

**THE INTERNATIONAL ASPECTS
OF FISH AND WILDLIFE CON-
SERVATION AND MANAGE-
MENT ACTIVITIES**

OVERSIGHT HEARING

BEFORE THE
SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE AND OCEANS

OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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OVERSIGHT HEARING ON THE INTERNATIONAL ASPECTS OF FISH AND WILDLIFE CONSERVATION AND MANAGEMENT ACTIVITIES.

Thursday, April 29, 2004
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:07 a.m., in Room 1324, Longworth House Office Building, Hon. Wayne T. Gilchrest [Chairman of the Subcommittee] presiding.

Present: Representatives Gilchrest, Saxton, Pallone and Bordallo.

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

Mr. GILCHREST. The Subcommittee will come to order. Thank you very much for coming and being on time this morning. We try to be punctual, and I apologize for being a little bit late. We look forward to your testimony this morning on the international agreements.

I will ask that my full statement be submitted for the record and I will just make a few comments before we begin.

The international agreements that the U.S. has over the years become involved with, from my perspective, are vital and important. The exchange of information between different countries and different peoples, different cultures, about sustaining the planet's resources are fundamental to being human, and they're fundamental to adjudicating some of these more conflicting issues between nations. They are fundamental to conservation and they are fundamental to consequences.

So we would like to hear your input this morning on these agreements, on the dollar amounts that are appropriated for these different commissions, and whether or not some of these commissions, because of some of the discussions recently in Congress about how many there are and how much they cost, if some of these commissions couldn't be consolidated, especially in the North Atlantic and in the North Pacific between the United States and Canada, and maybe a few other countries.

We look forward to your testimony this morning, and we want to be a part of this ongoing process of recognizing the importance of the world's oceans.

[The prepared statement of Mr. Gilchrest follows:]

Statement of The Honorable Wayne Gilchrest, a Representative in Congress from the State of Maryland

Good morning. I would like to welcome our witnesses.

The United States is a member of many international fish and wildlife conservation and management organizations. The purpose of these international organizations is to ensure that all of the nations which make use of the ocean's resources do so in a sustainable manner.

As we have heard at a number of hearings over the past few years, the United States has been a world leader in conservation activities. We have implemented many conservation measures domestically; however, for those species that span many international boundaries, we cannot do the job alone.

At a recent hearing on Atlantic tuna conservation activities and white marlin recovery efforts, we heard that the United States represents only about five percent of the total world's catch of marlin and the conservation measures that we have enacted domestically could not achieve the rebuilding targets without international cooperation.

Our domestic efforts alone cannot get us to the recovery level that we need for Atlantic marlin species. The United States delegation has continued to push for binding catch limits and trade sanctions against those nations that do not adhere to the international conservation measures. That is not only commendable, but the only way we will achieve conservation for this important fishery.

In addition, the United States has developed new fishing technologies that will reduce turtle bycatch in longline fisheries by up to 95 percent. This was originally tested on the East Coast and is now being used in West Coast fisheries. As we further refine this new gear configuration and see promising results, we are now also encouraging other countries to adopt this new gear to help reduce turtle mortality around the world. This is the type of leadership that we need to continue at all of these international meetings.

The topic of today's hearing is the international aspect of United States fish and wildlife conservation and management activities. This is an opportunity for Members of this Subcommittee to hear more about the challenges that we face in the future at these international meetings and the successes that we have achieved in the recent past.

The United States needs to be an active part of the international conservation and management community and needs to honor its commitments to the international organizations that it is a party to. In addition, we need to continue to lead the world in developing new conservation and management agreements before fishery resources become depleted. It is much easier to allocate and manage a healthy fishery than to try to force cuts on the international fishing fleets that rely on the resource after the resource has dwindled.

I look forward to hearing more about some of the upcoming meetings that the U.S. will be attending including the International Whaling Commission and CITES. I hope we will hear testimony on what issues the Administration will be working on in the months leading up to these meetings. I look forward to this Subcommittee, and Congress in general, taking part in the discussions leading up to the final U.S. positions for these meetings. In particular, I look forward to the U.S. hosting the next meeting of the International Commission for the Conservation of Atlantic Tunas in New Orleans in November.

I yield to the Ranking Member, Mr. Pallone, for any opening statement he may have.

Mr. GILCHREST. I will yield now to the gentleman from New Jersey, Mr. Pallone, for any statement he may have.

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

Mr. PALLONE. Thank you, Mr. Chairman.

Today's hearing on the status of U.S. participation in various international fisheries and wildlife treaties is timely, in light of the U.S. Commission on Ocean Policy's preliminary report to the Governors released just last week. In fact, on Monday night of this week, we had a forum in my district in conjunction with our State Department of Environmental Protection on the Ocean Policy's recommendations.

This Subcommittee will soon consider many of the recommendations in the Commission's report, more specifically, the recommendations on how the U.S. will help govern the oceans with our international partners.

One of the cross-cutting recommendations of the Commission's report was the application of ecosystem-based strategies for the management of our Nation's natural ocean resources. The Commission also notes the importance in how the U.S. and our international partners govern resources of global significance, because after all, the ultimate eco-system is the Earth and many of the resources on the planet, both living and nonliving, do not conform to jurisdictional boundaries created by humans.

Mr. Chairman, the U.S. has been and continues to be a leader in looking beyond borders to ensure the survival of so many of the world's greatest natural living resources. One example of the U.S. commitment to global conservation is H.R. 3378, the Marine Sea Turtle Conservation Act, which just last week was reported out of the Subcommittee by unanimous vote.

Conservation programs such as this have been instrumental in leveraging tens of millions of non-Federal matching funds and in forging alliances with our domestic and international partners and stakeholders. They are examples of how a small investment can make a profound difference in global conservation and management efforts.

The U.S. also participates under numerous international agreements, conventions and commissions which oversee the conservation and management of commercially valuable species. Some of these commissions include the International Commission for the Conservation of Atlantic Tunas, ICCAT, and the International American Tropical Tuna Commission.

I just want to say that I continue to be a strong supporter of our participation in these intergovernmental organizations. However, I am concerned by the lack of full funding to support them, which has also been a major issue in the U.S. Ocean Commission's report, as well as I'm concerned about these recent allegations of observer bribery in the Eastern Tropical Pacific Commercial Tuna Fishery.

To illustrate these points, consider that the Fiscal Year 2003 and 2004 appropriations for international fisheries commissions was \$3.5 million less than what was requested by the Bush Administration. The lack of full funding jeopardizes the commitments we have made to the international community to support global conservation and management efforts, and puts our domestic fishermen's livelihoods on the line.

Furthermore, I am troubled by an article in yesterday's San Francisco Chronicle that reports widespread bribery of tuna boat observers in the ETP tuna fishery, many of whom are under the authority of the IATTC, in exchange for the falsification of marine

mammal bycatch data. Because of these current events, I would encourage the Congress to take heed of the recent recommendations of the U.S. Commission on Ocean Policy and work hard to secure sufficient funding and to increase the integrity of these commissions.

Thanks a lot, Mr. Chairman. I look forward to the witnesses.

Mr. GILCHREST. Thank you, Mr. Pallone.

The other gentleman from New Jersey, Mr. Saxton.

Mr. SAXTON. Mr. Chairman, I have an opening statement and I will just ask unanimous consent to have it included in the record.

Mr. GILCHREST. Without objection.

[The prepared statement of Mr. Saxton follows:]

**Statement of The Honorable Jim Saxton, a Representative in Congress
from the State of New Jersey**

Good morning Mr. Chairman, and members of the subcommittee. I am pleased to be here today to talk about a number of issues related to the conservation of our natural resources. I appreciate the witnesses taking time out of their schedules to be with us today.

The issues surrounding the activities of managing fish and wildlife domestically are challenging, and when you move that into the international arena, they become much more difficult. The United States is a signatory to numerous bilateral and multilateral treaties, as well as a participant in numerous conventions and commissions, regarding the conservation and management of fish and wildlife.

One of these commissions, the International Commission for the Conservation of Atlantic Tunas, or ICCAT, is one which I believe needs to be closely examined and perhaps modified. Though the Commissioners who represent the United States during these annual meetings and negotiations do a tremendous job of ensuring the quotas are fair and balanced, it is many of the other countries, including Japan and Spain, that are not playing by the rules and adhering to the numbers worked out every year.

For this reason, last summer, I along with on which Mr. Gilchrest, Mr. Faleomavaega and Mr. Pallone, introduced House Concurrent Resolution 268, which passed out of this Committee and then was passed by the Full House on October 28, 2003. This resolution expresses the sense of Congress regarding the imposition of trade sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic marlin adopted by the International Convention for the Conservation of Atlantic Tunas (ICCAT) and that are threatening the continued viability of United States commercial and recreational fisheries.

Several hearings have been held prior to this one to examine these issues, and it is my hope we can examine them further and hopefully draw some conclusions as to how we ought to proceed. One of the most pressing issues which ICCAT is currently dealing with is illegal, unreported, and unregulated (IUU) fishing with respect to Atlantic white marlin and bluefin tuna. If the agreements made every year among the many participating countries are not adhered to by all, thereby defeating the purpose of setting limits in the first place.

In addition to IUU, another big obstacle is that of compliance—on many levels. For example: as more than 90 percent of the world's fish are taken within countries' EEZs, how do we get compliance with international fishery regimes within countries' EEZs? Another part of the compliance issue is: Since white marlin has been petitioned for listing under the U.S. Endangered Species Act and the problem is international fishing pressure, how do we get compliance on marlin conservation measures already in place?

Finally, ICCAT was created to protect these species and to work toward attainable management goals to ensure their survival. One question which could be logically asked of this process is: what mechanisms are there within ICCAT to insure compliance with member nations?

I have for a very long time been concerned with the dramatic drop in population of white marlin. Prior to the 1960s these species were healthy and thriving, just before the introduction of pelagic longline fishing in the Atlantic Ocean. Since this time, the species has steadily plummeted. The latest stock assessment I have seen indicates the total Atlantic stock population had declined to less than 12 percent of its maximum sustainable yield level; current fishing mortality was estimated to be at least seven times higher than the maximum sustainable level; over fishing had

taken place for over three decades and the stock is less productive than previously estimated, with a maximum sustainable yield of less than 1300 metric tons. The bottom line—this species needs an immediate strong conservation measure or it may disappear forever.

The passage out of the House of H. Con. Res. 268 represents an important step in the process of the international conservation of this dwindling species. I have spent a great deal of time on this issue, it is important we recognize the bottom line is pelagic longline fishing is an indiscriminate, irresponsible way of fishing. Though the U.S. longline fleet does contribute to the taking of this species, the majority of bycatch comes from the international fleets and this needs to be stopped.

I was pleased that the Recreational Fishing Alliance (RFA) filed 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, as amended. Though this petition was withdrawn, this issue remains a critical one.

As a contracting nation, 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 non-compliance with ICCAT. For example, the EU has consistently exceeded catch limits, quotas, and landing limits for Eastern Atlantic bluefin tuna and ignored rules for the protection of juvenile swordfish.

In deciding that the white marlin does not warrant as threatened or endangered under the Endangered Species Act (ESA), the National Marine Fisheries Service said the U.S. accounts for approximately five percent of the total mortality of white marlin, while the rest is due to bycatch in international longline fisheries. And the decision could still ultimately be made to list this species.

The petition alleges that the EU has committed three unfair trade practices under Section 301 including: noncompliance with ICCAT catch limits, quotas, and landing limits for certain species of highly migratory fish, non-compliance with ICCAT rules for the protection of juvenile fish, and granting subsidies to its fishing industry through its Common Fisheries Policy in violation of the WTO Subsidies Agreement.

The U.S. is a world leader on so many important and complex issues; I do not understand why the issue of fisheries management and enforcement of the regulations currently in place both domestically and internationally, seems impossible to accomplish. I look forward to working with all of you to find a solution to this grave problem. I fear if we do not, many of these species may simply disappear forever, which would be tragic.

Thank you, and I look forward to hearing the witnesses' testimony.

Mr. GILCHREST. Gentlemen, thank you for coming this morning. We have Mr. David Balton, Deputy Assistant Secretary for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs from the Department of State; Dr. William Hogarth, Assistant Administrator for Fisheries, the National Marine Fisheries Service of NOAA—you made it back from that difficult Pacific island, Dr. Hogarth.

Also, Dr. Kenneth Stansell, Assistant Director for International Affairs, U.S. Fish and Wildlife Service, Department of Interior; and Mr. Thomas Grasso, Director, Marine Conservation Policy, World Wildlife Fund.

Gentlemen, thank you very much for coming this morning. Mr. Balton, you may begin, sir.

STATEMENT OF DAVID A. BALTON, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES, U.S. STATE DEPARTMENT

Mr. BALTON. Thank you, Mr. Chairman, members of the Subcommittee, for the opportunity to appear before you today. I have a written statement and ask your permission for it to be submitted for the record.

Mr. GILCHREST. Without objection.

Mr. BALTON. I will try to highlight some of the points discussed in that statement this morning that I think may be of most interest.

As Congressman Pallone noted, the U.S. Commission on Ocean Policy released its preliminary report just last week. It presents a picture of the oceans that is worrisome. In the field of international fisheries, the United States and other governments are grappling with problems of over-fishing, overcapacity, and depletion of some key fish stocks.

We have embarked on a long but needed transition to ecosystem-based fisheries management. This will entail, among other things, doing a better job of minimizing bycatch of nontarget species and reducing other adverse consequences of fishing on the marine environment. At the same time, we are also seeking a level playing field in which U.S. vessels and fishermen can compete fairly with fishers from other countries.

We can be proud of the leadership of the United States on these issues. We have made progress on a variety of fronts, particularly through the conclusion of several new forward-looking agreements. But much work still lies ahead.

In my 13 years of working on U.S./Canada fisheries issues, I can say that we have never enjoyed such a strong relationship with our neighbors to the north. Although the two nations face daily challenges in managing shared resources off both coasts and in the Great Lakes, we are now facing them in a very constructive spirit. Several years ago we reached agreement to overhaul operations under the Pacific Salmon Treaty, we forged a new regime to share and manage the salmon in the Yukon River. More recently, we agreed to amend the 1981 Pacific Albacore Treaty to limit fishing effort by vessels of each party in the waters of the other. Thanks to strong congressional support and the enactment of H.R. 2584, we are now working to bring these amendments into force in time for this year's fishing season.

Finally, with Canada we have a new agreement to share the valuable stock of the Pacific whiting, also known as Pacific hake. We hope to have this treaty before the Senate promptly, and we look forward to working with Congress on implementing legislation.

Let me mention briefly two new treaties to manage tuna stocks and related species in the Pacific. The first treaty will create a new international commission to manage fisheries in one of the last areas not yet covered by such a regime, the central and western Pacific. The United States has very significant interests in these fisheries and has contributed greatly in crafting the new arrangements. Fourteen nations have thus far ratified the treaty, and it will enter into force this June. Japan and South Korea initially objected to the treaty, but we have persuaded them to engage fully in the preparatory process.

The Department of State is preparing the package for submittal of this convention to the Senate, and new legislation would also be needed. Once again, we look forward to working with you and others in Congress in crafting this.

The other new treaty is not actually new. It's a substantial revision of the 1949 treaty that created the Inter-American Tropical Tuna Commission that Mr. Pallone mentioned earlier. These

revisions will update the treaty to reflect advancements in fishery conservation over the past half century. Once again, we are in the process of submitting this treaty to the Senate and, once again, we would look forward to working closely with you and others in Congress on certain amendments to the Tuna Conventions Act that would be necessary.

The Committee asked about work at the Food and Agriculture Organization of the U.N. That organization continues to serve as the best forum in which to address fisheries issues on a global level. Largely in response to our calls, the FAO is convening an unprecedented set of policy level meetings this year. One will deal with over-capacity and illegal or IUU fishing. A second will consider ways to move forward on disciplining subsidies to the fishery sector. Still another will seek new port state controls to crack down on illegal fishing, and a final one, which I will turn to in a moment, will deal with the conservation of sea turtles. We would welcome congressional participation in any of these important meetings.

In connection with FAO, I am also pleased to announce the Administration has completed work on a comprehensive U.S. national plan of action on illegal, unregulated and unreported fishing. It contains numerous recommendations for dealing with this problem, both in our own waters and beyond. I would look forward to returning to Congress soon to present this plan in detail.

Let me spend a moment talking about the protection of sea turtles more specifically. We have focused considerable time, effort and resources. We vigorously implement the U.S. law that prohibits the importation of shrimp harvested in ways that harm endangered sea turtles. We are also the driving force behind two multilateral agreements to protect sea turtles, one for the western hemisphere and one in the Indian Ocean and South Asia region.

We have made strides in protecting sea turtles from longline fisheries as well. We have advanced a strategy through a series of successful international gatherings over the past 2 years, and with the Government of Japan, we have persuaded FAO to convene a policy level meeting on sea turtle conservation later this year, a first for that organization, and the first global meeting to address sea turtle conservation ever.

We hope that the FAO process will produce, among other things, agreement on interim measures to reduce bycatch of sea turtles and longline fisheries, while further data collection and research proceeds. We will also press forward in other organizations, including the IATTC, ICCAT, and the new Commission for the Central and Western Pacific.

Mr. Chairman, as you note, all these efforts require funding. U.S. dues and related expenses to the international fisheries commissions have in recent years amounted to approximately \$20 million annually. In Fiscal Year 2003, Congress provided only about \$17 million for these purposes, and allocated no funding at all for the Pacific Salmon Commission that year. By reprogramming funds in Fiscal Year 2003, the Administration was able to pay enough to most commissions to allow essential work to proceed.

However, we are in arrears in our contributions to several commissions, despite an increase in funding in Fiscal Year 2004. For this year, 2004, we will soon propose another reprogramming,

again with a view to allow all essential functions to continue. We certainly hope that Congress will meet the President's request for Fiscal Year 2005 for full funding of these vital commissions.

Mr. Chairman, thank you very much for this opportunity to testify. I would be happy to answer any questions the Subcommittee may have.

[The prepared statement of Mr. Balton follows:]

**Statement of David A. Balton, Deputy Assistant Secretary of State for
Oceans and Fisheries, U.S. Department of State**

Introduction

I would like to thank you, Mr. Chairman and the Members of this Subcommittee, for the opportunity to appear before you today. With the release of the preliminary report of the U.S. Commission on Ocean Policy last week, I believe that this is a particularly apt time for us to be considering the issues that are the subject of this hearing. My statement today attempts to respond to the requests of the Subcommittee for information on each of the topics listed in your letter of invitation to testify. I will also briefly note a few other topics that I believe would be of interest.

The overall picture concerning international fisheries remains worrisome, in my view. With other governments, the United States is grappling with problems of over-fishing, overcapacity and depletion of key fish stocks. We are also striving to reduce bycatch of non-target species in commercial fisheries and to address other adverse consequences of fishing on the marine environment. At the same time, the United States is seeking a level playing field in which U.S. vessels and fishermen can compete fairly with the fishers from other countries.

I think that we can be proud of the leadership that the United States has demonstrated in recent years on these issues. As my statement today suggests, we have made progress on a variety of fronts, particularly through the conclusion of several forward-looking new agreements in the field of international fisheries. Many challenges still lie ahead, however.

Bilateral Issues with Canada

Recent Amendments to the 1981 U.S.-Canada Albacore Treaty. This treaty originally permitted unlimited fishing for Pacific albacore tuna by vessels of each Party in waters under the jurisdiction of the other Party. Since the entry into force of the treaty, however, most of the tuna appear to have shifted their migratory patterns in a southerly direction. As a result, U.S. fishers have fished significantly in Canadian waters only in approximately three out of the last twenty years, while Canadian fishers have continued to fish regularly in U.S. waters. Since 1998, moreover, Canada more than doubled its albacore tuna fishery in U.S. waters, from its historical average of 75 vessels to 200 or more vessels per year.

