

HEARING ON THE U.S.-CANADA PACIFIC SALMON TREATY

HEARING BEFORE THE SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS OF THE COMMITTEE ON RESOURCES HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTH CONGRESS FIRST SESSION

SEPTEMBER 18, 1997, WASHINGTON, DC

Serial No. 105-57

Printed for the use of the Committee on Resources



U.S. GOVERNMENT PRINTING OFFICE

46-527 CC =

WASHINGTON : 1998

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HEARING ON THE U.S.-CANADA PACIFIC SALMON TREATY

THURSDAY, SEPTEMBER 18, 1997

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS, COMMITTEE ON RESOURCES, *Washington, DC.*

The Subcommittee met, pursuant to call, at 10:10 a.m. in Room 1324, Longworth House Office Building, Hon. Jim Saxton [chairman of the Subcommittee] presiding.

Mr. SAXTON. I apologize for the delay. There is a vote pending in the House and apparently most Members are waiting to try and determine whether or not they should come here before the vote or after the vote. It looks like they are coming after the vote so we are going to postpone for a few minutes.

[Recess.]

Mr. SAXTON. Ladies and gentlemen, good morning, we still have a vote pending, however, we are going to begin the hearing. Let me ask unanimous consent that Adam Smith from the State of Washington, who is not a member of the panel, and Senator Murkowski, be permitted to join us. Without objection, it is so ordered.

The Subcommittee will come to order.

STATEMENT OF HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. SAXTON. The Subcommittee is meeting today to conduct an oversight hearing on the Pacific Salmon Treaty and recent negotiations between the United States and Canada. By way of background, after years of extensive negotiations, the United States and Canada signed the Pacific Salmon Treaty in 1985.

In addition to the Treaty, there are four annexes that are negotiated on a rotating schedule. Annex IV deals specifically with the conservation and management of shared salmon resources. Since 1983, the parties have been unable to reach a long-term agreement on the renewal of any chapters within Annex IV. While the Pacific Salmon Commission was formed by the United States and Canada to implement the Treaty in 1985, it is not the entity through which negotiations are being handled. Instead, these discussions have taken place through the use of special negotiators, nonbinding mediation and now stakeholder meetings. Unfortunately, none of these efforts have been successful.

The Canadian Government wants to resolve the current impasse through government-to-government negotiations, and has expressed frustration over what they view as the U.S.'s lack of authority to reach an agreement. This frustration has manifested it-

self into actions taken by the Canadians, infuriating Members of Congress and members of the public.

The first action was the implementation of an illegal transit fee on hundreds of U.S. fishing vessels in 1994. These fees have been reimbursed through U.S. legislation, but have yet to be addressed and reimbursed by the Canadian Government. The second action was the blocking of an Alaskan ferry in Prince Rupert Harbor this past summer, which inconvenienced several hundred Americans and international tourists and cost the company thousands of dollars.

There has been no effort by the Canada to compensate the owners of the ferry or its passengers who had nothing to do with the dispute.

We look forward to hearing from our witnesses and let me ask the Ranking Member, Mr. Abercrombie, the gentleman from Hawaii, and Senator Murkowski, the gentleman from Alaska, if they have an opening statement.

[The prepared statement of Mr. Saxton follows:]

STATEMENT OF HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Good morning. The Subcommittee will come to order. The Subcommittee is meeting today to conduct an oversight hearing on the Pacific Salmon Treaty and the recent negotiations between the United States and Canada.

By way of background, after years of extensive negotiations, the United States and Canada signed the Pacific Salmon Treaty in 1985. In addition to the Treaty, there are four annexes that are negotiated on a rotating schedule. Annex IV deals specifically with the conservation and management of shared salmon resources.

Since 1993, the Parties have been unable to reach a long-term agreement on the renewal of any chapters within Annex IV. While the Pacific Salmon Commission was formed by the United States and Canada to implement the Treaty in 1985, it is not the entity through which negotiations are being handled. Instead, these discussions have taken place through the use of special negotiators, non-binding mediation and now stakeholder meetings. Unfortunately, none of these efforts have been successful.

