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H. CON. RES. 427, A RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS REGARDING SANCTIONS ON NATIONS UNDERMINING ATLANTIC MARLIN CONSERVATION AND MANAGEMENT MEASURES

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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LEGISLATIVE HEARING ON H. CON. RES. 427, A RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE IMPOSITION OF SANCTIONS ON NATIONS THAT ARE UNDERMINING THE EFFECTIVENESS OF CONSERVATION AND MANAGEMENT MEASURES FOR ATLANTIC MARLIN ADOPTED BY THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) AND THAT ARE THREATENING THE CONTINUED VIABILITY OF UNITED STATES COMMERCIAL AND RECREATIONAL FISHERIES.

Thursday, September 26, 2002
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to call, at 2 p.m., in room 1324, Longworth House Office Building, Hon. Wayne T. Gilchrest [Chairman of the Subcommittee] presiding.

Mr. GILCHREST. The Subcommittee will come to order.

There are a couple of members that probably will be here eventually, but we might as well get started; and I ask unanimous consent that my statement be included in the record.

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

Mr. GILCHREST. We are here today to discuss a resolution dealing with—initially, at any rate, dealing with the issue of white marlin and the role of the United States in ICCAT and the role of Congress in this issue of conservation of highly migratory species and determining whether or not our resolution as proposed is sufficient to bring about a change in the conservation ethic and effort on the part of not only ICCAT countries but nations around the world. To

do that, we are proposing that the U.S. delegation, this administration, use trade sanctions as a tool.

We also realize that that is already a tool in the tool box, but to list this particular issue of highly migratory species and, in particular, white marlin as an issue that the United States is interested in, too, in my estimation will buttress the American delegation position with ICCAT in a much more firm manner. Not using a heavy hand, but I think using the concept of conservation as a partner with the international community to ensure the oceans' abundance, based on a scientific understanding of highly migratory species and the ecosystem.

I think this Congress needs to take an active role in ensuring that, since our commercial and recreational fishing communities lead the world in their conservation effort, in their fishing effort, that they should not be penalized by other countries that don't comply with the same types of regulations. That, in fact, the U.S. can lead the world in helping develop more abundant fish stocks with these conservation proposals.

Our resolution was dropped, as you have probably all read, using white marlin as the priority. But, as your testimony attests to, it is not and should not be the only priority of the United States; and it should not be the only priority of ICCAT. So we look forward to your testimony to help us understand your views and will likely expand the context of the resolution before it hits the House floor, which we would like to see that done in the next couple of weeks.

[The prepared statement of Mr. Gilchrest follows:]

Statement of Chairman Wayne T. Gilchrest, a Representative in Congress from the State of Maryland

It's a pleasure for me to welcome all of our witnesses to this legislative hearing on H. CON. RES. 427, expressing the sense of Congress that trade sanctions should be imposed on Nations that undermine the effectiveness of the International Commission for the Conservation of Atlantic Tunas—ICCAT—management measures.

Multiple viewpoints and backgrounds are represented here today, with fishermen, ocean advocacy groups, the regulators, and their advisors, seated at the table to discuss this most important issue. I'm also particularly pleased that Mr. James Motsko from the White Marlin Capital of the World, Ocean City Maryland—in my own district—is able to join us today.

The problem we're examining is how to best deal with white marlin stocks that are severely depleted and continuing to decline. It is estimated that their levels are currently at only 5–15% of the carrying capacity, and that they are being harvested at about 7 times the level that would sustain a healthy population.

It is widely recognized that white marlin are being over-harvested—but, the reality is that 95 percent of that harvest is by other countries. Already in the U.S. we have the cleanest and most regulated longline fishery in the world and we have already eliminated commercial harvests of white marlin and instituted time-area closures to limit potential interaction with them.

White marlin range across the Atlantic, so this is not simply a domestic issue. ICCAT member nations other than the U.S. retain 95 percent of the documented catch, but at least these harvests are known. Besides this large documented catch, illegal, unreported and unregulated fishing by ICCAT members and non-member countries is taking a serious toll on marlin and many other valuable fish species.

Many feel that ICCAT is not doing enough to protect the white marlin and other species under its management, and that when action finally does come, it is toothless and has no consequences. I agree with that assessment. Trade sanctions by the U.S. represent a powerful tool in the arsenal against both non-compliant countries and countries whose vessels are conducting IUU fishing. This resolution proposes to use all mechanisms at our disposal to dissuade countries from participating in these activities and be in full compliance with ICCAT resolutions. H. Con. Res. 427 states clearly that the U.S. recognizes there is a real problem here and we consider it important enough to take direct action.

Due to your expertise with these issues, we are asking for your opinion on this resolution. We look forward to hearing your views and suggestions on how to improve this important piece of legislation, and to use this legislation to urge countries to comply with ICCAT management measures.

Mr. GILCHREST. Dr. Hogarth, Mr. Hayes and Dr. Graves, thank you very much for coming this afternoon; and we look forward to your testimony.

Mr. GILCHREST. Dr. Hogarth, you may begin, sir.

STATEMENT OF WILLIAM HOGARTH, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE AND ICCAT FEDERAL GOVERNMENT COMMISSIONER

Mr. HOGARTH. OK. Thank you, Mr. Chairman and members of the Subcommittee. I appreciate the opportunity to be here today to talk about House Concurrent Resolution 427.

Also, I would like to take the opportunity to thank you and other members for your continuing involvement in the conservation of our living marine resources. We as an agency really appreciate your interest.

I am Bill Hogarth, the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration. I know I am most of the time very difficult to understand, and today I may be even a little more so because I have been suffering from a sinus problem, so I'll try to speak a little slower to make sure you understand.

Although I have been familiar with the international aspect of highly migratory species management for a number of years, the 2002 meeting of the International Commission for the Conservation of Atlantic Tunas, or ICCAT, will mark my first as a U.S. Commissioner; and I look forward to leading the US delegation at the meeting this October.

We have two very capable commissioners that will be going with me, plus a very good delegation. The Recreational Commissioner is sitting next to me, Bob Hayes; and Glen Delaney is the Commercial Commissioner.

With respect to marlin, the United States has successfully pursued increasingly stringent conservation and management measures at ICATT; and this has not been an easy feat, considering the majority of marlin harvested are taken by nontarget species in other, more lucrative tuna and swordfish fisheries that are spread among a large number of international fleets. The first binding measure ICCAT adopted required a 25 percent reduction in the marlin landings from 1996 levels by 1999. These reductions were to be maintained through the year 2000.

Although not all ICCAT members were able to meet the landings reduction targets for white marlin, by the year 2000 the overall landings of species had declined by 35 percent. Most recently, ICCAT adopted a rebuilding plan for marlins. The first phase of the plan requires additional landing reductions. White marlin landings are to be reduced 67 percent from the 1999 level and blue marlin by 50 percent.

It is too soon to tell whether or not these landing reductions have been achieved since they only went into effect last year. We have, however, received very encouraging information from Japan, Brazil and the EC and others with significant longline fleets that have taken steps to implement the required reductions. In fact, Brazil has even gone so far as to institute a ban on the trade of marlin.

Regarding compliance, the United States has been pursuing state-of-the-art measures to ensure ICATT and its members abide by their commitments. Among other things, these compliance rules require that quota overharvests are paid back and that quota penalties, including trade measures, are assessed for consecutive quota violations in certain cases. Further, ICCAT has developed approaches designed to encourage nonmember cooperation with ICCAT conservation and management measures. These measures can and have resulted in the imposition of trade measures against both ICCAT member and nonmember countries and they, together with other innovative approaches taken by ICCAT, have been effective in helping to address illegal, unregulated and unreported fishing for Atlantic highly migratory species. The United States fully supports the use of multilateral trade measures to further conservation goals. Since we are a major importer of certain ICCAT species—in particular, the swordfish—we are a key player in that implementation.

Even with the progress ICCAT has made on these and other issues, challenges remain. We are currently considering new steps that we can take at ICCAT this year to address not only marlin conservation and compliance issues but a host of other important matters such as bluefin tuna and swordfish management, allocation issues and fishery monitoring issues. In this regard, we welcome the attention Congress is giving to the ICCAT issues that are evidenced by Congressional Resolution 427. The good intentions and spirit behind the resolution are clear, and in that respect we are very supportive of it.

We do believe, however, that the language is too narrowly focused in some instances, particularly given the large level of important issues to be faced at ICCAT this year. It would be useful to recognize in the resolution that progress on compliance matters, including addressing illegal, unregulated and unreported fishing has been made and should continue to be a priority. We would be glad to work with you and your staff to develop language on this and other areas in the resolution that may need clarification or technical corrections.

Mr. Chairman, this concludes my testimony. Once again, thank you for the opportunity to be here today; and thank you again for your interest. I look forward to answering any questions you or the members may have.

Mr. GILCHREST. Thank you, Dr. Hogarth.

[The prepared statement of Mr. Hogarth follows:]

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

Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify before the Subcommittee regarding House Concurrent Resolution 427. I am Dr. William T. Hogarth, Assistant Administrator for Fisheries for the National Oce-

anic and Atmospheric Administration (NOAA). In this testimony, I will be commenting on House Concurrent Resolution 427, a resolution concerned with the conservation and management of Atlantic highly migratory species.

I would like to begin by making a few general remarks. Although I have been familiar with the international aspects of highly migratory species management for a number of years, the 2002 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) will mark my first as a U.S. Commissioner. I am looking forward to leading the U.S. delegation at the meeting this October. The United States is committed to the effective functioning of ICCAT. Practically speaking, it is the only viable means we have to conserve and manage Atlantic highly migratory species and to ensure future fishing opportunities for all U.S. fishermen.

It has become increasingly clear over the years that the issues facing ICCAT are not only increasing in number, but they are also increasing in complexity. The 2002 ICCAT meeting may prove to be the busiest and most complicated yet. Marlin conservation and compliance are two of the complex issues we will be addressing at ICCAT this fall. The United States has faced these important issues repeatedly at ICCAT over the years, and we have made some notable progress.

With respect to marlin, the United States has successfully pursued increasingly stringent conservation and management measures at ICCAT. This has been no mean feat considering that the majority of marlin harvested are taken as non-target species in other, more lucrative, tuna and swordfish fisheries that are spread among a large number of international fleets. The first binding measure ICCAT adopted required a 25 percent reduction in marlin landings from 1996 levels by 1999. These reductions were to be maintained through 2000. Although not all ICCAT members were able to meet the landings reduction targets for white marlin, by 1999 overall landings of this species had declined 40 percent below the 25 percent target reduction level. More recently, ICCAT adopted a rebuilding plan for marlins. The first phase of the plan requires additional landings reductions. White marlin landings are to be reduced 67 percent from the 1999 level, and blue marlin by 50 percent. It is too soon to tell whether or not these landings reductions have been achieved since they only went into effect last year. We have, however, received very encouraging information that Japan, Brazil, the European Community, and others with significant longline fleets have taken steps to implement the required reductions. Brazil has even gone so far as to institute a ban on the trade of marlins.

Regarding compliance, the United States has been pursuing state-of-the-art measures to ensure ICCAT members abide by their commitments. Among other things, these compliance rules require that quota overharvests are paid back and that quota penalties, including trade measures, are assessed for consecutive quota violations in certain cases. Further, ICCAT has developed approaches designed to encourage non-member cooperation with ICCAT conservation and management measures. These measures can and have resulted in the imposition of trade measures against both ICCAT member and non-member countries and they, together with other innovative approaches taken by ICCAT, have been effective in helping to address illegal, unregulated, and unreported fishing for Atlantic highly migratory species. The United States fully supports the use of multilateral trade measures to further conservation goals. Since we are a major importer of certain ICCAT species - in particular, swordfish - we are a key player in their implementation.

Even with the progress ICCAT has made on these and other issues, challenges remain. We are currently considering new steps that we can take at ICCAT this year to address not only marlin conservation and compliance issues but a host of other important matters such as bluefin tuna and swordfish management, allocation issues, and fishery monitoring issues. In that regard, we welcome the additional attention Congress is giving to ICCAT issues as evidenced by Congressional Resolution 427. The good intentions and spirit behind the resolution are clear and, in that respect, we are supportive of it. We do believe, however, that the language is too narrowly focused in some instances, particularly given the large number of important issues to be faced at ICCAT this year. Operative paragraph 1 is one such example. It would also be useful to recognize in the resolution that progress on compliance matters, including addressing illegal, unregulated, and unreported fishing, has been made and should continue to be a priority. We would be glad to work with you and your staff to develop appropriate language. With changes along the lines I have described, I believe that the resolution would be very useful in helping the United States advance its goals for ICCAT.

Mr. Chairman, this concludes my testimony. Once again, thank you for the opportunity to be here today. I look forward to answering any questions you or members of the Subcommittee may have.

Mr. GILCHREST. Mr. Hayes.

STATEMENT OF ROBERT HAYES, COUNSEL, COASTAL CONSERVATION ASSOCIATION AND ICCAT RECREATIONAL SECTOR COMMISSIONER

Mr. HAYES. Thank you. I would like to just submit my written testimony for the record and—if I could; and then, second, I will just go ahead and summarize it and talk about some of the specific issues that I think you have in your resolution.

Mr. GILCHREST. Without objection.

Mr. HAYES. I am the recreational commissioner, and I was just appointed by the President in January, and that process alone was frightening enough. But one thought I had while I was sitting here is here is a lawyer sitting with two biologists, one on either side, and I thought that was fairly frightening.

Mr. GILCHREST. Is it frightening for the biologist or the lawyer?

Mr. HAYES. Touche.

The resolution that you have before you, as I read it, deals with really three central and critical issues that are before ICCAT. One is how they treat white marlin.

White marlin is obviously important to us. We have just dodged a major bullet, in my view, by not listing it under the Endangered Species Act, something that I commend the National Marine Fisheries Service for; and they did that, I believe, because they felt that the international community had begun to address the conservation of white marlin through ICCAT, through the 67 percent reduction in landings.

We don't know if that is going to work yet. We don't know if that is adequate. We don't know if there is more that needs to be done. And, most assuredly, there are things that can be done. But, clearly, the 67 percent reduction would appear to be adequate for most scientists, as best I understand, to ensure that they won't go extinct and that, in fact, they might begin some form of rebuilding. So I think we have got a little time to work on white marlin.

The second thing, as I see it, that you have got in your resolution is a discussion of the EU eastern bluefin situation; and I think Bill's testimony and my testimony and everyone's testimonies really describe that situation. The United States simply has a different view of what ought to be done to maintain eastern bluefin. Our view is based, as I see it, on the principles that are in the Magnuson Act, that is, you prevent overfishing, and when a stock is overfished, you take those measures that are necessary to rebuild it.

The Europeans don't quite seem to be in that view. In fact, they are proposing things like overfishing the eastern bluefin stock by 8,000 metric tons over the MSY of 25,000 metric tons. So that is pretty significant. That is a 33 percent overage. That is a pretty big number.

We are going to try to make some progress on that issue. I know that there has been a 301 petition filed with USTR on this issue. As I understand it, there may be a Pelly Act petition filed later next week also on this issue. I think it is something that we not only need to focus on but which, at least in my preliminary discussions with both of my two biologist colleagues here and Glenn

Delaney, we have focused in on as a clear priority. So the inclusion of that in your resolution is both appropriate and necessary.

The third thing that I saw that you basically focused on was this whole idea of IUU vessels—illegal, unreported and unregulated. Yes, I always throw in unknown because that is the truth of it. I think there is a third U that belongs out there, which is unknown.

"We" being the international community—know something about these vessels. We know some of them came from Japan. We know that some of them are included on the list for various reasons by other countries, and we are not—you know, they might be competitive reasons, as an example. We know that there are a number of those vessels that we may think are illegal but which the company—countries, excuse me—that they are registered in think are legal.

So there is, you know, this whole concept of how many there are, what they are doing; and the impact of those vessels isn't, frankly, all that clear. But I did a back-of-an-envelope sketch for you in my testimony, and I am going to go through a little bit of that just to give you a sense of the size of the problem that I think we are facing.

The problem we are facing is that the Japanese have identified at least 400 of these vessels. Now, let's assume, just for the purposes of the argument here, that these vessels are conducting longline fishing. We're going to compare them to the U.S. longline fleet, which is a regulated fleet, which is in absolute compliance with international requirements, which is looking at by catch responsibilities and doing, both for white marlin and blue marlin, a great job of complying with U.S. regulations and international regulations.

The U.S. fleet is about a hundred boats. They fish about 80 days a year. The IUU fleet is about 400 boats. By my estimate, they fish 300 days a year. They are just out there. They go on 6-month cruises. They transship at sea. They have much larger vessels. They deploy larger gear and more hooks.

So let's just assume the back of the envelope says this fleet has potentially 10 times the fishing power of the United States fleet—10 times. Now let's assume that I am absolutely crazy, that I am off. Let's make me off by 70 percent. They are three times the size of the U.S. Fleet.

There is no regulation from the United States, and there is no international regulation that applies to them. They do not discard white and blue marlin in a way that the U.S. fleet does, which is with some care to ensure that they get released if they are alive, they do take some care to ensure that this happens.

I think, you know, years ago there was a thing that people got upset about called a crucifier. Some people might remember this device. This is an automatic dehooker. It saves a $1 hook. The way it works is you bring the line up, and it is like a shovel head. What it does is it splits the fish down the middle, takes the hook and frees it and then casts the carcass over the side. No U.S. fisherman is using one of those. But it is pretty efficient, pretty easy to own, and it is pretty likely that at least half of this IUU fleet is using that. So these fish aren't being released alive. They are being butchered and sent over the side.

Now, it is not difficult to get enraged over this problem, and if you sit there and think about the impact of that problem on white marlin recovery, it is staggering.

So where are we today and what do we need to do? The United States for 5 years easy has been at ICCAT chasing this IUU fleet country by country by country in an attempt to corner it. Other international regional regimes are doing very much the same kind of thing.

This year, we are going to discuss at ICCAT amongst the major markets exactly the thing that you suggest, Mr. Chairman, trade sanctions, a multilateral identification of product that is legal in the world markets and, obviously, an international identification of product that is illegal in the world market. If we can do that, then we can come back to the United States and implement measures here in the United States, in Canada, in Europe and in Japan which will put these guys out of business, which is exactly what we need to do. If we can do that, we will do more for conservation, more for the white marlin conservation than any measure which ICCAT presently has before it; and it would be a significant step forward. I was glad to see that you noted it in your resolution, and I commend you on doing so.