Prompted by concerns of the U.S. industry over the growing inequity in the balance of benefits under the treaty, the United States entered into negotiations with Canada with a goal to reduce Canadian fishing effort in U.S. waters and to create a fishery limitation mechanism to conserve and manage the stock. The negotiations culminated in an agreement that does just that. We agreed to amend Article 1(b) of the Treaty to allow for limits on the levels of fishing effort by vessels of each Party in the waters of the other Party. In addition, we agreed to amend the technical annexes of the Treaty to establish an initial three-year reciprocal fisheries limitation regime that reduces the permitted fishing effort each year until a level is reached in the third year that is slightly above the pre-1998 average level of fishing.

Last year, the Senate provided its advice and consent to the amendment to Article 1(b) of the Treaty. Earlier this year, Congress enacted legislation to allow for full implementation of the Treaty as amended as part of H.R. 2584. President Bush signed the legislation on April 13, 2004 (Public Law 108-219). The very next day, U.S. and Canadian delegations reached agreement on steps to implement the amendment to Article 1(b) and related amendments to the technical annexes to the Treaty, beginning with the 2004 fishery.

Several steps remain to be taken in order for this new arrangement to become effective. The Governments of the United States and Canada must exchange diplomatic notes formally bringing the amendment to Article 1(b) of the Treaty into force. The Government of Canada must modify its fishing plan for this fishery in accordance with these amendments, which it has agreed to do expeditiously. The National Marine Fisheries Service must finalize its own implementing regulations. The Administration is extremely hopeful that all these steps will be taken in such time that

the new arrangements will govern the fishing season that begins in June of this year.

New U.S.-Canada Agreement on Pacific Whiting. After years of negotiations, the United States and Canada signed a new agreement last November that resolved a dispute over the management and sharing of the valuable transboundary stock of Pacific whiting, also known as Pacific hake. The new Agreement formalizes U.S. and Canadian scientific collaboration to assess the health of the stock each year and establishes both a long-term harvest policy and percentage shares of the annual catch for each Party. A long-standing disagreement over the appropriate allocation of this shared resource had contributed to recent declines in the stock.

The Agreement allocates nearly 74 percent of each year's harvest to U.S. fishermen; the remainder goes to Canada. The successful conclusion of this agreement was due in large part to the close collaboration and assistance of fishing industry representatives from both sides of the U.S.-Canada border, and they strongly support the result.

The Secretary of State has recently made the official recommendation to the President to submit the new Agreement to the Senate for its advice and consent to ratification. The Administration also looks forward to working with this Subcommittee and others in Congress to develop the necessary implementing legislation. In the meantime, we have urged those involved in the fishery to follow the general provisions of the new Agreement pending its formal entry into force.

Western and Central Pacific Fisheries Commission (WCPFC)

The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) was adopted in September 2000. The WCPFC will establish a regional fisheries management organization for valuable tuna resources in one of the last areas of the ocean not yet covered by an international management regime. The objective of the WCPFC is to ensure the long-term conservation and sustainable use of highly migratory fish stocks through forward-looking provisions that implement principles of the 1995 United Nations Fish Stocks Agreement, including compliance and enforcement, bycatch of non-target species, and the precautionary approach, while balancing the interests of both coastal and distant water states. As both a coastal state and a distant water fishing state, the United States has a significant interest in the fisheries of the Western and Central Pacific Ocean. As such, the United States strongly supports the WCPFC and has participated actively in the preparatory meetings to establish the administrative framework for the new Commission over the last four years.

The WCPFC will enter into force on June 19, 2004. To date, fourteen States have ratified the Convention. The inaugural meeting of the WCPFC Commission will be held in December 2004, with the first annual meeting likely taking place in the spring of 2005. Due in large part to a U.S.-led effort to promote full participation in the WCPFC, Japan and South Korea, which objected to the adoption of the Convention in 2000, are fully engaged in the work of the preparatory process. In addition, at the most recent WCPFC preparatory meeting, which was held last week in Indonesia, Japan, South Korea, China, and Chinese Taipei, among others, made known that they were proceeding with their internal processes and intended to become bound to the Convention in the near term.

The Department of State is in the process of preparing the package by which the President may submit the Convention to the Senate. New legislation would also be needed to implement U.S. obligations under the Convention. Once again, the Administration looks forward to working with this Subcommittee and others in Congress in developing such legislation.

South Pacific Tuna Treaty Extension

This treaty, which allows U.S. vessels to fish for tuna in the waters of 16 Pacific Island States, entered into force in 1988 and was amended and extended in 1993 for a 10-year period through June 14, 2003. In March 2002, the United States and the Pacific Island Parties concluded negotiations to extend the operation of this Treaty for an additional 10-year period, through June 14, 2013, with amendments to certain provisions of the Treaty, its Annexes, and the associated Economic Assistance Agreement. The United States and the Pacific Island Parties agreed on the number of fishing licenses (45), the annual level of industry licenses fees (\$3 million USD), and the annual level of economic assistance provided by the U.S. Government under the Economic Assistance Agreement associated with the Treaty (\$18 million USD). The amendments to the Treaty and its Annexes will, among other things, enable use of new technologies for enforcement, streamline the way any further amendments to the Annexes are agreed, and modify the waters that are open and closed under the Treaty. The Senate provided its advice and consent to the

amendments to the Treaty in 2003. In addition, H.R. 2584 (Public Law 108-219), amended Section 6 of the South Pacific Tuna Act 1988, to take account of the Amendment to paragraph 2 of Article 3, "Access to the Treaty Area," which permits U.S. longline vessels to fish on the high seas of the Treaty Area.

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

UN FAO Committee on Fisheries

The Administration continues to view the Food and Agriculture Organization (FAO) of the United Nations as the international organization with the membership, the mandate and the expertise to address global sustainable fisheries problems. Since the adoption of the 1993 High Seas Fishing Compliance Agreement and the 1995 Code of Conduct for Responsible Fisheries, the FAO Committee on Fisheries has been turning its attention on specific problems facing international fisheries with the development and adoption of four International Plans of Action.

One of these "IPOAs" seeks to address the problem of excess fishing capacity. Another provides the basis for conserving and managing sharks stocks. A third provides a menu of measures to minimize the by-catch of seabirds in longline fisheries. The final and most recent IPOA gives nations a comprehensive toolbox of measures to crack down on illegal, unreported and unregulated (IUU) fishing. FAO is also attempting to improve the quality of capture fisheries and aquaculture "status and trends" data that member governments send it. The Departments of Commerce, Interior, Homeland Security (Coast Guard) and State, as well as U.S. industry representatives and a variety of nongovernmental organizations, have contributed to strong U.S. leadership of these efforts at the FAO.

The IPOAs call upon each FAO member to take a series of actions to address the problems in question. I am pleased to report that, as envisioned in the IPOA to combat IUU Fishing, the United States has developed its own National Plan of Action on IUU Fishing, which is now complete and ready to be distributed and to be used. We look forward to working with this Subcommittee and other members of Congress on some of the recommendations it contains.

The international community relies primarily on regional fishery management organizations for regional implementation of approaches designed by FAO. We have sought to use two additional tools to implement important FAO recommendations. First, we are buttressing this effort both through our regular bilateral discussions with fishing states. Second, since the 21 members of Asia-Pacific Economic Cooperation (APEC) have the highest per capita consumption of fish, possess almost 75 percent of the world's capture fisheries harvesting capacity and engage in the majority of global trade in fish and fish products, we have sought to use the APEC Fisheries Working Group to build capacity in APEC Economies to carry out the FAO recommendations. This global, regional and bilateral approach requires considerable time and energy to pursue, but we believe it will bring benefits over time.

I wish to observe that, while we have an array of new international instruments with which to combat unsustainable fishing practices, progress in implementing them is slow. The 1995 U.N. Fish Stocks Agreement and the FAO Compliance Agreement have entered into force. Some regional fishery management organizations are reducing fishing capacity within their convention areas. Some governments are producing national plans of action but, generally speaking, developing States still lack the capacity to undertake many of the steps contemplated. We are reaching out to the international donor community to work with us in providing needed assistance.

Capacity Reduction. The International Plan of Action for the Management of Fishing Capacity was adopted by FAO in 1999. While there was wide agreement that the global fishing fleet is too large and had too much fishing power, agreeing on how to measure fishing capacity has been difficult. Similarly, there was wide agreement that some subsidies contributed to the "overcapacity" problem, but no agreement on how to differentiate between "good" subsidies and "bad" subsidies in this respect. A series of FAO expert meetings tried to devise mechanisms through which capacity could be measured and subsidies could be evaluated. In late June (June 24-29), FAO will convene a political level "technical consultation" at which FAO members can reach agreement on how to carry out the steps outlined in the IPOA on Capacity. These discussions will also focus on additional steps the international community must take to make the IUU IPOA a successful deterrent to illegal, unreported and unregulated fishing. A third consultation will take place June 30-July 2, on the use

of subsidies in the fisheries sector. Working with the Office of the U.S. Trade Representative, we will also be supporting the United States' efforts to improve disciplines on harmful fisheries subsidies in the current WTO negotiations and will seek to ensure that the work in the WTO and the FAO is complementary.

This is an important series of FAO meetings and I would welcome Congressional participation on our delegation to any of them. I will report the results of the meetings to the Subcommittee in any event.

Eco-labeling: FAO will also host a technical consultation on eco-labeling from October 19-22, 2004. As you know, this is also a complex and difficult subject. Many producers of seafood products—and some governments—are trying to respond to demands by consumers around the world not only for information about the country of origin, but also information about the sustainability of production of the seafood they purchase. Some say that independent “third party” bodies, rather than the producers of the seafood products, should be the ones to award eco-labels that attest that the product was harvested or produced sustainably. A meeting of experts convened by the FAO in December 2003 endorsed that approach. Others predict that such an approach will lead to problems, however. Perhaps there is a middle ground, but the debate will certainly continue. Again, we welcome Congressional participation on our delegation to this October meeting and we will keep you informed of progress in this area.

Whales and International Whaling Commission (IWC) issues.

The United States supports the IWC's moratorium on commercial whaling, aboriginal subsistence whaling and efforts to complete the Revised Management Scheme (the management scheme that would apply if the commercial moratorium were ever lifted). We have long opposed lethal scientific/research whaling, whaling within the sanctuaries established by the IWC and international trade in whale products.

In 2004, the United States will continue to monitor the whaling activities of Japan, Norway and Iceland. During 2003, Iceland began a lethal research whaling program, under Article VIII of the Whaling Convention, and took 36 Minke whales. Japan continues to allocate to itself research whaling quotas that result in an annual take of about 700 whales in the North Pacific and around Antarctica. Norway continues to engage in commercial whaling under an objection to the 1982 moratorium decision. Norway's unilateral quota for 2004 will be 670 Minke whales. We have consistently opposed the research whaling activities of Iceland and Japan and Norway's commercial hunt.

We are also monitoring international trade in whale products. Norway resumed trade in 2002, and has sent whale products to Iceland and to the Faroe Islands. The next IWC meeting is scheduled for the week of July 19-22, 2004 in Sorrento, Italy.

Protection and Conservation of Sea Turtles

The Administration has focused considerable time, effort and resources to address the impact of international commercial fisheries on sea turtle populations and to protect sea turtles generally. These efforts include reduction of sea turtle bycatch in shrimp trawl fisheries through the implementation of Section 609 of P.L. 101-162, negotiation of and participation in multilateral sea turtle conservation agreements, and implementing an international strategy to address bycatch of sea turtles in longline fisheries.

Section 609 prohibits imports of shrimp from countries that do not take steps comparable to those of the United States to protect sea turtles in commercial shrimp trawl fisheries. The law is implemented by the Department of State, with considerable support from NOAA Fisheries on technical and compliance issues. The implementing guidelines published by the Department of State require either the use of turtle excluder devices (TEDs) on commercial shrimp trawl vessels or other conservation measures of comparable effectiveness if the harvesting nation seeks to export that shrimp to the United States. State and NOAA Fisheries teams visit these countries to review compliance by each affected country on a regular basis. Countries that do not have measures to protect sea turtles that are comparable in effectiveness to U.S. measures are denied the “certification” necessary for continued market access. The annual certification for 2004 will be coming up to Congress within a few weeks. Also, later this year countries that have been certified will undergo review to determine whether their measures are comparable in effectiveness to new U.S. measures that provide increased protection for sea turtles.

The United States, through the Department of State and with help from NOAA, is continuing to take a lead role in the two international sea turtle conservation agreements—the Inter-American Sea Turtle Convention and the Indian Ocean and Southeast Asia Sea Turtle MOU.

With respect to sea turtle bycatch in longline fisheries, the Department of State and NOAA Fisheries have made a concerted effort to educate and build the awareness of both foreign governments and fishing industries of the on-going efforts to address this issue within the United States. We have also stressed the need for their active engagement as part of an effective strategy for the conservation of sea turtles. In this regard, the Administration's efforts to address this pressing problem have focused on the following key areas:

- 1) Obtaining additional data on the level of sea turtle interaction with longline fisheries including distribution by time, depth and area;
- 2) Research into new fishing gear and techniques to reduce sea turtle bycatch, including gear modifications, alternative baits, and alternative fishing strategies;
- 3) Identification of interim measures for adoption at the international level to reduce sea turtle bycatch, while efforts continue to further identify and refine possible solutions through numbers 1 and 2, above; and
- 4) Providing technical assistance and outreach to foreign nations to document sea turtle interactions in longline fisheries, conduct gear modification experiments to reduce sea turtle bycatch, and implement safe-handling practices to reduce sea turtle injury and mortality.

As part of these efforts, the Department of State and NOAA Fisheries have worked to engage a number of countries with longline vessels operating under their jurisdiction, especially the distant-water fishing nations, recognizing that the participation of these foreign fishing fleets is critical to the success of an effective sea turtle conservation strategy. The Department has also participated alongside NOAA Fisheries in a number of successful international conferences and meetings to advance the U.S. strategy, including the Second International Fishers Forum in November 2002, (IFF2), the NOAA Technical Workshop bycatch of sea turtles in longline fisheries in February 2003, the Bellagio Conference in November 2003, and the bycatch working group of the Inter-American Tropical Tuna Commission in January 2004.

In 2003, the United States worked successfully with Japan and others for a decision by the FAO to convene a Technical Consultation on the issue of sea turtle interactions with fishing gear. The Technical Consultation, scheduled for late 2004, will be the first global meeting to address this issue. The Technical Consultation will review the status of the sea turtle species that are of concern and the overall impact fisheries have on their populations; consider the initiation or improvement of data collection on fisheries effort and turtle distribution to develop effective conservation and management measures; explore ways to engage fishing industries in developing solutions to the problem; promote research on and implementation of gear modifications and fishing practices that will reduce sea turtle bycatch; discuss and consider other measures that could be adopted to immediately reduce the impact of fisheries on sea turtle populations; and promote involvement of regional fisheries management organizations in identifying solutions and implementing measures to reduce sea turtle bycatch.

The United States will continue to work with other countries to implement the results and recommendations of the FAO Technical Consultation on sea turtle-fishery interactions, including within fisheries management organizations such as IATTC, ICCAT and the nascent Western and Central Pacific Fishery Commission. The United States will also work to fulfill the call to action developed at the Bellagio Conference to strengthen coordination between the regional fisheries organizations and the sea turtle conservation arrangements.

Funding for International Fisheries Commissions

As noted above, the United States advances its agenda on international fisheries issues principally through a variety of international fora, primarily a series of international fisheries commissions such as the Pacific Salmon Commission, ICCAT, IATTC and others. Virtually all of these bodies have schemes for mandatory contributions by their members for the sharing of annual budgets. U.S. dues and related expenses for the international fisheries commissions have, in recent years, amounted to approximately \$20 million USD annually, of which about 60 percent represents U.S. contributions to the Great Lakes Fishery Commission.

In FY 2003, Congress provided only about \$17 million for these purposes, and allocated no funding for the Pacific Salmon Commission that year (the costs of which typically amount to \$2.25 million annually). By reprogramming funds, the Administration was able to pay enough to most commissions to allow essential work to proceed. However, the United States remains in arrears in our contributions to several commissions, despite an increase in funding in FY 2004. For FY 2004, we will soon propose to reprogram slightly more than 5 percent of the funds within this appropriation, again with the view to allow all essential functions to continue. We hope

that Congress will meet the President's request for FY 2005 for funding of these vital commissions.

On a related note, we also wish to call the Subcommittee's attention the commitments made in the Yukon River Salmon Agreement that may require increased funding in the Interior Department budget.

IATTC Treaty Amendments

Last year, with invaluable assistance from NOAA Fisheries, the Department of State led the negotiation of the revision of the Convention establishing the Inter-American Tropical Tuna Commission. The revised convention incorporates many of the elements of the 1995 U.N. Fish Stocks Agreement including coverage of virtually all highly migratory fish species in the Convention Area, a precautionary approach to conservation and management of the species covered, provisions for conservation measures for non-fish species affected by fishing operations for tunas, enhanced provisions for monitoring, surveillance and enforcement, and other measures. The Administration will soon be sending the new agreement, called the Antigua Convention, to the Senate for advice and consent, and Congress will likely be asked to consider enacting revisions to the Tuna Convention Act for purposes of implementing legislation.

Conclusion

Mr. Chairman, thank you very much for this opportunity to testify before this Subcommittee. I would be happy to answer any questions the Subcommittee may have.

Mr. GILCHREST. Thank you, Mr. Balton.

Do we have a copy of that report that you just showed us?

Mr. BALTON. I would be happy to submit it to you.

Mr. GILCHREST. Thank you.

Mr. BALTON. It's "hot off the press."

Mr. GILCHREST. OK.

[NOTE; The report entitled "National Plan of Action of the United States of America to Prevent, Deter, and Eliminate Illegal, Unregulated, and Unreported Fisheries" has been retained in the Committee's official files.]

Mr. GILCHREST. Dr. Hogarth. Welcome, sir.

STATEMENT OF WILLIAM T. HOGARTH, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Dr. HOGARTH. Thank you, Mr. Chairman, and members of the Subcommittee. I appreciate the invitation to testify on topics related to international fishery conservation and management. I am Bill Hogarth, the Assistant Administrator for NOAA's National Marine Fisheries Service.

Mr. Chairman, I would also like to take this opportunity to thank you for the time you spent with the regional fishery management councils. It was great to have your presence in the discussions.

Mr. GILCHREST. Thank you very much, Dr. Hogarth. I think it was a very productive time and a great exchange of information.

Dr. HOGARTH. Thanks.

NOAA's Fisheries Service and our Federal partners at the Department of Interior and the Department of State, working the regional fishery management councils, NGO's and state, tribal and other Native American groups, have and are continuing to accomplish an impressive program of international living marine resource conservation and management.

I have submitted a written statement for the record and with your permission I would like to take this opportunity to highlight a few points from this testimony.

First I would like to talk about ICCAT, the International Commission for the Conservation of Atlantic Tunas. For the first time, the United States is hosting ICCAT in November of 2004 in the United States. We will use this opportunity to demonstrate our continued commitment to the conservation and management of ICCAT-managed species and to showcase important commercial and recreational fisheries.

One priority for the United States is the upcoming intersessional meeting of a working group tasked with developing integrated and coordinated Atlantic bluefin tuna management measures for both the east and west stocks. This has been requested by the United States and this will be the first time that the working group considers and, we hope, develops management alternatives that take into account the biological reality that these two stocks overlap.

