

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

Written Testimony

Of

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Atlantic Swordfish Conservation Legislation

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Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to speak to you about the U.S. Atlantic Pelagic Longline Fishery for swordfish, tunas, sharks and mahi-mahi. I am Ernie Panacek, Manager of Viking Village commercial fishing dock in Barnegat Light, NJ. Viking Village's fishermen catch a wide variety of fresh domestically-caught fish for American seafood consumers who do not catch their own. We proudly carry on this important heritage of our Nation's coastal communities. I've attached more extensive background information on Viking Village and the fishing community of Barnegat Light.

I am also proud to be Blue Water Fishermen's Association's (BWFA) Regional Director for the New Jersey area and a Director of Garden State Seafood Association. Mr. Chairman, as you know, our fishermen have always been very progressive and we have taken to heart your encouragement that we work with other fishery sectors to develop mutually beneficial resolutions to our fisheries concerns. We've done that. Once limited access was achieved, we initiated negotiations with principal sportfishing groups [formal Memorandum of Understanding and Cooperation (MOU) attached] to develop the pelagic longline bycatch reduction proposal embodied in HR 3390. I strongly support this bill and will only support improvements that can be agreed upon by all four of the original cooperating parties.

Congressmen Goss' and Tauzin's HR 3390 would achieve comprehensive and truly effective conservation

benefits and minimizes fishing effort displacement, socio-economic disruption, and user group conflict. This bill would also initiate research necessary to evaluate potentially more effective gear or operational modifications to further reduce unwanted pelagic longline catches. This bill is based on scientific data reported to the NMFS by our fishery and the first-hand knowledge of these fisheries directly from the cooperating groups.

According to NMFS/SEFSC pelagic longline reported data, approximately 52 percent of the total small swordfish bycatch reported by US pelagic longline fishermen in the US Economic Exclusive Zone (EEZ) occurs in the three areas detailed in HR3390. Similarly, approximately 31 percent of the total billfish bycatch reported by US pelagic longline fishermen in the US EEZ also occurs in these three areas. Closure of such "hot-spot" concentrations is expected to substantially reduce pelagic longline bycatch. In addition, retiring, rather than displacing, the fishing effort from these areas will ensure that these expected reductions are exceeded because eligible vessels also placed effort in other areas. I have heard of no other single fisheries management action with as much potential conservation benefit as the proposal embodied in HR3390. I would note, however, that this proposal is not designed to address all of the problems in managing Atlantic HMS fisheries, such as nursery area closures for bluefin tuna, or under-reporting by the recreational fishing sector.

Our primary objective is to reduce unwanted bycatch in our domestic longline fishery. We also share a desire to develop a more practical approach to Atlantic HMS conservation than the current wasteful regulatory discard measures. Each of the cooperating groups has been deeply involved in the International Commission for the Conservation of Atlantic Tunas (ICCAT) process. We know that U.S. recreational and commercial catches combined are such a small percentage of the overall Atlantic-wide harvest that actions by our fishermen alone will not make a difference. For effective conservation of any Atlantic highly migratory species (HMS), the cooperation and compliance of all Atlantic harvesters throughout the range of each stock is essential. We are also convinced that foreign fishermen will not discard edible fish and do not even recognize the meaning of "bycatch" or "regulatory discarding". Developing a more practical approach, such as identifying and closing "hot-spot" nursery and spawning areas could achieve greater conservation gains, especially if fishing effort is not diverted to other problem areas. Together, we hope that this legislation will serve as a practical and reasonable model for the U.S. to promote within the ICCAT forum. The other proposals before us cannot achieve these domestic or international goals nor a similar level of conservation gains.

