

Statement of Brian Hallman  
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before the

Subcommittee on Water, Power, and Oceans  
Committee on Natural Resources  
US House of Representatives

regarding

HR 4576: the “Ensuring Access to Pacific Fisheries Act”

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Chairman Fleming, Ranking Member Huffman, and Members of the Committee, thank you for the opportunity to testify. My name is Brian Hallman, and I am the Executive Director of the American Tunaboat Association (ATA). In my career in international management of fisheries, I have also held policy positions with the Inter-American Tropical Tuna Commission (IATTC), the National Oceanic and Atmospheric Administration, and the Department of State.

The ATA represents all of the large U.S. flag purse seine vessels fishing in the Pacific Ocean, where ATA members’ vessels fish pursuant to three international Conventions. In the eastern Pacific, there is the Convention establishing the IATTC. In the west, where the bulk of the US fleet has operated in recent years, there are both the Treaty on Fisheries between the United States and certain Pacific Island States (popularly known as the South Pacific Tuna Treaty), as well as the Convention establishing the Western and Central Pacific Fisheries Commission (WCPFC).

The U.S. purse seine fleet consists of 40 vessels, making it one of the most significant fleets operating in the western Pacific Ocean. The largest tuna purse

seine fishery in the world -- for fish that ends up as a canned tuna product -- takes place in this region. The U.S. purse seine fleet catches tuna with a landed value of approximately half a billion dollars a year. Around one half of the US fleet lands their catch in American Samoa, where the tuna industry accounts for approximately 80 percent of the private economy there. The other half of the fleet transships to canneries around the world, including in the United States. I further note that the United States is the country with the largest canned tuna market in the world.

Mr. Chairman, before I proceed to discuss the legislation, allow me to make some brief comments regarding highly migratory species, including most prominently tunas, but also billfish, sharks, and other marine life. Because these stocks migrate thousands of miles, through the waters of many nations, through extensive high seas areas, and in some cases across oceans, they occupy a special place in the world of fisheries management. Highly migratory species are the subject of a special article in the United Nations Law of the Sea Convention, as well as specific language in U.S. law, both of which stress the need for cooperative international management.

In other words, because the same stocks of fish are subject to multiple legal jurisdictions, and occur on the high seas, where all countries have fishing rights, it is recognized around the world that the effective and sustainable conservation and management of highly migratory species can only be achieved multilaterally throughout their range.

This is the basis for the IATTC and WCPFC which I previously mentioned, and there are actually three other international Commissions responsible for the management of highly migratory species; the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission, and the Commission for the Conservation of Southern Bluefin Tuna. Thus, tuna stocks in all the world's oceans are covered by similarly structured, legally binding multilateral agreements which address the conservation and management of the world's tuna stocks throughout the migratory ranges of all of these stocks.

I mention this aspect of highly migratory species because it is important to understand how they need to be treated differently from other species, particularly on the high seas. For example, H.R. 4576 implements two

Conventions dealing with marine species on the high seas only. This makes sense for the fisheries stocks covered by these Conventions, and reflects how they are treated in international law and U.S. law. But for highly migratory species, it is not possible to have an effective conservation and management regime for the high seas only.

My testimony today will focus only on Title III of H.R. 4576 which amends the Western and Central Pacific Fisheries Convention Implementation Act. The U.S. tuna fleet supports this legislation and deeply appreciates its introduction by the original sponsors; Congresswoman Amata Radewagen (R-AS) and Congressman Don Young (R-AK).

Allow me to make clear at the outset that the proposed amendment would in no way affect the U.S. commitment to the WCPFC or to the international management of highly migratory fish stocks. The legislation does not call for unilateral action by the United States.

Secondly, I must point out that this legislation has nothing whatsoever to do with the aforementioned South Pacific Tuna Treaty. The Tuna Treaty provides for access by U.S. flag vessels to fish in the Exclusive Economic Zones of the Pacific Island nations. The terms and conditions for such access – including fishing effort and industry payments – are spelled out in the Treaty.