Another issue of interest for the United States will be the implementation of a new ICCAT trade restrictive measure regime. Following years of work, ICCAT took a historic step to strengthen and broaden its regime for imposing trade restrictive measures and adopted a comprehensive trade resolution at its 2003 meeting. This annual meeting in 2004 will be the first time the new trade regime will be applied.

The other convention which I would like to talk about briefly is the one that Mr. Balton just mentioned, the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific. That's a long title for this group. But this is an important new commission to conserve and manage tuna and tuna-like species in the western and central Pacific.

This is a resource estimated to be worth at least \$1.5-2 billion. The Pacific island states control access to the fishing grounds within their exclusive economic zones. In most cases, these fish stocks are the only significant renewable natural resource they have and is key to their economic development. This new commission will strive to apply the same requirements to all distant water and coastal states in the region. The commission will have ample authority to take binding measures to address critical issues such as bycatch and fishing capacity.

The next treaty I would like to talk about is the International Whaling Commission. The 56th annual meeting of the International Whaling Commission, or IWC, will be held this July in Sorrento, Italy. The longstanding principles that will guide the United States policy at this meeting are that the U.S. supports the IWC's commercial whaling moratorium, support for aboriginal subsistence whaling, and the U.S. opposition to lethal research whaling and to the international trade of whale products.

However, the United States continues to work in good faith to establish as Revised Management Scheme for commercial whaling. The Chairman of the IWC created in June of 2003 a small working group of countries interested in making progress on the RMS. As a result, significant progress has been made in addressing some of the critical unresolved issues. Much of this progress has come from compromise proposals that have been put forward by the United

States. While several issues remain, particularly the cost sharing aspects, significant progress is being made toward the completion of an RMS.

FAO is another one I would like to talk about for a minute. We have supported the FAO in developing an international plan of action for the management of fishing capacity, and has conducted qualitative and quantitative measures of fishing capacity levels in both domestic and international fisheries. The U.S. national plan of action for the management of fishing capacity is nearing completion.

Another important issue is the illegal, unreported and unregulated fisheries. NOAA's Office for Law Enforcement and General Counsel for Enforcement and Litigation has played a critical leadership role in the development and growth of the International Monitoring, Control and Surveillance Network, or MCS Network. The MCS Network has realized many of the desired goals by expanding cooperation to combat IUU fishing with members from all regions of the globe. A global enforcement conference later this year will be cosponsored by the MCS Network.

I will not spend any time on CITES because CITES is headed by the Department of Interior and I know Dr. Stansell has extensive comments in his testimony. However, we believe that CITES does and can serve as a useful adjunct to the traditional fishery management through its comprehensive permitting and trade control protocols.

I want to talk a minute about sea turtle bycatch. Sea turtles have been a major issue for many of our fisheries and we are, in most instances, a small part of the impact of turtles worldwide.

Recently we have had a lot of effort to address sea turtle bycatch internationally, to include both scientific research, cooperative work within regional fisheries management councils, working with the NGO's, hosting and participating in international workshops, and assuming a leadership role in preparations for the November, 2004 FAO Technical Consultation on Sea Turtles.

Also, NOAA Fisheries has designed new technologies to improve survival rates for turtles caught in long line gear, which we are now exporting to countries such as Japan, Guatemala, and Australia.

Mr. Chairman, this concludes my testimony. However, I would be happy to answer any questions that you or any members of the Subcommittee may have.

Thank you.

[The prepared statement of Dr. Hogarth follows:]

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

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

NOAA's National Marine Fisheries Service (NOAA Fisheries) and our federal partners at the Department of the Interior and the Department of State, working with Regional Fishery Management Councils and state, tribal, and other Native American groups, are continuing to accomplish an impressive program of international living marine resource conservation and management.

I know just how important our international fisheries relationships are from personal experience in the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Inter-American Tropical Tuna Commission (IATTC), the negotiations that produced the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC), and many other fora. In fact, many of our domestic fisheries objectives can only be achieved with consistent action by the international community. These objectives relate to the management of highly migratory, salmonid, straddling, and many protected species populations. Our management goals include eliminating over-fishing; rebuilding over-fished stocks; maintaining sustainable fisheries; recovering protected species; conserving habitats; improving the scientific basis of living marine resource management; and managing harvesting capacity. We need the active participation of our international partners.

My testimony will focus on the issues you requested in the letter of invitation. I will present an overview of our efforts to address these issues in several international fora including (1) ICCAT, (2) WCPFC, (3) Food and Agriculture Organization of the United Nations Committee on Fisheries (FAO COFI), (4) International Whaling Commission (IWC), and (5) Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). I will conclude with my views on how NOAA Fisheries and the Congress may further enhance our respective cooperative efforts to achieve our international objective.

ICCAT (International Commission for the Conservation of Atlantic Tunas)

The United States, for the first time, is hosting the 2004 annual meeting of ICCAT in November in New Orleans. We will take this occasion to demonstrate our continued commitment to the conservation and management of ICCAT managed species and to showcase our important commercial and recreational fisheries. Meanwhile, we are in the early stages of preparing for the annual meeting and are reviewing our internal process and programmatic structure to identify whether improvements need to be made.

We will also discuss and identify other key issues facing ICCAT this year. One priority issue for the United States is the upcoming Intersessional meeting of a working group tasked with developing integrated and coordinated Atlantic bluefin tuna management measures for both east and west stocks. This will be the first time that the working group considers and develops management alternatives that take into account the biological reality that the east and west bluefin tuna stocks overlap. We expect this to be an ongoing process. The working group will review the most recent scientific data on Atlantic bluefin tuna stock structure and biology, and identify and evaluate various management options. The working group will also likely identify research needed to provide scientific advice on the risks and robustness of potential revised management procedures for bluefin tuna. While there are additional costs involved in establishing such a research program, it is the next logical step for the ICCAT bluefin tuna science and management program.

Another issue of interest for the United States at the fall meeting will be the implementation of a new ICCAT trade restrictive measure regime. Following years of work, ICCAT took a historic step to strengthen and broaden its regime for imposing trade restrictive measures and adopted a comprehensive trade resolution at its 2003 meeting. This new trade regime applies equally to all fisheries and to both ICCAT members and non-members and establishes a more transparent process for the application of trade restrictive measures. The trade regime uses comparable standards for evaluating fishery related activities for members and non-members. Also, it allows for the swift re-imposition of trade sanctions in cases where parties recently released from sanctions act in bad faith by engaging in problem fishing activities. The 2004 annual meeting will be the first time this new trade regime will be applied. This summer the United States will begin to review data and consider trade measures taken under the previous instruments as well as the possibility of new applications under the broadened regime.

Over the next few months we will continue our programmatic review relative to ICCAT preparations. We are looking at identifying opportunities to improve our relationship with other ICCAT parties, through partnerships and capacity building efforts. At this time, I do not see a need for legislative action with regard to our ICCAT activities.

WCPFC (Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean)

WCPFC was adopted on September 4, 2000, following seven negotiating sessions spanning five years. The Convention was adopted by 19 states voting in favor⁹; Japan and Korea voting against; and China, France, and Tonga abstaining. The differences that concerned those states that abstained or voted against have been substantially resolved.

By December 19, 2003, thirteen states had ratified the Convention, triggering the entry into force of the Convention on June 19, 2004. The thirteen states are: Australia, Cook Islands, Federated States of Micronesia, Fiji Islands, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands, and Tonga. The Department of State is preparing the package for the President to transmit the Convention to the Senate for advice and consent to ratification. NOAA Fisheries is developing legislative language for implementation of the Convention.

The Convention establishes a Commission to conserve and manage tuna and tuna-like species in the western and central Pacific west of 150° meridian of west longitude, a resource estimated to have annual revenues of \$1.5-2 billion. The Pacific island states control access to the fishing grounds within their exclusive economic zones where the majority of the catches occur. For many of the Pacific Island nations, these fish stocks are the only significant renewable natural resource, and a key to their economic development aspirations. The United States has been cooperating with these nations since 1988 under the South Pacific Tuna Treaty. The new Convention will serve to apply the same requirements our fishermen have been following to all distant water and coastal states in the region. These include carrying observers, a vessel monitoring system, restrictions on transshipment, and catch and fishing effort reporting. The new Convention is fully consistent with the 1995 United Nations Fish Stocks Agreement and other recent global fisheries agreements, and the Commission will have ample authority to take binding measures to address issues such as bycatch and fishing capacity. Several non-binding resolutions have been adopted by the parties to the negotiation to arrest the growth of fishing capacity in the western and central Pacific, but they have not been fully effective. The coming into force of a major new convention such as this one will create major additional implementation responsibilities for NOAA Fisheries, and we are currently preparing to meet these responsibilities.

Since the adoption of the Convention, a Preparatory Conference has met five times to design the internal rules and procedures for adoption by the eventual Commission. A sixth session just met in Bali, Indonesia in April 2004, and a brief final session will likely meet immediately prior to the inaugural meeting of the Commission in late 2004. Working groups have been convened to develop administrative and procedural matters, provide scientific advice both before and after entry into force of the Convention, and discuss monitoring-control-surveillance. Matters relevant to the Convention, the Commission, and the activities of the Preparatory Conference can be found at <http://www.ocean-affairs.com>.

FAO COFI (Food and Agriculture Organization of the United Nations Committee on Fisheries)

Fishing Capacity in the United Nations' Food and Agricultural Organization

The United States is well aware that overcapacity in domestic and world fisheries is a serious problem and has developed definitions and measures of regional and international fish harvesting capacity. The United States supported the U.N. Food and Agricultural Organization in developing an international plan of action (IPOA) for the management of fishing capacity, two technical consultations, and a technical working group on defining and measuring capacity, and has conducted qualitative and quantitative measures of excess and overcapacity levels in domestic and international fisheries. To update the Committee on our progress in dealing with this issue, I would like to stress three points.

First, the U.S. national plan of action for the management of fishing capacity, a commitment of the IPOA, is nearing completion. With this U.S. plan of action, we want to establish an effective capacity monitoring program that responds to the unique features of our domestic fisheries and management institutions.

Second, in the Administration's proposals to re-authorize the Magnuson-Stevens Fishery Conservation and Management Act, amendments that address overcapacity

⁹1 Australia, Canada, Cook Islands, Federated States of Micronesia, Fiji, Indonesia, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Tuvalu, United States, and Vanuatu.

(standards for new individual fishing quotas) and excess capacity (streamlined procedures for fishing capacity reduction programs) have been submitted to Congress.

Third, a report on excess capacity levels is nearing completion for use in developing buyback programs. A planned overcapacity report will provide valuable information to the Councils to address over-fishing. These reports will serve as a model to FAO on how to properly assess capacity management problems.

Illegal, Unregulated and Unreported Fishing

NOAA continues to play a central role along with the State Department in the creation and implementation of the National Plan of Action to prevent, deter and eliminate illegal, unregulated and unreported (IUU) fishing. The heart of this action plan calls for strengthening enforcement, the primary function of NOAA's prosecutors and special agents.

NOAA's Office for Law Enforcement (OLE) and General Counsel for Enforcement and Litigation have played critical leadership roles in the development and growth of the International Monitoring, Control and Surveillance Network (MCS Network). Now in its third year, the MCS Network has created an active forum for marine law enforcement personnel worldwide to cooperate by sharing experiences and information. The MCS Network has realized many of the desired goals of the IPOA by expanding cooperation to combat IUU fishing with members from all continents and regions of the globe. A global enforcement conference later this year will be co-sponsored by the MCS Network. Recruitment of additional members is actively promoted and membership now stands at approximately 40 countries. The chair of the Network (who is from NOAA) briefed staff from the House Oceans Caucus on the Network last fall.

The NOAA OLE has dedicated a significant level of the Office's resources toward the elimination of IUU fishing. International case investigations have continued to expand to the point that there are productive and active international investigations in each of the six OLE field divisions. Cases have involved species that are illegally caught, processed and shipped internationally. These species include Patagonian toothfish; Honduran lobster; Nicaraguan lobster; Russian crab; Canadian fish stocks; highly migratory species such as tuna, shark and billfish; salmon and many other species, some of which fall within CITES listings.

Our enforcement personnel are directly and actively engaged in many international marine resource related venues for the purpose of monitoring enforcement issues, providing advice and informing participants on the enforcement related aspects of decisional processes, negotiations, and decisions. The OLE participates in dozens of venues including, but not limited to, fisheries bilateral meetings, bilateral enforcement meetings, treaty negotiations, convention, and other fora wherein the United States has responsibility for IUU related matters. Examples of these venues include meetings of the FAO Committee on Fisheries, CCAMLR (Commission for the Conservation of Antarctic Marine Living Resources), ICCAT, the Western and Central Pacific Tuna Treaty, North Atlantic Fishery Organization, and the Southern Pacific Tuna Treaty.

Eco-Labeling

Discussion of eco-labels has taken place at the FAO COFI or at the FAO Subcommittee on Fish Trade since the late 1990s. FAO Members agreed at the last biennial meeting of COFI (February 2003) that an expert consultation should be convened to develop voluntary international guidelines for eco-labeling of fish and fisheries products from marine capture fisheries. The expert consultation took place in October 2003. FAO was instructed by COFI to submit the Report of the Expert Consultation to the 9th meeting of the Subcommittee on Fish Trade (February 2004) in order for it to make a decision on possible follow-up actions, such as the FAO convening a technical consultation, which would bring together FAO member states. At that meeting, the United States joined others in calling on the FAO to convene a meeting in October 2004 in an effort to conclude FAO work on eco-labels.

IWC (International Whaling Commission)

The 56th Annual Meeting of the International Whaling Commission (IWC) will be held in Sorrento, Italy, July 19th through July 22nd. The longstanding principles that will guide United States policy at this meeting are that the United States supports the IWC's commercial whaling moratorium, supports aboriginal subsistence whaling, opposes lethal research whaling, and opposes the international trade of whale products.

The United States continues to work in good faith to establish a Revised Management Scheme (RMS) for commercial whaling. At the 55th Annual Meeting in June 2003, little progress was made towards completion of this agreement. However, the Chairman of the IWC proposed creating a small working group of countries

interested in making progress on the RMS. The United States, Denmark, Iceland, Japan, The Netherlands, Spain, and Sweden were invited to participate, and this "Friends of the Chair" group met in December and March. Significant progress was made in addressing some of the critical unresolved issues, most importantly observation and inspection and catch documentation provisions. Much of this progress came from compromise proposals put forward by the United States. Previously, pro-whaling nations had been unwilling to agree to the incorporation of adequate monitoring measures into the RMS. While several issues remain, particularly cost sharing, significant progress is being made toward the completion of an RMS. This small group will meet again during the next IWC meeting and then report to a special Commissioners-only meeting on the RMS. The United States does not anticipate that any RMS language will be put forth for a vote at this year's meeting.

Iceland recently rejoined the IWC with a reservation to the commercial whaling moratorium. In the spring of 2003, Iceland put forth a proposal to conduct lethal research on whales. The United States opposes lethal research and urged Iceland not to begin this program, joining an IWC resolution calling on them not to commence such a program and joining a joint demarche to Iceland expressing our opposition to lethal research on whales. Further, a majority of IWC Scientific Committee members criticized Iceland's proposal as not being necessary for the management of whale stocks. Despite these actions, Iceland went forward with their lethal research program and harvested 36 Minke whales. The United States continues to examine Iceland's action to determine the applicability of certifying Iceland under the Pelly Amendment to the Fisherman's Protective Act of 1967 (22 U.S.C. § 1978).

Likewise, Japan continues to conduct lethal research with the take of up to 700 whales per year, and Norway continues to harvest approximately 700 Minke whales a year in their commercial harvest. The United States continues to urge Japan to cease the killing of whales under scientific permits and for Norway to halt commercial whaling.

The United States recently participated in a four-nation delegation to Japan to discuss the operation of the Conservation Committee. The U.S. supported the creation of this committee at last year's annual meeting as a way to improve the governance of the Commission's conservation work. Japan and other countries strongly opposed this measure. The United States, Australia, Sweden, and the United Kingdom made this effort to explain to Japan reasons for supporting the committee and to encourage their participation.

NOAA, in cooperation with the Alaska Eskimo Whaling Commission (AEWC), has put significant effort into preparations for the in-depth review of bowhead whales, which will be conducted at this year's meeting of the IWC Scientific Committee. The United States is pleased that the bowhead stock population now exceeds 10,000 animals, and is increasing at an annual rate of 3.4% while the aboriginal subsistence harvest is being conducted.

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

The United States continues to believe that CITES can serve as a useful adjunct to traditional fisheries management through its comprehensive permitting and trade control protocols. Such systems can deter IUU fishing and assist in promoting sustainable domestic management programs for commercially exploited marine fish species.

In instances where no regional fishery management organization is in place, as is the case with queen conch (*Strombus gigas*), a CITES listing can encourage the establishment of regional management mechanisms. A recent CITES review of significant trade in queen conch, after consultation with exporting and importing countries, recommended, among other things, that countries in the Wider Caribbean collaborate to form a regional governance regime for this species. At its most recent meeting in St. Georges, Grenada (October 21-24, 2003), the Western Central Atlantic Fishery Commission recommended the establishment of an intersessional working group to study how strengthened regional management cooperation could be achieved. This recommendation was endorsed by the participants at the recent White Water to Blue Water Partnership Initiative, convened in Miami, Florida.

The deadline for submission of species listings, resolutions, and decisions for consideration at the 13th Meeting of the Conference of the Parties to CITES (COP13), to be held October 2-14, 2004 in Bangkok, Thailand, is May 5. The United States Fish and Wildlife Service (FWS) of the Department of the Interior is responsible for the implementation and enforcement of CITES, and the United States Department of Agriculture, Animal and Plant Health Inspection Service is responsible for enforcement of CITES for plants. However, several highly visible marine species listed in either Appendix I or II of CITES are within the domestic jurisdiction of NOAA,

in the Department of Commerce. These include the great whales, dolphins, queen conch, hard corals, giant clams, seahorses, and five species of seals. In addition, all marine turtles, whose protection under the Endangered Species Act is shared by the two agencies, are listed in Appendix I of CITES. In NOAA, responsibility for protection of these marine species has been delegated to NOAA Fisheries. NOAA Fisheries forms a Task Force composed of experts from our headquarters and regional offices and science centers to consider U.S. decisions in preparation for meetings of the CITES Conference of the Parties concerning marine species for which NOAA Fisheries has responsibility. The Task Force makes recommendations to FWS.

Humphead wrasse (*Cheilinus undulatus*), a large, long-lived, and late-maturing species, which occurs in the Indo-Pacific and is taken in the live reef food fish trade, is the only marine species that the United States is likely to propose for consideration at COP13. However, the United States is also likely to propose a discussion document with draft resolutions defining the phrase, "marine environment not under the jurisdiction of any State," within the broader term, "introduction from the sea," used in the CITES treaty.

We believe that this resolution will clarify permitting requirements to ensure that CITES trade tracking provisions are not unduly burdensome to fishers. In addition, the United States is likely to submit a discussion paper which summarizes the February 3-5, 2004, international workshop on seahorse fishery management, funded by the United States and hosted by the Government of Mexico, to provide assistance to countries that export and import these species to ensure sustainable trade.

Sea Turtle Bycatch

NOAA Fisheries' recent efforts to address sea turtle bycatch internationally include scientific research, cooperative work within regional fisheries management and other fora, hosting and participating in international workshops, and assuming a leadership role in preparations for the November 2004 FAO Technical Consultation on Sea Turtles.