Now, there is one last thing I would like to talk about which is in my testimony which I would like to raise, and this is the issue of science which is—I will defer to Mr. Graves as to what kind of science. You have before you in this Congress a bill which you are the sponsor of. You are at the moment in a negotiation with the Senate on ITQs. Included in your bill, however, is a section which deals with science which is absolutely necessary to ensure that we can go ahead and bring the kind of effort that we need to bring to ICCAT.

ICCAT moves on science. Internationally, you make progress by presenting sound science. What I would ask you to do is to split that portion of your bill out as you probably would like to split that portion of the ITQ bill of your bill out, couple those two things together and take those to the discussion that is going on in the Senate.

I would be fairly convinced that something, it may only be a moratorium, but something is clearly going to pass this year on fisheries. One of the things that ought to pass is that science portion which there is not a single person in this room that objects to, and there is not a single person on your Committee objects to. I think it would be a sound and good effort and something that would move this process forward.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you very much. An enticing suggestion.

[The prepared statement of Mr. Hayes follows:]

Statement of Robert G. Hayes, Counsel, Coastal Conservation Association and ICAAT Recreational Sector Commissioner

Good afternoon, my name is Robert Hayes and I appear before you today in my capacity as one of three commissioners to the International Convention for the Conservation of Atlantic Tunas (ICCAT). I also note that I am the General Council for the Coastal Conservation Association and the American Sportfishing Association. The views I am presenting are my own, although each of the groups I represent agree with what I have to say here today.

I am not here to extol the virtues of ICCAT. It is a difficult place to make progress and it is a process that is often frustrating and laborious. I am here to tell you that this is where the conservation game gets played for highly migratory species in the Atlantic Ocean. ICCAT can be made to work if we continue US conservation leadership and we are imaginative, well armed with good science and stand by our principles throughout our negotiations. The Congress has been helpful in reinforcing the US commitment to sound conservation principles and in demonstrating our commitment to our foreign counterparts. The resolution, which we will discuss today and the actions of the Congress need to send just such a signal again as we head for yet another round of contentious international conservation negotiations.

The fisheries that ICCAT manages cover the entire Atlantic Ocean, including the Mediterranean Sea, the Gulf of Mexico and the Caribbean Sea. The countries that are members of the Commission are mostly Atlantic coastal countries except for the distant water fishing countries like Japan, Korea and China. There are 32 members of ICCAT with the European Union representing 15 individual countries including Spain, France and Portugal.

To date, ICCAT has established conservation restrictions for eastern and western bluefin tuna, yellowfin tuna, albacore, big eye tuna, blue and white marlin and swordfish. It has considered but has yet to adopt binding measures for sharks, turtles and seabirds. To enforce these measures, ICCAT has adopted compliance measures for member and non-member countries whose vessels operate in contravention of the Convention's conservation measures. Almost all of these measures have been put in place in the last ten years and they have begun to bear fruit.

The most recent assessment for Atlantic Swordfish demonstrates that sound management measures based on universally accepted and peer reviewed science can recover stocks of fish. I think it is fair to say that the efforts of the Congress, three administrations, the industry, the recreational and environmental communities and the legions of volunteers and agency staff are beginning to pay off. Having said that, there is a mountain of work yet to do.

ICCAT has just begun to address the concept of bycatch. The impact of large commercial harvesting of target species on sharks, billfishes, seabirds and turtles is just beginning to come under the purview of ICCAT. At the insistence of the United States, marlin were the first non-target species in the Atlantic to get protection. As most in this room know, billfishes are much valued in the United States as gamefish. However, in other parts of the world they are a food source at best and a waste of bait at worst. Nevertheless, ICCAT has promulgated a series of rules directed at retarding the decline of Atlantic marlin. In 1995, they adopted an enhanced data program to establish a baseline for future stock assessments. In 1996, ICCAT adopted a voluntary program to encourage the release of all live marlin. In 1997, a mandatory 25% reduction in landings was adopted followed up three years later by adoption of a 50% reduction for blue marlin and a 67% reduction for white marlin. These escalating restrictions were in response to a concern shared Atlantic-wide that marlin stocks were in significant trouble and that effort restrictions were justified.

These reductions apply to the fleets that are fishing legally in the Atlantic. To my knowledge, all of the ICCAT member countries have complied with the marlin recommendations. It is too early to assess what affect the latest measures will have on arresting the decline and furthering the recovery of marlin, but most international scientists agree that these measures have produced a significant decline in mortality.

ICCAT is at best an incremental process. One cannot assume that all of the ills, as this country sees them, will be solved every year. However, as long as our goal is conservation of the resource, the prevention of overfishing and the recovery of overfished stocks, we can make progress. This year there are two very large problems on which we can make progress. The first is bringing a recovery program to eastern bluefin tuna; the second is putting measures in place to control illegal, unregulated and unreported fishing.

Eastern Bluefin

Last year, the United States took the extraordinary step of objecting to the harvest levels proposed for eastern bluefin tuna.[1] The action precipitated a series of events which cratered last year's meeting and resulted in the first series of votes ever taken by ICCAT. Many delegations in the room in Murcia, Spain were shocked the United States felt so strongly about a fishery that they did not participate in

[1] ICCAT operates on consensus but has since its inception had a very detailed voting process. Prior to last year, the voting process had never been used for conservation measures.

and what, at least to most, was a fishery which had little impact on the United States.[2]

Why was the United States so adamant in its opposition to the harvest levels agreed upon by the EU and 20 other members of ICCAT?

The United States has three paramount interests here. The first is the impact on the conversation ethic of our own citizens. US harvesters, commercial and recreational, are the conservation leaders at ICCAT. Year after year, our harvesters tighten their belts, lower their expectations and work toward conservation regimes that prevent overfishing and rebuild stocks. It is extremely difficult to maintain that ethic in the face of foreign vessels fishing well in excess of scientifically recommended levels.

The second reason is biological. Scientists have increasingly found evidence that there may not be two stocks of bluefin in the Atlantic. At a minimum they are concluding that there is a significant amount of intermingling of the east and the west. The level of dependence of one on the other will be determined in the future but it is now clear that the two stocks mix. What happens in the east does have some impact on the western stock.

Lastly, there is the integrity of ICCAT itself. ICCAT has operated as a consensus organization for 30 years. Consensus is important because any country disagreeing with a conservation measure can object to it after the meeting and the measure will not apply to harvests from that country. The use of objections, which are being used more frequently, undermines the conservation objectives of ICCAT. In order to get consensus and reduce the use of objections, it is necessary for the larger fishing nations and the principal seafood markets to show conservation leadership. Without that leadership the conservation gains of ICCAT will quickly erode to an all nation harvest free-for-all.

For the last ten years, the United States has endorsed harvest at levels supported by sound science. For the last six years, the United States has followed the management formula in the Magnuson–Stevens Act, namely, preventing overfishing and rebuilding stocks as quickly as possible. What the European Union proposed last year was a harvest of some 8000 MT above the harvest level recommended by the SCRS of 25,000 MT. They simply wanted to overharvest for a couple more years so they could get a comprehensive allocation scheme put in place. When the United States objected, other countries, notably Canada and Korea, voiced concerns. Soon enough Korea noted the absence of a quorum without which no votes could be taken. Subsequently, ICCAT has taken a series of votes by mail. All of them passed except the EU eastern bluefin tuna proposal.

This leaves the issue of eastern bluefin tuna to the beginning of this year's meeting. ICCAT will have to decide what to do about this year's catch level and then decide on subsequent years. It will have to make that decision in a far more heated environment than last year. The Recreational Fishing Alliance has filed a 301 petition here in the United States asking for trade sanctions for the EU's failure to comply with ICCAT measures.[3] The petition has the support of a number of recreational and commercial groups. There is a rumor that the World Wildlife Fund will file a Pelly Act petition making similar arguments. In addition, there is the continued Congressional oversight of the EU actions. Lastly, the voting coalition that the EU enjoyed in Murcia dissolved during the mail votes on the eastern bluefin proposal last spring.

Last year, the United States position was clear and so far it has remained unchanged. The countries in the eastern bluefin fishery need to reduce their harvest to a level consistent with the SCRS recommended level. This may take a series of years to achieve but the continuation of the overharvesting at the present level is unacceptable. We need to press forward aggressively on eastern bluefin to ensure that harvest of all ICCAT species is consistent with sound internationally accepted principles of conservation.

Illegal, Unregulated and Unreported Fishing

The second problem that needs to be addressed at this year's session is the ongoing dilemma of illegal, unregulated and unreported (IUU) fishing. The world has been chasing a fleet of pirate vessels harvesting on the high sea for the last ten years. These vessels are not registered in countries that are part of any regional

[2] It is unclear today what the impact of the US action will be on the future of ICCAT. Last year's meeting will be adjourned this year at the start of the Bilbao meeting after an agreement on how to treat eastern bluefin catches for this fishing year. The need for votes in the future and how it will change the acceptance of measure by individual countries is still in doubt.

[3] EU countries have failed to comply with the minimum size requirement for years. In addition, the EU's reluctance to fish eastern bluefin at MSY levels can be argued to be in contravention of the treaty's objective.

conservation regime and for the most part don't comply with any of the conservation recommendations. These vessels are predominately longliners built in the 60's and 70's as part of the Japanese longline fleet. Japan, wishing to right size its overcapitalized longline fleet, sold these vessels in the early 90's and the chase began. These vessels harvest tunas and swordfish on the high seas without encumbrances.

ICCAT estimates that there are some 400 of these vessels. The fishing power of this fleet is substantial. As a comparison, the US fleet in the Atlantic is about 100 vessels. They average 70 feet in length and fish about 80 days a year. The IUU fleet averages 120 feet in length and fish in the Atlantic about 200 days a year. The fishing power of this fleet is roughly 10 times that of the US fleet[4]. But that only begins to describe the potential damage. The 67% reduction in landings for white marlin does not apply to this fleet. The cap on Yellowfin effort does not apply to this fleet. The rebuilding plan for swordfish does not apply to this fleet. Nothing ICCAT has put in place has been able to be enforced on this fleet. The damage they are doing is stunning.

For the past ten years, ICCAT has instituted a series of enforcement measures, many of which have been directed at these vessels. The committee which reviews the enforcement of these measures now takes almost half of the plenary session to complete its work.[5] These measures have been directed at the countries that register the vessels. By the time the enforcement measure goes into place the vessels have moved to a new country. ICCAT can not continue to approach controlling this fleet by the use of country specific measures. It needs to take an approach that puts the IUU fleet out of business by controlling access to the market for the fleet's products. Just such a measure is being discussed by the EU, Japan, Canada and the US.

This measure would make harvests of these vessels ineligible for entry into the markets of the ICCAT member countries. Ideally it would work similar to the present coffee and textile agreements. Vessels allowed to harvest in the Atlantic would be registered with the ICCAT Secretariat every year before fishing begins. Harvests would be shipped with accompanying documentation identifying its origin. In order to import swordfish, bigeye, bluefin and yellowfin tuna the import would require a certification from the exporting country that the product was caught in compliance with ICCAT conservation measures.

Domestically, it would mean more work for Customs and NMFS but once the EU, Japan, US and Canada put market controls in place, the impact on the conservation of ICCAT managed stocks will be significant. The adoption and implementation of this measure will have more impact on the conservation of white marlin than any other single measure ICCAT now has under consideration.

Future Needs

The United States will continue it conservation leadership at ICCAT so long as it can provide a scientific justification for the measure it supports. Science, more than any other effort, brings results at ICCAT. The United States is considering the use of closed areas to reduce bycatch and enhance the recovery of stocks. This effort lacks adequate data to analyze the specific areas and the consequences of closures. Longlining continues to be a preferred method of high seas harvest. Many in the United States believe that there are ways to reduce the impact of longlining on non-target species by changing fishing methods and gear. If the United States intends to go this route, it will need some research to support change.

What can Congress do?

1. Support the United States effort to bring the EU into compliance for the harvest of eastern bluefin tuna.
2. Support the adoption of market controls to eliminate IUU fishing.
3. Break out the highly migratory species research portion of the Gilchrist/Saxton bill and add it to the IFQ discussions now being held by the House and the Senate. In the alternative, being an initiative to fund HMS research.

This Congress has already been supportive of the efforts to bring sound conservation to ICCAT. Passage of the resolution before you and continued dialogue with the administration on EU fishing and IUU controls can this year take us all one step closer to a better managed and healthier resource in the Atlantic.

Thank you for this opportunity to comment.

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[4] This is a very conservative estimate. The IUU fleet probably fishes 300 days a year in the Atlantic, Pacific and Indian Oceans. Its cargo is transshipped at sea to the major seafood markets in the world.

[5] Five years ago this committee, known as the Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures or PWG met for less than two hours in a 10 day meeting.

Mr. GILCHREST. Dr. Graves.

STATEMENT OF JOHN GRAVES, CHAIRMAN, DEPARTMENT OF FISHERIES SCIENCE, VIRGINIA INSTITUTE OF MARINE SCIENCE, AND CHAIRMAN, ICCAT ADVISORY COMMITTEE

Mr. GRAVES. Thank you, Mr. Chairman. I am pleased to testify before this Subcommittee on House Concurrent Resolution 427.

I have a keen personal interest in Atlantic highly migratory species and for almost two decades I have been involved in research and management of these impressive animals. For the past 7 years I have served as chairman of the US ICCAT Advisory Committee and in October will be my eighth consecutive trip to the annual ICCAT meeting as a coordinator of the U.S. Delegation. It is in this capacity that I wish to address you today.

Last November, the ICCAT meeting ended in a meltdown. On the last day, the United States refused to agree to a binding recommendation that would allow gross overfishing of eastern atlantic bluefin tuna to continue. Our actions precipitated a series of events that resulted in the meeting ending without adoption of most management measures and the control of many fisheries in limbo. Fortunately, panel reports, and their management provisions, were subsequently adopted by mail.

The U.S. delegation did not take its actions lightly. For years, the Commission has been presented with management proposals that condone overfishing, often at the 11th hour at the meeting. The United States has agreed to such proposals simply to preserve consensus and to ensure that some management measure remains in effect. But last year there was unanimity among the U.S. Delegation that in the case of eastern atlantic bluefin tuna no recommendation was better than the irresponsible recommendation that had been proposed. It was hoped that the breakdown of the ICCAT process would raise awareness back in the United States of problems within the Commission and spur the administration to promote bilateral negotiations with certain recalcitrant parties prior to this year's meeting. Such direct interaction, might facilitate the adoption of more meaningful management measures by the Commission. I am pleased that this Subcommittee has taken note that ICCAT is in trouble, as are many of the stocks under its management purview.

I strongly support the spirit and the intent of House Resolution 427. For several years, a priority for the U.S. ICCAT Advisory Committee has been to obtain multilateral authorization for unilateral trade actions promoting compliance with Commission conservation recommendations. I recently convened four regional meetings of the Advisory Committee along our Atlantic coast, and I cannot adequately express the indignation and outrage many of the public felt when they found out that the United States cannot stop the importation of more fish from a nation than that nation's ICCAT quota. Not only does this noncompliance erode the resource and slow recovery plans, but the extra imported product depresses the domestic market for U.S. fishermen who do abide by ICCAT conservation measures.

It was, therefore, very gratifying for all of us on the Advisory Committee to see ICCAT adopt a resolution last year that directs

member and nonmember nations to refrain from engaging in the transaction and transshipment of atlantic highly migratory species from IUU vessels or vessels fishing out of compliance with ICCAT recommendations. It is our hope that this resolution will provide one mechanism to promote the conservation of ICCAT species and protect the interests of our fishermen.

Atlantic marlin certainly merit high priority at next month's ICCAT meeting. I spent most of my summer as a member of the white marlin ESA status review team, and I know the plight of these populations. However, I feel that making them the Commissioners' highest priority could potentially limit our effectiveness. There are many critical items on the agenda at this year's meeting for ICCAT. During 2002, ICCAT's fishery science arm, the Standing Committee on Research and Statistics, has conducted an unprecedented number of stock assessments, including white marlin, western Atlantic bluefin tuna, eastern Atlantic bluefin tuna, North Atlantic swordfish, South Atlantic swordfish; and they are currently conducting an assessment of Atlantic bigeye tuna. That is a lot of work.

Based on the outcomes of these assessments, new management measures and, in some cases, quota allocations will have to be negotiated. As the United States has interest in all of these stocks, narrowing our focus or publicizing our priorities could be counterproductive.

I would also like to point out that it is quite unlikely the Commission members will be receptive to additional management measures for marlins this year. A hard-fought ICCAT recommendation requiring release of live white marlin and blue marlin from longline and purse seine fisheries went into effect in the middle of last year. Until the impact of this management measure can be assessed—and that will be several years down the road—there will be little resolve within the Commission to do more for the marlins. It may be more prudent to request the Standing Committee on Research and Statistics to consider other means of reducing fishing mortality on the marlins, including determining the effects of various time/area closures throughout the Atlantic. That way, if the next assessment indicates additional management measures are required to rebuild the stocks, the Commission will have the information necessary to make an immediate decision on the best course of action to pursue.

In closing, it is time for the United States to do all it can to ensure that ICCAT properly manages Atlantic highly migratory species. Our commercial and recreational fishermen have made many sacrifices to rebuild overfished stocks, and it is frustrating to see their efforts diminished by noncompliance, IUU fishing and the continuing adoption by ICCAT of management measures that condone overfishing. The United States should not abet such activities by acting as a market for nations who do not adhere to the Commission's policies.

House Resolution 427 conveys that message, and it is a good first step. But we must also follow through with high-level, bilateral negotiations to reduce ICCAT's current dysfunction and to ensure conservation of the resource its member nations manage.

I thank you for your time, and on behalf of the U.S. ICCAT Advisory Committee I thank you for your support.

Mr. GILCHREST. Thank you, Dr. Graves.

[The prepared statement of Mr. Graves follows:]

Statement of John E. Graves, Chairman, Department of Fisheries Science, Virginia Institute of Marine Science, and Chairman, ICAAT Advisory Committee

Mr. Chairman, Honorable Members of Congress, fellow witnesses, distinguished guests, ladies and gentlemen:

I am pleased to testify before the Subcommittee on Fisheries Conservation, Wildlife, and Oceans on House Resolution 427. I have a keen personal interest in Atlantic highly migratory species, and for almost two decades I have been actively involved in research and management of these impressive animals. For the past seven years I have served as Chairman of the U.S. ICCAT Advisory Committee and this October will be my eighth consecutive trip to the annual ICCAT meeting as a coordinator of the U.S. delegation. It is in this capacity that I wish to address you today.