The Canadian Government wants to resolve the current impasse through government-to-government negotiations and has expressed frustration over what they view as the U.S.'s lack of authority to reach an agreement. This frustration has manifested itself into actions taken by the Canadians that have infuriated Members of Congress.

The first action was the implementation of an illegal transit fee on hundreds of U.S. fishing vessels in 1994. These fees have been reimbursed through U.S. legislation, but has yet to be addressed and reimbursed by the Canadian Government. The second action was the blockading of an Alaskan ferry in Prince Rupert Harbor this past summer, which inconvenienced several hundred American and international tourists and cost the company thousands of dollars.

There has been no effort by Canada to compensate the owners of the ferry or its passengers who had nothing to do with this dispute.

I am looking forward to hearing from our witnesses.

BRIEFING PAPER TO SUBCOMMITTEE STAFF

MEMORANDUM

TO: Members, Subcommittee on Fisheries Conservation, Wildlife and Oceans

FROM: Subcommittee Staff

SUBJECT: Oversight hearing on the Pacific Salmon Treaty.

At 10 a.m. on Thursday, September 18, 1997, in Room 1324 Longworth House Office Building, the Subcommittee on Fisheries Conservation, Wildlife and Oceans will hold an oversight hearing on the Pacific Salmon Treaty and the recent negotiations between the United States and Canada. Witnesses invited to testify include: Mr. James Pipkin, Special Negotiator for Pacific Salmon; Mrs. Mary Beth West, Deputy Assistant Secretary for Oceans Bureau of Oceans, Environment and Science, De-

partment of State; Mr. William Ruckelshaus, Facilitator for the Pacific Salmon Treaty; Mr. David Benton, Commissioner for the State of Alaska; Mr. William Ronald "Ron" Allen, Commissioner for the Pacific Northwest Tribes; Mr. Curtis Smitch, Commissioner for the States of Washington and Oregon; Mr. James Bacon, Chair, Northern Stakeholders Panel; Mr. Richard Applegate, Chair, Southern Stakeholders Panel.

BACKGROUND

Pacific salmon and steelhead trout originate in streams located in both the United States and Canada. The five species of salmon in the Pacific northwest include chinook, coho, chum, sockeye, and pink. Pacific salmon and steelhead trout are anadromous fish whose life cycle starts in fresh water as eggs which develop into fry. Depending on the species of salmon, fry reside in freshwater either for months or up to several years and develop into smolts (juvenile salmon). Smolts migrate downriver and spend the majority of their adult life in the ocean. During the adult stage of their life cycle, salmon can migrate thousands of miles in the ocean crossing international boundaries. The migrating salmon from both countries intermingle and are harvested by both Canadian and United States fishermen. These interceptions are the cause of much debate and controversy.

Pacific Salmon Treaty

Due to the transboundary nature of their respective salmon resources, the United States and Canada have always had a common interest in the management of Pacific salmon. Cooperative management between the two countries was initially undertaken through the Fraser River Salmon Treaty, which covered a narrow range of stocks. The need for a more comprehensive Treaty became apparent when each country noted a marked decline in chinook salmon throughout its range and, more recently, coho stocks in Oregon and Washington. Moreover, both countries recognized that investments in enhancement and conservation efforts would not be undertaken, even though the need was great, because there was no assurance that the benefits of enhancement and conservation would accrue to the country or state embarking on such efforts.

After years of extensive negotiations, the United States and Canada signed the Pacific Salmon Treaty in 1985. The two main principles to the Treaty are: (1) to "prevent overfishing and provide for optimum production" (referred to as the conservation principle); and (2) to "provide for each Party to receive benefits equivalent to the production of salmon originating in its waters" (referred to as the equity principle). In addition to the Treaty, there are four annexes that are negotiated on a rotating schedule. Annex IV deals specifically with the conservation and management of the shared salmon resources.

The Pacific Salmon Commission was formed by the U.S. and Canada to implement the Treaty. Each country has its own section, which consists of four Commissioners and a like number of alternates. The approval of both sections, each holding one vote, is required to effect a decision. Each party is obligated to promulgate regulations to implement fishing regimes approved by the Commission.