From 2000-2003, scientific research was conducted in partnership with academic and U.S. fishing industry representatives. This research demonstrated that large circle hooks used in combination with specific bait types would reduce sea turtle bycatch take in shallow-set longline fisheries. Further studies are planned to determine the effect of these modifications on target catch rates for swordfish and tuna and to refine results to achieve bycatch reduction. Additionally, NOAA Fisheries, in partnership with U.S. industry, has developed a number of tools (such as de-hooking devices, line cutters, and dip nets) designed to improve post-release survival rates for turtles caught or entangled in pelagic longline gear. NOAA Fisheries is currently working to communicate these important scientific developments broadly through its International Bycatch Task Force and representatives to appropriate international fora. Such efforts include on-going and proposed future technology transfer and gear experimentation with countries such as: Australia, Brazil, Costa Rica, Chile, Ecuador, Guatemala, Israel, Japan, Korea, Marshall Islands, Mexico, Federated States of Micronesia, Papua New Guinea, Uruguay, and others.

NOAA Fisheries is also engaged in cooperative work on sea turtle bycatch issues in regional fisheries management (and other) fora. United States-sponsored or co-sponsored resolutions on sea turtle bycatch were recently adopted by the Bycatch Working Group of IATTC and by ICCAT. Additionally, NOAA Fisheries personnel will participate this year in the Interim Scientific Committee (ISC) for the Highly Migratory Species of the North Pacific Ocean, which has created a bycatch working group focusing particularly on sea turtle, shark and sea bird bycatch issues. The ISC will likely provide scientific and management advice to the WCPFC and may also provide advice to the IATTC. Finally, NOAA Fisheries has been actively involved in the development and implementation of the Inter-American Convention for the Protection and Conservation of Sea Turtles (currently the only international treaty devoted exclusively to sea turtles) and the Indian Ocean—South East Asian Marine Turtle Memorandum of Understanding.

In March 2003, the United States hosted an interdisciplinary, technical expert workshop on bycatch of sea turtles in longline fisheries. Academic, technical, and scientific experts from nineteen countries and four inter-governmental organizations (including the FAO and IATTC) met to evaluate existing information on turtle bycatch in longline fisheries, facilitate and standardize data collection from longline fisheries likely to interact with sea turtles, exchange information on experimentation with longline gear relative to turtles and target species, identify and consider solutions to reduce turtle bycatch in longline fisheries, and exchange information and gain a comprehensive understanding of the fishing methodologies and operations of global longline fleets. NOAA Fisheries representatives also took part in a

November 2003 conference of international multidisciplinary experts in Italy that drafted a blueprint for action to conserve and recover Pacific sea turtles.

NOAA Fisheries wants all of the above efforts to produce positive results at the November 2004 FAO COFI Technical Consultation on Sea Turtles. These consultations will review the status of sea turtle species and the overall impact fisheries have on their populations, review where data collection can be initiated or improved, engage the fishing industries in developing and implementing solutions to reduce sea turtle bycatch, and promote involvement of regional fisheries management organizations in identifying solutions and implementing measures to reduce sea turtle bycatch. NOAA Fisheries representatives have taken an active role in U.S. efforts to work in partnership with Japan to develop the agenda and basic document for this meeting. The primary United States goals for this meeting are to 1) promote the use of large circle hooks proven effective in reducing sea turtle bycatch interactions in shallow-set longline fisheries, and 2) seek standardized data collection and implementation of sea turtle bycatch observer programs in fisheries that pose high levels of threat to sea turtle recovery (e.g., trawl, gillnet, and longline fisheries).

Enhancing Cooperation to Achieve International Goals

In my introductory remarks, I promised to address how NOAA Fisheries could further enhance our respective cooperative efforts to achieve fisheries, protected species, and habitat goals. NOAA Fisheries is reviewing whether the present decentralized internal organization for conducting international activities is optimal and if improvements should be made. In the meantime, we are reviewing the processes for soliciting views from the public, supporting committees, and preparing for meetings of ICCAT and the other Regional Fishery Management Organizations (RFMOs) to ensure that we are as efficient and effective as possible.

This concludes my testimony. I would be pleased to answer any questions.

Mr. GILCREST. Thank you very much, Dr. Hogarth.
Dr. Stansell.

STATEMENT OF KENNETH B. STANSELL, ASSISTANT DIRECTOR, INTERNATIONAL AFFAIRS, FISH AND WILDLIFE SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Dr. STANSELL. Good morning, Mr. Chairman, and members of the Subcommittee. I appreciate the opportunity to appear before you today to provide testimony on two key components of the U.S. Fish and Wildlife Service's international wildlife conservation programs.

I have a written statement and would ask that it be included for the record.

The Service has a long history of proactive programs for international species conservation. A vital component of all of our efforts involve partnerships with a broad cadre of agencies, foreign governments, local communities, and non-governmental organizations.

My testimony today will focus on two program areas that are particularly timely for this hearing: the regulation of international wildlife trade through the CITES convention, and our grants programs that provide on-the-ground wildlife conservation support to developing countries.

The Service is preparing for the 13th meeting of the conference of the parties to CITES, which will be held in Bangkok, Thailand in October of this year. This is an opportune time to update the Subcommittee on the status of those efforts.

Additionally, this Subcommittee is currently considering legislation for additional species under the Multinational Species Conservation Fund. We would like to report on the important progress that has been made under the existing programs.

Relative to polar bears, we have previously testified in support of the U.S./Russia polar bear agreement. I am pleased to report to the Subcommittee that we anticipate and we will be transmitting the implementing legislation to that agreement soon. We look forward to briefing the Subcommittee and the Alaska delegation further on the details of the implementing legislation, and working closely with the Committee as it moves forward.

The CITES treaty recently celebrated its 30th anniversary. It is the only international treaty designed specifically to monitor and regulate international trade in wildlife species. Participation in the convention has now grown to 165 parties. As a founding party, and one of the world's largest importers of wildlife, the United States continues to provide a leadership role in the convention, both as chair of the standing committee which guides the convention's day-to-day operations, and through active participation at meetings of the conference of the parties. The Service is completing its consultations and will formally transmit its final proposals for the meeting by May 5th of this year.

At that time, we will also begin working on draft negotiating positions for species proposals and other agenda items that have been submitted by other parties. Although final decisions have yet to be made, we anticipate moving forward with a number of proposals as outline in our latest Federal Register notice. For domestic species, these would include the listing of the humphead wrasse in Appendix II, the downlisting of the bald eagle to Appendix II, the listing of the painted bunting in Appendix II, and we are also working with our colleagues in range countries to cosponsor several proposals for foreign species such as Asian fresh-water turtles.

We anticipate that other parties will again submit proposals for a number of more controversial species, including whales and African elephants. We will be working throughout the summer to coordinate our negotiating position for other party proposals as they are known.

Moving quickly to our grants program, the Service currently administers species programs for African elephants, Asian elephants, rhinos and tigers, great apes, and neo-tropical migratory birds. Collectively, these programs have funded over 600 on-the-ground projects and leveraged over \$100 million in matching support from partners throughout the world. We consider that an excellent return on investment, and a proven model for cooperative wildlife resource conservation.

In order to be effective, however, the Service must work closely with foreign governments, local communities, the private sector, and local and international NGO's to identify and support high priority actions to protect and recover these species and their habitats.

Our experience has shown that relatively modest sums, if judiciously applied to well-designed and implemented projects, can leverage not only considerable matching funds but we believe, as importantly, local community investment in the conservation of their species.

Our multinational program is complemented by the Service's Wildlife Without Borders program. While the multinational program focuses on critical species, our Wildlife Without Borders

program addresses broader needs that ultimately must be met for overall success in wildlife conservation. Our goal is to assist developing countries in building their capacity to develop locally adapted wildlife management programs to meet their challenges of on-the-ground wildlife conservation. These efforts include projects such as natural area management, staff training, education and outreach, and fostering local community involvement in wildlife conservation.

Geographic Wildlife Without Borders initiatives currently are underway in five regions, from Latin America to China. We also focus on thematic initiatives under our Wildlife Without Borders program to address cross-cutting issues such as wetland conservation and a more recent issue of the bushmeat. These are not grant programs, per se, but they are programmatic efforts to develop a coordinated effort among many stakeholders.

Working with our international partners, we see clear signs of the effectiveness of our combined efforts. These modest programs serve as a catalyst for cooperative efforts among various partners to work together for a common goal: the global conservation of wildlife. The success of these programs encourage optimism and help point the way to improved actions in a world of increasing threats to wildlife and their habitats.

In closing, Mr. Chairman, I would like to thank you and the other Subcommittee members for your continuing support of the conservation of wildlife species throughout the world.

I would be happy to respond to any questions you may have at this time.

[The prepared statement of Dr. Stansell follows:]

**Statement of Kenneth B. Stansell, Assistant Director, International Affairs,
Fish and Wildlife Service, U.S. Department of the Interior**

Mr. Chairman, thank you for the opportunity to provide testimony regarding the U.S. Fish and Wildlife Service's (Service) role in the international conservation of fish and wildlife species. The Service appreciates the continued interest and commitment by this Subcommittee to protect and conserve threatened and endangered species throughout the world.

As members of the Subcommittee are aware, the Service has a long history of proactive programs addressing the international conservation of fish and wildlife species. The Service works with private citizens, local communities, state and federal agencies, foreign governments, and nongovernmental organizations, to promote a coordinated domestic and international strategy to protect, restore, and enhance the world's diverse wildlife and their habitats. My testimony today will highlight two key components of those programs: regulation of international wildlife trade through implementation of the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES) and providing direct support to on-the-ground conservation programs in developing countries through a series of grant programs including the Multinational Species Conservation Fund and our Wildlife Without Borders Program.

**CONVENTION ON INTERNATIONAL TRADE OF ENDANGERED SPECIES
OF WILD FAUNA AND FLORA (CITES)**

I appreciate the opportunity to update the Subcommittee on the U.S. preparations for the thirteenth meeting of the Conference of the Parties (COP13) to the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES). COP13 will take place in Bangkok, Thailand from October 2-October 14 of this year.

CITES, which celebrated its 30th anniversary in 2003, is the only international treaty designed specifically to control, monitor and regulate international trade in certain animal and plant species that are now or may be potentially threatened with extinction. CITES is one of the most effective forces in the world today for conservation of fauna and flora, both in halting the trade in species which are threatened with extinction and in fostering sustainable trade in other vulnerable species.

CITES is a treaty that works and is gaining momentum as reflected by the continued expansion of this treaty's membership. Currently, 164 countries, including the United States, are Parties to CITES.

As the Subcommittee is aware, the Convention established a formal process for considering changes to the species covered by the Convention through periodic meetings of the Parties. Any Party may submit proposed species changes and other agenda items for consideration at meetings of the COP through this process. In preparation for the upcoming COP13, the Service has coordinated with the Departments of Commerce, State and Agriculture; the U.S. Trade Representative (USTR) and state agencies. The Service has published a series of Federal Register notices, and held public meetings, in which we solicited comments regarding possible species proposals, resolutions, decisions, and agenda items that the United States should consider proposing at the next meeting. The public comment period on the latest Federal Register notice closed on March 12, 2004. That notice presented a summary of comments received and outlined proposals that were likely to be submitted.

In considering U.S. proposals, the Service will prioritize submissions to maximize the Convention's effectiveness in the conservation and sustainable use of species subject to international trade. This includes proposed actions that specifically address:

- serious wildlife trade issues that the U.S. is experiencing as a range country for species in trade, or for those species not native to the U.S.;
- difficulties encountered by the U.S., or other Parties, in implementing or interpreting the Convention; and
- implementation of the Convention by increasing the information quality and expertise used to support decisions by the parties.

The Service is currently completing its consultations and will formally transmit its final proposals to the CITES Secretariat by May 5, 2004. At that time, we will also begin working on our draft negotiating positions for species and other agenda items proposed by other Parties. We anticipate publishing those draft positions in the Federal Register in July 2004, for public review and comment prior to the meeting.

We anticipate that Assistant Secretary for Fish and Wildlife and Parks, Mr. Craig Manson will again head the delegation, which will be comprised of technical staff from the Department of the Interior, the Service, U.S. Agency for International Development (USAID), NOAA Fisheries, USDA Animal and Plant Inspection Service (APHIS), U.S. Forest Service, State Department, and USTR.

Of the numerous issues to be addressed at COP13 below are several that we would like to highlight.

Whales

We anticipate that there will be several proposals dealing with whales. This is a very contentious issue that has a long history within CITES. Proposals to downlist stocks of both Bryde's whales and Minke whales from Appendix I to II by Japan have been defeated at the last four CITES meetings. If adopted, these proposals would re-open international commercial trade in whale products, and could foster increased poaching of protected whale species. The United States continues to be strongly opposed to the downlisting of whale species in accordance with the commercial whaling moratorium of the International Whaling Commission (IWC). We believe that CITES should honor the request for assistance in enforcing the moratorium which was communicated by the IWC to CITES in 1978. We continue to participate in the IWC efforts to develop a Revised Management Scheme (RMS) that includes an effective inspection and observation scheme for use in the event that the moratorium on commercial whaling is lifted.

Elephants

Trade in African elephant parts and products has been another contentious issue. In the spring of 1989, concern that African elephant populations were being devastated to supply a largely illegal ivory trade resulted in major importing countries, including the U.S. and the European Union, to declare a moratorium on ivory imports. At COP12, because of successful management strategies, Botswana, Namibia, and South Africa, were permitted to conduct a one-time sale of registered government stockpiles of ivory, no earlier than May 2004. This one-time sale is subject to certain additional specific conditions including an expanded and operational Monitoring of Illegal Killing of Elephants (MIKE) program, which is designed to provide a baseline of elephant populations and ongoing monitoring. The United States continues to work with other delegations to ensure that the conditions of any sale of ivory included effective safeguards to prevent adverse impacts on elephant populations in other countries.

Humphead Wrasse

The United States will likely submit a proposal to list humphead wrasse to Appendix II as a result of continued illegal and unsustainable trade, lack of coordinated management, a vulnerable life history, and the prominence of international markets. Researchers remain concerned over the status of the humphead wrasse because of its importance as a luxury food item and a high market value that is predicted to rise with increasing rarity of the species, thus encouraging continued exploitation as stocks continue to decline. The United States submitted a proposal to list the species in Appendix II at COP12, and, although it garnered a majority of votes, it failed to gain the required two-thirds majority. Results of recent research on the effects of trade on the status of the species should help support re-submission. Fiji may be a possible co-sponsor of the proposal.

Bald Eagle

Since the bald eagle is no longer listed as “endangered” under U.S. law and no longer subject to significant levels of trade, the United States may submit a proposal to transfer this species from Appendix I to Appendix II. Bald eagle populations have grown rapidly throughout much of their range. Populations continue to grow (there were an estimated 6,471 breeding pairs in the lower 48 states in 2000). Since CITES provisions only address international trade, the proposed amendment to the Appendices would likely have little or no effect on additional protections for the bald eagle.

We manage the largely non-commercial demand for this species (ceremonial uses by U.S. and Canadian indigenous peoples) through our National Eagle and Wildlife Property Repository which collects bald eagle corpses and parts from across the country for eventual distribution to federally recognized U.S. Native American tribes through a permitting process. There is also some international demand for Native American artifacts made with eagle feathers for specialty collectors and as curios and this trade would still be controlled under an Appendix-II listing. Moreover, there are several other federal and state laws and regulations that protect bald eagles in addition to the Endangered Species Act, such as the Bald and Golden Eagle Protection Act. The bald eagle is also protected under bilateral treaties between the United States and other countries, including Canada, for the conservation of migratory birds.

Bobcat

Finally we may propose the removal of bobcat from the CITES Appendices. Bobcat was listed in CITES Appendix II in 1977 and has been kept on Appendix II because of the similarity of appearance of its pelts (and products manufactured from those pelts) to those of other small spotted cat species listed in Appendix I or II. The Western Association of Fish and Wildlife Agencies and the Louisiana Department of Wildlife and Fisheries have now requested that the bobcat be removed from the Appendices. We are investigating the consequences of removing the bobcat from the CITES Appendices on the conservation of other protected small spotted cats, particularly the Canada lynx, European lynx, and Iberian lynx. We are also seeking input from the other two bobcat range countries (Canada and Mexico), and from countries where lynx species occur to determine if management and enforcement controls in range countries are adequate to nullify look-alike concerns. We also continue to consult closely with State fish and wildlife agencies. Removal from Appendix II is supported by Canada but opposed by Mexico and the EU. While the success of this proposal is doubtful, we believe it may be useful to draw attention to the lack of progress in addressing identification and trade control problems that have required the listing of this species as a look-alike for 25 years.

MULTINATIONAL SPECIES CONSERVATION FUND AND WILDLIFE WITHOUT BORDERS

The Service currently administers the Multinational Species Conservation Fund that includes the African Elephant Conservation Act, the Rhinoceros and Tiger Conservation Act, the Asian Elephant Conservation Act, the Great Apes Conservation Act and the Neotropical Migratory Bird Conservation Act. These programs provide technical and cost-sharing grant assistance to range countries for conservation of the respective species and their habitats. With regards to African elephants, Asian elephants, Rhinoceros and Tigers and Great Apes, the Service has funded 559 conservation grants in 46 countries. Approximately \$25 million in funds appropriated by the U.S. Congress has leveraged more than \$80 million in matching and in-kind contributions from about 500 partner organizations. With regards to neotropical migratory birds, the Service has funded 69 projects in 28 countries throughout Latin America and the Caribbean. Approximately \$6 million appropriated by Congress has

leveraged more than \$26 million in matching funds. Attached to our testimony is a history of the programs under the Multinational Species Conservation Fund.

The Service works closely with foreign governments and local and international conservation organizations to identify and support high-priority actions to protect these species and their habitats. Our experience has shown that relatively modest sums, if judiciously applied to well-designed and implemented projects, can leverage considerable resources and, just as importantly, the interest of communities, governments, and the world. As a direct result of funds made available by the Multinational Species Conservation Acts, in-country wildlife researchers and managers are more effectively protecting their country's wildlife and habitat resources. On behalf of rhinoceroses, tigers, and Asian elephants, we have been one of the leaders in helping range countries address the problems affecting the continued existence of these animals. The decade-long implementation of the African Elephant Conservation Act in Africa has played a significant role in U.S. efforts to encourage and assist on-the-ground projects aimed at conserving elephants.

The Service also coordinates these overseas activities with USAID, which manages a \$155 million per year program in conservation and management of biological diversity and forests that links species preservation and habitat management with economic development.

The following are examples of projects that have been supported by Multinational Species Conservation Funds:

- African Elephants—Assistance with control of pressure from a diverse array of elephant poachers and to institute a coordinated system for monitoring elephant (*Loxodonta africana cyclotis*) populations and the traffic of illegal elephant products, such as ivory and bushmeat. (2002)
- Asian Elephants—Assistance on the Island of Borneo in Malaysia for conservation of elephants and their habitat, and conduct of elephant-human conflict mitigation activities in the vicinity of the Lower Kinabatangan Wildlife Sanctuary. (2003)
- Great Apes—Ground surveys for chimpanzee and western lowland gorilla populations and capacity building among local people surrounding this conservation area in northern Republic of Congo. (2001)
- Neotropical Migratory Birds—Restoration of about 500 acres of marsh within Palo Verde National Park in Costa Rica. This marsh was once the most important wintering area for waterfowl in Central America, including thousands of blue-winged teal and potentially over a hundred additional species of neotropical migrants. (2002)
- Rhinoceros and Tigers—
 - GIS capacity building of the Cambodia Tiger Team and development of a Cambodia Spatial Tiger Information System. (2001)
 - Ear notching of Black Rhinos on Lewa Wildlife Conservancy and Sweetwaters Rhino Sanctuary. (2002)

Recently, the Service testified in support of the Marine Turtle Conservation Act of 2003, H.R. 3378. H.R. 3378 addresses some of the most urgent conservation issues regarding marine turtles and would assist current recovery and protection efforts by supporting and providing financial resources for projects designed to conserve marine turtles and their nesting habitat in foreign countries, such as the sea turtle camps in Mexico. Modeled after existing programs within the Fund, H.R. 3378 would serve as a flexible funding source for global turtle conservation activities.

