committee" within the International Whaling Commission (IWC) seems to be creating controversy. Some have argued that the creation of such a committee will reduce and coordinate the multitude of resolutions on whale conservation matters. Others have argued that this will be another way to further prevent any action on any whale harvesting management scheme and will circumvent the full IWC. Can you comment on this proposal? What is the U.S. position on completing the Revised Management Scheme (RMS) and what steps has the United States taken to move this completion forward? What are the major hurdles to completing the RMS?

Answer:

The United States co-sponsored the resolution to establish a new Conservation Committee. This new body is not an anti-whaling committee, as those opposed to it have suggested. The International Convention for the Regulation of Whaling recognizes both the principles of conservation and management. As a committee of the whole, every member of the IWC would be a member of the Committee. The Committee is designed to address conservation issues in a more orderly fashion.

Although the United States is opposed to the resumption of commercial whaling, it has participated in good faith efforts to negotiate the Revised Management Scheme (RMS). The United States has taken several steps to advance these negotiations, including leading the effort to create a new Compliance Review Committee and offering compromise proposals on a number of key issues (i.e., observer placement, catch verification using national DNA registers and cost sharing). Major hurdles that remain include resolving the parties" differences concerning provisions on catch verification and cost sharing. Little progress is likely until the pro-whaling nations demonstrate a willingness to accept reasonable compromises.

Question 5:

The IWC has created a number of sanctuaries. These sanctuaries include the EEZs of nations that border these sanctuaries. If the IWC were to create a sanctuary that included the EEZ of the United States, wouldn't this impinge on the sovereignty of the U.S. and possibly create a conflict with domestic laws?

Answer:

The IWC has created sanctuaries in the Indian Ocean and in the Southern Ocean, and proposals to establish new sanctuaries in the South Atlantic and South Pacific Oceans have come before the IWC in recent years. The proposed South Pacific Sanctuary would include a small portion of the U.S. EEZ, namely the waters adjacent to America Samoa. The government of America Samoa has endorsed the proposal to establish this sanctuary. In our view, such whale sanctuaries would not infringe upon U.S. sovereignty or conflict with domestic law. Under the Marine Mammal Protection Act, commercial whaling is already prohibited in waters subject to the jurisdiction of the United States. In addition, the Endangered Species Act generally prohibits the take of threatened or endangered whales.

Question 6:

During the questioning of Dr. Hogarth, Congressman Pallone asked a question regarding the U.S. position on the "illegal" whaling activities by Japan and Norway. Can you clarify the U.S. position on whether the U.S. considers the activities of either Norway or Japan to be "illegal"?

Answer:

The United States does not regard the whaling activities of either Japan or Norway to be illegal. Japan takes about 700 whales annually under Article VIII of the International Convention for the Regulation of Whaling (ICRW), which allows parties to take whales for scientific research purposes without the approval of the International Whaling Commission (IWC). Norway takes about 700 whales annually for commercial purposes under an objection to the IWC's 1982 decision to implement a moratorium on commercial whaling. (Norway's objection is consistent with Article V of the ICRW.)

Question 7:

Can you tell us more about the extension of the South Pacific Tuna Treaty? What are the basic terms of the extension? Are the U.S. fishing interests satisfied with the terms of the extension? How will this extension relate to the new western and central Pacific fishing agreement that you also testi-

fied about? How much of the tuna harvested under the South Pacific Tuna Treaty is delivered to American Samoa?

Answer:

In March 2002, the Department of State completed negotiations to extend the operation of the 1987 Multilateral Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States of America. Negotiation sessions were held in March 2001 and November 2001. The third and final session occurred March 20–23, 2002.

This Treaty was originally ratified on December 21, 1987, following Senate advice and consent to ratification. Although the Treaty itself is of unlimited duration, associated with the Treaty is an Economic Assistance Agreement under which the United States provides funds to the Parties to the Treaty through the Forum Fisheries Agency (FFA), to be used solely for economic development. The Agreement is a prime example of targeted aid that assists developing countries while also providing a tangible benefit to an important sector of the U.S. economy. This arrangement was concluded as an Executive Agreement.

Over the last fifteen years, the Treaty and its related Agreement have become a vital component of the political and economic relationship between the United States and the Pacific Island Parties. The Agreement is the only source of U.S. economic assistance to the vast majority of the Pacific Islands that are party to the Treaty. The only exception is the assistance provided to the Federated States of Micronesia, Republic of the Marshall Islands, and Palau under their Compacts of Free Association with the United States.

The Agreement has first extended in 1993 and the current 10-year term of the Agreement expired on June 14, 2003. Unless the Agreement was extended, the arrangements available to the United States under the Treaty would cease to operate at that time.

In March 2002, the United States and the sixteen Pacific Island Parties reached agreement to extend the operation of the Treaty for another 10 years, through June 14, 2013, with amendments to certain provisions of the Treaty, its Annexes, and by extending the associated Economic Assistance Agreement.

In particular, the United States and the Pacific Island Parties agreed on the number of fishing licenses (45), the annual level of industry license fees ($3 million USD), and the annual level of economic assistance provided by the U.S. Government under the Economic Assistance Agreement associated with the Treaty ($18 million USD).

The amended Treaty will, inter alia, enable use of new technologies for enforcement, streamline the way amendments to the Annexes are agreed, and modify the waters that are open and closed under the Treaty. Of particular interest to the U.S. industry, the waters of the Solomon Islands will be opened.