The U.S. implementing legislation, the Pacific Salmon Treaty Act of 1985, mandates that the four commissioners must be in agreement on U.S. positions presented to Canada. However, the three voting U.S. commissioners representing Alaska, the states of Washington and Oregon, and the Pacific Northwest tribes control what positions are passed to Canada through the use of their assenting or dissenting votes. The U.S. government cannot force any of the voting commissioners to accept an agreement. On the other hand, the Canadian government has control over its commissioners and are therefore able to negotiate directly.

The Commission receives conservation and management recommendations from the Panels that are established by the Annexes to the Treaty, namely, the joint U.S. and Canadian Northern, Southern, and Fraser River Panels. The Northern Panel is responsible for salmon original rivers with mouths entering the Pacific ocean between Cape Suckling in Alaska and Cape Caution in British Columbia. The Southern Panel is responsible for salmon originating in rivers south of Cape Caution with the exception of Fraser River sockeye and pink salmon. The Fraser River Panel has special responsibility for in-season regulation of Fraser River-origin sockeye and pink salmon fisheries in southern British Columbia and northern Puget Sound. Panel recommendations are based on information received by the Panel from a variety of bilateral technical committees. These technical committees rely on information provided by Canadian and U.S. fishery management agencies.

Negotiations between the U.S. and Canada

Since 1993, the Parties have been unable to reach a long-term agreement on the renewal of any chapters within Annex IV, which covers all fisheries issues. While

the Commission is the forum designated to negotiate salmon fishery regimes, the Canadians have refused to participate in the Commission process. Instead, negotiations have taken place through the use of special negotiators in 1994, non-binding mediation in 1995, to the most recent stakeholder negotiations held this past spring. All of these forums failed to achieve consensus on a long-term agreement for fishery regimes. On July 25, 1997, the U.S. and Canada appointed two facilitators Mr. William Ruckelshaus and Dr. David Strangway, respectively, to reinvigorate the stakeholder talks.

A major impediment to achieving consensus on a long-term agreement for fishery regimes is each country's interpretation of the equity principle. Specifically, the Canadians believe that there is currently an inequity of interceptions. The Canadians cite reduced interceptions of U.S. chinook and coho salmon by Canadian fishermen and increased U.S. interceptions of Canadian sockeye salmon as the cause of this inequity. The Canadians would like this inequity addressed prior to or included in an agreement on long-term fishery regimes. The U.S. does not agree with the Canadian interpretation of equity or that there is currently an inequity and has pushed to develop conservation and management regimes that take into account the equity principle.

The Canadian Government wants to resolve the current impasse through Government to Government negotiations and have expressed frustration by what they view as the U.S. government's lack of authority to negotiate an agreement. The U.S. has maintained its commitment to the Commission process, as mandated by its implementing legislation, where each of the voting Members has a vote and consensus is needed for a U.S. position to be passed to Canada. The Canadians view this voting mechanism as having to negotiate with four separate countries and has tried to force the U.S. government into taking control of the negotiations by implementing an illegal 1994 transit fee on U.S. fishermen and by blockading the international movement of an Alaskan ferry this past summer.

On Monday September 8, 1997, despite the fact that the two facilitators have not completed their work, British Columbia filed a lawsuit suing the United States and naming as defendants the Secretary of State, Madeleine Albright, the Secretary of Commerce, William Daley, and the States of Alaska and Washington. The Canadians are asking the U.S. District Court Western District in Seattle, Washington to declare the U.S. in violation of the Treaty and require the Secretaries of Commerce and State to direct the U.S. section to fulfill its international obligations under the Treaty.

Future of the Treaty

For now, the Treaty remains in place until one party or the other gives notice of termination. Unless the U.S. and Canada can come to some resolution regarding the current disagreement, the future of the Treaty is unclear. Despite the current tensions, the Treaty is widely recognized as a significant focus of scientific and policy expertise and the preferred forum for bilateral management of an extremely complex fish resource.