Work done through the Multinational Species Conservation Fund is complemented by the Service's Wildlife Without Borders Programs. While the Multinational Species Conservation Fund focuses on particular species, Wildlife Without Borders addresses broader needs that must be met for overall success in wildlife conservation. The goal of the Wildlife Without Borders Program is to develop locally adapted wildlife management and conservation programs to maintain global species diversity. Efforts include in-country capacity building, bolstering management of natural areas, educating communities on endangered and migratory species conservation, and developing public pride in wildlife. Wildlife Without Borders initiatives are underway in five geographic regions: Latin America and the Caribbean, Mexico, India, Russia and China.

In 2003, Wildlife Without Borders awarded 73 grants in 18 countries. The U.S. contribution of \$1.48 million leveraged \$5.43 million in matching and in-kind contributions from foreign governments, international conservation organizations, private businesses and community leaders.

The following are examples of projects supported by funds from the Wildlife Without Borders program:

- Latin America and the Caribbean—Partnered with the Department of State to hold the Western Hemisphere Migratory Birds Conference. The Conference successfully brought together representatives from 25 countries in the Western Hemisphere and over 40 international non-government conservation groups to develop cooperation on conservation of migratory species and collaboration on wildlife conservation issues.
- Russia—Grants program instituted in 1995 has provided more than \$600,000 to enhance law enforcement, education activities, and infrastructure for Russian federal nature reserves. These funds have been used to purchase such operational necessities as park station generators, patrol vehicle repairs and fuel and station radios.

Working with our international partners, we see clear signs of the effectiveness of our combined efforts. The Service's work through our Multinational Species Conservation programs serve as a catalyst for cooperative efforts among the governments of the world, non-governmental organizations and the private sector to work together for a common goal, the conservation and continued existence of species. The lessons we learn encourage optimism and help point the way to improved action in a world of increasing threats to wildlife.

In closing Mr. Chairman, I would like to thank you and the other Subcommittee Members for your continuing support of the conservation and protection of threatened and endangered species throughout the world. I would be happy to respond to any questions.

Historical Perspective of the Multinational Species Conservation Funds

data through FY 2003



	Number of Proposals Submitted for Funding			Number of Grants Awarded		Range Countries with Grants		Appropriation Total	Funds Available for Grants	Administration (5% or \$80,000)	Leveraged Funds (Matching /In-Kind)
AMECF*	300	194	26	\$13,139,766	\$12,825,933	\$493,833	\$60,481,514				
RTCF**	543	205	21	\$5,136,500	\$4,888,165	\$248,335	\$10,684,327				
ASECF***	197	85	12	\$4,136,500	\$3,918,165	\$218,335	\$4,982,625				
GACF****	163	75	23	\$2,940,000	\$2,700,000	\$240,000	\$4,275,032				
NABCA	430	69	28	\$5,980,500	\$5,801,085	\$179,415	\$31,804,184				
TOTAL	1633	628	N/A	\$25,352,766	\$30,133,348	\$1,379,918	\$112,227,682				

*African Elephant Conservation Act of 1989 (appropriations start in 1990)
 **Rhinorn and Tiger Conservation Act of 1994 (appropriations start in 1996)
 ***Asian Elephant Conservation Act of 1997 (appropriations start in 1999)
 ****Great Ape Conservation Act of 2000 (appropriations start in 2001)
 NABCA = Neotropical Migratory Bird Conservation Act (appropriations start in 2002)

Mr. GILCREST. Thank you very much, Dr. Stansell.
 Mr. Grasso, welcome.

**STATEMENT OF THOMAS V. GRASSO, DIRECTOR,
 MARINE CONSERVATION POLICY, WORLD WILDLIFE FUND**

Mr. GRASSO. Thank you, Mr. Chairman, and members of the Committee. It is a pleasure to be here today, and I appreciate the opportunity to testify on behalf of the World Wildlife.

Mr. Chairman, the world's seas have sustained humanity for thousands of years. Yet today, we are plundering the ocean's riches and the impact on fish stocks and ocean wildlife is almost unimaginable. For example, 15 percent of wild Atlantic salmon runs in the North Atlantic are currently extinct. Forty-two percent of runs are threatened with extinction. According to the U.N. FAO, 70 percent of the world's major fisheries are either currently overfished, fully exploited, or only slowly recovering. A recent scientific report released at the IWC last year in Bremen, Germany found that

300,000 small whales, dolphins and porpoises are lost each year as a result of bycatch in fishing gear. As you have heard here today, in the eastern Pacific, leatherback turtles are facing a 90 percent decline, and some scientists are suggesting they could go extinct in the next 20 years.

Addressing these problems will benefit all Americans and, indeed, Mr. Chairman, as you have pointed out, these issues are clearly of an international nature and, as such, potential solutions could benefit many people around the world, particularly in the developing world, where fish and fishing is such an important part of coastal communities' economies. The recently released Ocean Commission report and Pew Ocean Commission's report confirm the need for urgent international leadership.

WWF today urges the U.S. to take this mantle of leadership in three strategic areas. Number one, we recommend that the U.S. take leadership in conforming international practices of global fishing fleets and the international bodies that govern them. I will just give you a brief example of how we can do that.

Last year at the ICCAT meeting, a ban on driftnets in the Mediterranean Sea was adopted. That is following on the international moratorium on high seas driftnets from a number of years ago. The recent report by WWF's Mediterranean program found that Morocco still continues to have over 100 vessels using high seas driftnets in the southwest Mediterranean Sea, in violation of both the ICCAT ban and the U.N. moratorium.

The Secretary of Commerce's report on the high seas driftnets ban from 2003 notes this problem and suggests that the U.S. will be taking action. We think the ICCAT meeting that will be occurring in November of this year on U.S. soil is a prime opportunity to deal with this continued violation of international standards.

Second, addressing global fleet overcapacity by reducing harmful government subsidies is a critical issue that needs to be addressed to ensure that overfishing is reduced. Fifteen billion dollars a year goes to the fishing industry around the world from government subsidies. That's roughly 20 percent of the value of all global fish products around the world. The WTO is currently working on a set of rules and disciplines to better inform the way that subsidies are provided to the fishing industry, and we encourage the U.S. to continue its leadership in working toward a global solution at the WTO that will benefit fisheries around the world.

Third, addressing the impacts of ocean fishing on marine biodiversity. As has been noted here today, the U.S. has demonstrated leadership in the eastern tropical Pacific with the International Dolphin Conservation program, which has seen a 98 percent reduction in dolphin mortalities in the eastern tropical Pacific tuna fisheries.

We are now seeing the U.S. working with the Government of Japan to reduce sea turtle bycatch at the IATTC internationally. Again, we have an opportunity at this year's IATTC to push for mandating the use of alternative gears that will reduce sea turtle bycatch. An import player in this arena is the European Commission, and we encourage the U.S. to pressure the EU to go along with this solution.

In conclusion, Mr. Chairman, WWF notes and appreciates the U.S. leadership that has been demonstrated on international matters. To wit, a few: protecting wild salmon from indiscriminate fishing off the coast of Greenland for wild salmon; leading the effort on the new treaty in the western Pacific, which WWF participated in on the U.S. delegation for the last 5 years; and work with Japan on turtle bycatch in the Pacific.

We urge the U.S. to strengthen its role by first of all acceding to the Law of the Sea convention, and to provide full financial support for the international institutions that have been mentioned here today.

I would like to ask that my testimony be submitted for the record and I would be happy to answer any questions you may have. Thank you.

Mr. GILCHREST. Without objection, so ordered.

[The prepared statement of Mr. Grasso follows:]

**Statement of Thomas V. Grasso, Director, Marine Conservation Policy,
World Wildlife Fund**

Good Morning Mr. Chairman and Members of the Committee. My name is Tom Grasso and I am the Director of Marine Conservation Policy for World Wildlife Fund (WWF). On behalf of WWF, I want to thank the committee for the opportunity to present our views on the role of the United States in international treaties concerning ocean fisheries. World Wildlife Fund, with 1.2 million members in the U.S. and over 5 million worldwide, is the largest private conservation organization working to protect wildlife and wildlife habitats in more than 120 countries.

The world's seas have sustained and nurtured humanity for millennia, providing a seemingly endless bounty—everything from food and fiber to minerals and medicines, from the simplest subsistence livelihood to the grandest luxury recreation. But today we are plundering the blue waters in a manner that, if we could see it as easily as the same phenomenon on land, would look a lot alike the last buffalo hunt in the American West. Protecting the web of life in our oceans and reversing the present trend in biodiversity loss, fisheries declines and ecosystem disruption will require a long-term, ambitious effort by all coastal countries and the international community as a whole.

Major challenges in the management of migratory fish stocks

The conservation status of important migratory fish populations has been the subject of considerable public attention during the past year. Articles such as last summer's Nature piece by Ransom Myers have highlighted declines in the numbers of large ocean predators such as tunas and sharks. The need for more effective management of international fisheries is noted in the reports of both the Pew Ocean's Commission and the United States Commission on Ocean Policy. Besides the status of the targeted fish stocks themselves, the effect of high seas fisheries on other species of ocean wildlife is also a cause for concern. While there is some debate in the scientific community concerning the precise numbers, the big picture trajectories in many of these fisheries and their impact on ocean biodiversity are well understood and troubling:

- In the Atlantic, 15 percent of wild salmon stocks have been extirpated and another 42 percent are considered threatened with extinction.
- 70 percent of the world's major fisheries are overfished, fully exploited or only slowly recovering.
- Every year 300,000 small cetaceans—whales, dolphins, and porpoises—are killed as bycatch in fisheries around the world. For some species, such as the Northern Right Whale, interactions with fishing gear are endangering their very existence.
- Scientists estimate that only 3000 Eastern Pacific Leatherback sea turtles remain in the eastern Pacific Ocean—a 90 percent decline in the past 20 years. Some scientists warn of the possible extinction of leatherbacks there in the next 20 years if threats associated with fisheries bycatch and other factors are not addressed.

Addressing these problems and managing these ocean fisheries more effectively is in the best interest of all Americans. Fisheries serve as an important source of

food, jobs, and recreation. The health of their associated ecosystems underpins the economies of coastal communities in the United States and other nations that are our important allies.

WWF recommends to the committee today a series of actions by United States in international fora that will lead efforts to protect the dwindling resources of the world's oceans. In short, the United States must take international leadership to:

- conform existing regional management bodies to U.N. adopted standards;
- take serious steps to address the overcapacity of the global fishing fleet; and
- address the impacts of pelagic fisheries on the ocean's web of life.

Conforming regional fisheries management to the letter and spirit of the United Nations Implementing Agreement (UNIA)

Over the past decade, a robust body of ocean law and policy has been developed to manage international fisheries. The pinnacle of this process was the adoption of the U.N. Implementing Agreement. While some progress has been made, WWF urges the U.S. to continue its efforts aimed at strengthening current Regional Fishery Management Organization (RFMO) conventions and the policies adopted under them to make them consistent with the UNIA. RFMOs were intended as the "delivery mechanisms" for the UNIA, but current conventions and policies fall far short of the UNIA's ambitious prescription for sustainable management of highly migratory and straddling stocks. The upshot of all this is, too often, overfishing and a failure to realize the economic and social benefits that could be derived from these fisheries if they were managed in a fashion that comported with the UNIA's mandates. WWF recommends that the U.S. ramp up its work to strengthen these conventions in a more systematized way, based on a convention-by-convention assessment of conformance with UNIA.

There are a variety of ways—ranging from diplomacy to the use of trade restrictions—in which the U.S. can ensure that International agreements are taken seriously. A good case in point for U.S. action is the continuing use of large scale drifts by the fishing fleets of Morocco. The scientific study conducted by WWF scientists and others entitled "Driftnet fishing and biodiversity conservation: the case study of the large-scale Moroccan driftnet fleet operating in the Alboran Sea (S.W. Mediterranean)," found the continued use of large-scale driftnets operating on the high seas in the southwestern Mediterranean. This report was noted in the "2003 Report of the Secretary of Commerce to the Congress of the United States Concerning U.S. Actions taken on Foreign large-scale high seas driftnet fishing pursuant to section 206(e) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by PL 104-297, The Sustainable Fisheries Act." This report notes that the U.S. is currently investigating the allegations enumerated in the WWF scientific paper. We respectfully submit this Scientific Paper and request that it be included in the record of this hearing. The Secretary's report indicates the need to confirm the WWF finding that the Moroccan driftnet fleet contravenes the international moratorium on large scale driftnets in that the nets exceed 2.5 km in length and are operating on the high seas. The WWF paper indicates that 177 vessels with an average net length of 6.5-7.1 km are causing bycatch of pelagic sharks, short-beaked and striped dolphins and loggerhead turtles. WWF recommends urgent action by the U.S. to address this issue through all diplomatic means possible.

Taking overcapacity seriously

The overcapacity of the world's fishing fleets is widely recognized as a major culprit contributing to overfishing which is undermining economic returns from fisheries and exacerbating the adverse environmental effects of fishing. Estimates by WWF in the late 1990s placed global fishing fleet overcapacity at 150 percent, meaning that there are roughly two-and-a-half times the level of fishing power in the fleet needed to achieve a catch level that would not further deplete stocks (Porter, 1998).

In 1999, the international community sought to address this critical problem through adoption of the United Nations FAO International Plan of Action for Managing Fishing Fleet Capacity which was intended to have national and regional management bodies address overcapacity by 2005. Unfortunately, efforts to date suggest that the goal of effectively managing fishing fleet capacity will not be achieved. The current real world practice of fishing fleet capacity management and reduction is out of step with these policy pronouncements. For example, in the Eastern Tropical Pacific, the tuna purse seine fleet has increased its capacity roughly 70 percent in the past decade. That fishery is seeing both the economic and ecological consequences—each year the fleet must be closed for a month or more because of that increased capacity.

The U.S. must continue to play a leadership role in the Inter-American Tropical Tuna Commission's Working Group on Fleet Capacity and to press the need to address growing overcapacity in the western Pacific where both conservation groups and the seafood industry agree that capacity growth is a threat. In the Western and Central Pacific Ocean, where close to half the world's supply of canned tuna is caught, a regional commission has yet to begin managing the fisheries. First on the list of tasks for the new commission should be the adoption of a capacity management scheme to avoid replicating the problems that are occurring in the Eastern Pacific. The U.S. should move swiftly to ratify the new Treaty for the Western and Central Pacific and lead efforts to build support for a regional management plan. Such a plan will benefit both fishing interests and the web of life in the ocean.

Lastly, government subsidies to the fishing industry are widely viewed as sending negative signals to fishermen. Open access and government subsidies have hastened the status of the current global fleet overcapacity. Indeed, current estimates of the subsidies are at \$15 billion worldwide (roughly 20 percent of the value of global fish catch) with the bulk of these subsidies leading to overfishing. Thanks in part to U.S. leadership, the WTO, at the 2001 WTO ministerial meeting in Doha, Qatar, agreed to begin negotiations on fishing subsidies by committing to "clarify and improve WTO disciplines on fisheries subsidies." Efforts continue at the WTO as rules negotiations continue. Reinigorated U.S. leadership will be necessary to continue bringing serious reform to disciplines governing fishing subsidies.

Addressing the impacts of pelagic fisheries on the ocean web of life

Article Six of the United Nations Implementing Agreement requires countries to take into consideration the impact on "non-target and associated or dependent species and their environment, and to adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern." (UNIA Art. 6(d)) RFMO attention to this important set of issues is quite uneven at the moment—fleet performance is often short of the mark even given the low expectations for performance currently in place. Indeed, in 2002 WWF and several East Coast states filed a Pelly Amendment petition to the Secretary of Commerce concerning the failure of the EU to reduce its fishing fleet impacts on Atlantic White Marlin, which is a bycatch species of those fleets.

At the same time, there are success stories. Where nations and fisheries have made this a priority, innovative solutions have been crafted. Efforts among the U.S. and Latin American countries have reduced the dolphin bycatch by 98 percent in the Eastern Tropical Pacific tuna fisheries through the International Dolphin Conservation Program of the IATTC.

The United States is poised to play a similar leadership role in reducing the bycatch of sea turtles. The conservation status of leatherback sea turtles in the Pacific is dire: some scientists predict extinction in the next several decades. One cause of the decline in leatherback numbers is bycatch by vessels fishing with longlines. Fortunately, recent research led by NOAA suggests that longline turtle bycatch can be dramatically reduced through the use of circle hooks and related conservation measures. The U.S. is already working with fleets in the Pacific to see if these measures produce similar positive results there. This effort must be redoubled, given the plight of Pacific leatherbacks, and my organization pledges to work with NOAA on this important initiative. We urge the United States to make this a priority.

Given that bycatch of marine species is global phenomenon, WWF strongly recommends that the U.S. develop science-based priorities for a U.S.-led international bycatch reduction initiative—focusing on the instances in which bycatch in international fisheries poses the greatest threat to biological diversity. There are a number of promising partnerships emerging that could be better coordinated into a global effort. Working together, fishermen, scientists and conservationists can often solve these problems in ways that benefit ocean wildlife and reduce costs to fishermen.

Conclusion: Strengthening the United States' leadership role as advocates for international fisheries sustainability

As longtime participants in many of the regional organizations responsible for the health of migratory fish stocks, World Wildlife Fund wishes to acknowledge the proactive role played by the United States in encouraging more prudent management of these ecologically and economically important fisheries. Examples of U.S. leadership include:

- the successful effort to curtail fisheries that threaten America's endangered populations of Atlantic salmon;
- our prominent role in shaping the new treaty that will govern the world's most valuable tuna fishery in the western Pacific Ocean; and

- the recent United States initiative to minimize the bycatch of sea turtles by pelagic longlines.

Nevertheless, the U.S. Oceans Commission's recently released report is a strong reminder that we should redouble our efforts. For effective international leadership, WWF strongly encourages this committee to support the U.S. acceding to the U.N. Convention on the Law of the Sea (UNCLOS). Acceding to the UNCLOS is also a recommendation of the U.S. Ocean Commission. Additionally, WWF supports continuing the engagement of the U.S. in multilateral treaty bodies including paying fees and providing appropriate support for regional bodies.

Mr. Chairman, thank you again for the opportunity to testify. I would be pleased to answer any questions you or the Committee may have.

Mr. GILCHREST. Thank you very much, Mr. Grasso.

We will probably have a few rounds of questions. I'm sure that members will have questions which will exceed their 5 minutes. And I want to welcome the gentlelady from Guam for coming to the hearing.

Dr. Hogarth, the ICCAT meeting that occurred—I guess it's now in November, in Dublin—you said this morning, and having spent a day there, that for the most part it was pretty successful. There were conservation agreements concluded. There were enforcement provisions to those conservation agreements. Even though it's a little bit early, can you respond to two questions:

What were the conservation agreements, and in particular, how were they to be enforced, or what are the consequences of nations violating those conservation agreements, and can you address the comment that Mr. Grasso made, that Morocco is still out there with these driftnets in violation of those agreements?

Dr. HOGARTH. Thank you, Mr. Chairman.

