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To: House Subcommittee on Fisheries Conservation, Wildlife and Oceans

From: Herb Moore, Jr.

Counsel and Director of Government Affairs

Recreational Fishing Alliance

Re: Testimony for Oversight Hearing on Upcoming 18th Regular Meeting of ICCAT

Date: October 28, 2003

I. INTRODUCTION

The Recreational Fishing Alliance (RFA) is a national, grassroots political action organization representing individual recreational fishermen and the recreational fishing industry. The RFA Mission is to safeguard the rights of saltwater anglers, protect marine, boat and tackle industry jobs and ensure the long-term sustainability of our Nation's saltwater fisheries. RFA members include individual anglers, boat builders, fishing tackle manufacturers, party and charter boat businesses, bait and tackle retailers, marinas, and many other businesses in fishing communities.

The Atlantic recreational highly migratory species (HMS) fisheries have tremendous social and economic value to the U.S. Tens of thousands of individuals enhance their quality of life by fishing for HMS and a multi-billion dollar industry depends on the health of HMS stocks. Commercial overfishing of species such as blue and white marlin and bluefin tuna threatens to completely undermine this sector. Actions must be taken through ICCAT to ensure that this does not happen.

The U.S. recreational fishing sector has a right to expect foreign governments to live up to their treaty obligations. A number of contracting nations have not lived up to their obligations under the International Convention for the Conservation of Atlantic Tunas ("ICCAT"). The U.S. must take stronger steps to assert the interests of the recreational fishing industry through ICCAT.

II. ECONOMICS OF RECREATIONAL HMS FISHERIES

While recreational fishing for highly migratory species such as marlin, sailfish, swordfish and tuna is a specialized segment of the recreational fishing sector, it has a major impact on our Nation's economy and quality of life. Most contracting nations to ICCAT have large commercial fisheries with small recreational components. The U.S. is the opposite; we have large recreational fisheries with smaller commercial fisheries. This point must be recognized and driven home to all ICCAT delegations.

To illustrate, according the NMFS HMS database, there are currently 18,453 HMS Angling Permit holders and 4, 078 HMS Charter/Headboat Permit holders (which carry recreational anglers) vs. 298 Swordfish Directed or Incidental Longline Permit holders.

There is a vast segment of boat builders, fishing tackle manufacturers, party and charter boat businesses, bait and tackle retailers, marinas, and many other businesses in fishing communities which cater specifically to recreational fishermen who fish for Atlantic HMS. Individual anglers fish recreationally for marlin, sailfish, swordfish and tuna in U.S. waters to enhance their quality of life. Boat builders manufacture recreational

fishing vessels that are specifically designed and primarily used to fish for the species under the purview of ICCAT. Fishing tackle manufacturers make a variety of goods that are used by recreational fishermen to fish for the species under the purview of ICCAT. Party and charter boat businesses regularly take clients out in U.S. waters to fish for the species under the purview of ICCAT. Bait and tackle retailers sell goods and offer services to recreational fishermen to fish for the species under the purview of ICCAT. Marinas offer dockage, fuel, and services to recreational fishing vessels that target the species under the purview of ICCAT. A variety of other businesses in coastal communities are heavily dependent on recreational fishing for the species under the purview of ICCAT.

For example, the Viking Yacht Company in New Gretna, NJ in Mr. Saxton's District employs over 1200 people who build 100 yachts a year that are specifically designed and primarily used to target highly migratory species. There are also a number of annual Atlantic HMS tournaments such as the Ocean City White Marlin Open in Mr. Gilchrest's District that 400 recreational vessels fish each year generating over \$20 million in one week for Ocean City, MD. Thus, a large segment of the recreational fishing industry is dependent on healthy stocks of highly migratory species.

These fishermen have a strong, voluntary conservation ethic and employ sustainable, inefficient fishing gear that traditionally has not resulted in overfishing. In fact, recreational fishermen who fish for marlin release over 98% of the fish they catch believing that fishing for, hooking, fighting and releasing them to swim another day is a more valuable experience than killing the fish for consumption.

III. OVERFISHING BY THE EUROPEAN UNION

The Recreational Fishing Alliance asserts that fishing pressure by the highly subsidized commercial longline vessels of the EU has placed certain highly migratory species of the Atlantic Ocean and adjacent seas at risk and resulted in violations of the International Convention for the Conservation of Atlantic Tunas ("ICCAT"), a trade treaty that permits the use of trade-related sanctions, and the WTO Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement"). The actions of the EU have turned the International Convention for the Conservation of Atlantic Tunas into the International Convention for the Destruction of Atlantic Tunas. Less fish plus more regulation of U.S. fishermen equals significantly less participation in recreational fishing. Less participation equals significantly less commerce for the recreational fishing industry.

IV. WHY ICCAT IS A TRADE AGREEMENT

The ICCAT Convention is a "trade agreement" within the meaning of Section 301 of the Trade Act of 1974. The domestic implementing legislation for the ICCAT Convention is the Atlantic Tunas Convention Act of 1975 (ATCA). This statute is listed in the "Overview and Compilation of U.S. Trade Statutes" published by the Committee on Ways and Means of the House of Representatives (emphasis added), underlining the fact that the ICCAT Convention is a type of trade agreement and the ATCA is the U.S. trade statute implementing the ICCAT Convention domestically.

The ICCAT Convention is an international commodity agreement designed to conserve natural resources by limiting harvesting of fish through a total allowable catch (TAC) and individual participating country quotas. As such, the ICCAT Convention is an international commodity agreement that restricts the play of competitive market forces because of its form. The ICCAT Convention is a "trade agreement" because it restricts trade in the fish species that it covers. By limiting the volume of fish that may be landed from national vessels, the ICCAT Convention is restricting international trade in the covered species.