ISSUES

- The U.S. and Canada established the Pacific Salmon Commission to implement the Treaty. Since 1993, negotiations have been conducted through a variety of forums, not including the Commission. How can the Commission be restored to ensure that it can accomplish its stated goal?
- Has Canada abrogated the Treaty by not negotiating through the Pacific Salmon Commission?
- Is a failure to negotiate a new agreement a significant obstacle?
- What was the rationale for the Canadian lawsuit? Could the U.S. use the same rationale to sue British Columbia or Canada, in general?
- In lieu of the lawsuit filed by British Columbia, are the two facilitators expected to continue their work? Can they continue their work?
- Will the lawsuit prohibit U.S. stakeholders from returning to negotiations with Canadian stakeholders?
- Have the owners of the Alaskan ferry, the MALASPINA, been compensated for their economic losses? When will this occur?

Mr. ABERCROMBIE. Mr. Chairman, I think the gentleman from Alaska probably would dispute that, although Hawaii and Alaska came in as States of the Union at the same time. Nonetheless, I am pleased to be associated with the good Senator and I would just simply like to say, Mr. Chairman, that I believe your statement has

covered the circumstances and it is probably in everyone's interest to move right to the meat of the hearing.

Mr. SAXTON. Thank you.
Senator Murkowski.

**STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR
FROM THE STATE OF ALASKA**

Senator MURKOWSKI. Thank you very much, Mr. Chairman. I do have a short statement. First of all, let me thank you for holding this hearing. I think it is important to resolve this and I appreciate you taking good care of our friend and Chairman, Don Young.

Mr. SAXTON. I don't have a choice.

Senator MURKOWSKI. That is fair enough. And Representative Abercrombie, we appreciate Hawaii's contribution to the Pacific salmon issue by being a large consumer.

Let me again say that I regret I can't remain here because of hearings that I have got as Chairman of the Energy Committee, but I think it is time to get the salmon debate back on an even keel, and I welcome the involvement of Bill Ruckleshaus on the USA side, and David Strangway. They are charged with getting the talks underway again. The solutions must start not with the policy wonks, so to speak, or the bureaucrats, but with the stakeholders themselves, those who are involved, the fishermen and others.

I have faith in their good sense and practicality. They may not be able to rewrite history to erase the dispute, but with the support and trust of both of our governments, they may be able to reduce even the most complex issue to a manageable size. Some have suggested the Pacific Salmon Treaty is unworkable or that the way the U.S. deals with Treaty decisions is inappropriate. I don't believe that to be the case. Honest efforts will yield honest results.

Those who reject the Treaty altogether, I think, are victims of their own rhetoric. Because they cannot win every point, they want to change the rules. Rather than changing the rules, both sides, I think, should focus on making the stakeholders' path as straight as possible. One important step is to discourage misinformation and encourage a clear understanding of the facts.

Salmon, as you know, love herring. Unfortunately, the media seems to sometimes love and run for a red herring, as much as a salmon love and run for a real herring. For example, the other day we saw a flurry of claims that the so-called, "Canadian First," fishing policy was a great success, proving the U.S. should have taken Canada's offer of 17 percent of the Fraser catch instead of insisting on a higher share. The goal was to create the impression that the U.S. was unreasonable and that had it been willing to compromise, we would have reached an agreement.

Well, every article I saw reported these statements at face value. Unfortunately, just as everyone but Sherlock Holmes failed to notice the dog that didn't bark in the night, the readers did not receive one crucial detail—the fact that sockeye numbers were not why the southern stakeholders talks broke down. In reality, they broke down because Canada would not accept steps to conserve endangered Washington and Oregon coho stocks, a completely different species.

The media obviously doesn't know the difference between the various species of salmon. The issue was not the Fraser stocks, but protecting the coho stocks. On June 20, 1997, after supplemental discussions were held between government negotiators, the State Department issued the following statement: "Agreement has not yet been achieved because Canada has not been able to make or accept a proposal that would meet even the minimum requirements to conserve wild coho off the West coast, let alone allow both countries to maintain viable coho fisheries. To reach an agreement that would not consider these depleted stocks would be irresponsible for both countries."