There were several things. For once, we finally at the last ICCAT meeting had a very detailed compliance meeting. It passed. When we talk about compliance, most of the countries have sort of ignored it and wouldn't even come to the table. Chris Rogers of our highly migratory group led the compliance issues at the last meeting, and did an outstanding job of making the countries discuss their problems and address why they were out of compliance.

Then we passed last year the trade regime, the trade restriction. This will be the first year in 2004 where we see some teeth really come into compliance, because we have not had any real teeth for compliance. But the trade regime will give us the teeth for that.

We will have to watch very carefully. We have right now pending a certification against the European Union for diminishing the effectiveness of ICCAT, through the taking of small fish and for not adhering to the quotas. We will find out this year what progress they have made against the reduction in small fish.

As far as Morocco, we spent a lot of time at the last meeting on that. They asked for some more time. We will not get a full report until this fall's meeting in November here. If not, I feel pretty sure that action will be taken. There is a lot of discussion about the number of nets, and they are really taking small fish. That is one of the real concerns, that they're taking small fish, tremendous numbers of small fish. So 2004 will be the opportunity for us to see if we can really get teeth into these compliance issues. I think we will.

Mr. GILCHREST. Mr. Balton, would you like to comment on that as well from the State Department's perspective, on the conserva-

tion agreements and the consequences of not abiding by those agreements?

Mr. BALTON. Mr. Chairman, the agreements themselves overall are very strong. We have had a decade of putting good words on paper. But you are right to call into question compliance and implementation as the fundamental issue right now.

Worldwide, we don't have the level of compliance with all of these instruments that we would like to see. But the driftnet ban is an interesting matter. I would like to put it into a larger context.

Before the U.N. driftnet ban was created, we had fleets from Asia of 300 and 400 vessels each in the North Pacific intercepting U.S. origin salmon, sea birds, marine mammals. Those fleets are gone. The moratorium worked in a very real way. There is good compliance overall with it.

The problems we are left with are smaller. We have had problems with Italy in the Mediterranean and I think we have solved that one now. It seems we have a problem with Morocco in the Mediterranean—

Mr. GILCHREST. How did you solve the problem with Italy?

Mr. BALTON. We negotiated two agreements, one in '96 and one in 1998, that led to a close down of the Italian driftnet fishery. We had support from the EU as well in pressing the Government of Italy to—

Mr. GILCHREST. But why did Italy comply with that? What were the consequences if they didn't?

Mr. BALTON. There were several. One was the EU had issued a directive that was binding on Italy to do so. There is also a U.S. law in question you may know, the High Seas Driftnet Fisheries Enforcement Act, that could lead to sanctions against countries that do not observe the U.N. moratorium.

Mr. GILCHREST. Does this also apply to Morocco?

Mr. BALTON. It applies to any nation, sir.

Mr. GILCHREST. Is Morocco aware of that and are we having discussions with Morocco to that end?

Mr. BALTON. Currently, our efforts with Morocco have focused through ICCAT. It may be that if we do not succeed, as Mr. Grasso suggested, using the meeting in New Orleans to solve this problem, maybe we need to make it a bilateral U.S./Morocco issue as well.

Mr. GILCHREST. Is it a cultural issue with Morocco? Is it an enforcement issue with the government not being able to enforce that provision, the Moroccan government not being able to stop the driftnets?

Mr. BALTON. No, I would not say it's a cultural issue, as such.

There is something unusual about the Mediterranean you need to know. The U.N. moratorium applies on the high seas, and in most places in the world that exists only beyond 200 miles. There are no exclusive economic zones in the Mediterranean. The high seas begin at 12 miles from shore. So fairly small boats using driftnets are not complying with this high seas moratorium on driftnets. But the Mediterranean is an unusual area in that respect.

Mr. GILCHREST. It's unusual because—

Mr. BALTON.—because of the high seas being so close to shore.

Mr. GILCHREST. I see. OK. Thank you very much.

I will yield to the gentleman from New Jersey.

Mr. PALLONE. Thank you, Mr. Chairman.

I have a question regarding language that was in the recent conference report on the consolidated appropriations act. I guess that's the omnibus that we passed earlier this year.

There is specific language in the report that directs the State Department to "prioritize, as necessary, among commissions, according to policy goals, take steps as necessary to withdraw from lower priority commissions, and refrain from entering into new commitments."

Now, I guess I should say right off that I don't agree with this language or the conference report. But I just wanted to ask you some questions about that language.

How has the State Department responded to this direction from Congress to date, and specifically, how has the State Department prioritized its involvement in international commissions and what's the reasoning behind which commissions are higher or lower priority? What does the State Department view as lower priority commissions? I'm just trying to get some idea of how you have responded to this language, which I think was a mistake.

Mr. BALTON. Congressman Pallone, we were not very happy with the language, either.

The response is a matter of trying to decide how to allocate the money that was appropriated among the various commissions. We regard all of these commissions as vital and serving U.S. economic and conservation interests.

I feel like I need to say the United States is a member of these organizations, not because the State Department wanted us to be. U.S. constituent groups called upon us to join. We are a party only because the Senate has given advice and consent to the underlying treaties, and that Congress as a whole has passed legislation to implement all of our obligations under these various regimes.

We have prioritized to the extent we have tried to take the money, which included in 2003 a \$3 million shortfall, and spread it around to allow as many of the vital functions of each of these organizations to proceed as possible. But we are in arrears and there are threats to a U.S. standing in these organizations. We could face the loss of vote in some organizations. U.S. fisheries might lose the right to fish for some of the stocks regulated by these commissions if our arrears persist.

Mr. PALLONE. I'm not surprised. I am certainly sympathetic. In other words, you haven't actually done a prioritization. You're just trying to spread the money around and do the best you can is the best way to say it, I guess.

Mr. BALTON. Yes, that would be a good way to say it.

Mr. PALLONE. I guess you have already answered my other question, which was whether this prioritization process is a deterrent—well, no, you haven't answered this.

Does this prioritization, or whatever you have to do with these funds now, spreading them around, become a deterrent to the U.S. Government from entering into new agreements or treaties, and is it going to undercut U.S. global leadership?

Mr. BALTON. Certainly yes to the latter part of your question. I think if we don't pay our dues—and these are not voluntary con-

tributions. Virtually all the money in this account, and it's not a great deal of money, nevertheless represents mandatory, legally binding obligations the United States has undertaken.

There is a new commitment on the horizon. A number of people here at the witness table today, including myself, mentioned the new convention creating a new fishery commission for the central and western Pacific. We are not yet party to that. We hope to be party to it very soon. We will have to share a part of the budget for that, and that will be a new commitment, presumably to be funded out of the same account.

Mr. PALLONE. So it is possible you wouldn't be entering into it because of this language?

Mr. BALTON. Whether we become a member of that commission, Mr. Congressmen, in the first instance, is up to the Senate. They would need to give advice and consent to the treaty, and then we would also need this House, along with the Senate, to pass the legislation necessary to implement our obligations more generally. So it's not our decision alone on whether we join. It's a collective decision by the Executive and Legislative branches together.

But if we join, then we do have the obligation to pay our dues, it seems to me.

Mr. PALLONE. OK. Well, I think we already said that, according to the State Department, after taking into account the Fiscal Year 2004 shortfall and the Fiscal Year 2003 arrears, international fisheries commissions were underfunded by \$1.7 million. You explained how the shortfall affects the U.S. participation. Obviously, the President has put in his budget request that would restore the funding, so you support that.

Let me just ask you one thing, if I could, Mr. Chairman, about the convention on the Law of the Sea. The U.S. Commission on Ocean Policy report recommends that the U.S. ratify the Law of the Sea Treaty, which obviously I feel they should have done a long time ago. I know this treaty has support from the Administration, specifically the Navy and the State Department. However, there are a few dissenting votes or voices against entering into the convention. I might add that some of these dissenting views come from the very same people that supported our entry into NAFTA and the WTO. You know, I think it's kind of hypocritical on the part of those who say that we shouldn't enter into a Law of the Sea Treaty, but then they think we should enter into NAFTA and the WTO.

For the record, what are your positions, State, Interior, NOAA, World Wildlife Fund, what are your positions on the U.S. entering into the Law of the Sea Convention? Do you think it would affect our role in international conservation and management, whether you think it's a good idea.

I know I have run out of time, Mr. Chairman.

Mr. BALTON. Thank you, Congressman Pallone.

Let me be absolutely clear about this. This Administration strongly supports U.S. accession to the Law of the Sea Convention at this time, because we believe it advances both our national security and our economic and conservation interests.

We see great benefits from the treaty to the United States, both as a major maritime power and as a country with the largest exclu-

sive economic zone in the world, and a very broad continental shelf as well.

There were a number of hearings in the Senate. Administration witnesses, not just from the Navy and not just from the State Department, testified in strong support of this treaty. Most recently, there were hearings following the hearings in the Foreign Relations Committee last fall, in the Senate Environment and Public Works Committee, the Senate Armed Services Committee, and I believe there is to be one final hearing before the Senate Select Committee on Intelligence.

This Administration, the President, has put this treaty at the very top of the priority list for Senate ratification. We have been working hard with Congress to assuage these concerns that you have mentioned, Congressman Pallone, including some relating to intelligence gathering and national security. But we believe that, overall, this treaty has great benefits for the U.S. and that it is high time we did become party and join the 145 other states that have done so.

Mr. PALLONE. Thank you.

Can the rest of you comment on that?

Dr. HOGARTH. Thank you, Congressman.

Yes, we feel very strongly that we should ratify the Law of the Sea. We have for several years. That is the Administration's position and we hope we can soon get it done.

While I have the floor, I would like to say one other thing. All of these treaties are in the State Department, but every one of them just about affect fisheries and how we manage internationally. So we are very supportive of the Department of State and are very concerned with the fact that we do not have the funds necessary to pay our fair share.

Because many of these other countries, such as Japan, spend lots of money in the international arena. In fact, Japan is spending \$350,000 a year extra to ICCAT to try to get involved in more science. Obviously, it's the way these countries go for votes and all. So these treaties are extremely important for fisheries, for sea turtles, for all the management issues that we're involved in, and we support the Department of State in their efforts to try to get sufficient funding, and we know the Administration does.

Mr. PALLONE. Thanks.

The World Wildlife Fund, did you want to comment?

Mr. GRASSO. Just briefly, the World Wildlife Fund unequivocally supports the U.S. acceding to the Law of the Sea Convention. We feel, in our experience in participating on U.S. delegations, as well as observers to a number of these international bodies, the lack of the U.S. ratification of this important treaty, as well as the problems with funding in these commissions, oftentimes puts the U.S. in a compromise position when they're trying to lead issues of conservation in these international bodies. So if we can fix this problem, and if we can provide the type of funding that is necessary, we think it will put the U.S. in a much better position to be effective.

Mr. PALLONE. Thank you. It's hard to believe. I remember when I was in college when they were negotiating it. It's like 130 years ago, something like that. It might as well be 100 years ago.

Mr. GILCHREST. Probably at least 10 years.

[Laughter.]

Mr. PALLONE. No, it's like at least 30, Mr. Chairman. Thank you.

Mr. GILCHREST. The gentlelady from Guam.

Ms. BORDALLO. Thank you very much, Mr. Chairman, and Ranking Member Pallone, gentlemen.

My concerns have to do with the Pacific area. I represent Guam, and another one of my colleagues who sits on this Committee, Mr. Abercrombie, has also asked me to inquire.

The first question. The U.S. is one of 18 signatories to a convention that created the Western and Central Pacific Ocean Fisheries Commission. What is the status of this commission?

The other question that I would like to ask, a general question, one issue that needs to be addressed in the Western and Central Pacific is excess fishing capacity, or the potential for too many vessels in the fishery.

I don't know which one of you would care to answer.

Mr. BALTON. Congresswoman, perhaps I can start, and perhaps Dr. Hogarth has additional information as well.

First, on the status of the convention you asked about, you're right, the United States, along with 17 others, have signed this treaty. We signed it in September of 2001. The State Department is now working with our colleagues in the other agencies and the White House to submit the treaty to the Senate seeking advice and consent. We would also need both Houses of Congress to pass legislation to implement U.S. obligations under that convention, and we would look forward to working with you and others in developing that legislation.

The treaty is going to enter into force without us in June of this year. Fourteen states have already completed the ratification process, 14 nations. That was the threshold needed for enter into force. There will be a final preparatory meeting toward the end of this year, in December, and then the inaugural meeting of the commission, as such, will take place shortly thereafter.

Even though we are not yet a party, we are a principal player in this process. Everybody expects that we will soon be a party, and they very much need the United States' leadership and expertise and we are very welcome there.

Ms. BORDALLO. The other question I asked about, excessive—too many fishing vessels in the Pacific area, is that—

Dr. HOGARTH. I'll take an attempt on that.

There are several avenues that we're pursuing on capacity. One of them is the IATTC. The Eastern Tropical Pacific has already taken some measures there. This new convention will be the way to really get to the Central and Western Pacific.

Capacity is a worldwide issue that we have to deal with, and we're going to have to deal with it through these international treaties. I think this new convention will be the avenue to get to the central and western. But we are very concerned and are all working. IATTC has already done some work.

From the Atlantic standpoint, ICCAT is now working on capacity control, and we are working worldwide on the illegal, unreported and unregulated vessels, which at one time was estimated to be over 300 to 400 vessels. We have lists now that are owned to try

to get them out of the fisheries. This is not an issue that we take lightly, and we're working on it in several avenues.

Ms. BORDALLO. So it is under consideration?

Dr. HOGARTH. Yes ma'am.

Ms. BORDALLO. Thank you.

Mr. Chairman, I have a couple of others that have to do with sharks and turtles. This is the Pacific area again. I think this would go to Mr. Balton.

Could you give us an update on the implementation of the UN's international plan of action for the conservation and management of sharks, and what does the U.S. hope to accomplish at the meeting of APEC, which is going to be held in Chile, I think, with regards to sharks?

Mr. BALTON. Thank you for that question, Congresswoman. This international plan of action, as you may know, was adopted at the FAO in 1999, largely in response to U.S. calls that the international community turn better attention to the management of sharks, many species of which are in bad shape.

With the adoption of that, we have followed up nationally by developing our own plan of action, national plan of action, on sharks. Our friends in NOAA had the lead on that.

We have gotten the United Nations as a whole to endorse strong action to conserve shark species, and we are now, as you mentioned, working through APEC, the Asia Pacific and Economic Cooperation forum, to implement those measures for the conservation of sharks in the entire Pacific Rim area.

One reason why APEC is a good forum for this, Congresswoman, is that there is a key player on fisheries that is not represented at the United Nations or at the FAO, and that is Taiwan, but they are represented in APEC, and using APEC, it is our hope to get Taiwan to work with us and others to implement these measures to conserve sharks.

Ms. BORDALLO. I was thinking, in order to promote research on these large international species, would it be helpful to set up a fund, like we do for the great ape, the Asian elephants and tigers?

Mr. BALTON. Certainly, if we expect the developing countries of the world to be able to implement the types of measures we are calling for, we need to provide assistance to them, not just for shark conversation but for all the issues we are discussing today.

Yes, more money is needed is the short answer. We're in a tight fiscal climate. We understand that. This is a high priority.

Ms. BORDALLO. Mr. Chairman, I know my time is up. If I could just ask one quick question again.

Will the U.S. take a harder line internationally on longliners that take turtles? I don't know who would answer that.

Dr. HOGARTH. Yes, we are. We are doing quite a bit now internationally on sea turtles. We are working directly with about 12 to 14 countries. We have new technology we have developed, which we just implemented in the Hawaii swordfish fishery, and we're getting ready to on the East Coast. We have taken this technology, basically hooks and bait, and we have gone internationally with it.

Last year at ICCAT we had a display, in which we gave the new hooks to certain countries. We are very aggressively pursuing this new technology with all the countries that have longline fleets.

Ms. BORDALLO. Are we carefully monitoring?

Dr. HOGARTH. We are trying to monitor and at the same time we're having workshops. We just had a workshop in Ecuador, along with the Department of State. I think we had like 5-600 people that attended. We worked with Japan. I have a list here, but it's about 12 countries.

Ms. BORDALLO. Is Guam included in that?

Dr. HOGARTH. Guam is in there.

Ms. BORDALLO. And the State of Hawaii?

Dr. HOGARTH. Yes, ma'am.

Ms. BORDALLO. Just to make sure. Thank you very much.

Dr. HOGARTH. The Western Pacific Council in Hawaii has been very active in sea turtle conservation worldwide, really in the Pacific.

Ms. BORDALLO. Was there someone else who wanted to speak? All right. Thank you.

Thank you, Mr. Chairman.

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

Going back to Mr. Pallone's question as far as the amount of funding that goes to these international commissions, and trying to prioritize these international commissions recommended by Congress, and maybe even consolidating some of them, even before we begin to think about or become a member of the Western Central Pacific Fishery Commission, which I guess they cut the ribbon in June. But the money for that commission from the U.S. is then not going to be appropriated until '05, and I understand it is \$500,000.

Is that \$500,000 that the Administration has budgeted for the Western Central Pacific Commission the dues requirement? What does that figure represent?

Mr. BALTON. Mr. Chairman, we requested the \$500,000 for that commission on the assumption that we would become a party to the treaty some time during the course of '05, and that \$500,000 represented our best estimate of what the partial year's U.S. dues would cost.

Mr. GILCHREST. So some of that money would be for dues and some of it would be for contributing to the kitty to do research, administrative expenses.

Does the \$500,000, do you think, with your best guess, provide sufficient funding for U.S. participation in that commission?

Mr. BALTON. That's a hard question to answer, Mr. Chairman, because I don't know the timing of when we're going to become party and what part of Fiscal Year 2005 we will be in at that time.

Mr. GILCHREST. Do you need Senate ratification to become a party to—

Mr. BALTON. Yes, we do.

Mr. GILCHREST. I see.

Mr. BALTON. Obviously, that's not entirely in our hands.

Mr. GILCHREST. Until you get Senate ratification, what is your participation status?

Mr. BALTON. Well, until the treaty enters into force, we're in the same status as everyone else. Once the treaty enters into force without us in June, we are a nonmember—

Mr. GILCHREST. You're sidelined.

Mr. BALTON.—an observer. But, as a matter of reality, they need us there. We are still a very strong voice in the commission and we have found ways to contribute voluntarily to the process outside of this appropriation.

This appropriation, the one we're talking about today, represents U.S. dues to treaties that we have already ratified. We—

Mr. GILCHREST. So this \$500,000 is not just for the Western Central Pacific Commission?

Mr. BALTON. No. We had asked for \$500,000 for that commission.

Mr. GILCHREST. Just for that commission?

Mr. BALTON. Yes, sir. The appropriation as a whole we have sought, in excess of \$20 million—

Mr. GILCHREST. For '05.

Mr. BALTON. Yes.—slightly more than \$12 million of that goes to one commission.

Mr. GILCHREST. I was going to ask you about that.

Mr. BALTON. Yes. The Great Lakes Fishery—

Mr. GILCHREST. If we look at ICCAT, which is \$165,000, and we look at the International Whaling Commission, which is \$116,000, we look at the total budget which you asked for and didn't quite receive in '04 was \$20 million, and then you look at \$12,248,000 for the Gulf Fisheries Commission—

Mr. BALTON. Great Lakes.

Mr. GILCHREST.—that's right, Great Lakes, why is the Great Lakes Fishery Commission so expensive when you look at some of these other commissions that cover vast areas and a dozen or two countries?

Mr. BALTON. There are two reasons, Mr. Chairman. The first is the very one you just mentioned. With respect to an organization like ICCAT, where there are 35 or 40 members, there are many more to share the budget. The Great Lakes Fishery Commission is just the U.S. and Canada. Because more of the Great Lakes are in the United States—and Lake Michigan is entirely in the United States—we actually pay more than 50 percent of that budget. So that's the first reason.