Last November the ICCAT meeting ended in a meltdown. On the last day, the United States refused to agree to a binding recommendation that would allow gross overfishing of bluefin tuna in the eastern Atlantic and Mediterranean to continue. Our actions precipitated a series of events that resulted in the meeting ending without adoption of most management measures, leaving control of many fisheries in limbo. Fortunately, panel reports—and their management provisions—were subsequently adopted by mail. The U.S. delegation did not take its actions lightly. For years, the Commission has been presented with ICCAT management measures that condone overfishing, often at the eleventh hour of the meeting. The United States has agreed to such proposals simply to preserve consensus and to ensure that some management measure remains in effect. But last year there was unanimity among the U.S. delegation that in the case of the eastern Atlantic and Mediterranean stock of bluefin tuna, no recommendation was better than the irresponsible recommendation that was proposed. It was hoped that the breakdown of the ICCAT process would raise awareness back in the United States of problems within the Commission, and spur the Administration to promote bilateral negotiations with certain recalcitrant parties prior to this year's meeting. Such direct interactions might facilitate the adoption of more meaningful management measures by the Commission. I am pleased that this Subcommittee has taken note that ICCAT is in trouble, as are many of the stocks under its collective management.

I strongly support the spirit and intent of House Resolution 427. For several years, a priority for the U.S. ICCAT Advisory Committee has been to obtain multilateral authorization for unilateral trade actions promoting compliance with Commission conservation recommendations. I recently convened four regional meetings of the U.S. ICCAT Advisory Committee, and I cannot adequately express the indignation and outrage many of the public felt when they found out that the United States cannot stop the importation of more fish from a nation than its annual ICCAT quota. Not only does this non-compliance erode the resource and slow recovery plans, but the extra imported product depresses the domestic market for U.S. fishermen who do abide by ICCAT conservation measures.

It was therefore very gratifying for all of us on the U.S. ICCAT Advisory Committee to see ICCAT adopt a resolution last year that directs member and non-member nations to refrain from engaging in the transaction and transshipment of Atlantic highly migratory species from IUU vessels, or vessels fishing out of compliance with ICCAT recommendations. It is our hope that this resolution will provide one mechanism to promote the conservation of ICCAT species and protect the interests of our fishermen.

Atlantic marlin certainly merit high priority at next month's ICCAT meeting; however, I feel that making them the Commissioners' highest priority could potentially limit our effectiveness. There are many critical items on the agenda at this year's meeting. During 2002, ICCAT's Standing Committee on Research and Statistics has conducted stock assessments of white marlin, western Atlantic bluefin tuna, eastern Atlantic/Mediterranean bluefin tuna, North Atlantic swordfish, South Atlantic swordfish, and they are currently assessing bigeye tuna. Based on the outcomes of these assessments, new management measures and—in some cases—quota allocations, will have to be negotiated. As the United States has interests in all of these stocks, narrowing our focus or publicizing our priorities could be counterproductive.

I would also like to point out that it is quite unlikely the Commission members will be receptive to additional management measures on white marlin and blue

marlin this year. A hard-fought ICCAT Recommendation requiring release of live white marlin and blue marlin from longline and purse seine fisheries went into effect in the middle of 2001. Until the impact of this management measure can be assessed (which will be a few years down the road), there will be little resolve to do more. It may be more prudent to request the Standing Committee on Research and Statistics to consider other means of reducing fishing mortality on the marlins, including determining the effects of various time/area closures. That way, if the next assessment indicates additional management measures are required to rebuild the stocks, the Commission will have the information necessary to make an immediate decision on the best course of action to pursue.

In closing, it is time for the United States to do all it can to ensure that ICCAT properly manages Atlantic highly migratory species. Our commercial and recreational fishermen have made many sacrifices to rebuild overfished stocks, and it is frustrating to see their efforts diminished by non-compliance, IUU fishing, and the continuing adoption by ICCAT of management measures that condone overfishing. The United States should not abet such activities by acting as a market for nations who do not adhere to the Commission's policies. House Resolution 427 conveys that message, and it is a good first step. But we must also follow through with high level, bilateral negotiations to reduce ICCAT's current dysfunction and to ensure conservation of the resources its member nations manage.

I thank you for your time, and on behalf of the U.S. ICCAT Advisory Committee, I thank you for your support.

Mr. GILCHREST. Just a quick question that you raised about ICCAT not being in the mood to further restrict the catch of white marlin. ICCAT has—it is my understanding, based on the testimony, accepted a reduction of 67 percent in the management plan for white marlin. And if that is the case, if—let's say our resolution doesn't change and it still has as its highest priority white marlin, how will our resolution, having white marlin as a priority, and trade sanctions against those countries that are violating it, how likely will ICCAT—not that they—I mean, it is our resolution. But how likely will ICCAT be positive or negative in its reception to this resolution coming so soon before—on the heels of the ICCAT meeting?

Mr. GRAVES. I don't personally think that it will have a great impact on the ICCAT countries. If you look at the recommendation, it turns out that our estimates of the percentage of white marlin that are alive when longline gear is hauled back or the purse seine closed ranged from 44 percent alive to 69 percent of them are alive at the time the gear is retrieved. So if we are reducing the landings by 67 percent, it was hoped that that 67 percent would be those that were alive. But there may not even be 67 percent of them that are alive.

But essentially what they are doing is, by releasing all live billfish, is they have gone as far as they can go in terms of making a reduction without reducing their effort in terms of the hooks they put in the water or where they are setting them. So until they can actually see what the benefit of this rather—what they perceive as a draconian measure and one for a resource that they are not that terribly interested in anyway—.

Mr. GILCHREST. They would look at this resolution as a draconian measure.

Mr. GRAVES. No, the recommendation that was passed was a draconian measure for them.

Mr. GILCHREST. I see.

Mr. GRAVES. So now putting right on the heels of that before we see what was done, they would think that this might be unnecessary.

Mr. GILCHREST. Will it help or hinder the U.S. position, this resolution in the ICCAT negotiations?

Mr. GRAVES. On white marlin?

Mr. GILCHREST. On white marlin.

Mr. GRAVES. I think it would be much better for us to have a more general resolution. I think the problems that ICCAT—the same problems we are having with white marlin transcend to many other species. And I think that—I think that what the United States should be—the resolution we want, well, I would like to see it as not—is making sure that we don't adopt any recommendation that condones overfishing. If we could do that and put the squeeze on IUU fishing, we would be doing an awful lot for the resources.

Mr. GILCHREST. Dr. Hogarth, your opinion on whether this resolution would hurt or help the U.S. position, let's say, from a white marlin perspective or a more general, suppose we wrote the resolution where it was much more general so that anybody that participated in overfishing faced a potential trade sanctions. Would that help or hurt the U.S. position?

Mr. HOGARTH. I think it helps the U.S. position to be broader, I think, in this instance. As you go forward, like for this year is probably one of the toughest year we have had. We have got most species on the table for discussion. I think if we go in with just marlin then they will say, well, this is the U.S. interest this year, so we don't really have to worry about bluefin tuna or swordfish or, you know, compliance measures. So I think if it is broader it shows that we are concerned about compliance in overfishing, period; and we want conservation measures.

I think what we are going to try to start pushing is time/area closures for white marlin. We want to talk about putting them under the compliance regime. Right now, they are not under the same compliance regime as bluefin tuna. So, imposing trade sanctions is not possible until we change the compliance regime and include them.

That is the type of thing we want to do this year, continue to work on changing the compliance regime, getting them in there so we can impose trade sanctions, getting them to look at other measures such as time/area closures. So that is what we want on white marlin, but we have to deal with eastern bluefin tuna, which is a major, major issue for us also, and swordfish. So I think it is great to have Congressional support, but we would like to see it broader.

Mr. GILCHREST. So when you say "broader," don't mention a particular species? Just—would it be too broad to say overfishing on any species?

Mr. HOGARTH. Well, I think when we talk about species under the management of ICCAT, we need to make sure that we have compliance and conservation measures in place and reduce overfishing. And if you want to say, you know, including white marlin or especially white marlin, that doesn't bother me.

Mr. GILCHREST. I see.

Mr. HOGARTH. Yes. But we want to be—we want to make sure that we are concerned about the big picture of all the highly migratory species that ICCAT manages in the Atlantic.

Mr. GILCHREST. So just to make sure I understand, in this resolution that deals with the recommendation for trade sanctions, it would be helpful for the U.S. position—not only for the reality of the trade sanctions but it would be helpful for the U.S. position in your negotiations with ICCAT to mention trade sanctions against those nations that pursue—I guess we could either say overfishing of those species under ICCAT, including bluefin tuna, white marlin, swordfish.

Mr. HOGARTH. Yeah. That is correct. We have some specific wording that we were willing to work with your staff this afternoon after this hearing to—because we know you want to get this on the floor. And we have some specific wording which we think would help this, and it is not very complicated. It is just a few words here and there we think would make it, you know, much more, more general and help us, for the big picture this year.

Mr. GILCHREST. Mr. Hayes. Any comment on that issue?

Mr. HAYES. I was just—I know Bill's got some specific wording, but so do I, as it turns out. I would make it broad enough to say that you would apply trade sanctions to any product imported into the United States inconsistent or not in compliance with any ICCAT measure. Now, by saying any ICCAT measure, then that gives us the ability to go negotiate overfishing arrangements like the ones that have been suggested, specific 67 percent reductions for white marlin. That takes care of everything.

Mr. GILCHREST. OK.

Mr. HAYES. Because no one is going to import into the United States a white marlin. You can't import a white marlin into the United States. So applying a trade sanction, you need to apply the trade sanction to yellow fin tuna. So that is why I would make it as broad as I could.

Mr. GILCHREST. My intent here is not to ban the importation of white marlin as a trade sanction but to ban everything.

Mr. HAYES. No, I understand.

Mr. GILCHREST. I would even go so far as to say we are not going to import any of your refrigerators or televisions.

Mr. HAYES. I think we might have a little WTO problem. But I certainly think we can do the more narrow one in that sense, and I think that would work.

Mr. GILCHREST. Yes. Maybe Dr. Hogarth can give me this, I am not sure, or certainly each one of you could give an answer to this. The percentage of the world's market that the U.S. represents for ICCAT-managed species, anybody know that? And do we have a big enough market that trade sanctions will scare countries away from overharvest quotas?

Mr. HAYES. Actually, I think I can answer the latter question much easier.

I think the United States is not that significant a market for ICCAT species because, by and large, we—except for swordfish. But the truth there is that the combination of the three markets—or four markets, if you will, if you add Canada—the United States, the EU and Japan, and then you apply it to ICCAT-caught species,

you have a significant, significant trade implication there and an enormous amount of market control over what gets caught legally or illegally. So I think the trick here is to get ICCAT to adopt a provision that all of its member countries can put in place.

Mr. GILCHREST. Of all of the fish that we import into the United States, how much of that is nonICCAT-caught? Anybody know that?

Mr. HAYES. You mean, like a yellow fin tuna or something?

Mr. GILCHREST. Yes. The fish that we import into the United States, from other than nonICCAT countries.

Mr. HOGARTH. We can probably get you a good idea. I don't know it off the top of my head. I know tuna was extremely important to our canneries also and then swordfish import. But we can probably get you some estimates, and I will get that for you.

Mr. GILCHREST. All three of you mentioned the illegal unregulated fishing fleet that could be as much as 10 times the size of the United States, up to 400 vessels; and the already existing, I guess, regulations that have been promulgated by ICCAT to deal with these unregulated ships. In this round of talks with ICCAT, are you optimistic? What is the potential for enforcement of these unregulated vessels with some type of documented or undocumented regime that can be identified? Who is going to be—who is going to enforce that? Can they be boarded on the high seas? You know, those kind of things. What is the potential for beginning the real process of resolving that issue of these unregulated vessels?

Mr. HAYES. I think the potential is actually reasonably good. We had an intersessional meeting in Japan in May or so in which—the first 3 days of it—with how do we do something about these IUU vessels. And there were two approaches raised at that meetings.

One approach was to do essentially what we have been doing, which is not working, which is chasing these vessels from country to country to country and then we sanction the country and then the next thing you know they would be off to the next country. So that clearly wasn't working. And a lot of the countries represented there—Japan, the United States, Canada, the EU—the principal ones all said, yeah, this isn't working.

So the question became how do we make one work? And there are two approaches which people are discussing at the moment. One approach is to literally list the bad guys. If we list the bad guys—that is a vote.

Mr. GILCHREST. Finish.

Mr. HAYES. OK. If you list the bad guys, that is an approach that might be a little bit difficult because we, frankly, that unknown—I'm serious about that unknown. We don't really know very much about these vessels. So the question for us really is a more positive approach, which is to have all of the legal vessels that are allowed to legally harvest fish in the Atlantic ocean identified and then product from those vessels allowed to legally be imported into any of the larger markets in the world. That is an approach we are looking at, and that is an approach we are going to discuss at this meeting.

Mr. GILCHREST. Are these unregulated vessels—there could be 2 to 400 hundred of them. Are there any likely from the United States?

Mr. HAYES. I don't believe so. It depends how you identify unregulated.

Mr. GILCHREST. Are they from Asia, Latin America?

Mr. HAYES. Actually, we don't—I have not heard of a U.S. Pirate vessel out there, even by way of rumor. So maybe there is one out there.

Mr. GILCHREST. So are these European vessels, Asian vessels, South American vessels?

Mr. HAYES. These are mostly owned at the moment by a group of Taiwanese companies. Many of those vessels were Japan—Japan reduced—this will give you a sense of doing—of what you're doing in the United States. Japan reduced its longline fleet by selling them. What a surprise. They went fishing for somebody else.

A large number of these vessels—not all of them, but a large number of them are as a result of the downsizing of the Japanese fleet.

Mr. GILCHREST. Thank you.

I will yield to the gentleman from New Jersey, Mr. Saxton.

Mr. SAXTON. Thank you very much, Mr. Chairman; and let me first apologize for being late. For the last 3 days, I have been hosting a Russian delegation from their parliament, their duma, and I just bid them good-bye. So we can get back to fish.

Mr. HOGARTH. I am surprised they didn't bring up fish.

Mr. SAXTON. No, they were dealing with terrorists.

Let me say that I appreciate that there are a number of differing positions and ideas about how to deal with this white marlin program. I daresay that most everybody in the room knows mine; and I am going to bypass that part of this subject, at least for right now, because there has occurred something else which I find very exciting.

I have said, ever since I have been a member of, Mr. Chairman, of the Merchant Marine and Fisheries Committee, that it is very difficult, if not impossible, to have a meaningful international negotiation on fish in a vacuum. Recently, I am pleased that there seems to be an American consensus, at least, among commercial and recreational fishing communities who have cooperated to file a petition with the U.S. Trade Representative requesting the President take action against the European Union under Section 301 of the Trade Act of 1974 according—as a contracting nation. I have been aware that the U.S. has a history of compliance with ICCAT quotas and conservation measures. However, the European Union, particularly Spain and Portugal, has a history of serious noncompliance with ICCAT, at least maybe I should use the word this is alleged.

But, for example, the EU has consistently allegedly exceeded catch limits, quotas and landing limits for eastern Atlantic bluefin tuna and ignores rules for protection of juvenile swordfish. Now this is particularly important in the context of white marlin. Because if they are exceeding quotas and limits, it would follow logically that they are fishing additional sets and, therefore, are also

greatly killing more of the species that we are here to talk about today.

So I would just like to begin perhaps with Mr. Hayes, who I know has been—has—is very familiar with this and then ask both Dr. Graves and Dr. Hogarth to give us their impressions of this subject on how—what we might expect to hear in the foreseeable future.

Mr. HAYES. The 301 itself, I believe the decision process on that is right before the ICCAT meeting. The way you do is you essentially file a petition and the question is whether the U.S. Government is going to accept it. If the U.S. Government accepts it, then the U.S. Government then will begin a negotiation at different levels than Bill and I with the European community; and I can assure you that won't hurt.

Before that is accepted, in the process of that deliberation there are a number of issues that are in that petition, particularly the overfishing which Dr. Graves referred to earlier and Dr. Hogarth has referred to of eastern bluefin tuna, which we intend to have some—we collectively intend to have some very serious talks with the Europeans about before the ICCAT meeting and then at the ICCAT meeting.

I think you missed my remarks earlier, but I think the use of trade sanctions, particularly if you can get them used multilaterally, is the avenue here to get international conservation compliance. Boarding boats, all of these other things are fun. But getting international conservation compliance through market-driven measures is really the answer, and the 301 helps bring that community together.

I understand—I won't speak on behalf of Bill, but I understand that the Commerce Department and NMFS in particular are going to go out and begin to educate a little bit some the people on 301 committee with respect to what the fisheries side of this issue is and why it is a commercial issue, which I think will be very helpful.

Mr. GILCHREST. We have to run for a vote. We will be back as soon as we can. But I think the other questions that we both may have for the panel we can probably pick up a phone and resolve those issues. So rather than hold you here, one of the questions I will have is, if you have a country that skips from—if you have an unregulated fishing vessel that jumps from country to country to country, how can we target the sanctions? But I have to run for a vote so I don't miss it.

Dr. Hogarth, Mr. Hayes and Dr. Graves, we appreciate your coming the distances you traveled to be here. As we move through the process over the next week or so to bring this to the floor we would like to stay in touch with you for the language that you feel would be appropriate.

Dr. Hogarth.

Mr. HOGARTH. Just one last thing. We will be having a briefing on the Hill before we go to the ICCAT meeting in October to discuss the positions we will be taking after we have that Advisory Committee.

Mr. GILCHREST. What are the dates on those, on the ICCAT meeting?

Mr. HOGARTH. It starts the 25th of October and goes through November the 5th.

Mr. GILCHREST. Thank you.

The House will stand in recess.

[Recess.]RPTS THOMASDCMN MAGMER

Mr. GILCHREST. The Subcommittee will come back to order, and there is a wonderfully pleasant rain continuing outside to alleviate the drought.

Mr. Saxton has asked to have one more question to the first panel. Dr. Hogarth has left. If Mr. Hayes and Dr. Graves don't mind, we will get one more question from Mr. Saxton before we move to the next panel; and I will recognize now Mr. Saxton.