To now suggest the Fraser sockeye numbers were a key issue is a disservice to the negotiation process and to those fishermen and stakeholders and other citizens who expect their representatives to do the very best to reach an agreement. As no one knows better than Alaska salmon fishermen, who have often suffered from it, disinformation doesn't resolve, it dissolves. It destroys the atmosphere needed for successful negotiation. Worse it creates an emotional atmosphere in which illegal actions take place, such as the blockade of the ferry, MALASPINA, carrying U.S. mail.

I don't think linkage to other unrelated issues is the way to go. If we keep going in that direction, it is going to be a dead-end road.

As some may know, I chair the Senate delegation of the annual Canada-U.S. Interparliamentary Conference. I just returned from those meetings, and we had a frank discussion on the salmon issue and I will leave it up to others to argue the fine points of policy and debate the numbers.

However, I want to recommend two steps endorsed by the conference, which I believe will help bring us back on track. The first is that in order to deal honestly with legitimate policy issues, we need to work from a common understanding of the scientific issues and at present we are far from it. I believe it would be helpful to convene a symposium on salmon science.

We should be able to hold our biologists accountable for their recommendations and they should be prepared to put their reputations behind their recommendations. Who else can we depend on? We are a group of novices on salmon science.

Further, participants should be instructed to put their prejudice aside and focus on building common ground. To simplify the issues, not confuse them. Let's ask them to look carefully at the allegations against various fisheries and tell us if the charges are simply true or untrue. Let's ask them to tell us where real conservation problems exist and why, and let's ask them to tell us where the problem is not conservation, but the political problem of allocation.

Finally, let's ask them to tell us honestly where political decisions are creating resource problems. Second, I think it is important to remind ourselves how foolish it is to allow frustrations over fishing to spill over into other areas where we have had long-lasting valuable relationships—Alaska, the Pacific Northwest, British Columbia have long-standing and important ties.

If we allow such a spillover to go out of control, the law of unintended consequences may harm the entire region's common economic and cultural interests. I believe we should now encourage those interests to convene perhaps a second symposium, one on the

positive nature of our relationship, in an effort to splice the frayed lines between us. The basic organizations are set up in south-eastern Alaska, through the Southeast Conference. In British Columbia, they have the BC mayors and community groups along Highway 16 from Prince Rupert to Prince George. Those organizations are in existence and we recommend that they convene.

Finally, to sum up, I think there is still an opportunity to reach an agreement, that we should encourage the stakeholders to step forward, encourage the governments to allow the stakeholders the freedom to do so, and finally make every effort to ensure that real resource problems are confronted and imaginary problems are rejected.

Mr. Chairman, I thank you for the opportunity to be heard.
[The prepared statement of Senator Murkowski follows:]

STATEMENT OF HON. SENATOR FRANK H. MURKOWSKI, A SENATOR IN CONGRESS
FROM THE STATE OF ALASKA

Mr. Chairman, thank you for the opportunity to share my views on this matter. It's time to get the salmon debate back on an even keel. I welcome the involvement of Bill Ruckelshaus and David Strangway, who are charged with getting those talks underway again.

Solutions must start not with policy wonks and bureaucrats, but with the fishermen themselves. I have faith in their good sense and practicality. They may not be able to rewrite history to erase the dispute, but if they have the support and trust of both governments, they may be able to reduce even the most complex issues to a manageable size.

Some have suggested that the Pacific Salmon Treaty is unworkable or that the way the U.S. deals with treaty decisions is inappropriate. I do not believe that. Honest efforts will yield honest results.

Those who reject the treaty altogether are victims of their own rhetoric. Because they cannot win every point, they want to change the rules.

Rather than changing the rules, both sides should be focused on making the stakeholders' path as straight as possible. One important step is to discourage misinformation and encourage a clear understanding of the facts.

Salmon love herring. Unfortunately, the media sometimes seems to love a *red* herring almost as much as salmon love *real* herring. For example:

The other day, we saw a flurry of claims that the so-called "Canada First" fishing policy was a great success, proving that the U.S. should have taken Canada's over of 17 percent of the Fraser catch instead of insisting on a higher share. The goal was to create the impression that the U.S. was unreasonable, and if had it been willing to compromise, we would have reached agreement.