Congressman Sanford's HR3516 to ban U.S. pelagic longline within the EEZ, is unacceptable and would result in conservation losses because foreign fleets will capitalize upon the U.S. government-sanctioned removal of itself from the sustainable harvest and, thus, management of these internationally-shared resources. U.S. Atlantic HMS fisheries have already suffered the consequences of unilateral cut-backs. In 1990, the ICCAT recommended that the major swordfish harvesters (Spain and the United States) reduce their fishing mortality on North Atlantic swordfish by 15 percent. The U.S. implemented strict measures that actually reduced our catches by 38 percent while Spain reduced its catches 41 percent, by simply moving its large fleet to the South Atlantic. As a result of these actions, minor North Atlantic harvesters increased their catches from 6 to 26 percent. Canada also learned this lesson the hard way by unilaterally restricting their fishery to a restrictive swordfish quota in the early 1990's. Their reduced landings became their landings base when international catch reductions were established in 1996.

HR3516 would also deny American consumers their rightful access to their share of these Atlantic HMS produced by American fishermen. Pelagic longline fishing is an efficient method for the year-round harvest of these renewable resources. ICCAT's North Atlantic Swordfish Recovery Program includes country-specific total allowable catch limits and conservation measures that should rebuild the stock to maximum sustainable yield. U.S. pelagic longline fishermen have an excellent record of compliance with all international and domestic conservation measures. Eliminating pelagic longline is not a viable option internationally and should not be seriously considered domestically.

With regard to the NMFS's proposal, it would force southern fishermen to simply shift their fishing into inshore areas that remain available. NMFS's own analysis of their preferred option admits to conservation losses for several important species while creating serious socio-economic disruption. Affected pelagic longline boats would need to uproot their home base and move to other regions. Families would need substantial time to resettle in housing and schools. Vessel operations would need to find dock space, freezer and other storage facilities. Related supply and service companies; including, bait, fuel, electronics, engine mechanics, seafood trucking and maintenance necessities would all be disrupted. These negative impacts created by the NMFS's proposed rule are unnecessary and will not achieve positive conservation objectives. If anything, the NMFS's proposed rule and its extensive public process has proven that the conservation gains that are in everyone's best interest can only be achieved by combining a voluntary buy-out with closing specific "hot-spot" problem areas.

Also, NMFS's closed areas unnecessarily extend into offshore waters where there is clean fishing. The NMFS's own scientific data show that "hot-spots" occur primarily in specific identifiable inshore areas. Closures outside 500 fathoms in the Gulf of Mexico or 250 fathoms in the Southeast Atlantic area are arbitrary and unnecessary. These offshore extensions guarantee fishing effort displacement by not allowing medium and larger vessels any option but to move to other coastal regions. Obviously, the HMS Division does not realize that viable pelagic longline fishing is not found in all ocean areas. These species are particularly sensitive to oceanic fluctuations and trends, such as temperature and bait availability. If the offshore side of the Gulf Stream is closed, the next generally viable area is offshore seamounts then the Mid-Atlantic Ridge. The affected U.S. fleet cannot safely fish these offshore areas. These negative actions will cause:

Affected Southeast coastal vessels to move up the coast, above Cape Hatteras, during the summer and into the Caribbean or Eastern Gulf of Mexico during the winter.

Affected Western Gulf of Mexico vessels to move to the Eastern Gulf or up the coast above Cape Hatteras during the summer and the Caribbean during the winter.

Some of the largest vessels may enter the Distant Water Fishery to fish the Grand Banks of Newfoundland during the summer and Equatorial Zone during the winter; however, because they have not previously participated in these proven areas, we suspect individual vessel safety capabilities will be a major issue.

Some may think that closing just southern areas, thus forcing longline operations north, would benefit a commercial dock, such as Viking Village in New Jersey. It is my opinion that this theory is wrong. Forcing these small fiberglass vessels north will result in market gluts and crashes, especially prior to stormy weather. They will primarily fish more inshore waters and create greater conflict with the recreational fishermen and potentially cause much greater bycatch problems. These displacements would increase negative political pressure on the overall pelagic longline fishery. This fishery is a very important component of the overall seafood industry to many coastal communities. For example; in recent years, longline caught fish represent 30 to 40 percent of Viking Village's production and with restrictive measures in nearly every other commercial fishery and further measures pending, this production cannot be replaced. Take away this portion and our business cannot survive.