The extension of the Treaty will ensure that the United States and the Pacific Island Parties continue to enjoy a close and cooperative working relationship with respect to the management of the high value fishery resources of the Central and Western Pacific and that U.S. fishing vessels will continue to have access to these rich fishing grounds. U.S. tuna fishing interests are satisfied with the terms of the amended and extended Treaty arrangement.

There are two substantive amendments to Article 7 of the Treaty that relate to the WCPFC Convention. These amendments pertain to linkages between the Treaty and the WCPFC Convention, once the latter enters into force. The first of these amendments, a new paragraph 2, provides that parties to the Treaty shall, where appropriate, consider the extent to which adjustments to the provisions of the Treaty or measures adopted thereunder may be necessary to promote consistency with measures adopted under the WCPFC Convention. The second, a new paragraph 3, provides that parties to the Treaty may cooperate to address matters of common concern under the WCPFC Convention. These amendments provide for cooperation and the promotion of consistency between the two treaties, without binding the United States to the WCPFC Convention or any future measures adopted under it prior to its entry into force for the United States.

Of the U.S. vessels that hold licenses pursuant to the Treaty, at least eighty-five percent of the tuna harvested in the region is off-loaded in American Samoa on average per year.

Question 8:

Russia has not ratified the 1990 maritime boundary agreement (although the USSR did). Some in Russia have called for a renegotiation of this treaty, although it is unlikely that Congress will support a renegotiation. What is the Administration's position on this matter?

Answer:

The Administration does not support a renegotiation of the 1990 maritime boundary agreement. We have made this position clear repeatedly to the Government of Russian Federation.

We have, however, suggested to the Russian Government a number of ways in which our two countries could improve their cooperative activities in the Bering Sea region, including in the areas of fisheries scientific research and fisheries law enforcement. We are hopeful that the Russian Government will react favorably to our suggestions.

We would note that the U.S.S.R. did not ratify the 1990 agreement. However, the Soviet Union and the United States did agree in 1990 to apply the boundary agreement on a provisional basis, pending its eventual entry into force.

Question 9:

A recent letter to the editor of Nature magazine had created quite a bit of controversy regarding the depletion of predatory fish populations. What is your assessment of this report and do you agree that the world's fish stocks are in dire condition? Do you think we have the tools necessary to address these concerns internationally? Can you please detail the efforts that the U.S. has taken at international fora to advance sustainable management?

Answer:

We clearly recognize that there is no doubt that many of the world's fish stocks face serious problems. However, the situation is not quite as dire as reported. It is true that a number of fish stocks have collapsed and others have been significantly reduced within the last half-century. At the same time, however, a number of important fish stocks, including most Pacific tuna stocks and fisheries off Alaska, remain healthy, at least for now, though pressure on some of these stocks is growing.

Over the past decade, a suite of international agreements has been negotiated to maintain healthy fisheries, reverse declines where they have occurred and achieve sustainable fisheries in the long term. Our challenge is to get these agreements fully implemented, to stop illegal fishing in violation of these agreements or by vessels of countries that are not party to the agreements, and to address overcapacity in the world's fishing fleets. However, approximately 90 percent of the world's fish catch is taken within 200-mile coastal zones around the world. Many of these zones are off developing countries that don't have the capacity to manage and enforce their stocks. Building these countries" capacity to manage their stocks should be an additional priority.

The United States has been a leader in developing existing international frameworks, including the Agreement for the Implementation of the Provision of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and the FAO Agreement to Promote Compliance With International Conservation and Management Measures by Fishing Vessels on the High Seas. The U.S. has also recently negotiated a new treaty that will conserve and manage tuna stocks in the western and central Pacific. We have also taken a leading role in developing the FAO Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU).

Question 10:

Are you aware of any attempts to amend the Nicholson Act to allow foreign-flag fishing vessels access to U.S. ports? At a time when port security is a major issue, would the Administration oppose such an attempt?

Answer:

We are not aware of any proposals to amend the Nicholson Act to increase access by foreign-flag fishing vessels to U.S. ports. We agree that, at a time when port security is a major issue, any such proposals could raise concerns and would need to be scrutinized very carefully.

There are a few U.S. ports to which the Nicholson Act restrictions on access by foreign fishing vessels do not apply, particularly in U.S. island territories. Foreign fishing vessels land considerable amounts of fish at these ports, particularly tuna for processing at local canneries. In accordance with the 2001 FAO International Plan of Action on IUU Fishing, the Administration is currently reviewing the existing rules and procedures regarding the landing of such fish. The purpose of this review is to determine whether these rules and procedures could be improved so as to prevent the landing of illegally harvested fish.

Question 11:

Some have argued that imposition of trade sanctions under the Pelly Amendment may not be WTO defensible. Have any Pelly sanctions been challenged in the WTO? If so, what was the outcome of the challenge? If the Pelly Amendment is not WTO consistent, then how can Congress make it so?

Answer:

Under the Pelly Amendment, the President may only direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of products from a certified country "to the extent that such prohibition is sanctioned by the General Agreement on Tariffs and Trade." 22 U.S.C. § 1978(a)(4). The agreement establishing the World Trade Organization (WTO) incorporates all provisions of the General Agreement on Tariffs and Trade that are relevant to this issue. Accordingly, the Pelly Amendment by its own terms requires that any import prohibitions imposed under it must be WTO-consistent.

There has never been a WTO challenge to import prohibitions imposed pursuant to the Pelly Amendment.

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