Every article I saw reported those statements at face value.

Unfortunately, just as everyone but Sherlock Holmes failed to notice the dog that *didn't* bark in the night, readers did not receive one crucial detail—the fact that sockeye numbers were *not* why the southern stakeholder talks broke down. In reality, they broke down because Canada would not accept steps to conserve endangered Washington and Oregon *coho* stocks—a completely different species.

On June 20, 1997, after supplemental discussions had been held between government negotiators, the State Department issued the following statement:

"Agreement has not yet been achieved because Canada has been unable to make or accept a proposal that would meet even the minimum requirements to conserve wild coho off the West coast, let alone allow both countries to maintain viable coho fisheries. To reach an agreement that would not conserve these depleted stocks would be irresponsible for both countries."

To now suggest that Fraser sockeye numbers were the key issue is a disservice to the negotiation process and to those fishermen and other citizens who expect their representatives to do their best to reach agreement.

As no one knows better than Alaska's salmon fishermen, who have often suffered from it, disinformation doesn't *resolve*, it *dissolves*.

It destroys the atmosphere needed for successful negotiations. Worse, it creates the kind of emotional atmosphere in which illegal action such as this year's ferry blockade are encouraged, and in which linkage to other, unrelated issues seems a reasonable method of applying pressure.

That is a dead-end road.

As some may know, I chair the Senate delegation to the annual Canada-U.S. Interparliamentary Conference. I have just returned from this year's conference, where we had a very frank discussion of the salmon issue.

I will leave it to others to argue fine points of policy and debate the numbers. However, I want to recommend two steps endorsed by the Conference, and which I believe will help us get back on track.

First, in order to deal honestly with the legitimate policy issues, we need to be working from a common understanding of the scientific issues. At present, we are far from it. I believe it would be helpful to convene a symposium on salmon science.

Participants should be instructed to put their prejudices aside, and focus on building common ground. Let's ask them to simplify the issues, not confuse them. Let's ask them to look carefully at the allegations against various fisheries and tell us if the charges are true or not. Let's ask them to tell us where real conservation problems exist, and why. And let's ask them to tell us where the problem is not conservation, but the political one of *allocation*. Finally, let's ask them to tell us honestly where political decisions are *creating* resource problems.

Second, I think it is important to remind ourselves how foolish it is to allow frustration over fishing to spill over into other areas. Alaska and the Pacific Northwest have long-standing and important ties with British Columbia. If we allow such a spill-over to go out of control, the law of unintended consequences may damage the entire region's common economic and cultural interests.

I believe we should now encourage those interests to convene a second symposium—one on the positive nature of our relationship—an effort to splice the frayed lines between us.

To sum up, I think there is still an opportunity to reach agreement, and that we should encourage the stakeholders to step forward, encourage the governments to allow the stakeholders the freedom to do so, and finally, should make every effort to ensure that *real* resource problems are confronted and *imaginary* problems are rejected.

Mr. SAXTON. Senator, thank you very much. I would like to ask unanimous consent at this point that Mr. Young's statement be included in the record.

[The prepared statement of Mr. Young follows:]

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. Chairman, three years ago, we were having a very similar conversation in a room down the hall, before two Subcommittees of the now-defunct Merchant Marine and Fisheries Committee. Some of the faces here today may be new, but the topic certainly is not.

It took many years to reach an agreement on what would be the content of a Pacific Salmon Treaty. The Treaty was signed and ratified by the United States in 1985. While many believed the signing of the Treaty would put an end to the disputes over salmon, specifics of the Treaty have been a source of contention between Canada and the United States since the signing of the Treaty.

There are two main principles of the Treaty, commonly referred to as the "conservation" and "equity" principles. The conservation principle states that each Party should "prevent overfishing and provide for optimum production". The equity principle states that "each Party [shall] receive benefits equivalent to the production of salmon originating in its waters".