HR3390 can achieve enormous conservation gains by the closed area, voluntary buy-out and research approach taken. It is critically important that HR3390 be enacted and fully appropriated prior to the NMFS finalizing its proposed rule. If the NMFS finalizes their flawed proposed rule, fishing operations and families must be given at least one full year to make the necessary preparations (ie. Relocating the family household, children's educational arrangements, etc.) before implementing the rule. I'm sure it is no secret that the industry will have no choice but to challenge this final rule in court.

Mr. Chairman, I appreciate the attention you have always given to these important issues and the fact that the core of your bill includes the cooperative proposal embodied in the bill that I support. However, I am

very concerned with several differences in HR3331 that I believe cripple the intent and effectiveness of our initiative. I sincerely hope that this process will result in a single bill moving forward as quickly as possible.

I have the following concerns and recommendations on the differences between HR3390 and HR3331:

HR3331 Section 3. PURPOSES: HR3331 includes the additional purpose "*to ensure a sustainable fishery and a sustainable United States pelagic longline fishery for the future,*" that I strongly support.

HR3331 and HR3390 Section 6. HIGHLY MIGRATORY SPECIES CONSERVATION ZONES: Both bills have similar Gulf of Mexico closed areas coordinates that are consistent with the scientific data and more important, the direct knowledge of these fisheries; however, the Atlantic conservation zone departs from the science and the understanding of the cooperative groups.

The coordinates in both bills are derived from documents developed by the cooperating groups. HR3331 coordinates are taken from the formal Memorandum of Understanding and Cooperation finalized in August 1999. Consequently, the groups agreed that HR3390 Atlantic coordinates should be consistent with the U.S. EEZ through the Straits of Florida. Just prior to introducing S1911, Senator Breaux's personnel and Legislative Counsel made these changes; however, they inadvertently used the furthest point offshore of Charleston (MOU Point (G) 31° 00' N/78° 00' W) rather than the agreed upon western (MOU Point (H) 31° 00' N/79° 00' W). Using this offshore point (G) creates an unintended additional closed area wedge that is an important area for the remaining pelagic longline fishery. This additional area is unnecessary and would displace additional medium and larger vessels for no additional conservation or conflict resolution benefits.

The scientific data and the experience of fishermen from this area bear out that for the Atlantic area both the bycatch and conflict problems are resolved when the closure boundary is set at or offshore of the Gulf Stream axis (depicted by a line of short arrows on the Atlantic area chart). Pelagic longline observer and logbook data indicate that the real problem is inside 250 fathoms. The following coordinates correct the mistake and resolve the intended bycatch problem.

In addition, I suggest coordinates to smooth the remaining boundary while remaining offshore of the designated axis of the Gulf Stream and well outside 250 fathoms (in fact runs primarily along 350 to 400 fathoms). Smoothing this offshore boundary while maintaining straight lines will better facilitate compliance and enforcement and further eliminates unnecessary fishing effort displacement.

I support the following Atlantic closed area coordinates for the final bill:

26 degrees 30 minutes north latitude, 82 degrees 0 minutes west longitude

24 degrees 0 minutes north latitude, 82 degrees 0 minutes west longitude

24 degrees 0 minutes north latitude, 81 degrees 08 minutes west longitude

seaward extension of the Exclusive Economic Zone

27 degrees 52 minutes north latitude, 79 degrees 30 minutes west longitude

31 degrees 0 minutes north latitude, 79 degrees 0 minutes west longitude

33 degrees 0 minutes north latitude, 76 degrees 30 minutes west longitude

33 degrees 51 minutes north latitude, 78 degrees 33 minutes west longitude

HR3331 Section 7 (k) MID-ATLANTIC BIGHT BUYOUT PROGRAM: I strongly disagree with the inclusion of any additional buy-out program in the final bill.

This fishery will need time to settle out from the dramatic steps already agreed to within HR3390. Until the primary closed areas, buy-out and research has been accomplished, it would be counterproductive to further diminish the ability of our domestic fishermen and American seafood consumers to utilize their full ICCAT quota. The addition of this provision will not enhance conservation.

