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Testimony of

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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 overfishing, 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 HR 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, HR 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 non-governmental 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 UN 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 ecolabeling 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 ecolabels that attest that the product was harvested or produced sustainably. An 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.