And while the Treaty has been an effective instrument for access to the waters of Pacific Island countries for nearly 28 years, and has generally worked well for the U.S. fleet and the governments involved, in the past few years it has not worked well for anyone. The license fees paid by the U.S. fleet have risen astronomically, while the price of tuna to the fishermen has not. Additionally, valuable fishing areas have been lost to the U.S. fleet – traditional fishing grounds with historically high U.S. catches.

The U.S. government has given notice of withdrawal from the Treaty, and during the remainder of this year, before the withdrawal becomes effective, there are likely to be intensive negotiations to see if the Treaty can be restructured into a more flexible and workable instrument, and can thus continue to serve as a vehicle for fishing access by the U.S. fleet to the waters of Pacific Island nations. ATA expects to be an active participant in the U.S. government delegations to those renegotiations.

But the South Pacific Tuna Treaty, which deals with fishing access, is completely separate from the WCPFC, which, with its some 30 member nations, is responsible for the conservation and management of highly migratory marine species, in an area that overlaps but is distinct from the Treaty area. The U.S. fishing fleet also needs help from our government representatives in this forum if it is to survive as an important fishing fleet.

Mr. Chairman, the U.S. fleet has said – and continues to say – that there are two basic tenets of international fisheries management crucial to the health and strength of our continued operation. First, regulatory measures must be science based. If not -- if we are subject to the political whims and policies of governments including our own – then we are lost. And so, quite possibly, will be the resource. ATA has never opposed a scientific conservation recommendation from the science provider of the WCPFC.

This point relates to a key part of the legislation at hand, relating to the WCPFC: management measures on the high seas, which are beyond the jurisdiction of any nation. We do not argue that high seas fisheries for highly migratory species can never be the subject of management rules by the WCPFC, but rather that any such rules must be science based. The U.S. purse seine fleet is currently subject to severe high seas fishing restrictions which are not science based. These restrictions are the result of back room political negotiations by governments, and are not based on any scientific recommendations.

Frankly speaking, the high seas restrictions have come about to satisfy the demands of Pacific island states, which want to restrict – even eliminate – all high seas fishing so that the same catches, on the same stocks, would be made in their waters, for which they receive very generous compensation. I would note that this compensation, in the form of license fees, has been pushed to such extremely high levels that it is no longer sustainable. ATA does not blame the Pacific island countries for seeking this kind of allocation to help themselves economically, but what we cannot understand is why the U.S. government would go along with measures -- not for conservations reasons based on science -- which are so harmful to the U.S. fleet.

For example, in 2013, the WCPFC adopted a four-year measure, with U.S. government acquiescence, that cut the allowable high seas catch by U.S. vessels

by over 700 fishing days. This, with the stroke of a pen, represents an astounding loss of between 40 and 60 million dollars each year to U.S. fishermen, and ultimately, and much more so, to the U.S. economy. For no reason. This kind of negotiating has to stop, and that is one of the main purposes of the legislation before this Committee today.

One additional point which I would like to make regarding fishing on the high seas and conservation is that, if anything, the high seas are a better place to catch tuna because there is less bycatch. The closer to shore that fishing occurs, the more bycatch of unwanted marine species there is.

The second tenet of international management crucial to the survival of the U.S. fleet is that there be a level playing field, or at least that the U.S. government adopt policies actively pushing for a level playing field. This level playing field question arises most directly in the matter of compliance. The U.S. purse seine fleet is in fierce competition with fleets from China, Japan, Korea, the Philippines, and Taiwan, as well as with others. And yet, in the nearly 12-year existence of the WCPFC, it is only the U.S. fleet that has reported any cases of vessels not complying with a WCPFC management measure. This is incredible but true. Why? Because the WCPFC does not have a robust compliance regime. This leads to a discussion of another important part of the legislation being considered by the Committee.

Compliance is the Achilles heel of all five of the tuna Regional Fisheries Management Organizations. It is very difficult to achieve effective compliance in these organizations because of the essential truth that compliance is the responsibility of the flag state, and most flag states, for reasons of culture and resources, do not pay close attention to compliance. The U.S. government does – hence a playing field which is not level.