"Eligible if you have recorded landings of at least 40% swordfish in any one year between 1992-1999 in the MAB". Why the Mid-Atlantic? According to the NMFS data, this is not a juvenile swordfish "hot-spot". This criteria would primarily target directed swordfish vessels that fish outside this region (primarily the Grand Banks of Newfoundland) but return to Mid-Atlantic ports to offload. The Grand Banks fishery has a far lower percentage of undersized swordfish and billfish discards than any other area.

HR3331 Section 7 (k) (2) and (3); *Deducting quotas commensurate with bought out effort*: I cannot support any measure that would result in taking quota away from responsible and compliant fishermen and place it into the hands of foreign non-compliant fleets. This measure is a purely punitive gesture against compliant commercial fishermen, and sets an extremely poor precedent. This proposal actually undermines the U.S.'s abilities to acquire effective international measures.

In recent years, the U.S. Pelagic Longline Fishery has experienced the consequence of quota closures. Unlike some other fisheries, our medium and larger size vessels are at sea for three to four weeks during one trip. Recalling vessels due to closures creates very expensive broken trips, market gluts and crashes plus additional regulatory discards during the closure. This circumstance has already forced many operations to fish in other oceans and/or reflag to less conservation-oriented countries. The international conservation program, the fish, and compliant fishermen and countries are the losers if the Congress forces vessels to leave this country.

Until we can assess the effects of the dramatic measures we've already agreed to, no one knows if the remaining fleet will be capable of catching our ICCAT swordfish quota. Hopefully, our fishermen will have enough quota to conduct a year-round fishery and avoid the negative impacts of quota closures. It would be counter-productive to purposefully overcapitalize the remaining fishery by unilaterally reducing the quota.

5. HR3331 Section 7 (k) (4); *Total of 5 million dollars appropriated to pay for this second buy-out*: In my estimation, this fishery can only support its share of the compensation package embodied in HR3390. That permit holder buy-out will substantially reduce but not eliminate the socio-economic disruption to this fishery and the businesses that depend upon it.

These are not the best economic times for this fishery. In recent years, U.S. Atlantic swordfish fishermen have willingly sacrificed more than 50 percent of their annual landings for conservation in order to reverse the decline of North Atlantic swordfish. The fishery now faces further cuts to comply with the 1999 ICCAT Swordfish Rebuilding Program, including the deduction of undersized swordfish discards from the U.S. country-specific quota. While we fought for and support the ICCAT quota cuts necessary to rebuild the stock, these additional reductions will have substantial short-term economic impact on our industry. In addition to these conservation sacrifices, more than triple the volume of swordfish imports from all oceans entered the U.S. during 1998 compared to only two years prior, dramatically reducing market prices. Some of this product is "internationally pirated" Atlantic swordfish (other country's ICCAT quota overages) that the U.S. continues to allow into our marketplace.

If additional revenues are available, they should go toward minimizing the negative impacts to those fish dealers, ice, bait, tackle and other supply and service companies who depend upon the commerce generated by the 68 eligible fishing operations. If additional government moneys are spent, they should also go toward prohibiting ICCAT quota overages from entering the U.S.

HR3331 Section 11 (a); *Require 1% ex-vessel fee on fish harvested in MAB to pay for observers in MAB*: The research program in HR3390 already addresses pelagic longline observer coverage for all areas in addition to the existing observer coverage (basically only Atlantic HMS fishery with a timeline of observer

coverage). This fishery cannot possibly afford to pay for observer coverage at this time. The pelagic longline fleet consists of relatively small vessels that operate on slim margins compared to factory processors on the west coast or foreign subsidized freezer longliners. The majority of the fleet are 45 to 60 foot owner-operated vessels that find it difficult to accommodate any additional people. It would be counterproductive to require an unobtainable level of observer coverage.

This measure is punitive, levied against a single sector of the fishery that already carries observers when requested and provides more scientific data than any other sector of Atlantic HMS fisheries. Despite adequate science to the contrary, it is only the unjustified fund raising rhetoric of extremists that paints a negative perception of this fishery. If all HMS fisheries had comparable data, it might be justified; however, we already provide copious amounts of reported and observed data while the catches, catch disposition, sizes, fishing mortality and catch per unit of effort (CPUE) of other commercial and recreational HMS fisheries remain unknown. I strongly disagree with this provision.