V. THE EUROPEAN UNION'S UNFAIR TRADE PRACTICES

The RFA alleges that the EU has committed three unfair trade practices under Section 301 of the Trade Act of 1974, as amended:

- a) it has acted unjustifiably by violating and acting inconsistently with the ICCAT Convention by non-compliance with the catch limits, quotas, and landing limits for certain species of HMS and rules for the protection of juvenile fish;
- b) it has acted unreasonably by refusing to accept the determination of the scientific advisory body of ICCAT, the Standing Committee on Research and Statistics (SCRS), that the stock for East Atlantic bluefin tuna is over-exploited and that the total allowable catch (TAC) for East Atlantic bluefin tuna should be limited to 25,000 metric tons, resulting in overfishing of East and West Atlantic bluefin tuna; and

c) it has provided subsidies to its fishing industry through its Common Fisheries Policy (CFP) and its funding mechanism, the Financial Instrument for Fisheries Guidance (FIFG), that violate and are inconsistent with the WTO Subsidies Agreement adopted by the EU and the United States in the Uruguay Round of Multilateral Trade Negotiations.

These unfair trade practices are related because they are all part of a common scheme by the European Union. The subsidies granted by the European Union to its fishing sector have contributed to increasingly large fleets that participate in unsustainable and illegal fishing in the Atlantic Ocean and adjacent seas. The injection of 1.1 billion Euros of public money into the fisheries sector each year in the EU represents a significant proportion of the value of the total Community production (7 billion Euros for fish landings). About \$440 million a year has been contributed by the EU and national governments to the fisheries sector in subsidies that contribute to reducing the costs of the investment of the fisheries sector and thus contributes to overfishing.

Twenty-four percent of the structural aid provided by the EU to its fisheries sector, or about 160 million Euros a year, has been used to promote investment in the modernization or renewal of fishing vessels, while 280 million Euros per year are paid for the right of about 850 EU vessels to fish outside EU waters under fisheries agreements with non-European third countries. The over-capacity in EU fleets has, in turn, resulted in over-exploitation by the EU of HMS. The trade-distorting EU fishing subsidies have had adverse effects on the U.S. commercial and recreational fishing industries, resulting in serious prejudice to the interests of the United States.

That EU subsidies for its fishing sector have led to overfishing has been recognized by the EU Commission, which has stated bluntly that "if current trends continue, many stocks will collapse. At the same time, the available fishing capacity of the Community fleets far exceeds that required to harvest fish in a sustainable manner." (See ICCAT, 1999 Detailed Report – Swordfish, available at <http://www.iccat.es/>, under "Assessment and Biology," Species Groups, at Table 29). Fueled by its subsidized over-capacity, the EU has violated and acted inconsistently with the ICCAT Convention by failing to ensure that vessels registered under its laws fish in a manner that is consistent with ICCAT conservation and management measures relating to East Atlantic bluefin tuna, North Atlantic swordfish, Atlantic white marlin, and Atlantic blue marlin, all of which are highly migratory species.

The EU has violated the ICCAT Convention by failing to enforce binding ICCAT recommendations related to the catch of juvenile swordfish and bluefin tuna. For example, despite a tolerance level set at 15% of total landings for undersize fish, in 1998 Spain had a landing percentage of juvenile North Atlantic swordfish of 37% and Portugal had a landing percentage of 39.5%. Thus, Spain and Portugal caught more than twice as many juvenile swordfish as permitted under ICCAT rules.

The EU has acted inconsistently with the ICCAT Convention by overfishing East Atlantic bluefin tuna in contravention of the recommendations of ICCAT's Standing Committee on Research and Statistics (SCRS). Such overfishing not only affects East Atlantic bluefin tuna stocks but also West Atlantic bluefin tuna stocks because there is significant mixing between the "two stocks". The unwillingness of the EU to accept the scientific advice of the SCRS of ICCAT is part of the pattern of systematic fixing of Total Allowable Catch for fish by the EU members at levels higher than indicated in the scientific advice provided to the EU from experts within the EU.

The EU's actions have placed excessive pressure on several HMS, including the Atlantic white marlin, which is at approximately 15% of the maximum sustainable yield (MSY) level. Drastic remedial action at the international level forced by the United States is required because the level of catch of white marlin by the U.S. domestic vessels operating under the catch-and-release policy is only 5% of the total mortality for Atlantic white marlin.

VI. BURDEN ON U.S. COMMERCE

The unjustifiable and unreasonable practices of the EU have burdened U.S. commerce by severely reducing fishing opportunities for the recreational fishing industry as highly migratory species such as the white marlin and bluefin tuna become harder and harder to catch. Moreover, the failure of foreign ICCAT signatories to comply with catch limits and quotas has resulted in increasing restrictions on U.S. recreational fishermen related to volume of fish they are allowed to land in the United States.

For example, current regulations allow recreational fishermen to retain only one bluefin tuna per person per trip during a short season; current regulations allow recreational fishermen to retain only three yellowfin tuna

per person per trip; current regulations allow recreational fishermen to retain only one swordfish per person per trip and a maximum of only three per vessel.

Depleted stocks of HMS combined with these restrictions have resulted in significant harm to the recreational fishing industry; Less fish plus more regulation equals significantly less participation and less participation equals significantly less commerce.

VII. CONCLUSION

Major U.S. commerce depends on the conservation of HMS. However, the U.S. has traditionally undervalued the U.S. recreational fishery. The U.S. must begin viewing ICCAT as a trade agreement as well as a conservation agreement considering the impact that ICCAT has on U.S. commerce. With this in mind, the U.S. must work to ensure that other nations are complying with ICCAT quotas and conservation measures. There's a multi-billion dollar recreational fishing industry at stake.