Mr. SAXTON. I guess the first question that I ask, the one that I am interested in just pursuing relative to the—on the subject of 301, I understand that there were some suggestions about broadening it and so on, and I just wanted to hear firsthand and make sure that we have a complete record—as complete as possible today on this subject.

So, Mr. Hayes, you were explaining your position when I left. I don't know whether you were finished.

Mr. HAYES. I think I did finish, but I would be happy to try it again.

I was thinking it is tough to pin down the administration without the administration sitting up here.

Mr. SAXTON. I agree.

Mr. HAYES. The use of 301 for conservation regimes I think is a little unique, but it is not something that is impossible. Because conservation regimes deal with trade, ultimately, we always tend to look at them as biological things, as things in—overfishing is an example. The truth of it is, they are the beginning of a large commercial activity which is involved in international trade, and the more we can think of it as trade and the more we can bring in people like USTR to help us negotiate conservation regimes, the better off we are going to be.

So, at least from my perspective, I welcomed the filing of the 301. I think it is a good idea. I think it begins to couple together the whole concept of multilateral trade sanctions which I think are going to be necessary as we try to enforce all of these conservation regimes, not just ICCAT but all the rest of them, particularly with IUU vessels. So I think it is a good idea.

Mr. SAXTON. Thank you.

Dr. Graves.

Mr. GRAVES. Well, I will have to agree with Mr. Hayes on the issue. I think he put it quite eloquently.

The arena for conservation of these species is ICCAT, and ICCAT is broken. So whatever other measures we can use to get the attention of the parties at ICCAT we are going to need to do.

So I want to turn up the heat everywhere so that the next 10 days when I go over to Spain I don't feel like once again I have been hitting my head into a brick wall and accomplishing nothing. There are parties there that are absolutely inflexible.

We have overfished stocks. We have new countries that want to join ICCAT, want to get a share of the pie. They want to see that they do have an opportunity, and that means that some parties are

going to have to give up some historical catches. There is going to have to be some negotiating. If certain parties aren't flexible, then it doesn't work.

Last year we were very, very close to getting a measure, a sharing arrangement and a total allowable catch for south Atlantic swordfish. But the EU was unwilling to give up 1,000 metric tons to accomplish that, and they were the only party there that was unhappy with the plan which—in Japan, they are giving up quite a bit to do it. So in the end no measure was passed.

The only thing they could do was ask countries to submit what they planned to catch, mindful that the replacement yield for the next year would be about 14,500 metric tons. When you take in what everybody submitted, it is over 21,000 metric tons. So they are seriously overfishing that stock.

It was this obstinance on the part of certain parties that have gummed up the works, and we need to soften them up before we get over there. So any measures that we can do here to do that—and certainly trade measures are one very effective means of doing that—will be helpful.

Mr. SAXTON. Now, with regard to the subject of the petition, you actually need to get the Trade Representative to accept the petition before you go.

Mr. HAYES. There is a statutory 45-day time period. As I understand it, it has been filed at a time which—I think the first day of the opening day of the ICCAT meeting is the day upon which USTR needs to render the decision. But, you know, we all work with the National Marine Fisheries Service. We know that there is no time limit that you can't exceed.

So, you know, my personal perspective is I would prefer the administration deliberate the petition as earnestly and as thoroughly as they possibly can, rather than rush to a decision to comply with a 45-day time limit that, frankly, doesn't really have an impact one way or the other. So I would like them to deliberate it, frankly, for as long as it is necessary so that they can accept it on its jurisdictional grounds and on its injury grounds.

Mr. SAXTON. I have prepared a letter to offer to the Chairman and other members of the Committee to send to the Trade Representative. Perhaps you and Jennifer should talk before I finalize that letter to make sure that—to make sure it is right.

So I guess I have no further questions.

Oh, one thing. There was some talk, I understand, earlier about broadening this to other species? Is that—.

Mr. HAYES. Actually, the discussion was not particular to the 301. I think we were talking about the joint—the resolution that you have before us.

Mr. SAXTON. I see.

Mr. HAYES. What we were saying was it is probably not useful to indicate our priorities, white marlin as an example, in that resolution. I think it is more important to say, move forward on conservation, get some compliance with existing efforts. I think that was the nature of the discussion.

Mr. SAXTON. Thank you very much.

Thank you, Mr. Chairman, for your consideration.

Mr. GILCHREST. Thank you, Mr. Saxton.

I have one question left hanging out here. It is not a resolution question before us, and it is not a 301 issue before us. It is sort of a biological question I guess that maybe Dr. Graves can give me some insight into, and that has to do with post-release mortality of white marlin. I am just curious, is that or is that not in the range of data collection so we know approximately what that might be, whether it is commercial or recreational? And is that then, if it is possible to have data on post-release mortality of white marlin, is that factored into any management plan in ICCAT?

Mr. GRAVES. I will start with the second part of your question first, because it is the easiest one for me to describe.

In the status review team report on white marlin, our projections did not include any information, we did not consider post-release mortality. So it has not been factored in, but, yes, it does occur. Assessing it is expensive. We use pop-up satellite tags. These are $3,500 apiece, plus satellite time is maybe $400 an animal. We have had support from the National Marine Fisheries Service and the private community, and we did a pilot study just to see if white marlin could carry the tags, which are smaller than blue marlin.

We have done some work on blue marlin, and blue marlin we released nine from the recreational fishery in Bermuda, and we know that eight of those survived. We released nine from the U.S. longline fishery, and we know for a fact that seven of those survived.

We had one nonreporting tag in the recreational study and two in the commercial studies, and those could have been mortalities or they could have been a tag failure. We couldn't discriminate. But two of the fish we had 30-day tags on in the commercial study, and one of those animals went 750 miles straight line distance in a 30-day period. The other went 1,500 miles. So they didn't seem to be too badly damaged by their time on the longline.

So then we have gone and tried it with white marlin because they are a much smaller animal. We started off with five animals in the Dominican Republic this May. We did the tags for 5 days, and we heard back that four animals survived, and we heard from the fifth one, and the fifth one didn't survive. So we did have a post-release mortality.

We have expanded the study. We are still getting the data back now. We have tags out on about another dozen or so recreational released white marlin and another six or seven from the longline fishery. We have had a few mortalities in each study, but at this point, you know, percentages are sort of meaningless. We need to boost our numbers significantly.

But mortality for white marlin, post-release mortality is higher than it was for blue marlin. It needs to be factored into the next stock assessment, and I am sure it will be.

Mr. GILCHREST. So is there any reliable data that can extrapolate the number of marlin released and that live to the number of white marlin that are known to be discards or bycatch?

Mr. GRAVES. The data are small, So you would be making conclusions based on 12 recaptures and say three or four mortalities. You would be expanding that. I would be much more comfortable if we had 40 animals, because I think with a small sample size you can just by chance have extremely biased results. So the few data that

we have I think are quite reliable, but I would be very hesitant to expand them. I suppose that is what every scientist would say, but in this case it could be quite misleading.

Mr. GILCHREST. Is there a timeframe when these tags might be useful to understand the post-release mortality issue?

Mr. GRAVES. We could have a very good handle on this by this time next year if we had the funding to do it. But, as I said, it is expensive.

Mr. GILCHREST. In your mind, is that the only way? Based on what you have done you are saying that there is not real reliable data on post-release mortality of white marlin out there right now?

Mr. GRAVES. These are the only data.

Just to give you a perception of how important they are, in 2000 at the ICCAT meeting there was a lot of resistance from some nations to take cuts on white marlin and blue marlin; and their rationale was if you use conventional tags, little streamer tags that have been put out, less than 2 percent of those are returned for marlins. And their inference was that, aha, this shows you that there is a very high post-release mortality.

But we—at that time my graduate student Dave Kerstetter had just finished collecting some of these data on using pop-up satellite tags off of longliner; and we said, wait a minute, seven out of nine here survived, eight out of nine we know survived from the recreational fishery. They are surviving. And at that meeting Japan and a few other countries just said, OK, that is—we will buy that. And that took out one of the major roadblocks and the fact that Japan needed some help with its swordfish quota in the north Atlantic we got the measure adopted by ICCAT.

And that was no mean feat but certainly the data that we had they bought. They saw it as the only really reliable data on post-release mortality.

Mr. GILCHREST. What is the biggest problem with the depletion of the white marlin stock? Is it bycatch or is it countries eating white marlin?

Mr. GRAVES. There are very few targeted fisheries for white marlin. So it is an incidental catch in a lot of fisheries. Now it is mandated ICCAT that all live ones will be released. They are allowed to retain those that are dead, and they will be used—a lot of times they are used as crew shares on a boat. They take them home to their families or whatever. There is a market for white marlin, but it is not that valuable that it is worth shipping it sometimes.

Mr. GILCHREST. Is the major reason for the depletion of the white marlin stock the unregulated vessels, the—.

Mr. GRAVES. No. The depletion is the fact that white marlin interact with fishing gears of all types and in that interaction some of them die. Even though they are not targeted, they are taken.

Mr. GILCHREST. So what does that include besides longlining, purse seines?

Mr. GRAVES. Longline, purse seine. Everything that goes out there that catches a white marlin, whether directed or not, has some level of fishing mortality on the stock.

Mr. GILCHREST. I see.

OK, Jim, any other questions?

All right. Mr. Hayes, Dr. Graves, we will probably have some follow-up questions. Thank you very much.

The next panel is Mr. Jim Motsko, President White Marlin Open; Ms. Gail Johnson, Shore Captain of the F/V Seneca, commercial longline vessel—I like to give my Maine accent to Ms. Johnson, see if it is a good one. My daughter is going to Bar Harbor now, and she really likes it. It is not too far. That is in case I retire in Maine—Mr. Rick Weber, marina owner and manager, South Jersey Marina and Yacht Sales; Mr. Dewey Hemilright, Captain of Tar Baby, commercial longline vessel; and Mr. Russell Dunn, Assistant Director, Ocean Wildlife Campaign, the Audubon Society.

Thank you very much for your patience and apologize in advance for the potential vote that may interrupt our hearing. But thank you for your patience.

Mr. GILCHREST. Mr. Jim Motsko from Ocean City, Maryland. He runs a successful white marlin tournament out of Ocean City on an annual basis, and he is here to testify, and we look forward to your testimony.

STATEMENTS OF JIM MOTSKO, PRESIDENT, WHITE MARLIN OPEN

Mr. MOTSKO. Thank you, Mr. Chairman, Mr. Saxton.

My name is James Motsko; and I am here from Ocean City, Maryland, the white marlin capital of the world. I am the founder and the President of the White Marlin Open, which is the world's largest billfish tournament. I am here today to testify about the importance of conserving the populations of Atlantic billfish, including white marlin. It is clear that the population of billfish has been declining for quite some time, and I feel it is extremely important that our government take all necessary steps in order to prevent billfish from becoming endangered.

There are several reasons I am concerned about the billfish populations. First and foremost, I am a concerned recreational angler. I have been fishing off the coast of Ocean City, Maryland, since 1966. In the late 1960's there were record numbers of billfish, primarily white marlin, caught off of Ocean City by a relatively few number of boats. When the longline industry began, in this case primarily Japanese longlining, the number of white marlin caught began to steadily decline and has continued to do so.

Because of this decline, I helped to fight for the Magnuson Fisheries Conservation and Management Act, which established an exclusive economic zone for the United States. Essentially, it became illegal for any foreign vessel to fish within 200 miles of the United States. While this was a very important piece of legislation, it did not do enough to preserve the population of billfish.

Secondly, I am a concerned businessman. The White Marlin Open generates in excess of $20 million in revenue in a 1-week period every year. There are many different entities that benefit from this revenue, including the Town of Ocean City and the surrounding areas, the State of Maryland and even the Federal Government by the way of income taxes.

The White Marlin Open, currently in its 29th year, draws contestants from the East Coast, as well as Texas, California, Louisiana, Hawaii, Bermuda and even Australia, with the majority of

the contestants coming from the Mid Atlantic States. This past summer's event drew a record 400 boats and over 2,400 anglers, captains and mates. Over 20,000 spectators visited Harbor Island Marina, the home of the White Marlin Open, during the 1-week event to view a variety of fish being weighed in.

The basic entry fee for the White Marlin Open is $800 per boat, with crews having the option of entering different added entry levels that range from anywhere from $100 up to $10,000. The total prize money awarded during this past summer's event was over $2.1 million. The contestants of the White Marlin Open consistently released over 98 percent of all white marlin caught. This is truly the highest and best use of this precious resource.

Longlining, which is a nonselective type of fishing, threatens not only the prosperity and the existence of the White Marlin Open and other billfish tournaments but the entire recreational fishing industry along the East Coast of the U.S. This includes boat and fishing tackle manufacturers, retailers, fuel distributors, charter boat operators, marinas, hotels, restaurants, and the list goes on. Needless to say, the effects of decreasing numbers of billfish caused by longlining could be devastating to the coastal economy.

As you know, there was a petition filed with the National Marine Fisheries Service to list the white marlin as an endangered species. National Marine Fisheries Service estimates that the white marlin stocks are at 15 percent of their maximum sustainable yield and are officially designated as overfished. Clearly, additional conservation measures for white marlin are necessary, but a listing under the ESA is totally unwarranted, considering recreational fisherman are releasing 98 percent of all billfish caught and there is also a ban on possession of white marlin aboard U.S. commercial vessels. Such a listing could have led to a prohibition on all fishing for white marlin and would have been an absolute disaster for Ocean City, the White Marlin Open and thousands of other sport fisherman.

The white marlin is now a candidate for the ESA and will be reevaluated within the next 5 years. According to the National Marine Fisheries Service, the U.S. fishery accounts for approximately 5 percent of the total mortality of white marlin, which is caught mostly as bycatch by international longline fisheries. The evidence is clear that the decimation of white marlin and other pelagic fisheries is due largely to the EU failing to comply with their obligations under ICCAT. The EU has consistently failed to implement binding conservation measures for marlin, and they have consistently exceeded their ICCAT quotas.

For these reasons, I strongly support the resolution in question today. I feel that it is of utmost importance that our government take all necessary steps to preserve the population of billfish, including imposing trade sanctions on noncompliant countries. While ICCAT took very appropriate steps in instituting quotas for billfish catches, the quotas do nothing to preserve billfish if they are not enforced. I feel the most effective way of enforcing quotas in noncompliant countries is to hit them where it hurts, which is financially. It is time we hold the members of ICCAT up to their end of the bargain and force them to follow the rules they agreed to.

I fully support the petition filed by the Recreational Fishing Alliance under Section 301 of the Trade Act of 1974 as a tool to bring the EU into compliance into ICCAT. The acceptance of this petition by USTR will give the U.S. delegation tremendous leverage to negotiate conservation measures at the ICCAT meeting in Spain this coming October and could be a major breakthrough in the conservation of our highly migratory species.

I appreciate your time and hope that you consider the importance of the proposed resolution. Thank you.

Mr. GILCHREST. Thank you, Mr. Motsko.

[The prepared statement of Mr. Motsko follows:]

Statement of James Motsko, President, White Marlin Open

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There are several reasons I am concerned about the billfish populations. First, and foremost, I am a concerned recreational fisherman. I have been fishing off the coast of Ocean City since 1966. In the late 1960's, there were a record number of billfish, primarily white marlin, caught off of Ocean City by a relatively few number of boats. When the longline industry began, in this case primarily Japanese longlining, the number of white marlin caught began to steadily decline and has continued to do so. Because of this decline, I helped to fight for the Magnuson Fisheries Conservation and Management Act, which established an exclusive economic zone for the United States. Essentially, it became illegal for any foreign vessel to fish within 200 miles of the United States. While this was a very important piece of legislation, it did not do enough to preserve the population of billfish.

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I appreciate your time and hope that you consider the importance of the proposed resolution.

Mr. GILCHREST. Ms. Johnson.

STATEMENT OF GAIL JOHNSON, SHORE CAPTAIN OF THE F/V SENECA, COMMERCIAL LONGLINE VESSEL

Ms. JOHNSON. First of all, on behalf of Blue Water Fisherman's Association, congratulations to U.S. pelagic fishermen for their major contributions toward rebuilding on a fast track the swordfish stock. ICCAT estimated last year that the stocks had recovered to almost 96 percent of their ideal size and are currently being fished at three-quarters of the ideal rate.

The other thing is, where is Glen? He has the longest track record of any of the current commissioners; and last year, with the consent of the U.S. Longliners over there, he was able to use some of our quota to actually make the marlin recommendations happen. Excuse me, I don't think it was last year. I am very sorry that you don't have his opinion here today.

So, anyway, my name is Gail Johnson. I am shore captain of the fishing vessel Seneca. My husband and I own it together through our corporation. Thank you very much for inviting me to speak today.

When I read the resolution I couldn't figure out exactly why we need it. Because the process now includes domestic, international scientists all getting together, the public, a committee that is knowledgeable about all aspects of these fisheries, the ICCAT Advisory Committee. The laws that we use in this committee include all the tools you mentioned for encouraging ICCAT to comply, their nations to comply. What is not addressed, however, is the problem of having to use last year's data to identify a noncompliant entity.

Available ICCAT data are usually 2 years old. Perhaps a provisional identification of a noncomplying entity could be actionable on the basis of older data with a follow-up. I am not good at figuring these things out, but that is a thought that came to me.

I have to tell you, some commercial highly migratory species fishermen feel a bit—kind of insulted. It took a close call with an ESA listing for white marlin before Congress seemed to notice inter-

national noncompliance. Where were you in 1998 during the Give Swordfish a Break campaign when the extraordinary amounts of swordfish, much of it illegal, noncompliant, were flooding the U.S. market? Our fishermen barely made it financially to the next year, and we continue to bear the burden of noncompliant imports which lower our prices.

Marlin have been a high priority for the United States since about the early 1990's.

Do you have to go?

Mr. GILCHREST. You can finish.

Ms. JOHNSON. However, they are not a food fish for the U.S., whereas bluefin, yellowfin, bigeye, swordfish, they are extremely important food fish and money species. To put marlin as the highest priority for consecutive years could give the perception that the U.S. isn't serious about what really counts to the other countries or to their commercial fishermen which have a higher standing in those countries than we do. Few nations have had or have do have such a large and passionate recreational HMS fishery as we do, and it is taking a lot of time to explain the importance of marlin to our economy and actually to the U.S. psyche.