The second reason is, a significant part of the money appropriated for the Great Lakes Fishery Commission goes to one particular program, and that is to eradicate invasive species of sea lamprey that infest the Great Lakes and cause severe damage to the fisheries. It's a very expensive undertaking and a large percentage of that \$12 million goes to that purpose.

Mr. GILCHREST. I see.

Mr. BALTON. But the remainder of the appropriation, \$7 million or so, between \$7 and \$8 million, is spread over all the other commissions.

Mr. GILCHREST. So the \$165,000 that goes to ICCAT, what does that represent? Is that the U.S. dues?

Mr. BALTON. That's correct. Under the ICCAT treaty, there is a formula developed for contributions to the organization, and our legal obligation to pay each year is in that order of magnitude. It goes up or down a little bit each year, depending on the programs the organization is undertaking, depending on whether new members join.

Mr. GILCHREST. The conference committee apparently did make some reference that Mr. Pallone read, to prioritizing these commissions.

First of all, let me just say that this Committee is going to work to get sufficient funding for all these commissions. We will talk personally to members on the House and Senate side as to the importance of keeping U.S. participation, which is vital in these things, sufficiently funded, so that the members, whether they're from Commerce or Interior or State Department, or from the World Wildlife Fund going to observe, feel that they have the sufficient backing of this Government to participate in those particular areas. So we will pursue that. Mr. Pallone and I, Mr. Saxton and other members of this Committee, will pursue that very aggressively.

But when they did say prioritize, and they looked at the list of the commissions, is it possible, for example, to put some of the commissions that the U.S. participates in with Canada, a number of different commissions in the Pacific, can they be consolidated, and a number of different commissions that we deal with the Canadians and a few of the European countries in the North Atlantic, is that a reasonable thing that we can do? I know you need agreements from Canada and a number of other countries in order to do that, but is that a reasonable objective to pursue, or is that something we ought to just leave alone?

For example, NASCO is \$27,000. I guess that's our dues, a relatively small operation. And NAFO is \$156,000, which is relatively small. I'm forgetting the actual names of these things, but when we look at PSC, IPHC, each of them is a little over \$2 million.

Mr. BALTON. That's correct.

Mr. GILCHREST. When we go to talk to our colleagues and we need the money for this and they're not as involved in the intricate day-to-day activities of these commissions, but we have to get blood from a stone, whatever that saying is, we would like to speak from a position of knowledge and have a good argument.

Can some of these be consolidated? Is that an unreasonable request, and how do you prioritize these things?

Mr. BALTON. Mr. Chairman, I cannot, in good conscience, support or recommend consolidation. The two bilateral commissions we have with Canada in the Pacific—and you mentioned the Pacific Salmon Commission, the PSC, and the International Pacific Halibut Commission—are probably the two where that would be the least problematic. And even there, the fisheries are wholly different. The political interests, including in the United States, that relate to these fisheries are wholly different. The science that underlies them is completely different.

Even if they were somehow put together, I don't know that there would be any cost savings achieved. All the same work would have to go forward. I just can't imagine how that would help—

Mr. GILCHREST. It would be like bringing together a geologist and an astrophysicist and tell them to meet together and talk about these issues to save money.

Mr. BALTON. That might be one way of analogizing it.

And then NASCO and NAFO, the same thing, only the problem is even more complex, as you noted, because there are many other countries who would need to agree to merge these organizations. I

can tell you now, it won't happen. The interests underlying those treaties and the missions of those organizations are radically different.

NASCO's mission is to prevent salmon fishing on the high seas and to minimize salmon fisheries on particularly troubled stocks everywhere else. NAFO is concerned with ground fish—I'm sorry. NASCO applies in the entire North Atlantic region. NAFO applies in the Northwest Atlantic only, covers a wide range of ground fish species, particularly off of Atlantic Canada in the so-called Nose and Tail of the Grand Banks and the Flemish Cap. It's very different fisheries, very different interests. Even if it were possible to combine them, once again, I don't think you would realize any cost savings.

Mr. GILCHREST. Thank you very much.

Mr. Grasso?

Mr. GRASSO. Just a brief comment, Mr. Chairman.

In our estimation, we think that an effort, albeit well-intentioned, to consolidate might be a little bit like rearranging the deck chairs on the Titanic, given the situation that we face on a number of these commissions and the lack of political will by a number of countries to take action to really address these problems.

Our concern would be that the U.S. would have to expend too much political capital, negotiating restructuring rather than getting them to get other countries to really take some tough decisions, which in ICCAT, as you know, and other places like ICCAT, is one of the biggest challenges we face. White marlin, for example, in ICCAT, the Moroccan driftnet fishery, that's where we would like to see the emphasis put on U.S. leadership.

Mr. GILCHREST. Thank you very much.

Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Chairman.

In Fiscal Year 2004, \$2.1 million was appropriated for the U.S. contribution to IATTC. I have heard rumors that this represents about 50 percent of the total IATTC budget. The International Dolphin Conservation Program Act of 1997 required the State Department to renegotiate the IATTC convention and develop a schedule of contributions for all member nations that would be more equitable based on their utilization of tuna in the eastern tropical Pacific.

You know, this was a concern of the Committee a few years ago, but I just wanted to know what progress has been made in the accountability and transparency of the IATTC. In other words, is the U.S. paying dues proportionate to the utilization of tuna, what percent of the dues is that, are the other IATTC countries also paying dues proportionate to their utilization, and specifically, what percent of the dues does Mexico contribute?

Mr. BALTON. I think I can answer almost all of your questions now. A couple of the facts and figures I would have to get to you later.

Mr. PALLONE. Sure. If that's fine with you, Mr. Chairman, if he could get back to us.

Mr. BALTON. The big picture, Congressman, is a good one. We have responded to Congress' call. We have renegotiated that IATTC convention. We are, as with the others, hoping to submit it to the

Senate very soon. It will restructure the IATTC in a number of ways, not only the financial aspect.

But on the financial aspect, we also made great progress over the last decade. There was a time in the nineties when we were paying about 90 percent of the entire budget because so much of the focus of the IATTC was on the tuna/dolphin problem that the U.S. cared about very greatly.

We have managed to bring our contributions to the IATTC down, both as a percentage of the overall budget and in absolute terms. There was a time when we paid \$3-4 million a year to IATTC. Now we're down to about the \$2 million level, and there is some prospect that it might go down—I think it is likely to go down further in the future.

Why? A few new countries are likely to join IATTC to help share the burden.

Mr. PALLONE. What is that percentage-wise, though? Can you give us an idea, compared to the other countries?

Mr. BALTON. Our current contributions represent roughly 40 percent of the IATTC budget, down as I said from about 90 percent years ago. I would like to see it come down a little bit further, and as I was about to say, I think there is a prospect for that.

The European Union is seeking membership in the revised IATTC. That will bring the cost down. Taiwan will be able to be a member of the commission as well and is another "deep pocket" that should bring the U.S. share of the overall budget down, both in absolute and in percentage terms.

Mr. PALLONE. What about Mexico? Do you know what percentage they pay?

Mr. BALTON. Their contributions range between \$800,000 and a million a year. That represents about 20 percent of the budget.

Mr. PALLONE. So we're at 40 and they're at about 20 at this point.

Mr. Chairman, I mentioned in my opening statement this article that was in the San Francisco Chronicle about allegations that observers aboard Mexican tuna fishing vessels operating under IATTC were regularly taking bribes, some up to \$10,000 or more, to falsify that the tuna being caught on board were dolphin safe. According to this article, which I would like to submit for the record, Mr. Chairman—

Mr. GILCHREST. Without objection.

[The article follows:]

U.S. EASED RULES ON TUNA DESPITE BRIBERY CLAIM
E-MAIL ALLEGED EFFORT TO EVADE DOLPHIN LAW
GLEN MARTIN. CHRONICLE ENVIRONMENT WRITER

Wednesday, April 28, 2004
2004 San Francisco Chronicle

The U.S. Commerce Department has been aware for five years of allegations that government observers on Mexican tuna-fishing boats were regularly taking \$10,000 bribes to concoct false reports that they were not netting dolphins, according to an internal agency e-mail obtained by The Chronicle.

Bush Administration lawyers have argued that the allegations were not relevant to the government's 2002 decision to relax restrictions on foreign-caught tuna. The decision allows tuna caught by foreign boats that set nets on dolphins—which follow the fish—to be sold in U.S. as dolphin-safe, provided the dolphins are released.

Critics say the e-mail demonstrates that the Bush Administration ignored key evidence and that its decision undermined longstanding environmental protections.

"The whole basis for protecting dolphins in countries that set nets on them is that there are reliable observers on board," said Mark Palmer of Earth Island Institute, a San Francisco environmental group. "If the observers are being bribed, obviously, the entire program falls apart."

Last year, after Earth Island challenged the government's decision, an injunction by Judge Thelton Henderson of the U.S. District Court in San Francisco prevented implementation of the rule.

For more than a decade, the dolphin-safe label has guaranteed U.S. consumers that the tuna they are buying was caught by nets that did not trap dolphins. Before U.S. regulation to protect them, dolphins that swim above schools of tuna in the eastern tropical Pacific were dying by the hundreds of thousands a year.

The government says current dolphin kills are less than 1,500 a year. But dolphin species that were depleted by decades of losses have not recovered—a critical fact in the current case and one that the government says it can't explain.

Commerce Secretary Donald Evans ordered the rule change under a 1997 law that allowed dolphin-safe standards to be relaxed if supported by scientific research. Government lawyers have stated in court documents that the Commerce Department had "not considered or relied upon" the e-mail in reaching its decision to relax the standards.

The 1999 e-mail was between staff members for the National Marine Fisheries Service, a branch of the Commerce Department. It noted that there were plausible reports that observers on Mexican tuna boats operating under the authority of the Inter-American Tropical Tuna Commission routinely were taking \$10,000 bribes to falsify data on dolphin nettings.

A copy of the e-mail was provided to The Chronicle by Earth Island Institute.

According to the e-mail, an American fisherman who worked aboard Mexican tuna boats was interviewed by federal fisheries biologists. The fisherman claimed that "although they always had observers on board, it was common knowledge throughout the fleet that the observers were regularly paid off to misreport what happened during the cruise."

The e-mail noted that the observers weren't being bribed to ignore dolphin deaths "...because they apparently have relatively few. ... They were instead paid substantial sums of money to report their dolphin-caught tuna as 'dolphin-safe' when they were actually being caught on dolphins."

On April 15, Judge Henderson called government arguments that the e-mail was irrelevant to the rule "specious."

"Documents ... that go to the reliability or credibility of data relied upon by the decisionmaker are plainly relevant. ... The government's failure to acknowledge this point is deeply troubling and reveals a glaring omission in the manner in which the record was compiled," Henderson wrote.

Maureen Rudolph, a U.S. Department of Justice attorney who represented the Commerce Department in the case, said she could not comment on the matter because it is being litigated. Justice Department spokesman Blain Rethmeier said government attorneys are responding to Henderson's order and are providing all documents relevant to the case.

Palmer of Earth Island had obtained the e-mail from Defenders of Wildlife, another environmental group. The e-mail had been submitted by the government as part of its documentation in its response to a separate lawsuit Defenders of Wildlife had filed on tuna rules.

David Burney, executive director of the U.S. Tuna Foundation, a group that represents the interests of the American canned tuna industry, said the possibility of corrupt observers "is extremely serious, and it's certainly relevant to any review of the case. I would think it would have a real bearing on what it means to be dolphin-safe, and ultimately (Commerce's) position. IT should make the government take a harder look at this."

Burney said American tuna processors support the more stringent definition of dolphin-safe promoted by Earth Island Institute and other environmental groups. "We absolutely will not buy dolphin-encircled tuna," he said. "It's clear to us that U.S. consumers don't want it. I think any move in that direction would cause a big outcry."

E-mail Glen Martin at glenmartin&fchronicle.com.

Mr. PALLONE. According to the article, NMFS was aware of the allegations as far back as 1999. There are e-mails between NMFS

staff that confirm that as a fact. Obviously, it's troubling. So the questions I have about it and these allegations of bribery go to the heart of how the IATTC manages the fisheries, because if you don't have effective management with sound and reliable research or data, then you don't know whether you're really doing the right thing.

The e-mails mentioned show that NMFS was aware, back in 1999—and that was 5 years ago. I'm just trying to understand why this Subcommittee is just now finding this out through a newspaper article.

We have established that the single largest contributor to the IATTC budget is the U.S., so again, it's kind of an embarrassment because we're spending all this money and is it really legitimate in terms of the management practices.

The most deserving aspect is the fact that the Administration ignored this information and allegations of data falsification to allow Commerce Secretary Evans to propose regulations easing dolphin safe label standards on the false presumption that the fishery and the practice of setting on dolphins was having no significant adverse impact on dolphins.

So I just wanted to ask Dr. Hogarth some questions. If you would explain to the Committee why this information, 99 e-mails between the staff and the allegations now just coming to light, why has it been 5 years since we found this out? And if you wanted to comment, I would like to have the response.

Dr. HOGARTH. Thank you, Mr. Congressman. I will respond. You know, we are still in litigation over the Tuna/Dolphin decision. But there is a compliance committee as part of the IATTC, that every observer report is looked at. When an observer comes in, IATTC looks at every one of those reports. If there is anything in there that an observer says that there was harassment or offer of bribes, anything, we go through the Compliance Committee, we look at those, and we make a determination if, based on all information—sometimes they go back and talk to the observer or talk to the captain—were those accusations true or not. If they feel like they were true, then action is taken against the countries, against that vessel, and they are to report back, the country that is responsible for those vessels. It is part of the open process. In fact, one of the NGO's served on that committee at one time while I was the Southwest Regional Administrator.

So, you know, it is open as far as the Compliance Committee is concerned. It is not that it is sort of secret. It is part of the IATTC process to look at all of those observer reports and look at every comment that is made, whether it be bribes or harassment or any of those type things, we look at.

Mr. PALLONE. Well, then, you feel—I mean, I guess I am not—I am trying to, you know, go back to my initial questions. Do you feel, Doctor, that these were not true? I mean, was that the decision that was made, if allegations were false?

Dr. HOGARTH. Well, it would depend on the situation. Because I sat on it at one time, and some of them, you know, we felt like were obviously true and that captain may have—the country may have decided that he couldn't fish again, or—

Mr. PALLONE. So what actually happened in this case, then?

Dr. HOGARTH. Well, it depends on the case and the captain's record, you know, after interviewing people as to what action is taken. But here is action taken by the IATTC. It is part of the compliance process.

Mr. PALLONE. But I mean in terms of what this San Francisco Chronicle is reporting, what actions were taken as a result?

Dr. HOGARTH. Well, you have to, Mr. Congressman, you would have to go back and look at the specific case. I mean, there are many cases that we looked at in Compliance. So you look at that individual case. You would have to go back and find out what action was taken.

Mr. PALLONE. OK, but let me just put it to you this way, and I am not looking at, you know—I mean, I am being critical, but I am trying to get to the bottom of it. I think, with the Chairman's permission, if you could get back to us and explain what happened. I mean, I don't—I mean, the Chronicle is referencing certain cases. I would like to know, with the Chairman's permission, what happened to those cases and why it never came to light to the committee or anybody else. I mean, it may be that they were dismissed and you didn't think it was important. I don't know. But I would just like to have a response to the specific allegations.

Mr. GILCHREST. Will the gentleman yield?

Mr. PALLONE. Sure.

Mr. GILCHREST. The San Francisco Chronicle, this is an interesting proposal. If there is evidence that a country or a captain attempted or in fact did bribe an observer, then this is a violation. And one of the consequences of those violations—and does this paper have specific incidents of names of boats and individuals?

Mr. PALLONE. Well, there is an e-mail. I guess I can submit that for the record as well, with your permission, that went back and forth with regard to a specific incident—you know, the e-mails that I am talking about.

Mr. GILCHREST. OK.

[NOTE: The e-mail could not be reproduced and has been retained in the Committee's official files.]

Mr. PALLONE. We can enter that into the record. But I don't know offhand, Dr. Hogarth, if you can tell, you know, from the article itself specifically what they were referencing, but certainly the e-mail does reference a specific incident. And I guess what I would like to know is what happened as a result of the incident mentioned in the e-mails, and if you could determine for us what the incidents were that the Chronicle was mentioning and get back to us what happened in those cases.

Dr. HOGARTH. I will be happy to. I have not seen those articles, but if you could make sure I get a copy of the ones you are talking about.

Mr. PALLONE. Sure.

Dr. HOGARTH. But it is, you know, I am trying to—just publicly I want you to know that there is a process, there are many things we look at. It is not, you know, anything that is a coverup. We actually—it is an open compliance process that we look at.

Mr. PALLONE. Yes. In other words, what you are saying is whatever they are referencing, there has to be the incident, there has to be reporting and a conclusion to it.

Dr. HOGARTH. That is correct.

Mr. PALLONE. But you get back to us and tell us what that conclusion is. And then also, why—you know, if it is still outstanding and there was a problem, why we haven't found out about it. I mean, maybe it is because it was dismissed, I don't know. But if it wasn't, I think we should find out about it.

Dr. HOGARTH. Correct.

Mr. PALLONE. And then the other thing, again, this goes back to this again, is that the Bush Administration—well, as I said, you know, when we were making these changes—

Well, let me read you the Chronicle article. The Chronicle article states, "The Bush Administration argued in court that they had not considered this key information, when asserting in 2003 that netting and chasing dolphins causes no significant adverse impacts on dolphins, because it was not relevant or quantifiable."

So what I am trying to find out is, you know, to what extent that information was available and should have been a factor in that decision as well.

Dr. HOGARTH. Mr. Congressman, I made that decision, the Tuna/Dolphin decision. We looked at every bit of information that we had available to us, including, you know, my period of time I sat on the IATTC, what I knew from that; from all the records we had, consultation with a number of different groups. So, you know, we looked at all of it and what we felt was best for the conservation of dolphin overall, I think, as Mr. Grasso said this morning, that program has been very successful. We reduced the mortality of dolphin by over 98 percent. And so it has been a very successful program.

Like I said, we are still in litigation. There is not a lot more I can say except to tell you that I looked at every bit of information that was available to make that decision.

Mr. PALLONE. And so, again, I am sort of going back to the same thing again, Dr. Hogarth, which is whether these allegations of bribery that are referenced in these e-mails or in the San Francisco Chronicle article. you know, if you determined that they were not relevant to that policy. I would just like to know. Maybe you will find out after looking at it that they weren't, but I would like to know whether you thought they were relevant in some way.

Dr. HOGARTH. Let me just tell you that the backbone of that whole program is the observer program. All vessels are required to take observers. It is a backbone. And so we took observer comment very carefully into consideration, whether it be harassment—you know, we had female observers, we had cases when they would come back and say they had been harassed; we had people who said lots of things, including we were offered a bribe or we were offered this, that, and the other. Each one of those things was looked at very carefully in the compliance issue and, you know, part of the decision. But we feel like the decision we made was the right one and—

Mr. PALLONE. Yes, I understand. I just want you to get back to us to tell us whether these allegations were relevant to that policy decision. And then, if I could ask you, Mr. Chairman, I just had some specific questions that relate to the same. I think that would

help him know exactly what I am asking with regard to this incident. If I could submit those questions.

Mr. GILCHREST. Sure. Absolutely.

Mr. PALLONE. All right, thank you. I ran out of time on that, so I appreciate your work there.

Mr. GILCHREST. I will ask a couple and we will come back to you.

Mr. PALLONE. OK.

