

**Statement on behalf of the National Audubon Society, Natural Resources Defense Council, The Ocean Conservancy, Wildlife Conservation Society, and World Wildlife Fund**

**By**

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

### **Introduction**

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

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

### **State of the Stocks**

Atlantic white and blue marlin, top predators in the marine environment, are in desperate condition. In fact, white marlin has the distinction of being in the worst shape of any ICCAT managed species. According to ICCAT data, overfishing has driven white marlin populations down by 90-95% since 1961. They currently stand at less than 15% of healthy levels. Further, ICCAT acknowledges that overfishing has taken place for at least three decades, that the stock is less productive than previously estimated, and that the fishing mortality rate inflicted upon the stock is at least seven times that which the population can sustain.

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

### **Problems Facing Marlin and Other ICCAT Species**

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

#### **1) ICCAT member nations reject scientific management recommendations**

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

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

#### **2) Non-compliance with ICCAT recommendations and lack of consequences**

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

Recent examples of non-compliance include:

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

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

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

limits

**2000** — One-third of contracting parties reporting white marlin landings exceed white marlin catch limits.  
—Thirty one percent of contracting parties reporting blue marlin landings exceed blue marlin catch limits.

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

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

In none of these cases was punitive action taken.

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

### 3) Bycatch

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

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

#### 4) Illegal Unreported, Unregulated Fishing (IUU fishing)

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

#### Solutions

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

#### **H. Con. Res 427**

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

#### Resolution 1)

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

As the committee has heard, the population of Atlantic white marlin is collapsing. To try and slow its collapse, ICCAT, led by the U.S. in 2000, adopted a mortality reduction plan for white and blue marlin. This plan requires a 67% reduction and 50% reduction in mortality, respectively, over previous levels (1996). The 2000 recommendation also requires that rebuilding plans for white and blue marlin be

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

In 1999, North Atlantic swordfish populations stood at levels capable of supporting only 58% of the

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

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

With continued diligence, North Atlantic swordfish can be fully rebuilt in the next few years, bringing with it improved catches for U.S. commercial and recreational fishermen. As swordfish populations rebuild, now is not the time to allow excessive increases in catch that could jeopardize the rebuilding schedule. Any increase in the total allowable catch agreed to by ICCAT this year should be used to offset existing problems and provide quota to nations newly entering ICCAT (Mexico), rather than being used as a general increase for all fishing nations. Because it appears that full recovery may be possible in less than ten years with no further sacrifices, *we recommend that the committee amend H. Con. Res. 427 to make it a top priority for the U.S. delegation to ensure the continuation of the swordfish rebuilding plan until recovery is complete in 2009, or before.*

#### Resolution 2)

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

#### Resolution 3)

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

#### Resolution 4)

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

#### Resolution 5)

We fully support the spirit and intent of resolution five, but believe it should be amended *to 1) promote flexibility in the imposition of trade sanctions by requiring the Secretary to build a record of non-compliance to support trade actions, 2) recommend that the Secretaries of Commerce and State identify those nations fishing in a manner that undermines ICCAT conservation mandates in their annual report to Congress, and 3) recommend that the U.S. ICCAT delegation pursue multilateral agreements and compliance recommendations through ICCAT with renewed vigor.*

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

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

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

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

Despite the best efforts of the United States now and in the future, we must remember that this is an international problem that requires an international solution. The United States cannot prevent overfishing or rebuild marlin, swordfish, or tunas on its own. The U.S. can and should become more diligent in documenting non-compliance and identifying nations that fish in a manner that undermines the effectiveness of ICCAT, however, we must also continue to pursue multilateral agreements and internationally sanctioned compliance recommendations if we are to save marlin and other species.

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

### **Conclusion**

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

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

- agreements and compliance recommendations through ICCAT with renewed vigor; and
- 5) urge the Secretary of Commerce to attend the 2002 Regular meeting of ICCAT.

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

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

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

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