Now that you have recognized illegal, unreported and unregulated—it is easier to say IUU—fishing, eliminating it and encouraging compliance should be the highest ICCAT priority for the United States because that will help all the species, not just white marlin, not just marlins. Without compliance from all the HMS fishing entities, ICCAT can't be effective. And rebuilding plans, targets, minimum sizes, they mean nothing but problems for U.S. fishermen if foreign noncompliance makes it effectively moot.

The resolution I read refers to, quote, threatening the continued viability of U.S. commercial and recreational fisheries, end quote. I don't understand this. Other than to keep searching for better gear or cease fishing, the longline fleet can't do anything more than release 100 percent of the marlin, which we have been doing for over a decade. Why should other nations noncompliance for marlin threaten U.S. commercial fishermen? Our productive fishing grounds are severely reduced. Our fleet is drastically reduced. More closures as proposed may push our diminished fleet into areas of actually increased marlin interactions. The plan seems to be to eliminate this U.S. fishery.

We have to remember ICCAT is, first and foremost, a commercially oriented organization and continuing in this direction with marlin as the narrow focus will be counterproductive to the U.S. effectiveness.

And I am concerned about saving face at ICCAT. For years, the U.S. has touted our ability to get good data on landings of our commercial fisheries. However, the data on U.S. recreational HMS efforts are scant, and the mortality is even worse. We insist on good data from all nations, but we don't have it ourselves.

The ESA petition notes up to a 32 percent mortality rate for recreationally caught and released white marlin. A table with this information is attached to Mr. Hemilright's written testimony. While H.Con.Res. 427 may be a useful exercise to express your seriousness about marlin, it is much too narrow a focus and I am afraid won't really serve us well at ICCAT.

Thank you.

Mr. GILCHREST. Thank you very much, Ms. Johnson.

[The prepared statement of Ms. Johnson follows:]

Statement of Gail L. Johnson, Shore Captain, F/V Seneca, Harpswell, Maine

I am Gail Johnson from Harpswell, Maine, one of those towns in Maine where you can't get there from here, first you must go to Brunswick, unless you have a boat. From the age of 10 I fished as sternman with my father lobstering, worked at a roadside seafood stand, lobstered with my husband, Charlie Johnson, until children came along and then ran the business of buying lobsters, wholesaling them, procuring bait, and all the things that business entails.

Over the years our fishing focus changed from lobstering and Charlie was attacked by Blue Water Fever and would not be limited to the coastal bays. I was elected as the first woman on the Maine Fishermen's Cooperative Association's Board of Directors, was one of several women who founded the Maine Fishermen's Wives Association, and am a founder and officer of Blue Water Fishermen's Association. I am currently a member of the Associated Fisheries of Maine and their representative to the Maine Fishermen's Forum Board of Directors, where I serve as its Vice–President. From 1985 to 1991 I served as a member of the New England Fishery Management Council and convinced them to send a council representative to the ICCAT plenary meetings. At that time, some HMS were managed by the New England, Mid–Atlantic, South Atlantic, Gulf of Mexico, and Caribbean councils. I am gratified that I was able to convince enough people that these stocks' problems had to have an international solution, that the US could not do it alone. I am a member of the ICCAT Advisory Committee and have attended several ICCAT plenary sessions.

My years of experience with the fisheries, making business and friendly contacts in such various places as Nova Scotia, Newfoundland, Peru and Brazil, have given me a basic idea of how the HMS fisheries work in those places and enable me to speak with some authority. I have dealt with various levels of domestic and foreign governments on fishery issues.

Currently Charlie and I are co-owners of the 78 ft. Fishing Vessel Seneca, a pelagic longliner. He takes care of the boat and fishing and I take care of everything else. Between 1974 and now, Charlie's fished from 55N all the way to 25S, or the latitudes from off Labrador down to about Rio de Janeiro, Brazil. He's fished the Grand Banks since 1976. At present, the only way we may fish the international waters off the Grand Banks of Newfoundland is under government contract, the value of which could be as much as $132,000.00 depending on the number of sets made, the unit of payment.

Congratulations to those who have made the ICCAT process work for swordfish! There are the fishermen who sacrificed more in quota, fishing areas, and juvenile swordfish restrictions than other countries and also more than necessary. Especially, there are the ICCAT commissioners to thank for their hard work and downright dedication to the US fisheries. Of the three current commissioners, Glenn Delaney has the longest track record. Glenn laid the groundwork for marlin conservation and with the consent of the commercial fishermen, did the trading necessary for marlin conservation. I am stunned the man most responsible for international marlin measures is not here and surprised and disappointed that you didn't ask his opinion about this resolution. Glenn was probably the largest part of the arduous process of gaining conservation for swordfish conservation that appears to have worked, given the high estimates of the stock at this year's assessment.

Although I'm gratified that Congress has noticed the highly migratory species at last, I'm dismayed that it took a near miss of an ESA listing for white marlins as endangered or threatened. Where were you in 1998 when the longline fleet nearly went under from the reductions in prices from the extraordinary amount of swordfish imports? Ironically, that was the year of Give Swordfish A Break. More ironic is that probably most of the imports were from nations who were over-quota or not ICCAT members at all. As your resolution notes, we could be called culpable of "diminishing the effectiveness of an ICCAT conservation recommendation" for allowing fish in that were from noncompliant nations.

The resolution's narrow focus on marlins (they are mentioned eight times in the document, other species only twice) and the recommendation that white marlin be the US' "highest priority" is insulting to HMS commercial fishermen and could be counter-productive at ICCAT for these reasons.

Most countries are focused on the "money fish," the tunas and swordfish. They don't have the numbers (or the passion) of US HMS recreational fishermen. For a

decade, the US has tried to educate ICCAT members about the need for marlin conservation and what it means to the US. We are making progress, as seen by the accepted measures for Atlantic marlin. It's too soon to note any trends, as the reports to ICCAT are usually two years old. The data on marlin are sparse, making assessment results speculative, or as scientists say, "uncertain." Even the U.S. has no idea of marlin mortality from recreational catch and release. Longline fishermen have observers as a basis for mortality estimates. Recreational fishermen have no such independent observations of their fishing or subsequent mortality. There are studies underway now that may provide some answers, but if we use the ESA listing petition, which could be the "best scientific information available," it says that the estimated white marlin mortality is up to 32% of those caught and released! With the estimates of numbers of marlin fishermen and the numbers of hooks they "set," the mortality rate from catch and release is likely significantly higher than from the much-reduced longline fleet. Please refer to the table in Mr. Hemilright's testimony that contains information referenced in the White Marlin ESA Petition for Listing.

The resolution's preface notes that noncompliance is "threatening the continued viability of United States recreational and commercial fisheries." US longliners already release 100% of the marlins caught and many are very much alive. Rationally, how could others' noncompliance threaten U.S. longliners?

However, we have lost nearly 70% of our productive fishing grounds during some times of the year to closed areas. Some of those closed areas actually have the potential to increase longline-marlin interactions. Our numbers of vessels are reduced by 70%. We are continually upgrading gear for best target species results. Perhaps the threat is that some will call for "just a few" more closed areas to protect marlin from longline hooks and that will just eliminate us completely. Now that recreational HMS fishermen are threatened, the Congress acts.

What we do need is a change in the Atlantic Tunas Convention Act that relieves the problem of using last year's data to identify noncompliant entities. As I mentioned, the data are two years old and we need the previous year before we can prove noncompliance. With measures as sensitive as trade, we must have more timely and accurate data. Perhaps provisional identification could work with 2-year-old data and be followed up in subsequent years, taking action in the second year of noncompliance.

If you're really serious and can convince countries that marlin is worth the money and trouble, we could try to implement a statistical document such as the one that seems to be working for bluefin tuna. The swordfish statistical document isn't yet operational but we hope it will encourage compliance by denying markets to noncompliant product.

This resolution may be useful to show our citizens that Congress cares about Atlantic white marlin, but I doubt that the ICCAT members will attach much importance to it; and, sad to say, it feels very much like a slap in the face to HMS commercial fishermen.

Thank you for this opportunity.

Mr. GILCHREST. We do have a vote on. I apologize. So we will recess and be back as soon as we can.

But I do want to assure you, Ms. Johnson, that we have to plan to reduce the U.S. fishery. That is an issue that I just want to make sure you know, that our deliberations here with ICCAT are to ensure the further abundance of nature's bounty in the ocean so that both the commercial and recreation fishing industries cannot only survive but thrive.

Ms. JOHNSON. I hope.

Mr. GILCHREST. We will be back in about 15 minutes. Thank you.

[Recess.]

Mr. GILCHREST. The hearing will come back to order.

Once again, thank you for your patience. I think we may be OK this time.

Mr. GILCHREST. Mr. Weber, you are on, sir.

STATEMENT OF RICK WEBER, MARINA OWNER AND MANAGER, SOUTH JERSEY MARINA & YACHT SALES

Mr. WEBER. Good afternoon, Mr. Chairman and Mr. Saxton.

My name is Rick Weber. I am before you today as a conservationist and businessman and offshore angler. My comments on H.Con.Res. 427 itself are relatively brief, and you have an esteemed panel. I would like to take a moment to fully introduce myself in hopes that you can better understand its impacts on me and members of your constituencies that I likely represent.

I have been involved in fish and fishing for as long as I can remember. My dad was a charter boat captain, and I remember going down to the docks to see what he had caught.

Once, he brought me a video or a movie at the time that he had taken on a fishing trip while offshore. They had gone on someone else's boat. They didn't catch much on the trip, but it really didn't matter. The trip alone seemed like an adventure to a young boy, a long trip to remote waters where few people ever went.

They hoped to find a lot of fish, but no one really knew for sure. The anglers had waited all day by the rods. The mate kept the cockpit ready, while the captain scanned the ocean. As a young boy, I was awestruck by the tale.

That spirit of adventure is alive today in the heart of every marlin fisherman. We are the ultimate optimists. How else can you explain getting up before dawn to run for hours, to troll through the day, and run those same hours back home, all in the hopes of encountering a fish that, for the most part, we have neither intent nor desire of landing?

As stocks have declined, as we all know they have, the marlin fisherman have adapted. We are traveling further. We fish keener. And, ultimately, we have scaled down our expectations. Time was when a three or four fish day was ordinary. Now it has become noteworthy. We are still hoping to catch fish on every trip, but that optimism has a limit.

Each fisherman will decide for themselves how great the likelihood need be of catching a marlin to make the time and expense involved worthwhile. Some have already decided to get out of the sport. For certain, there are others right around the corner. We would ask that you use what powers you have to help save our sport.

To me, though, it is about more than saving a sport. You see that charter boat captain father of mine bought the very marina where he kept his boat, and we have as a family—that is, mother, father, sister, grandfather, both aunts, both uncles and most of my cousins—spent over two decades building a business centered around one niche market, the East Coast marlin fisherman. We have sold them boats, homes, tackle and outfitting. We have stored, serviced, financed and even insured their boats. We host them for parties, tournaments and rendezvous.

Again, I will let others give you the industry values. I need you to understand the mindset of the consumer. When these people decide to jump into the marlin fishing scene, they do it with both feet. They buy things, they hire people, they contract services, they contribute to the industry and the national economy as a whole. For the most part, they have continued to do it despite the decline in

the populations. But make no mistake, each one that leaves takes thousands if not millions of current and future dollars with them.

My family's livelihood, along with thousands of other people's and their families', are inextricably tied to the health of the white and blue marlin stocks. Think for a moment the number of people behind every offshore trip—boat builders, sellers and outfitters, marine operators, their dock attendants, bait and tackle suppliers, mates and captains. And the fuel behind this economic engine? The optimism that today will be a great day of fishing. We would ask that you use what powers have you to help save our industry.

Anyone who has spent any time at all around these great animals can hardly help but become a conservationist. Following in the footsteps of that same charter boat captain, who spent many years as a director of the Billfish Foundation and was instrumental in the founding the RFA, I am currently a director of the National Coalition for Marine Conservation and last year accepted a nomination to the Billfish Advisory Panel to NMFS. We get involved with these groups and enter the national discussion and debate because we refuse to believe that the fate of the marlin is cast in stone.

We are intent on saving our sport and our industry, not just for ourselves but our children and our children's children and perhaps yours, too, that they, too, might know the excitement of an outrigger signal or the frustration of a mistimed backlash or the simple sheer joy of setting off early one morning on an adventure, full of optimism of what the day might bring. For these next generations, we would ask that you use what power you have to save our marlin.

That brings us to today's topic, H.Con.Res. 427. Let me start by thanking you for this resolution. Billfish conservation in general is a slow-moving cause, where progress is measured in inches rather than yards. The fact that you and your staffers are willing to spend time and energy on this resolution is reenergizing. We are happy to have your attention.

Would I change H.Con.Res. 427? I suppose that we all have our own biased agendas and there are things I might like to take further. But I am told politics is the art of compromise, and I certainly don't see anything here that would cause me to oppose the resolution. Frankly, I am supportive of any initiative that might help the long-term health of my sport and my industry and promote the conservation of marlin. This resolution if acted upon would certainly be helpful. So, yes, I support and encourage you to support H.Con.Res. 427 as written.

Am I hopeful for H.Con.Res. 427? That, friends, lies with you. This is not a topic that you will be able to address with a few choice words and hope it will resolve itself from there. I can tell you it will not. It will take some resolve from this body to move this agenda forward.

The international nature of the resolution is sure to help it pass. One thing that the environmental, commercial and recreational sectors all agree on is that, by almost any test, U.S. fisheries are cleaner, more selective, and more closely monitored than any other in the world. The oceans would be a better place if more nations would follow our examples. Does that mean, though, that we

should park our domestic agendas or stop striving for cleaner fisheries? To the contrary, once we have people following our lead it is more important than ever that we keep raising the bar, that we keep pointing the way to sustainable fisheries.

In the past year, you have considered many things that would be beneficial to the Nation's billfish. You have looked at Mr. Saxton's rolling closures, Mr. Hunter's total closures, Mr. Farr's ideas on ecosystem management and Chairman Gilchrest's bycatch reduction ideas, to mention a few. Any of these are examples of ways we might next lead the world in billfish management.

If the sense of Congress reflected in H.Con.Res. 427 is that we must reduce the decline of marlin populations, then we must not be afraid to demand more, more of ICCAT, more of our trading partners, more of our government and, yes, more of our domestic fishing industries, both commercial and recreational. To those who say the U.S. has done enough, I would respectfully disagree, but there are still places for us to work together in the future as well.

I have attached as part of my testimony a copy of the petition filed with the USTR that, if accepted, would require them to take action along the same lines as what is requested in H.Con.Res. 427. The petition was filed by the Recreational Fish Alliance but is quickly gaining support from all sides among those who would rather work together where we can and only fight where we must. They could use any assistance your offices could offer in getting it accepted and moved through the system.

It is critical that the world understand that as a Nation we will not sit back and let them go on decimating these populations, ignore what international law if not plain common sense tells them is the better path. We need you to send a clear message expressing our collective resolve to save these fish. It is critical to see these stock levels start rising again. It gives us hope, it gives us optimism—and that is truly the most important thing—to me, my family, my progeny, my sport, my industry, my Nation and, ultimately, to the fish themselves.

Thank you for the opportunity to speak.

Mr. GILCHREST. Thank you, Mr. Weber.

[The prepared statement of Mr. Weber follows:]

Statement of Rick Weber, Marina Owner and Manager, South Jersey Marina & Yacht Sales

Good afternoon Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to address you today regarding H. Con. Res. 427.

My name is Rick Weber of Cape May, New Jersey. I am before you today as a Conservationist, a Businessman, and an Offshore Angler. My comments on 427 itself are relatively brief, and I know you have other panel members to give you facts and figures. So I would like to take a moment to fully introduce myself in hopes that you can better understand its impacts on me, and members of your constituencies that I likely represent.

I've been involved with fish, fishing, and the ocean for as long as I can recall. My father was a charter boat captain and I remember going down to the docks each day to see what he had caught. Once, he showed me a movie he had taken when he went on a trip on someone else's boat, a bigger boat, that they could take far offshore.

They didn't catch much that trip, but it didn't matter. The trip alone seemed like an adventure, a long trip to take them to remote waters, where few people had ever gone. They hoped to find a lot of fish or maybe a big one, but no one knew for sure what they would find. The anglers had waited all day by the rods to be ready incase they got a bite, or two, or three. The mate kept the cockpit ready while the captain

scanned the ocean for signs of fish. As a young boy I was awestruck by the tale. I had caught marlin fever.

Ladies and Gentlemen, that spirit is alive today in the heart of every marlin fisherman. We are the ultimate optimists. How else can you explain getting up at 3 a.m. to then run offshore for 3 or 4 hours, trolling around through the day, only to run those same 3 or 4 hours back home. All in the hopes of maybe encountering a fish, that for the most part we have neither intent nor desire of landing. But that optimism has a limit.

As stocks have declined, as we all know they have, marlin fisherman have adapted. We are traveling further. Modern boats and electronics help us run to wherever the fishing is hottest, rather than just fishing your local grounds. We fish keener. That is, changing our equipment and methods to catch more of what we see, since the encounters have become less frequent. And ultimately, we have scaled down our expectations. Time was when a 3 or 4 fish day was ordinary, now it has become note worthy and commendable. We are hoping to catch fish on every trip, but that optimism has a limit.

Each fisherman will decide for themselves how great the likelihood need be of catching a marlin to make the time and expense involved worthwhile. Some have already decided to get out of the sport. For certain, others are right around the corner. We would ask that you use what powers you have to help save our sport.

To me though it is about more than saving a sport. You see over twenty years ago that charter boat captain father of mine bought the very marina where he kept his boat, and not long thereafter a second marina. We have as a family (That is mother, father, sister, grandfather, both aunts, both uncles, and most of my cousins) spent over two decades building a business centered around one niche market, the East Coast marlin fisherman.

We have sold them boats, homes, tackle and outfitting. We have stored, serviced, financed, and even insured their boats. We have hosted them for parties, tournaments, and rendezvous. Again, I'll let others give you the industry values, I want you to understand the mindset of the consumer. When these people catch that marlin fever, when they decide to jump into the marlin fishing scene, they do it with both feet. They buy things, they hire people, they contract services, they contribute to the industry and the national economy as a whole. For the most part they have continued to do it despite the decline in the populations. But make no mistake, each one that leaves, takes thousands if not millions of current and future dollars of spending with them.