Mr. GILCHREST. Since we are on Tuna/Dolphin, as we so affectionately refer to it up here, one of the problems with the legislation as it went through and one of the amendments that were a part of that legislation was to do this evaluation or study over—I can't remember how long a period of time, maybe 5 years, to determine whether or not this practice of helping to chase the dolphins out of those purse-seine nets before they got tightened up would have any significant impact on the dolphin. And it is my understanding that, you know, we reduced the annual dolphin mortality from tens of thousands, maybe even as high as a hundred thousand or more, down to you don't want to kill any dolphin, any marine mammal. But it was significantly reduced, like you said, Dr. Hogarth, 90-some percent to maybe 2,000 or 3,000 annually from 100,000 annually.

And then your ongoing evaluation shows, that you said to Mr. Pallone, there apparently is no significant biological impact to the dolphin as a result of this particular fishing practice. So we can more or less take that to the bank?

Dr. HOGARTH. Yes, sir, based on all the—and we continue to look at this issue. It is not one that we have dropped. We continue to look. But all indications are that, you know, I think the last time I looked at the record it was 1800 dolphin that year that were—you know, mortality, based on as high as 350 thousand or more per year. We think it has been a very successful program. With all the measures, you know, observers, back-down, the whole way we operate that fishery is a very comprehensive way of operating. In fact, you have divers in the water and, you know, the whole process. And it is very—

Mr. GILCHREST. What was the basis of the lawsuit and then what is the court considering with the evidence that you have explained to us, we have seen it in other venues. So the court is considering what, as far as this fishing practice is concerned? And I also understand that we have not imported any tuna that uses this practice from other countries.

Dr. HOGARTH. The court is just reviewing—there was a lawsuit brought by a group that my decision was incorrect, based on the data. So the courts are looking at the decision that was made.

Mr. GILCHREST. So the court is comparing the data that this group brought to them plus the data that—

Dr. HOGARTH. Well, it is everything. The decision I made, whether it was arbitrary and capricious, this type thing.

The second thing is that they can—foreign countries can export to this country, but they cannot get the dolphin-safe label.

Mr. GILCHREST. I see.

Dr. HOGARTH. So that is the difference.

Mr. GILCHREST. What is likely to happen to this whole agreement if the court rules against the practice?

Mr. BALTON. Mr. Chairman, I would be quite worried about the fate of the agreement if Dr. Hogarth's decision is overturned. The other countries who are in this agreement with us see getting the dolphin-safe label in the U.S. as the quid pro quo. They have invested a lot of money in getting their fleets to reduce dolphin mortality down 98 percent below historic levels, and they did so in the expectation that the dolphin that they catch through these greatly improved practices would be able to be sold in the U.S. market with the dolphin-safe label. If the label is not available to them, they may have very little incentive to continue to protect dolphins through the measures that we have agreed under this international program.

Mr. GILCHREST. Let me follow up in another area that we have discussed today, those circle hooks that are apparently beneficial to reducing the bycatch of sea turtles. A country like Ecuador or a country that cannot afford, for whatever reason, to replace the hooks they have with circle hooks, is there any provision in the agreements with the different commissions to help supply or fund those circle hooks?

Dr. HOGARTH. No, sir. We have tried to the best that we can with our budget constraints in some areas to provide the hooks to them so that they will test them and they will see that it works. In fact, one of the real promises of the circle hook, that large—the 18/0 that we talk about—circle hook in the swordfish fishery, was you were catching a much nicer-size swordfish, larger swordfish and more valuable. At the same time, you were saving small swordfish. So it had a—you know, it was positive both from sea turtles and from swordfish.

So once you can prove to them that the fishery is—they are catching better fish and probably getting a little more money, it is easier for them to spend the money. But we are trying to work with the big countries that can afford it and some of the—that have a large fleet, to pay and can afford it, but sometimes Ecuador and some of these others, we found that they couldn't. So we are trying to work with all of them to see what we can do to help. We don't have a lot of money, but it is worth buying some hooks if that is what it takes, I think.

Mr. GILCHREST. So is there any tentative agreement that there will be a box at the end of the plenary session where people can drop a few coins in and earmark it for Ecuador or some other country like that?

Dr. HOGARTH. There are a couple of things going on right now. One of them is the World Wildlife Fund is trying to work with several other organizations, including us right now, to see if there is a way to set up a fund, an international fund that we can use for sea turtle conservation. In fact, we are in negotiation now with World Wildlife Fund over an MOU on some of these issues for international, worldwide. And I think there is a lot of promise there that we can get an international fund set up that could help conservation.

We have got to protect nesting beaches along with these other activities, so we are looking at a big program, a large program that is sort of international that would have a funding mechanism.

Mr. GILCHREST. We wish you well in all of that, and keep us informed so we can be as much help as possible.

Mr. BALTON. Mr. Chairman, may I add something to that?

Mr. GILCHREST. Certainly.

Mr. BALTON. The State Department receives a small amount of U.S. foreign assistance monies for use on international environmental projects. And we are breaking off a small part of that to help with this very project that Dr. Hogarth has mentioned. We do believe that we need to help the developing countries do what we are asking them to do to protect sea turtles in the course of long-line fishing, and we believe it is worth some of this foreign assistance money to be devoted to that very effort.

Mr. GILCHREST. We could probably take half of the Presidential campaign money and just solve all these problems. Not to mention members of Congress and their campaign. We should have a little checkoff.

Just one other quick question. We hear a lot about sharks, shark finning in certain areas of the world, depletion of shark stocks for any one of a number of reasons. Has ICCAT ever considered managing sharks?

Dr. HOGARTH. ICCAT, we have had several resolutions on sharks. We are still working on that issue. I think that you will see further action taken on sharks internationally and particularly through ICCAT. We also have started a new program on the West Coast that has got some—Japan is cooperating. It is called COPs. I am not sure I know exactly what it stands for, but it is a large program now that is doing satellite tagging—sea turtles, sharks, and some of the highly migratory species. It is a pretty comprehensive program, and sharks is a big part of that, to look at the movements and all of sharks. So I think there will be further management of sharks in the future, that we are learning a lot more on what we need to do.

Mr. GILCHREST. Do you think there is a need for it?

Dr. HOGARTH. Yes, sir, I think it is a need for shark management internationally, for several reasons—the finning, which we are all getting under control to a large extent, but I think just to the life history of sharks, the fact that they are so late in life when they reproduce and so few pups, I think we have learned that there is a lot more we need to do. Some of them, we found out, on the West Coast do not move extensively. They have a greater homing device, so to speak. In fact, the first hundred satellite tags that were put out on the West Coast, all hundred of them were recovered almost within several months running in the same area. So I think we—from a management standpoint we are learning more about what we need to do to manage.

Mr. GILCHREST. Thank you very much.

Mr. Pallone?

Mr. PALLONE. I just have a few more questions. And I am going back to the dolphins again.

Dr. Hogarth, you mentioned that dolphin mortality has been decreased by 98 percent. But then my question is why haven't the two principal dolphin populations not recovered? It is my understanding that population growth is stagnant or minimal. Could you just explain this? Are there other factors?

Dr. HOGARTH. That was one of the key issues that we were trying to look at, is what other factors, environmental factors we know have an impact on the dolphin, how they move and also on reproduction. That is a very difficult issue to get at totally with the sampling we were able to do. We tried to work off of most countries. We worked a lot off of Mexico, but we had a pretty comprehensive international program. But we felt like that with all the evidence we had, the chasing of dolphin was not evident—a great impact, no sir.

Mr. PALLONE. And then I wanted to ask about the ICCAT, the international commission, you know, the ICCAT Commission. Last year, through the Subcommittee, we passed H.Con.Res. 268, designed to encourage countries to make every effort to end illegal, unregulated, and unreported fishing and to use diplomatic efforts to ensure ICCAT members comply in that respect. But one important management step being taken to conserve ICCAT species is collecting reliable recreational catch data. This is always an issue in my district. It has come to my attention that recreational catch accounting is poor for other countries. Poor data coupled with lax enforcement could potentially undermine ICCAT conservation strategies.

So I just wanted to ask what steps are being taken by ICCAT to collect reliable recreational catch data from other ICCAT countries, other than the U.S.

Dr. HOGARTH. That is a good question. We last year pushed real hard for a program at ICCAT for improved data collection, period, from all countries. In fact, we contributed \$20,000 U.S. money to that effort to get the SCRS, the scientific group, to work with all countries to improve data collection. We will see if we were successful this November. Basically, ICCAT is from year to year, and we will find out when we get to a hearing in Louisiana in November were we successful in this effort to work with the countries.

That is the key, right now, is not only recreational data in ICCAT, but a lot of data, period. In fact, you cannot do a stock assessment for Eastern bluefin tuna, because we do not have sufficient data, both commercial and recreational. So we are pushing very hard for improved data collection and we are trying to fund as much as we can to help some of these smaller countries.

Mr. PALLONE. OK, and then I just wanted to ask one last thing about endangered species, change in the Fish and Wildlife Service policy regarding the trade of endangered species. In August of last year's Federal Register, there was a notice—that was August 18th—a notice of proposed rulemaking was announced regarding the importation of endangered species for a variety of purposes. And the proposal purports to advance the propagation or survival of endangered species through legitimized trade of them. It seems to me it is a rather radical departure from the Government's 30-year strategy to conserve threatened and endangered wildlife by vigorous and diligent efforts to restrict and not promote opportunities for international trade in wildlife or wildlife products.

So I just wanted to ask why has the Fish and Wildlife Service chosen to reverse its longstanding policy of restricting imports of endangered species, what is the current status of the proposed rule, and wouldn't you agree that by providing a safe haven for the

killing or other taking of endangered species, you have provided an incentive against the conservation of endangered species?

Dr. STANSELL. Thank you, Congressman. I appreciate the opportunity to try to at least clarify the purpose of that proposal. There was a considerable amount of confusion, and I think rightly so. There were two or three proposals that were out on the street for public comment at the same time—two that dealt specifically with changes to the permitting regulations for endangered species, for domestic species, and we also had a proposed policy consideration out on the street. And I think there was considerable confusion among the public on exactly who was proposing what and for what purpose.

Specifically for the policy, what we were looking at is we currently have the authority under the Endangered Species Act to issue permits where we can make a determination that the activity would enhance the conservation of the species in the wild. And for the last decade, I would say, we have been looking at the relationship between the Convention on International Trade and the available opportunities under that convention as compared to species that are listed under that convention and also listed under the Endangered Species Act. And our intent with that policy was to try to harmonize, to the extent that we could, some of those opportunities, looking at where, for example, under the Convention on International Trade, they may allow the regulated trade in ranches specimens of crocodiles, where it has been demonstrated that that trade would actually, under CITES, not be detrimental. We have those species, perhaps, listed technically as endangered under our domestic law, and what we were hoping to look at were ways in which we might be able to encourage further conservation of those species through those mechanisms.

So there was never any intent to overturn the longstanding position that we have had relative to the conservation of endangered species, but an opportunity to take a look at some very specific opportunities that we felt would actually encourage developing countries to go beyond what the CITES parties would allow.

Mr. PALLONE. But what is the status of that now, the rule?

Dr. STANSELL. Due to the response that we got, we received literally thousands of comments, and as I said, particularly, I think, because of the confusion. We are currently analyzing the substantive comments that we received and, based on those comments, will decide whether or not we would move forward at all. As I said, this was—currently there is no regulatory change that needs to be made. It would be simply a policy decision. And since we had historically not been able to make those enhancement findings even in those very limited cases, that is why we felt like a public review process was in order.

Mr. PALLONE. But is there likely—just one last question. Is a likely result of, you know, when you are done, that we are going to have some kind of legitimized trade in these? I mean, is that what you think is going to happen in terms of what you ultimately—I know you haven't made a final decision, but that is a possibility?

Dr. STANSELL. If we would move forward with some ultimate decision on the policy, then that certainly would allow us to look at

individual situations, as I indicated, between the—if there is a disparity between our domestic law and CITES, for example, to see if there is a way in which we could further encourage the conservation of those species.

Mr. PALLONE. I mean, I understand what you are saying, but I would have serious questions to think that that kind of trade would result in conservation. That is my own view. But I guess you will have to decide that, and you are going to get back to us at some point.

Dr. STANSELL. Yes, sir. And I appreciate that. We do have examples for a number of species that are considered threatened under our domestic law that demonstrate that there is this positive conservation benefit. And we are currently looking at all the additional data that might be available to see if it is in fact applicable to more restricted species. But we will certainly be working with the Committee before we move forward on any final proposal.

Mr. PALLONE. Thank you.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Pallone.

I think it would be a good idea to work with the Committee because if something like that happened, we would be pummeled with more than thousands, as you were, of requests.

So our interest is in conservation and recovery of those endangered species. So if this would enhance the recovery and bring the species back so that they wouldn't be endangered or threatened anymore, that would be one thing. But anything short of that, I think, would be suspect. So we would like to work with you on that.

I do want to ask you another question, Dr. Stansell, if I could. Beluga sturgeon. I guess U.S. Fish and Wildlife Service, your position on the beluga sturgeon is that they are threatened. Now, my question is, if our position regarding the threatened status of beluga sturgeon is a part of our understanding, how does that affect the international trade and importation of beluga sturgeon caviar?

Dr. STANSELL. Thank you, Mr. Chairman.

Mr. GILCHREST. It is always nice when people thank us for these tough questions. I do the same thing at town meetings—thank you for that question.

[Laughter.]

Dr. STANSELL. Actually, looking at all of the data that we had available relative to the beluga, we have determined and recently published a Federal Register notice that would list the beluga as a threatened species. We are concerned about the current harvest. We are concerned about the loss of habitat and a number of issues dealing with illegal take of beluga in range countries. The “threatened” designation would ultimately provide all protections under the Endangered Species Act for imports into the United States. Since the ESA is a stricter domestic measure, we really can't stop, if you will, the harvest that is going on. And our proposal with the beluga is we have delayed the implementation of that threatened listing for 6 months.

Mr. GILCHREST. Why is that?

Dr. STANSELL. During that period of time, we are working very closely with the Convention on International Trade in Endangered Species that currently regulates the export of beluga. In June there will be a number of decisions taken by the convention that will significantly affect the international trade in those species, and we wanted to make sure that any final decision relative to restricting imports into the United States took that information into account.

Mr. GILCHREST. So that is going to happen in June?

Dr. STANSELL. Yes. That will be happening in June, and then—

Mr. GILCHREST. Well, if the sturgeon species, it is clear that biologically it is threatened and the U.S.—working with the international community, which is very important—will the U.S. then ban the import of sturgeon caviar?

Dr. STANSELL. We believe that the species is threatened right now, and that is the designation that we made. That doesn't necessarily mean that a "threatened" designation would result in a ban on all import.

Mr. GILCHREST. On all import?

Dr. STANSELL. On all import into the United States.

Mr. GILCHREST. What, on some import?

Dr. STANSELL. It could be some imports.

Mr. GILCHREST. Why wouldn't we—now, if it was endangered, would we ban all imports of sturgeon caviar?

Dr. STANSELL. Yes. The endangered species—

Mr. GILCHREST. Would we then just drastically limit the importation of caviar?

Dr. STANSELL. The "threatened" designation gives us the opportunity to publish a regulation that could prohibit all imports, depending on our consultations, or could provide a mechanism where—some countries are doing a very good job of managing their beluga populations. So we could look at, again, through this relationship, we could write a regulation that could encourage set standards, if you will, to meet a higher standard for the conservation of their species. If they meet those standards, then we could allow some import into the United States.

Mr. GILCHREST. So we are likely to ban some imports, and the others that we wouldn't ban would be from those countries who have a recovery plan for beluga sturgeon?

Dr. STANSELL. Yes, sir, that is a good way to put it.

Mr. GILCHREST. OK. Would we then require a permit for importation, to guarantee where this stuff is coming from?

Dr. STANSELL. All sturgeon are listed under Appendix 2 now, so under the Convention on International Trade a permit is required.

Mr. GILCHREST. Right now?

Dr. STANSELL. Right now. And so we would make sure that—there is a number of ways that we could do that, either issuing an additional permit under the Endangered Species Act, or actually piggy-back on the CITES permit under certain circumstances.

Mr. GILCHREST. I read an article from the New England Journal of Medicine that quoted a number of medical doctors saying that beluga sturgeon caviar enhanced the possibility of getting Alzheimer's.

Dr. STANSELL. I am not aware of those.

Mr. GILCHREST. Actually, I am just kidding.

[Laughter.]

Mr. GILCHREST. If we could put that out in the record, we might reduce the—we should encourage people to eat chicken eggs. I don't know how people eat caviar. I just don't know.

Dr. STANSELL. It would be those individuals that could afford a very high-priced commodity.

Mr. GILCHREST. I thought all of you were going to bust out laughing when I said that, but you all just stood there with serious expressions on your faces. We have a poker game going on after this.

Mr. Grasso?

Mr. GRASSO. It is just that you are so believable, Mr. Chairman, it doesn't matter what you say.

I would just like to note our Wildlife Trade Monitoring Program known as TRAFFIC has done a great deal of work on this particular issue, including looking at providing alternative types of caviar to encourage people to eat other things besides beluga. And if I may, I would just like to ask they provide some information to the Committee for your consideration.

Mr. GILCHREST. It would be very welcome. Thank you, Mr. Grasso.

I have one last very quick question and I guess we could have a quick response to it. Everybody wants to go to lunch.

The International Whaling Commission—Dr. Hogarth, you mentioned this very early in your testimony—is opposed, apparently, to lethal takes of whales. Now, there are a couple of countries that we are aware of that do not refer to that as lethal take of whales; they refer to it as scientific research. And I believe that is Japan and Iceland. What is the IWC's position on their scientific research of whales, and what is the U.S. position on Iceland and Japan doing that?

Dr. HOGARTH. Well, the U.S. position on Japan is—they made very clearly it is over 700 a year, and that we have taken Pelly certification against Japan. Iceland is now under consideration. Iceland took only 36 last year. They started off saying they were going to take 250 of three different species. They reduced it to only Minkes, which are not over-fished, and they only took 36. But we are still looking at Iceland right now.

The IWC scientific committee looks at these proposals, and I think they have not adopted either one. And that is how we are trying to get to the revised management scheme so there will be criteria for which all of this will be made. So we feel like that is the way it has to go, but right now we are opposed.

Mr. GILCHREST. The U.S. and the IWC is opposed to both Iceland and Japan?

Dr. HOGARTH. That is correct. Yes, sir.

Mr. GILCHREST. All right, thank you very much. Mr. Pallone, any further questions?

Yes, sir, Dr. Hogarth?

Dr. HOGARTH. I would just like to say one thing in closing. I think the Congress's interest in international is very important. I noticed it last year at ICCAT, when you were there, and we have had other members in time, and part of your staff have come to these meetings. It is very important to show the interest of the U.S. Congress in these negotiations. They are tough. Sometimes I

am not sure that we have the same status that we have had in the past due to, you know, we are not as big a fishing nation as we used to be and things like that. So I just want to thank you, because I think it is extremely important for the interest that you all are showing in international. We continue to look internally as to how we can improve our negotiation and our status and just how we conduct international activities. But I just wanted to thank you and the Subcommittee for it, because it is extremely important. When the countries know that Congress is behind you, it makes a big difference, in my opinion. So thank you.

Mr. GILCHREST. Well, we are going to stand like a rock. I thank all of you, Mr. Balton, Dr. Hogarth, Dr. Stansell, Tom Grasso. Thank you all for coming this morning. We appreciate your testimony and will continue to work with you.

The hearing is adjourned.

[Whereupon, at 12:00 p.m., the hearing was adjourned.]