The Canadian interpretation of the equity principle has kept the Parties from successfully negotiating annual and long-term fishery regimes. Now, before people push this statement aside as being inflammatory and adding to the current flow of rhetoric between the U.S. and Canada, let's review the history of the past five years.

The last year of a negotiated fishery regime was 1992. Since 1993, the Canadians have refused to negotiate within the Pacific Salmon Commission and have pushed for government-to-government negotiations, which is not allowed under the U.S. implementing legislation.

In 1994, the U.S. and Canada appointed special negotiators. Mr. Pipkin was appointed as U.S. negotiator and is here today to give testimony. In 1995, the U.S. agreed to non-binding mediation, which I never supported. The most recent negotiations, conducted by the stakeholders, was the best chance to reach an agreement outside the Commission process and it also failed.

The U.S. has bent over backwards to appease the Canadians, while their actions continually have been adversarial. In 1994, Canada implemented an illegal transit fee on fishermen transiting between Washington and Oregon through the inside

passage. I will also point out that the U.S. has not been reimbursed by the Canadian Government for the fees paid to them by U.S. fishermen.

In addition, former Fisheries Minister Brian Tobin implemented a fisheries management policy to "maximize disruption" to U.S. fisheries in order to force the U.S. to agree to their interpretation of equity. The current Fisheries Minister, David Anderson, has implemented a similar fisheries management regime for Fraser River salmon, a "Canadian first" policy. This policy, as the Canadians have stated publicly, is to prohibit Washington and Oregon fishermen from catching Fraser River salmon.

This past July, Canadian fishermen took it upon themselves to block an Alaska State ferry. I referred to the blockade as "goon squad" tactics. If the Canadian view of equity was valid, they would be able to argue its merits rationally. Instead they continually violate international law.

The U.S. has maintained its commitment to conservation and has managed its fisheries to take into account the migration patterns of Canadian salmon. Basically, the U.S. incorporates both principles of the Treaty into its management practices. Therefore, in our view, there isn't an inequity of fishery interceptions. However, the Canadians are determined to get an agreement based on what they consider to be inequity.

Here we are with this fundamental disagreement and a past filled with a multitude of deeds designed to force the U.S. to agree to their terms. Where do we go from here? Can we achieve the original intent of the Pacific Salmon Treaty—cooperative management and mutual benefits?

British Columbia recently filed suit against the States of Alaska and Oregon, and the United States Government. While I realize this lawsuit will prohibit witnesses from freely discussing specific issues mentioned in the suit, I do hope we can still have a meaningful discussion on the Treaty itself and recent, as well as future, negotiations.

It is time the Canadians stop their theatrics, stop violating international law, stop abusing my constituents, and roll up their sleeves and negotiate in good faith. It does not do anybody any good—including the salmon—if this controversy continues to escalate.

I look forward to hearing from our distinguished witnesses and receiving their input on how we can solve this longstanding problem.

Thank you, Mr. Chairman.

Mr. SAXTON. And I would also like to welcome the gentleman whose district is in the Puget Sound area, Adam Smith, to the panel this morning, and we are looking forward to the testimony of our first two witnesses, Mary Best West from the State Department, and Jim Pipkin, who is a U.S. special negotiator for Pacific salmon. You may proceed.

Those little lights in front of you, of course, indicate when 5 minutes has expired and we would appreciate you using them as a guide and try to complete your statement as soon after the red light appears as you possibly can. You may proceed as you wish.

Senator MURKOWSKI. Mr. Chairman, this is the letter I would like to have introduced into the record from the President of the United States.

Mr. SAXTON. We have a letter here from President Clinton, which I ask unanimous consent be made part of the record. Without objection. Thank you, Senator.

[The information follows:]

THE WHITE HOUSE,
WASHINGTON
September 8, 1997.

The Honorable FRANK H. MURKOWSKI
Chairman, Committee on Energy and Natural Resources,
United States Senate,
Washington, DC. 20510

Dear Mr. Chairman:

Thank you for your letter which included a copy of the U.S. Senate resolution condemning the Government of Canada for its failure to accept responsibility for the illegal blockade of a U.S. vessel in Canada.