My family's livelihoods along with thousands of other people's and their family's are inextricably tied to the health of the white and blue marlin stocks. Think for a moment of the number of people behind every offshore trip; boat builders, sellers and outfitters; marina operators; dock attendants; bait and tackle suppliers; captains and mates. And the fuel behind this economic engine? The optimism that today will be a great day of fishing. We would ask that you use what powers you have to help save our industry.

Anyone who has spent any time at all around these sleek, powerful, nimble animals can hardly help but become a conservationist. Following in the footsteps of that same charter captain, who spent many years as a director of The Billfish Foundation and was instrumental in the founding of the Recreational Fishing Alliance, I am currently a director of the National Coalition for Marine Conservation and last year accepted a nomination to the Billfish Advisory Panel to NMFS. We get involved with these groups and enter the national discussion and debate because we refuse to believe that the fate of the marlin is cast in stone.

We are intent on saving our sport and our industry, not for ourselves but for our children, and our children's children, and perhaps yours too. That they too might know the excitement of an outrigger clip snapping or the frustration of a mistimed backlash or the simple sheer joy of setting off early one morning on an adventure, full of optimism of what the day might bring. For these next generations, we would ask that you use what power you have to help save our marlin.

That brings us to today's topic, 427. Let me start by thanking you for this resolution. Billfish conservation in general is a slow moving cause, where progress is measured in inches rather than yards. I'm sure that each of us involved has, at one time or another, wondered if we were getting anywhere, whether we were just going through the motions. The fact that you and your staffs were willing to spend time, energy, and political capital on this resolution is re-energizing, a glimmer of light at the end of the tunnel. We are happy to have your attention.

Would I change 427? I suppose we all have our own biased agendas and there are things I might like to take further. But, I'm told politics is the art of compromise, and I certainly don't see anything here that would cause me to oppose the resolution. Am I then supportive of 427? Frankly, I am supportive of any initiative

that might help the long term health of my sport and my industry and promote the conservation of marlin. This resolution if acted upon certainly would be helpful. So yes, I support and encourage you to support 427 as written. Am I hopeful for 427? That friends lies with you. This is not a topic that you will be able to address with a few choice words and hope it will resolve itself from there. I am here to tell you it will not. It will take some resolve from this body to move this agenda forward.

The international nature of the resolution is sure to help it pass. One thing that the environmental, commercial, and recreational sectors all agree on is that by almost any test, U.S. fisheries are cleaner, more selective, and more closely monitored than any other in the world. The oceans would be a better place if more nations would follow our examples. Does that mean, though, we should all park our domestic agendas, or stop striving for cleaner fisheries? To the contrary, once we have people following our lead, it is more important than ever that we keep raising the bar, that we keep pointing the way to sustainable fisheries.

In the past year your have considered so many things that would be beneficial to the nations billfish. You have looked at Congressman Saxton's rolling closures, Congressman Hunter's total closures, Congressman Farr's ecosystem management, and Chairman Gilchrist's bycatch reduction, to mention a few. Any these are examples of ways we might next lead the world in billfish management.

If the "Sense of Congress" reflected in 427 is that we must reverse the decline of marlin populations, then we must not be afraid to demand more. More of ICCAT. More of our trading partners. More of our government. And yes, more of our domestic fishing industries. We all understand that you have started where there is the greatest consensus. The important thing to me is that you have started.

To those who say the U.S. has done enough, I would respectfully disagree, but there are still places for us to work together in the future as well. I have attached, as part of my testimony, a copy of a petition filed with the United States Trade Representatives that, if accepted, would require them to take action along the same lines as what is requested in 427. The petition was filed by the Recreational Fishing Alliance, but is quickly gaining support from all sides amongst those who would rather work together where we can and only fight where we must. They could use any assistance your offices could offer in getting it accepted and moved through the system.

It is critical that the world understand that as a nation we will not sit back and let them go on decimating these populations, ignoring what international law if not common sense tells them is the better path. We need you to send a clear message expressing our collective resolve to save these fish. That we will not allow them to further harm my industry nor undermine the conservation efforts being made by our domestic commercial fisheries. We need to see those stock levels start rising again. It gives us hope. It gives us optimism, which is truly the most important thing, to me, my family, my progeny; my sport, my industry, my nation; and ultimately to the fish themselves.

Thank you for the opportunity to speak.

Mr. GILCHREST. Mr. Hemilright, the gentleman from North Carolina. Walter Jones asked me to give you his best. He is tied up in a meeting with Senator Warner about some defense issues, but I am passing along his goodwill, and he will read your testimony. You may begin, sir.

STATEMENT OF DEWEY HEMILRIGHT, CAPTAIN OF THE F/V TAR BABY, COMMERCIAL LONGLINE VESSEL

Mr. HEMILRIGHT. Thank you, Mr. Chairman and members of the Subcommittee, for the invitation and opportunity to speak concerning H.Con.Res. 427. I am Dewey Hemilright, captain of the 42-foot longline fishing vessel Tar Baby of North Carolina that fishes 3 to 75 miles offshore from Montauk, New York, to Mayport, Florida, depending upon the seasons and weather conditions.

I have many questions and reservations about the effectiveness of this resolution in its present form. We must not forget that the U.S. alone cannot rebuild highly migratory fish stocks. However, as we now see with the north Atlantic swordfish, we can reach this

worthy goal with the cooperation and compliance of harvesters throughout the range of a species.

The U.S. Atlantic pelagic longline fisherman has led the way with enormous sacrifice under both international and domestic conservation measures to rebuild this important species. I bring your attention to the fact that north Atlantic swordfish has recovered to 95.8 percent of optimal biomass before the imposition of overly extensive closures placed against only commercial longline fisherman in the U.S. waters.

My basic concern with this resolution is that it is far too narrow. Focusing primarily upon marlin ignores the overall compliance problem within ICCAT and could isolate our U.S. ICCAT delegation. Let's face facts. No matter how hard we may try, other cultures will not accept a higher priority for marlin when they consider other food fish species much more important. The United States should make every effort to ensure international compliance for all ICCAT conservation measures, not just marlin. A broader approach could also provide greater conservation for marlin.

I think the combination of compliance enforcement, coupled with the existing marlin recommendations that my fishery helped to achieve and, more importantly, the elimination of illegal, unregulated and unreporting fishing for ICCAT species will end Atlantic marlin overfishing and allow these important species to rebuild. But other countries are not going to accept international trade prohibition for marlin alone.

The Senate Magnuson-Stevens Reauthorization Staff Draft contains an international compliance provision that could eliminate all noncompliant ICCAT fish from entering U.S. markets. I strongly recommend that Congress work in this direction, both to revise this resolution and on future implementing legislation. Please end the embarrassing situation that allows the U.S. to continue to accept internationally pirated fish, ICCAT quota overages and noncompliant, undersized fish from foreign fleets into American markets. And, in doing so, let's not sacrifice the Atlantic's most efficient and conservation-minded pelagic longline fishery.

In the past, U.S. fisherman could harvest 29 to 34 percent of the north Atlantic swordfish using only 8 to 10 percent of the overall hook effort for this species. Today, due to cheaper imports, many of which are illegally caught, and draconian domestic overrestriction, it is unclear whether or not a profitable longline fishery can continue.

The U.S. vessels cannot operate on $2 a pound fish. Sadly, it has become politically correct to tradeoff our commercial longline fisheries for progress within ICCAT. I caution Congress that the loss of this important HMS commercial fishery will only weaken the U.S. abilities within ICCAT.

In ending, I also think that the U.S. commercial ICCAT commissioner should have been here today to testify to give this Subcommittee an increased understanding of the ramifications of this resolution as it applies to ICCAT-managed fisheries.

Mr. Chairman, again I thank you for the opportunity to speak.

Mr. GILCHREST. Thank you, Mr. Hemilright; and stay safe out there on the high seas.

[The prepared statement of Mr. Hemilright follows:]

Statement of Dewey Hemilright, Captain, F/V Tar Baby, Wanchese, North Carolina

Mr. Chairman and Members of the Subcommittee:

Thank you, Mr. Chairman, and members of the Subcommittee for the invitation and opportunity to speak concerning HR 427. I am Dewey Hemilright, Captain of the 42 ft. longline fishing vessel Tar Baby of North Carolina that ranges, depending upon the season and weather conditions, from 3 to 75 miles offshore from Montauk, NY to Mayport, FL.

Before I begin, I must note with disappointment that the U.S. Commercial ICCAT Commissioner has not been asked to be here today to testify in order to give this subcommittee an increased understanding and his informed insight of the potential ramifications of this proposed resolution as it applies to the U.S. and ICCAT. With all due respect to Dr. Hogarth and Mr. Hayes, Mr. Glenn Delaney is the only current ICCAT Commissioner who has been directly involved at the ICCAT negotiating table, working on conservation for all Atlantic highly migratory species in recent years. This subcommittee does itself a disservice by his exclusion from these discussions and proceedings.

I also note that I am proud to be a member of the North Carolina Fisheries Association and the Blue Water Fishermen's Association. Our fishermen catch a variety of fresh domestically-caught fish for American seafood consumers who cannot or choose not to catch their own. We proudly carry on and wish to continue this important heritage of our Nation's coastal communities.

The U.S. Atlantic pelagic longline fishery has led the way with enormous sacrifices for both international and domestic conservation measures to rebuild Atlantic highly migratory species. I strongly note that swordfish have returned to 95.8% of optimal biomass prior to the imposition of the overly extensive small swordfish closures placed only against commercial fisherman in U.S. waters.

In the past, U.S. longline fishermen harvested up to 29 to 34 percent of the N. Atlantic swordfish using only 8 to 10 percent of the overall hook effort for this species. Today, due to cheap, many of which are illegally caught imports and draconian domestic over-restrictions, it is unclear whether or not a profitable longline fishery can even continue. U.S. vessels cannot operate on $2.00 per pound fish.

Today, our fishery is so over-restricted that we have lost the ability to harvest our full ICCAT quota on an annual basis. We're working hard through cooperative bycatch reduction research to develop gear modifications that will allow some of these domestic restrictions to be eased. Sadly, it has become politically correct to trade off our commercial longline fishery for progress within ICCAT. I caution Congress that the loss of it's most important HMS commercial fishery will only weaken the U.S.'s abilities within ICCAT.

We must not forget that the U.S. alone cannot rebuild highly migratory fish stocks. However, as we now see with North Atlantic swordfish; with the cooperation and compliance of harvesters throughout the range of a species, we can reach this worthy goal.

I have many questions and reservations about the effectiveness of this resolution in its present form.

My basic concern with the resolution is that it is too narrow. Focusing primarily upon marlin, ignores the overall compliance problems within ICCAT and isolates our U.S. Delegation because no matter how hard we may try, other cultures will not accept a higher priority for marlin, than what is to the world, more important food-fish species. The United States should make every effort to ensure international compliance with all ICCAT conservation measures, not just marlin.

A broader approach would also provide greater conservation for marlin because I think the combination of compliance with the existing marlin recommendations that my fishery helped to achieve and more importantly, the elimination of Illegal, Unregulated and Unreported Fishing (IUU Fishing) for ICCAT species will end Atlantic marlin overfishing and allow these important species to our country to rebuild. But other countries are not going to accept international trade prohibitions for marlin alone.

The Senate Magnuson–Steven's Reauthorization Staff Draft contains an international compliance provision that could eliminate all non compliant ICCAT fish from entering U.S. markets. I strongly recommend that Congress work in this direction, both to revise this Resolution and on future implementing legislation. Please end the embarrassing situation that our country continues to accept internationally pirated fish, ICCAT quota overages and undersized tunas from foreign fleets that are not adhering to ICCAT conservation measures. And in doing so, let's not sacrifice the world's most efficient and conservation minded pelagic longline fishery.

Before we start to embargo any member or nonmember country, I have to ask "What will the U.S. pelagic longline fisherman give up this time to achieve these goals at ICCAT?" Will it be more quota or more closures because the swordfish fishery has become the bargaining chip for the U.S. position for the past several years? We haven't filled the U.S. ICCAT swordfish quota in recent years due to unilateral restrictions. Last time, we gave our unharvested quota to Japan for marlin conservation and to ensure the security of our long-term country share. Who gets it this year?

Also, as an example of just how bad compliance within ICCAT's own members can be, and the weakness of our U.S. Delegation's ability to respond to member non-compliance; last year at ICCAT we learned that the E.U. exceeded their bluefin ICCAT quota by 15,000 metric tons. NMFS's response to its constituencies was that they were glad the compliance reporting process worked. Would this resolution address these types of non-compliance by member nations?

It is critical that we are careful with the wording of Atlantic marlin mortality, because domestically, the NMFS turns a blind eye regarding the U.S. recreational industry's Atlantic marlin mortalities. To the other countries, this may seem to be hypocritical and could hurt the U.S.'s overall positions. How can we go to ICCAT and demand more marlin conservation when even the U.S. does not accurately report its own mortalities? Should not these mortalities be included in ICCAT stock assessments? Yes'the U.S. recreational landings are reduced but its catches, both in and outside of tournaments, are not,. This year in 14 days, Mid–Atlantic tournaments reported catching and releasing more than 1,550 marlin.

A recently filed petition to list white marlin as endangered under the ESA provides documentation that U.S. recreational post-release mortalities may exceed landings by all Atlantic harvesters. The petitioners have presented data regarding the level of impact on the species caused by the recreational/sportfishing sector.

	Page 15	Page 23
U.S. billfish anglers	230,000	230,000
U.S. billfish days	2,137,000	7,744,100
Average days/year	9.29	33.67
Billfish caught (@ 0.25 billfish caught per fishing day)	534,250	1,936,025
Atlantic effort (60% of U.S. billfish effort)	320,550	1,161,615
White marlin caught (19% of Atlantic effort)	60,905	220,707
Number of dead white marlin @ 15% post-release mortality rate (Hinman)	9,136	33,106
Number of dead white marlin @ 12% post-release mortality rate (Graves)	7,309	26,485
Number of dead white marlin @ 32% post-release mortality rate (Domeier)	19,489	70,626
Assuming 45 lbs. average weight (page 17)		
Weight of dead white marlin @ 15% mortality rate	186.48 mt	675.76 mt
Weight of dead white marlin @ 12% mortality rate	149.18 mt	540.60 mt
Weight of dead white marlin @ 32% mortality rate	397.82 mt	1,441.61 mt
Weight of dead white marlin reported to ICCAT		
1999 U.S. Recreational/sportfishing sector	1.6 mt	
1999 U.S. Commercial fishing sector (regulatory dead discards)	56.67 mt	
1999 Total Atlantic	908 mt	

As the above indicates, the U.S. might be wiser to get its data straight before pointing fingers elsewhere.

As a U.S. pelagic longline fisherman, I think this resolution would be great if the language included swordfish and BAYS (Bigeye, Albacore, Yellowfin and Skipjack) tunas as the highest priority just like the marlins since the U.S. is using our swordfish underharvest as a trade-off for marlin conservation.

In conclusion, I think that if properly crafted, this resolution could show the other countries that the U.S. is strongly committed to the goal of rebuilding these fish stocks to sustainable levels by holding all fishermen accountable. If this subcommittee were to broaden and revise this resolution to include my suggestions, it would help to ensure the reality of rebuilding then sustaining healthy ICCAT species for a brighter future for all Atlantic HMS fisheries, commercial and recreational.

Mr. GILCHREST. The next witness Mr. Dunn. We were looking for your name.

STATEMENT OF RUSSELL DUNN, ASSISTANT DIRECTOR, OCEAN WILDLIFE CAMPAIGN, THE AUDUBON SOCIETY

Mr. DUNN. Thank you, Mr. Chairman.

Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify on H.Con.Res. 427. My name is Russell Dunn. I am Director of Government Relations for Audubon's Living Oceans Program and Assistant Director of the Ocean Wildlife Campaign, which is an organization that works exclusively on marlin, swordfish, tunas and other highly migratory species.

Before I begin my formal testimony, I want to acknowledge and thank you for the tremendous leadership of the Chairman, Mr. Saxton, Mr. Pallone and others on the Committee regarding fisheries conservation over the years.

As an advocate for marlin conservation, I am pleased that marlin are receiving attention at such high levels. Many of these species are in desperate shape. White marlin have the distinction of being in the worst shape of any ICCAT-managed species. According to ICCAT data, overfishing has driven white marlin populations down to less than 15 percent of healthy levels, while fishing pressure for white marlin continues to be at least seven times that which the population can sustain.

For blue marlin, the immediate situation is slightly less dire, although the long-term outlook is also grim. The political nature of ICCAT has allowed mismanagement to rise to an art form. Science is too often ignored, and decisions based on short-term economics are the rule rather than the exception. The result is that the majority of stocks under ICCAT's purview are overfished. ICCAT's management has been so poor that it is now often referred to as the International Conspiracy to Catch All the Tunas, rather than by its proper name.

The migratory nature of marlin and other species such as swordfish and tunas unfortunately demands international management as these animals cross international boundaries and ocean basins. While the United States has been complicit in bad decisionmaking on occasion, the U.S. and Canada are the leaders in conservation in this forum bar none. Rarely have other nations outside the U.S. and Canada demonstrated the political will to do the right thing when under pressure from their domestic commercial fishing interests, pressure that is increased by the $1.1 billion in subsides pumped into ECD fishing fleets annually.

The U.S. has worked to improve compliance at ICCAT but can and must do more to ensure compliance for all ICCAT species. H.Con.Res 427 can be a positive and appropriate step in that direction.

The decline of marlin and other ocean giants is directly attributable to rampant overfishing. Put in simplest terms, these species have been, and many continue to be, caught and killed faster than they can reproduce.

The Atlantic wide overfishing that is negatively affecting the health of fish populations and U.S. commercial and recreational fishing interests is primarily the result of a number of factors, including ICCAT member nations rejecting scientific management recommendations, noncompliance with ICCAT recommendations, including the nonreporting of data, IUU fishing, and bycatch. And it is bycatch that represents the largest single threat to marlin, as marlin are primarily caught and killed as bycatch in fisheries targeting swordfish and tuna.

There is no single solution to the problems facing marlin and other migratory species that ICCAT manages. If we are to save marlin, we must find a way to reduce bycatch and bycatch mortalities.

The most effective available mechanism to do so is to close areas of the ocean to commercial fishing activities of all nations where and when marlin bycatch is highest. The U.S. has preliminary data showing that domestic area closures intended to reduce bycatch of juvenile swordfish and bluefin tuna seem to be effective, so there is every reason to believe that international area closures may also be effective.