HR3331 Section 12 RESTRICTIONS ON PELAGIC LONGLINE VESSELS IN THE MID-

ATLANTIC BIGHT; *In the months of June, July and August, shall not increase pelagic longline effort (defined as number of hooks and sets, length of line and soak time and days at sea) by more than 10% of average total effort in the mid-Atlantic bight from 1992 through 1997:* Again this measure appears to be purely punitive against a segment of a single fishery that has been responsible enough to step forward to substantially address its bycatch concerns. However, I believe that potential fishing effort displacement is a valid concern that should be closely monitored. This concern is minimal in HR3390 and maximum in the NMFS's proposed rule. (I question the credibility of some recreational extremists who had earlier on raised displacement concerns as their primary objection to the legislation but now support the NMFS proposed rule, which, of all the proposals, will cause the greatest displacement of all affected fishermen.)

This measure is also impractical. Sets, length of line and soak time are intricacies of this fishing method that need to remain flexible. These details of fishing operations may be used to reduce unwanted bycatch and will be studied along with other gear configurations and methods of gear deployment in the very important research program in HR3390.

Restricting "days at sea" is also impractical for this very diverse offshore fishery. Currently, a larger distant water vessel may steam 5 to 14 days one way to the most productive fishing grounds on the Grand Banks of Newfoundland (summer) or Mid-Atlantic Ridge (winter). Bear in mind that, because of our smaller size vessels, the average U.S. pelagic longliner only fishes 78 days (fishing sets) per year as compared to 300+ days (fishing sets) of giant foreign freezer longliners. If days at sea are restricted, the fleet must fish much closer to port thus increasing fishing effort and bycatch, especially in the mid-Atlantic bight.

This measure may be supportable if revised to focus solely upon hooks as a more practical measure of effort and specified displaced hook effort from the closure areas as a monitoring guideline rather than a restriction and placed in Section 11 (c) of HR3390.

Mr. Chairman, I personally know that you have struggled to find an additional conservation measure for this bill. Even though some elements of this seafood industry would disagree and this is not a BWFA position, I personally strongly encourage you to consider an enormous step for Atlantic HMS conservation that has been universally supported by the recreational and many commercial fishermen, as well as the environmental industry. ***Prohibiting fish caught by foreign fishermen in excess of ICCAT conservation quotas from being imported into the U.S. would be a huge step for conservation.*** This would also finally signify our Nation's commitment to ensure compliance from foreign harvesters with the international programs as required of American fishermen.

The Customs Service implemented a system of prohibiting undersized Atlantic swordfish last year. A "Certificate of Eligibility" is required for each shipment. The necessary tracking of country of origin is already in place. ICCAT recommends country-specific Atlantic swordfish quotas for both North and South

Atlantic swordfish stocks. I believe this conservation approach is GATT-defensible providing it adheres to the international standards of ICCAT conservation recommendations. It is really only a question of "political will".

I encourage the members of this Subcommittee to find the courage to take this step that should have been taken as a first step before any Atlantic HMS restrictions were placed on U.S. recreational or commercial fishermen. Our fishermen are responsible for only a minor percentage of the overall Atlantic-wide harvest of these international species. Ensuring compliance with the international conservation program is our only hope for achieving maximum sustainable harvest levels. Our Nation should not continue to ignore the fact that it has been a part of the problem by allowing conservation quota overages into our markets. If the addition of this measure would substantially hold-up passage of this important bill it should be placed in a separate bill and also enacted as quickly as possible.

Mr. Chairman and Members of the Subcommittee, thank you for allowing me to testify. I hope that you will find the courage to "do the right thing" for the fish we depend upon, for our truly compliant and worthy fishermen and related businesses and for American seafood consumers by quickly passing HR3390. Failure to do so will result in conservation losses for all. If you have any questions or need more information on these issues, please contact BWFA's Executive Director, Nelson Beideman or me.

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