In addition to achieving a level playing field for the US fleet, an effective compliance regime enables the WCPFC to achieve its conservation objectives to prevent overfishing and rebuild overfished stocks. The US fleet wants healthy stocks. It shares these basic conservation objectives. But when other nations fail to require their fleets to comply – causing overfishing and stock decline -- it is the U.S. fleet alone that pays the price through the singular enforcement by the U.S.

government of increasingly stringent measures, including reduced catches, in order to protect/rebuild the stocks. It's a vicious circle.

What is the answer to effective compliance? First, it is in the kinds of measures adopted. For example, the key measure adopted by the WCPFC for restricting purse seine fishing is a closure on FAD fishing for several months. FADs, or Fish Aggregating Devices, are raft-like constructions of material intended to aggregate schools of fish, which naturally gravitate to floating objects. The WCPFC closure on FAD fishing does not work well, because vessels can still fish for free-swimming schools of tuna, not aggregated under FADs.

As one might imagine, compliance with such a measure is extremely problematic. Vessels are still out fishing, and it is not difficult for non-U.S. flag vessels to get around the prohibition on FAD fishing, most simply by recording all sets as school sets. U.S. vessels, on the other hand, cannot cheat because their observer records and logbooks are meticulously scrutinized.

Another example of measures that undermine conservation are the many exemptions contained in WCPFC conservation Resolutions. The vessels of Pacific island states – which are usually owned and operated by companies from distant water fishing countries – are often exempt from the conservation measures which other fleets must follow. For example, Pacific island nation vessels have no restrictions on their high seas fishing, while other fleets including ours suffer from strict quotas, not based on science.

Contrast the WCPFC FAD closure with the measure by the IATTC requiring a full closure, i.e., no fishing whatsoever during the proscribed period of time, when all vessels have to stay in port. With this kind of measure, it is very difficult, nearly impossible actually, for fishermen to cheat. Consequently, the IATTC full closure has been a very effective conservation measure. And efforts to establish a similar measure in the WCPFC have met with stiff resistance – not from our own government, but from other governments that are more interested in revenue from fishing than in good compliance.

So adopting fair and enforceable management measures which apply to all fishing vessels is the first way to get effective compliance in a Regional Fishery and Management Organization (RFMO).

The second way is to have a strong, transparent, and independent mechanism built into systematic international procedures to review the activities of fishing vessels. All of the purse seine vessels fishing in the western Pacific have independent observers on board, but their reports are not reviewed for compliance – except by the U.S. government for U.S. vessels. Compliance procedures need to be internationalized, to the extent possible, in order to move away from strictly flag state responsibilities.

With that in mind, we have suggested the adoption by the WCPFC of a procedure whereby the WCPFC Secretariat, or some other independent auditor, would review observer records and documents for any potential infractions or problems and report that to a compliance committee. Then, the flag state would be required to investigate and report back to the committee on what actions have been taken, and if not, why not. All of this should be done with complete transparency.

Mr. Chairman, effective international compliance is difficult but not complicated. It takes effort and political will to get a decent regime in place, but it can, and has, been done by other RFMOs. The IATTC and the ICCAT both have fairly effective compliance mechanisms. Another effective effort is the European Union's system of reviewing countries compliance efforts and then, if found wanting, issuing a "yellow card", and eventually perhaps a "red card", with potential for trade restrictions.

We want the WCPFC to have a meaningful compliance regime as well, and for the U.S. to be a vigorous leader in helping to achieve it. The legislation being considered, if enacted, would be an important step in the right direction, but we would like to work with the Committee to significantly strengthen the compliance elements of the legislation to ensure this will be a U.S. priority.

In summary, Mr. Chairman, we in the ATA would like to think that the U.S. government, including the Congress, sees value in maintaining a strong U.S. flag purse seine tuna fleet, in order to help ensure the continuation of an important U.S. voice for sustainable conservation and management into the future, to provide economic benefits to the United States, including American Samoa, to contribute to a positive foreign policy, and even to contribute to the strategic interests of the United States in the region. Regarding this latter point, I note, in

particular, that China is expanding its presence and influence with Pacific island states, often via arrangements involving fisheries or related matters.

Mr. Chairman, the U.S. tuna fishing fleet strongly supports the proposed amendments to the WCPFC implementing legislation, which we see as being crucial to our future survival. We deeply appreciate your and the authors' leadership on these critical issues and for the opportunity to testify today.