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Opening statement of
The Honorable John Fleming
Chairman, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
Oversight Hearing on “Why should Americans have to comply with the laws of foreign nations?”
On Wednesday, July 17, 2013 at 2:00 pm
1324 Longworth House Office Building

Good afternoon, today, the Subcommittee will continue its oversight examination of the Lacey Act by focusing on the provision of that law that requires American citizens to comply with the laws of foreign nations.

Article 1 of our Constitution stipulates that “All legislative powers herein granted shall be vested in a Congress of the United States.”

While I am not a constitutional expert, I find nothing in that landmark document that allows the Congress to delegate law making authority to foreign countries. However, that is essentially what the Congress did in 1935 when the Lacey Act was amended to prohibit the importation of all wildlife taken contrary to a foreign law.

If I had been a member of the 74th Congress, I would have voted against that provision because it is simply wrong to force American citizens to comply with the laws of other nations.

Regrettably, the 2008 Amendments have significantly compounded this problem. Instead of having to comply with a limited number of foreign laws, by expanding coverage to include plant and plant products this has triggered literally tens of thousands of foreign laws.

In addition because of federal court decisions, the term “foreign law” has now been greatly expanded to include foreign regulations, foreign resolutions, and foreign decrees and thanks to the 2003 U. S. v. McNab case “other such legally binding provisions that foreign governments may promulgate.”

Based on testimony we received, there is no database of those foreign laws and frankly the federal enforcement agencies have no idea how many were triggered by the 2008 Amendments. Yet, we are allowing our federal courts to send our constituents to overcrowded federal prisons for violating laws enacted not only by the British Parliament but also the National People’s Congress of the People’s

Republic of China, the National Assembly of Venezuela and the National Congress of Honduras.

This is truly madness and I agree with the Heritage Foundation that this “violates one of the fundamental tenets of Anglo-American common law: that “men of common intelligence” must be able to understand what a law means. No one should be forced to run the risk of conviction and imprisonment for making a mistake under foreign law.”

It is one thing for an American living abroad to comply with the laws where they are living. It is quite another to convict one of our citizens living here for violating the laws of one of the 192 countries recognized by the United Nations. The Lacey Act demands that you know every law – civil and administrative as well as criminal – of every foreign land. This is simply wrong.

During the course of today’s testimony, I am interested in finding out from our distinguished panel of witnesses the legislative history explaining the rationale for requiring compliance with foreign laws, why the Congress has never provided a definition for the term “foreign law” and why this provision is even necessary in the Lacey Act that we are willing to sacrifice the freedom and liberty of our citizens.