The U.S. has provided leadership on conservation and compliance use through unilateral actions and pressing for multilateral cooperation and should continue to do both. Most problems facing Atlantic HMS will have to be solved through multilateral agreements and actions, given the nature of the fisheries under discussion. Without downplaying the importance of international cooperation, however, appropriate unilateral actions such as those outlined in H.Con.Res. 427 may contribute to improved compliance. We believe that H.Con.Res. 427 can help move ICCAT member nations toward improved compliance with conservation recommendations by sending a strong message that healthy fish stocks and robust fisheries are a national priority.

In conclusion, we support the spirit and intent of H.Con.Res. 427 as well as much of its specific language. We are also supportive of the RFA's 301 petition and similar actions on this issue.

We believe that a few amendments would strengthen H.Con.Res. 427. Specifically, we suggest that identification and implementation of international time and area closures to longline fishing activities of all nations where and when marlin bycatch is highest should be a top priority; that ensuring the continuation of north Atlantic swordfish rebuilding plan until recovery is complete in 2009 or before, given the miraculous recovery, should be a top priority of the delegation; that the resolution should broaden its recommendations pertaining to ending IUU fishing to include all ICCAT species while maintaining an emphasis on marlin; and that the resolution should urge the Secretaries of Commerce and State to better document noncompliance with ICCAT recommendations to support trade actions, recommend that the Secretaries identify those nations fishing in a manner that undermines ICCAT conservation mandates in their annual report to Congress—which I don't believe

has ever been done—and recommend that the ICCAT delegation continue to pursue multilateral agreements and compliance recommendations through ICCAT with renewed vigor.

Finally, we would urge that H.Con.Res. 427 resolve to urge the Secretary of Commerce to attend this upcoming ICCAT meeting to clearly signify U.S. resolve on fisheries issues.

While H.Con.Res. 427 does not by itself solve the problems facing Atlantic HMS, it will send a strong message regarding the seriousness with which this Nation views fisheries issues. It is an important step in the right direction, and we support its adoption.

Thank you for allowing me the opportunity to testify on this issue.

Mr. GILCHREST. Thank you, Mr. Dunn.

[The prepared statement of Mr. Dunn follows:]

Statement of Russell Dunn, Assistant Director, Ocean Wildlife Campaign and Director, Government Relations, Audubon's Living Oceans Program on behalf of the National Audubon Society, Natural Resources Defense Council, The Ocean Conservancy, Wildlife Conservation Society, and World Wildlife Fund

Mr. Chairman and members of the Committee, thank you for inviting me to testify on H. Con. Res. 427 and its underlying issues. My name is Russell Dunn, I am the Director of Government Relations for Audubon's Living Oceans Program, and Assistant Director of the Ocean Wildlife Campaign (OWC). The OWC is an entity that represents six national conservation organizations, including the National Audubon Society, National Coalition for Marine Conservation, Natural Resources Defense Council, The Ocean Conservancy, Wildlife Conservation Society, and the World Wildlife Fund on issues pertaining to marlin, sharks, swordfish, tuna and other highly migratory species. I have worked on these issues for the past six years and have been a member of NOAA's Federal Billfish Advisory Panel for five of the last six.

INTRODUCTION

As an advocate for marlin conservation, I am pleased that marlin are receiving attention at such high levels. The migratory nature of marlin and other species, such as swordfish and tunas, demands international management as these animals cross international boundaries and ocean basins. The political nature of the International Commission for the Conservation of Atlantic Tunas (ICCAT) has allowed mismanagement to rise to an art form. Science is too often ignored and decisions based on short-term economic considerations are the rule rather than the exception. ICCAT management has been so poor that it is often referred to as the International Conspiracy to Catch All the Tunas rather than by its correct name. While the United States has been complicit in bad decision making on occasion, the U.S. and Canada are the leaders in conservation in this forum bar none. Rarely have other nations demonstrated the political will to do the right thing when under pressure from their commercial fishing interests. The U.S. must do more to ensure compliance with ICCAT recommendations for all ICCAT species and H. Con. Res. 427 is a positive and appropriate step in that direction.

We support the spirit and intent of H. Con. Res. 427. The United States has led ICCAT efforts to halt overfishing of white marlin and H. Con. Res. 427 bolsters those efforts. We believe, however, that the resolution would more effectively deal with the problems facing marlin and other ICCAT species if it were broadened and amended as detailed below. To provide context for our suggested amendments, the Committee should first look at the array of problems facing marlin and other ICCAT species.

STATE OF THE STOCKS

Atlantic white and blue marlin, top predators in the marine environment, are in desperate condition. In fact, white marlin has the distinction of being in the worst shape of any ICCAT managed species. According to ICCAT data, overfishing has driven white marlin populations down by 90–95% since 1961. They currently stand at less than 15% of healthy levels. Further, ICCAT acknowledges that overfishing

has taken place for at least three decades, that the stock is less productive than previously estimated, and that the fishing mortality rate inflicted upon the stock is at least seven times that which the population can sustain. For blue marlin the immediate situation is slightly less dire, although the long-term outlook is also grim. Overfishing has reduced blue marlin to 40% of healthy levels and the stock is subjected to four times as much fishing pressure as it can withstand. Unfortunately, this situation is not unique to these two species. In fact, the majority of species under ICCAT's jurisdiction are considered overfished. In 2001, after nearly forty years of mismanagement, 8 of 15 stocks managed by ICCAT were considered overfished (white marlin, blue marlin, bigeye tuna, Northern albacore, West Atlantic bluefin tuna, East Atlantic bluefin tuna, North Atlantic swordfish and South Atlantic bluefin tuna). The status of four species under ICCAT's purview was unknown (skipjack tuna, sailfish, spearfish, and Mediterranean swordfish) and just three stocks were still considered healthy (yellowfin tuna, southern albacore, south Atlantic swordfish).

PROBLEMS FACING MARLIN AND OTHER ICCAT SPECIES

The decline of marlin and other ocean giants is directly attributable to rampant overfishing. Put in simplest terms, these species have been, and many continue to be, caught and killed faster than they can reproduce. The Atlantic-wide overfishing, which is negatively affecting U.S. commercial and recreational fishing fleets, is the result of a number of factors including:

ICCAT member nations reject scientific management recommendations

Short-term economic interests of fishing fleets of various nations frequently prevent ICCAT members from accepting management recommendations made by ICCAT's scientific committee when those recommendations might result in reduced economic opportunities. Massive European subsidies of more than one billion dollars annually contribute to and sustain political pressure for national delegations to bring home more fish no matter the cost to the environment.

For example, in 2001, the European Community (EC) refused to accept clear and unequivocal scientific advice indicating that a quota of 25,000 MT or less is necessary to halt the decline of East Atlantic and Mediterranean bluefin tuna. The EC demanded a quota (33,925 MT) 35% above scientific recommendations (25,000 MT) on a stock that is estimated to stand at just 19% of 1970's levels.[1] In 2001, the Europeans did not object to the scientific recommendation of 25,000 MT or less based on scientific grounds, but rather that at that level, there were not enough bluefin tuna to divide among the nations that fish on these stocks. Economic hardship for domestic fishing interests was the driver behind the EC's unacceptable position. The United States admirably rejected the EC proposal, but unfortunately, the meeting ended deadlocked with no formal quota being established for eastern and Mediterranean bluefin tuna.

Non-compliance with ICCAT recommendations and lack of consequences

Non-compliance with ICCAT conservation recommendations and basic membership obligations by member and non-member states contributes to overfishing and prevents or retards recovery of depleted species. Non-compliance includes, among other things, exceeding catch quotas, landing undersized fish, and the failure of states to submit accurate data in a timely manner. The lack of consequences for non-compliance in all but a handful of examples contributes to ongoing and repeated violations of ICCAT recommendations and undermines data collection schemes.

Recent examples of non-compliance include:

1995–1998—Spain and Portugal exceed undersized swordfish fish tolerance by two and three times legal limit.

1999—Forty Percent of contracting parties reporting white marline landings exceed white marlin catch limits.

More than one-third of contracting parties reporting blue marlin landings exceed blue marlin catch limits

2000—One-third of contracting parties reporting white marlin landings exceed white marlin catch limits.

Thirty one percent of contracting parties reporting blue marlin landings exceed blue marlin catch limits.

[1] However, no population assessment has been conducted for eastern Atlantic and Mediterranean bluefin since the mid–1990s because nations fishing on these stocks repeatedly failed to report the necessary data in time.

1999–2001—The United States was in violation of ICCAT Compliance Recommendation 97–12 regarding satellite-based vessel monitoring systems from 1999–2001.

2001—The vast majority of contracting parties failed to meet the most basic obligations for providing data. Only six contracting parties, including the U.S., submitted their reporting tables on time, and of these only four reported on minimum size requirements.

In none of these cases was punitive action taken.

As ICCAT attempts to address non-compliance, states seek to avoid penalties by non-reporting, or filing false reports. Each year compliance tables are increasingly blank or report zero catch landed for nations with histories of non-compliance. Despite numerous violations by many nations, only non-contracting parties and Equatorial Guinea have been singled out for punishment. In most of these cases, the imposition of a ban on the importation of tuna products from these states was enough to result in corrective action being taken by the offending nation. This demonstrates that when multilateral enforcement mechanisms are applied, compliance with ICCAT conservation measures is the result. However, the general lack of consequences for nations violating ICCAT recommendations contributes to repeated violations. Punishment is the exception rather than the rule, and this allows the rewards for cheating putting illegal fish into the market stream'to substantially outweigh the consequences. Illegal fish in the market stream disadvantage U.S. fishermen and undermine conservation. Passage of H. Con. Res. 427 can demonstrate U.S. resolve on compliance issues.

3) Bycatch

The largest threat to the survival of marlin is bycatch'the catching and killing of non-target and or undersized species during fishing operations not inappropriate regulation or non-compliance. Marlin are usually caught as bycatch in the directed commercial fishery for swordfish and tunas. No nation's commercial fleet intentionally targets Atlantic white or blue marlin. As such, new approaches to reducing marlin bycatch must be applied. While no single mechanism can rebuild marlin, we believe that the best available mechanism to limit marlin mortality and halt their precipitous decline is to identify marlin bycatch hotspots and close those areas to commercial fishing activities during periods of highest bycatch.

The United States has begun to utilize area closures to reduce bycatch in HMS fisheries. Recently implemented domestic time and area closures intended to reduce swordfish bycatch appear to have decreased dead discards by roughly 40 percent in the pelagic longline fishery.[2] For the U.S. fishery alone, this means that roughly 10,000 to 15,000 fewer undersized North Atlantic swordfish are discarded dead every year (using 30 and 40 lbs average weight). The technique has also worked well to reduce bluefin tuna discards. The National Marine Fisheries Service (NMFS) has concluded that an annual one month (June) closure of the Mid–Atlantic Bight to pelagic longlines is effective at reducing bluefin tuna discards, while not reducing overall landings. A comparison of discards in the area for the two years preceding the annual June closure with discards in the area for the first two years of implementation indicates a decline in discards of 84 percent. While there is strong evidence that area closures can be effective in reducing discards, it is too early to eliminate other regulations intended to reduce mortality of small fish such as minimum size restrictions.

4) Illegal Unreported, Unregulated Fishing (IUU fishing)

IUU fishing poses a tremendous threat to the sustainability of fish populations and legitimate fishing interests in the Atlantic and around the globe. ICCAT estimates that the IUU fleet fishing for Atlantic highly migratory species is now approaching the size of the legitimate ICCAT sanctioned fleet. It is my understanding that Japan has identified more than 330 IUU vessels fishing the high seas. The uncontrolled mortality inflicted by the IUU fleet grossly undermines the effectiveness of ICCAT conservation measures and must be dealt with quickly and effectively. ICCAT is addressing this issue by identifying these vessels and placing them on a "black list", developing fish tracking mechanisms to avoid purchasing from IUU vessels, working with nations to discourage the registry of flag of convenience vessels by ICCAT member nations, and developing a "white list a list of properly documented vessels registered with ICCAT. The United States should continue to do all it can to put an end to IUU fishing.

[2] This is preliminary data based on only one year of data. Effectiveness may be shown to vary in future years.

SOLUTIONS

There is no single solution to the problems facing marlin and the other highly migratory species that ICCAT manages. Most problems will have to be solved through multilateral agreements and actions given the nature of the fisheries under discussion. However, appropriate unilateral actions may, in some cases, contribute to improved compliance. We believe that H. Con. Res. 427 can help move ICCAT member nations toward improved compliance with ICCAT conservation recommendations by sending a strong message that healthy fish stocks and robust fisheries are a national priority.

H. CON. RES 427

We support H. Con. Res. 427, but believe it can be made more effective and should be broadened in scope.

Resolution 1)

We support the sprit and intent of resolution one, but believe it should be amended to reflect additional priorities. In our opinion, establishment of large-scale commercial time and area closures to reduce marlin bycatch and continuation of the international rebuilding plan for North Atlantic swordfish and should share equal priority with the general goal of marlin conservation expressed in resolution number one.

As the committee has heard, the population of Atlantic white marlin is collapsing. To try and slow its collapse, ICCAT, led by the U.S. in 2000, adopted a mortality reduction plan for white and blue marlin. This plan requires a 67% reduction and 50% reduction in mortality, respectively, over previous levels (1996). The 2000 recommendation also requires that rebuilding plans for white and blue marlin be established at the 2002 meeting.[3] Although a new population assessment has been done for white marlin, it has not been finalized by ICCAT's scientific committee. Because only one year of data will be available at the reduced mortality levels stipulated by the 2000 recommendation, it will be difficult if not impossible to judge the effectiveness of those measures. While we want marlin rebuilding plans established as soon as possible, it seems unlikely that a rebuilding plan can be established this year with the limited new data available on white marlin. Therefore, at the very least the U.S. should ensure that (1) mortality levels do NOT increase during the next few years while additional data are collected, and (2) progress is made on identifying and establishing bycatch hot spot closures in the Atlantic. Collection and examination of marlin bycatch data to identify appropriate areas for closure to commercial fishing activities is essential to saving marlin. There is no debate that international time and area closures will have to be part of any rebuilding plan for marlin. As such, we recommend that the committee amend H. Con. Res. 427 to make it a priority for the U.S. delegation to establish international time and area closures to longline fishing in areas where, and during times when, marlin bycatch is highest.

In 1999, North Atlantic swordfish populations stood at levels capable of supporting only 58% of the maximum sustainable catch (MSC). At that time, ICCAT adopted an U.S. sponsored 10-year rebuilding plan for North Atlantic swordfish, however, the agreement established specifics for only the first three years. During the 2002 ICCAT meeting (October 28th–Nov 4th) the next phase of the rebuilding plan must be negotiated. The assessment for North Atlantic swordfish has just been completed, and it appears to have made a dramatic recovery. Modeling shows that populations have recovered to more than 90 percent of healthy levels. It should be understood that these results have broad confidence intervals, so the actual recovery may be somewhat less robust. It is important to know that the North Atlantic swordfish rebuilding plan contained strict penalties for non-compliance, which were generally complied with, as suggested in HCR 427's fourth resolution.

This remarkable recovery demonstrates that when legitimate scientific advice is adhered to, and nations comply with appropriate conservation recommendations, fisheries management can work. This success should strengthen our resolve to improve compliance.

With continued diligence, North Atlantic swordfish can be fully rebuilt in the next few years, bringing with it improved catches for U.S. commercial and recreational fishermen. As swordfish populations rebuild, now is not the time to allow excessive increases in catch that could jeopardize the rebuilding schedule. Any increase in the total allowable catch agreed to by ICCAT this year should be used to offset existing

[3] A subsequent recommendation adopted by ICCAT in 2001 delayed the development of a rebuilding plan for blue marlin beyond 2002.

problems and provide quota to nations newly entering ICCAT (Mexico), rather than being used as a general increase for all fishing nations. Because it appears that full recovery may be possible in less than ten years with no further sacrifices, we recommend that the committee amend H. Con. Res. 427 to make it a top priority for the U.S. delegation to ensure the continuation of the swordfish rebuilding plan until recovery is complete in 2009, or before.

Resolution 2)

We fully support the second resolution and all efforts to end illegal unregulated and unreported fishing. We recommend that resolution two be broadened to specifically include all species, while maintaining an emphasis on marlin.

Resolution 3)

We fully support the third resolution and agree that all appropriate diplomatic mechanisms, relevant international laws and agreements, and other appropriate mechanisms should be used to ensure compliance with ICCAT conservation recommendations for all species under its jurisdiction.

Resolution 4)

We fully support resolution four and agree that the Commission should make the inclusion of enforcement mechanisms an integral part of all conservation recommendations for all species.

Resolution 5)

We fully support the spirit and intent of resolution five, but believe it should be amended to1) promote flexibility in the imposition of trade sanctions by requiring the Secretary to build a record of non-compliance to support trade actions,2) recommend that the Secretaries of Commerce and State identify those nations fishing in a manner that undermines ICCAT conservation mandates in their annual report to Congress, and 3) recommend that the U.S. ICCAT delegation pursue multilateral agreements and compliance recommendations through ICCAT with renewed vigor.

While the need to conserve many Atlantic highly migratory species is urgent, the U.S. must be careful in reacting to apparent non-compliance. There are many scenarios that can result in inadvertent "non-compliance" in a given year, particularly with regard to the implementation of new conservation recommendations. The United States must be careful not to punish those states that sporadically and unintentionally fail to comply with a particular ICCAT conservation recommendation. Rather, the U.S. should focus on documenting and punishing those states which demonstrate a pattern of non-compliance with conservation regulations that undermine effectiveness of ICCAT.

The committee should be aware that if other nations adopt policies similar to those detailed in H. Con. Res. 427, the U.S. would have been vulnerable to trade sanctions since 1997. The U.S. has been out of, and may still be out of compliance with ICCAT Recommendation 96–1 on yellowfin and bigeye tunas. This recommendation entered into force in August 1997 and requires a minimum of five percent observer coverage for all longline trips targeting yellowfin and bigeye tuna. Between 1997 and 2001, the observer coverage on U.S. pelagic longline vessels ranged from 3.1% to 4.2%, never complying with the recommendation. While this violation has less severe conservation consequences than most of those discussed today, it ostensibly makes the United States vulnerable to retaliatory actions.

The resolution appropriately directs the Secretaries of Commerce and State to exercise their authority as established under ATCA. As the Committee is aware, ATCA authorizes the Secretary of Commerce, with the concurrence of the Secretary of State, to prohibit the importation of fish regulated by ICCAT from a country whose fishing vessels are fishing in the Convention area in a manner that diminishes the effectiveness of ICCAT's recommendations. It further allows the Secretary to prohibit entry into the U.S. of fish in any form of those species subject to ICCAT regulation which were taken in such a manner or circumstance that would tend to diminish the effectiveness of the conservation recommendations of the commission.

ATCA further requires that the Secretary of Commerce identify annually those nations whose fishing vessels are fishing or have fished in the previous calendar year in a manner that diminishes the effectiveness of a conservation recommendation. To the best of my knowledge, this has never happened. We believe that ATCA provides the tools necessary to enhance compliance with ICCAT recommendations, should the Administration have the political will to act.

Despite the best efforts of the United States now and in the future, we must remember that this is an international problem that requires an international solution. The United States cannot prevent overfishing or rebuild marlin, swordfish, or tunas on its own. The U.S. can and should become more diligent in documenting

non-compliance and identifying nations that fish in a manner that undermines the effectiveness of ICCAT, however, we must also continue to pursue multilateral agreements and internationally sanctioned compliance recommendations if we are to save marlin and other species.

We believe H. Con. Res. 427 should be amended to urge the Secretary of Commerce to attend the upcoming ICCAT meeting. Attendance by such a high level Bush Administration official would send a clear and unequivocal message to ICCAT members nations that healthy fish stocks and fishing industries are a priority for the United States.

CONCLUSION

In conclusion, we support the spirit and intent of H. Con. Res. 427, as well as much of its specific language. We believe that amending the resolution to include the following points would add significantly to its message to ICCAT member nations:

1) identification and implementation of international time and area closures to longline fishing in areas where, and during times when, marlin bycatch is highest should be a top priority for the U.S. delegation;
2) ensuring the continuation of the swordfish rebuilding plan until recovery is complete in 2009, or before, should be a top priority of the U.S. delegation
3) broadening recommendations pertaining to ending IUU fishing to include all ICCAT species, while maintaining an emphasis on marlin;
4) a) promoting flexibility in the imposition of trade sanctions by requiring the Secretary to build a record of non-compliance to support trade actions, b) recommending that the Secretaries of Commerce and State identify those nations fishing in a manner that undermines ICCAT conservation mandates in their annual report to Congress, and c) recommending that the U.S.ICCAT delegation pursue multilateral agreements and compliance recommendations through ICCAT with renewed vigor; and
5) urge the Secretary of Commerce to attend the 2002 Regular meeting of ICCAT.

ICCAT has, through its actions, demonstrated that it is less than fully capable of achieving its conservation mandates. The United States has provided leadership on conservation and compliance issues through unilateral actions and pressing for multilateral enforcement mechanisms and should continue to do so. While H. Con. Res. 427 will not by itself solve the problems facing Atlantic HMS, the strong message that it sends on behalf of the United States Congress regarding the seriousness with which this nation views fishery issues is an important step in the right direction. Thank you for allowing me the opportunity to testify on this important issue.

Mr. GILCHREST. I think someone from the administration is here to take that message back to the Secretary for the Secretary to attend ICCAT. That might be a good idea. I don't know if that has been a recommendation or if he in fact intends to attend the meeting, but that would, I guess, send a pretty strong signal.

The basic purpose of this hearing was to determine whether or not this resolution would give the U.S. delegation some leverage in their discussion with the ICCAT members.

On the one hand, I think we certainly have an understanding from the first panel and the second panel that the rewriting of the resolution to be more broad seems to be a unanimous feeling among the witnesses. But I know we have covered a lot of ground and there is differences of opinions on a lot of things, depending on whether you are from the commercial or recreational background, what we as a Congress have or have not done in the past and what little this resolution might do considering the magnitude of the problem.

So we have listened to all that, we have taken it into consideration, and we have been dealing with that over the past few years as far as reauthorization of the Magnuson Act is concerned.

I will say that some of the language of the Senate draft, because of the House rules, won't work over here. We are meeting with

them—we continue to meet with them to try to come up with a Magnuson Act that not only deals with the domestic problems but with the international problems as well.

I guess I would like to hear from any of you that would like to give us your opinion as to whether we should pursue this resolution that deals with trade sanctions? And I am going to tell you now that the final draft will not just include a priority with white marlin. It will be a much broader resolution that will deal with the management of the problems with bluefin tuna and other species and overfishing. But in your opinion is it worth pursuing and how would you change the language, what would your specific recommendation be?

Anybody want to take a crack at that? Mr. Hemilright.

Mr. HEMILRIGHT. As we look back over the last few years, when we go to ICCAT, every year the U.S. will gain something for conservation, while at the same time compared to other countries, we lose something. In this resolution, anything that would strengthen wherethe U.S., both recreationally and commercially has given up, in the name of conservation, anything that would strengthen our position to make all these other countries follow the same rules that we have to, I think would be very—would be very good, and it also should include all the base tunas, anything that we have that is at ICCAT, because the U.S. has taken it on the chin real hard for stuff when we go over there for our conservation message, and we build these stocks. We can't do this alone. We are a minute player.

And I also thank the Congress and this Committee for looking at this issue, because it is about time. When we go over to ICCAT, let us come home with something for U.S. Fishermen, both recreational and commercial, and say, hey, y'all boys are doing a good job, and a pat on the back instead of always we look at—for instance, the European Union a year ago had 15,000 metric tons over their quota. And we come back to our citizens and say we are glad the reporting process works. Anything that would strengthen what we have been doing for conservation measures would be great from my point, and I think would be a plus for U.S. citizens.

Mr. GILCHREST. Thank you. That is an excellent recommendation, Mr. Hemilright.

Mr. Motsko.

Mr. MOTSKO. I think we ought to pursue the resolution maybe with some word changes, as you suggested, to maybe have specifically the highly migratory species, including white marlin. Most countries do not really view marlin as a target fish, and if we do not even include that name, it may be overlooked. So we could include the bluefin tuna, swordfish, and white and blue marlin also. But I think they each should be mentioned.

Mr. GILCHREST. All right. Thank you. Another good idea.

Mr. Dunn.

Mr. DUNN. Yeah. I would concur with that because marlin is not a really important commercial species. Broadening it to include all ICCAT species, but maintaining an emphasis on marlin is certainly appropriate.

With regard to pursuing the resolution, I would say certainly the answer is yes, that anything which can help raise the profile of

compliance issues and signify U.S. resolve on the issue is totally appropriate. And that is why we are supportive of not only congressional action, but the actions by private entities such as the 301 petition. And I have heard rumors of a Pelly petition action that is up coming as well. So I would certainly encourage you to do so.

Mr. GILCHREST. Thank you very much.

Ms. Johnson.

Ms. JOHNSON. Thank you.

The trade part of this that goes along with the hard work done at ICCAT to get any multinational kinds of things in there for trade, that is what works. It has to be things that the other countries agree to, and they have. Nobody wants to be seen as the conduit for bad things happening. And as long as we are going along with the other countries, you know, they are all agreeing this is no good to bring in illegal fish; don't want to be seen that way. Let's do it.

And I like Mr. Motsko's idea. I think all the fish should be named so that there is no disbelief at all.

Thank you.

Mr. GILCHREST. No ambiguity.

Ms. JOHNSON. Right. That is the word.

Mr. GILCHREST. Thank you.

Mr. Weber.

Mr. WEBER. Not quite full dissent, but hear me out.

Mr. GILCHREST. Yes.

Mr. WEBER. Of all the species that are under ICCAT's purview, white marlin are the worst off. I am afraid of losing my marlin back into the pile again. Everything that you have said about controlling IUU I am fully in favor of. I have no—nothing at all against including all of them, and let's get the unfair and illegal competition off these people's back. It should not be there, and we need to control it.

To take the most damaged population and lump it back in so it will become amalgamated in again concerns me. There is a reason that you were acting on white marlin at first. You were concerned about that population. You know, it brought up very good issues that I am very glad that these people have had a chance to express, and I am supportive of everything that they have brought up, but let's be careful not to lose white marlin back again as part of, "oh, that is part of HMS, and we are doing something about all of HMS."

Mr. GILCHREST. Very good. Thank you, Mr. Weber.

Mr. Saxton.

Mr. SAXTON. First of all, congratulations on having the idea to introduce this resolution, and I am very pleased to have been able to cosponsor it with you. And I hope that, frankly, a resolution like this should be fairly easy to get out of the full Committee, if we have another full Committee markup, and it should be fairly easy to get to the floor because it is not, I don't believe, controversial, and we should be able to move quite rapidly.

I would just like to comment on, Mr. Hemilright, after you made the recommendation or told us what you think is going to be in the Senate bill, I asked our learned staff why don't we do that. And I was quickly informed that due to the fact that it is a trade issue,

it would then be referred to the Ways and Means Committee, which is kind of like going into a deep, dark hole.

And we might try to find a way to pursue something like that, because I think it is certainly a great approach and would certainly put some economic incentive for people to change their behavior, and I think that would be a great idea.

There have been so many hearings and so many questions and conversations held relative to this subject. I am not quite sure what kind of questions I could ask beyond what has been said, but let me just—let me just inquire with Mr. Dunn, if I may.

Mr. Dunn, I assume that there is broad recognition and a whole variety of organizations that you are associated with from time to time on one issue or another, on this resolution, that broad support in the environmental community for it?

Mr. DUNN. I think that is an accurate statement, yes.

Mr. SAXTON. OK. And what is your take on other species that Mr. Gilchrest and Mr. Weber just had the conversation about?

Ms. DUNN. On including them in the resolution?

Mr. SAXTON. Other species, yeah.

Mr. DUNN. I believe that the resolution should be broadened out to urge better compliance, improve compliance for all the species. But I agree for the reasons I stated before that white marlin should—or marlin, both blue and white, should retain a particular emphasis. A number of the other species are in bad shape, and in my written testimony I note the number of species. I document each of the species which is overfished, and it is actually literally the majority of ICCAT species are considered overfished. There were eight overfished. Four species had—their population size was unknown, and 3 of 15 were considered healthy. So you have 8 of 15 overfished, four unknown and three healthy. For a 40-year management period, that is a pretty poor record.

Mr. SAXTON. Are any species overfished to the extent of the white marlin?

Ms. DUNN. No.

Mr. SAXTON. Maybe that was the wrong way of asking that question. Has the biomass of any species decreased to the same magnitude as white marlin?

Mr. DUNN. Depending on which population assessment you follow with regard to the western stock of bluefin tuna, the western bluefin tuna at one point was down, I believe, around 13 percent. It is now believed to be at the lower end estimate, at about 19 percent. So it is bumping along the bottom, but not quite in as severe shape. The big difference there, right now, is the fishing mortality level on marlin. My understanding is in the new assessment, the fishing mortality rate is about eight times that which the population can actually withstand, and with bluefin tuna, it is much closer to the appropriate level. I am not quite sure. I haven't seen the new bluefin tuna assessment, but it is a much lower rate.

Mr. SAXTON. One of my favorite—one of my least favorite charts. It is not my favorite chart. This is one of my least favorite charts, shows the population trend of the white marlin. On this end, in the 1950's and up until the very early 1960's, the biomass was 30,000 metric tons. Is that what that is? Over 30,000 metric tons, and we are now down to approximately 3,000 metric tons. And frankly,

when I saw this, that is when I got all excited about white marlin. And I saw this before the consideration was given to listing them under the Endangered Species Act.

And so, Mr. Chairman, I think we ought to pay attention to all species, but there are simply no other—there is simply no other species that is in this kind of shape that have experienced this kind of continued decline in population. And so I think we ought to maybe talk a little bit further about whether we ought to broaden this out. I am not sure how I feel about it overall, but anyway, that is just a general feeling on that topic.

As all of you know, we have had a variety of approaches to try to save the white marlin, and as somebody pointed out, I can remember back when I was in the State legislature my predecessor Ed Forsythe coming home to a Lincoln Day dinner and making a speech about how hard he, and it must have been Chairman Magnuson at that time, had worked to put into place the 200-mile fishing limit. And they were absolutely elated because that was an attempt that finally everybody in this country agreed on that was going to begin to turn this problem around before it got anywhere near to the extent that it is now.

And then later other conservation efforts were made through ICCAT and other international actions. Of course, when this situation began to worsen, we tried negotiations between the various parties to come up with legislation that everybody could live with and almost got there 3 years ago. But it was late in the session when we finally got there. It involved the same rolling closures that are in the legislation that was currently reported from the Resources full Committee, the two rolling closures in the mid-Atlantic and some others that were actually negotiated back then with the good help of Mr. Hayes and others.

But we continue to try to find an answer to the problem that is demonstrated by this chart, and so far we haven't done it. And so I know that there are lots of frustrated people. Longliners are frustrated, I am frustrated, Rick Weber is frustrated, because he sees tragedy around the road, down the road in this fishery, and yet we have been unable to find a solution. So I hope that we will be able to move forward together in some fashion.

Mr. Chairman, I used to be in business, and we always used to say no problem is too big to solve, but this one has eluded us so far. And I will continue my efforts to try to work with all parties to find a solution. Dave Whaley from the Subcommittee staff and I were just talking about Magnuson-Stevens on the Senate side, and given the time of the year and the lateness in the session and the position of the bill in the Senate, I don't think it is going anywhere. So we are going to be back here in January starting all over again. So it is frustrating.

But thank you all for being here. And, Mr. Weber, you all are very articulate and expressed your points of view very well, and we thank you all for that.

Mr. GILCHREST. Thank you, Mr. Saxton.

Is there any other comment that any of the witnesses want to leave with us, some nugget of wisdom that we might take with us? I will go to ladies first, Mr. Dunn.

Ms. Johnson, the lady from Maine.

Ms. JOHNSON. Thank you. Mr. Saxton was talking about domestic measures, I believe, looking at a chart with—that was from an international problem. And I know we are supposed to be talking about Resolution No. 427, but I have to answer him back and say that we longliners are really very restricted in where we can go, and if you put in the rolling closures, which, of course, are about the same time when the swordfish are there, and we need to catch tuna, too—you have to keep in mind that not everybody who wants to eat the fish will go get them, and if we buy them from the other countries, we may be just supporting the thing that we are trying not to support. So keep us in mind, please. Thanks.

Mr. GILCHREST. Thank you, Ms. Johnson.

Mr. Dunn.

Ms. DUNN. Just want to make one comment about the longlining industry, and this is in no way supposed to detract from the recreational efforts, but the longlining industry has really been instrumental in the last few years at ICCAT in achieving really major conservation gains in terms of both securing the swordfish rebuilding plan as well as getting the marlin mortality reduction plan put in place in 2000. That is 1999 for swordfish and 2000 for the marlin, and they deserve a lot of credit. They have given up a lot, and without their either acquiescence or active involvement in achieving those conservation measures, they really wouldn't have happened.

So, as a conservation advocate, I spend much time doing battle with the longline industry, but they do deserve some real recognition for their efforts at ICCAT.

Mr. GILCHREST. Thank you very much, Mr. Dunn. And like Jim said, we have been through a lot of hearings dealing with fisheries issues, and I want to tell you, this has been, in my judgment, based on your testimony and your feelings toward what you do, this has been the best hearing I have had on fisheries issues. And it is because of what you believe in, and you put your heart and your mind into this issue, and it shows. And so we will very seriously take into consideration all of your recommendations. And hope for the future, since I think Mr. Weber talked about optimism and the future, is that we will connect with the international communities so nature's bounty will thrive, and all of you will be able to make a good living and continue to make a contribution.

Thank you all very much. The hearing is adjourned.

[Whereupon, at 5:15 p.m., the Subcommittee was adjourned.]

[Information submitted for the record follows:]

World Wildlife Fund-Press Statement

Recreational Fishing and Conservation Groups Join Forces To Protect Vulnerable Atlantic Marlin and BluefinTuna Congress Urged to Address European Fishing Industry Non–Compliance

WASHINGTON, D.C. (26 SEPTEMBER 2002) - World Wildlife Fund (WWF) and the Recreational Fishing Alliance (RFA) today announced their support for legislation to enforce trade sanctions against nations that fail to comply with international regulations to conserve and manage depleted stocks of Atlantic marlin and bluefin tuna. This announcement came as a prelude to today's hearing at the House Resources Subcommittee on Fisheries, Wildlife and Oceans.

House Congressional Resolution 427, a bill to enforce compliance with Atlantic marlin fishing regulations adopted by the International Commission for the Conservation of Atlantic Tuna (ICCAT), was introduced in Congress by Representatives

Wayne Gilchrist of Maryland, Walter Jones of North Carolina, and Jim Saxton of New Jersey.

"U.S. recreational and commercial fishing organizations have considered ICCAT non-compliance in Europe a problem for years and, in partnership with WWF, we are tackling this issue head on," said James A Donofrio, RFA Executive Director.

The RFA announced that it has asked the Office of the United States Trade Representative to investigate illegal practices of the European Union (EU) that are injuring Atlantic stocks of blue and white marlin, bluefin tuna and swordfish. Under Section 301 of the Trade Act of 1974, the President would be required to impose trade sanctions if it is determined that the EU has acted unlawfully. The RFA petition, which was submitted by Bart S. Fisher of Bryan Cave LLP, Counsel for RFA, has been endorsed by the General Category Tuna Association, which represents the commercial tuna fishing industry.

Both WWF and RFA report that the EU is exceeding catch limits for Atlantic white marlin and Atlantic bluefin tuna, and has refused to take steps to protect juvenile fish. In addition, the RFA petition points out that the EU has provided illegal subsidies to its fishing industry through its Common Fisheries Policy (CFP) that violate international trade agreements.

"The EU needs to meet its international obligations. Despite ICCAT's recommendations that white marlin landings be reduced to 67 percent of 1999 landing levels, the EU has increased its white marlin landings from 77 metric tons in 1999 to 193 metric tons in 2000," said Tom Grasso, Director of Marine Conservation Policy at WWF.

"Even more disturbing have been the EU failures to enforce the binding ICCAT recommendations related to the catch of juvenile bluefin tuna, with a 1999 TRAFFIC report revealing that 83 percent of the bluefin landed from the Mediterranean, and 51% from the Atlantic, were undersized ," added Grasso.

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