I want to assure you that we have made clear to Canada how seriously we view the action against the M/V *Malaspina*. Immediately upon learning of the blockade, we vigorously protested to the Government of Canada at very senior levels both here and in Ottawa. While I am pleased that no violence occurred and that the vessel was eventually released, we have continued to underscore to Canada the seriousness with which we view the blockade and the failure of Canadian authorities to immediately enforce their own court order.

I understand that Alaska is pursuing a civil suit for damages in a Canadian court. Parallel to this effort, we have made clear to the most senior Canadian government officials that any recurrence of illegal and inexcusable actions on the West coast, such as those involving the *Malaspina*, will necessitate our taking appropriate countermeasures.

Resolution of the underlying Pacific salmon dispute will require the goodwill of all parties involved. I believe the stakeholders' process offers the best method to make progress on this vexing problem, because it involves discussions between those directly involved. It is for this reason that the United States and Canada have agreed on the naming of envoys to facilitate reinvigoration of the stakeholders' process. As you are aware, William Ruckelshaus has been named our Special Representative, and David Strangway has been appointed to a similar position by the Canadian government. Both will work closely with the stakeholders and relevant government officials in an effort to advance the process. Bill Ruckelshaus will report to me through the Secretary of State.

Thank you again for your letter and for your interest in this important matter.

Sincerely,

BILL CLINTON
President.

PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC. 20001
September 15, 1997

The Honourable H. JAMES SAXTON,
Chairman, House Subcommittee on Fisheries Conservation, Wildlife and Oceans
U.S. House of Representatives
Washington, DC.

Dear Chairman Saxton,

I write in reference to the hearing that the Subcommittee which you chair will hold September 18 on the Canada-U.S. Pacific salmon dispute.

This hearing will be helpful in bringing members up to date on recent developments and on larger issues concerning the future of this important resource and the relationship between our two countries. I therefore wish to highlight some of Canada's perspectives and concerns in this connection with a view to moving beyond the emotion that has characterized this issue in recent months.

The geography of the Pacific coast of North America and the biology of Pacific salmon stocks mean that neither the United States nor Canada can effectively manage their fisheries on their own—cooperation is essential for the conservation and rebuilding of vulnerable salmon stocks. The principles of equity and conservation enshrined in the Pacific Salmon Treaty take account of this imperative.

It is important to understand the frustration of Canadians involved in the Pacific salmon industry over the longstanding inability of the two sides to come up with a way, under the Treaty, to address the twin goals of conservation and equity. Since the Treaty was signed in 1985, U.S. interceptions of Canadian-origin salmon have increased while Canadian interceptions of U.S.-origin salmon have decreased. The cumulative interception imbalance amounts to about 40 million fish worth C\$650 million (Canadian wholesale value for the period 1985-96). It is against this backdrop that Canadian fishers have faced reduced fishing opportunities and catches because of these excessive U.S. catches and the conservation of critical Canadian salmon stocks has been compromised. As a result, these are communities faced with ever more limited opportunities to pursue their livelihood. This has led to a very high level of frustration among those most affected, directed at both our Governments. At every opportunity, the Government of Canada has worked, generally successfully, to ensure that these emotions not find expression in counterproductive actions.

The Government of Canada is determined to make the utmost efforts to put in place a framework for the future implementation of the Treaty that will minimize

misunderstandings and maximize our joint efforts to conserve the resource. That is why Canada's Prime Minister, Minister of Foreign Affairs and Minister of Fisheries and Oceans have intervened personally and directly in this matter. They have taken decisive action to ensure a responsible and sustainable Canadian fishery and to avoid a negative impact on other sectors of our relationship to which this dispute has been inappropriately linked.

Our first preference was and remains binding arbitration, but we have nevertheless agreed to a renewed attempt at finding a negotiated solution and we are fully committed to the process that has been agreed for this purpose, namely the appointment of Dr. David Strangway and Mr. William Ruckelshaus. This process will benefit from the support of your Committee, particularly when the time comes to put in place financial instruments to implement the arrangements that will hopefully be agreed upon.

In closing, I wish to emphasize the view of the Canadian Government that this dispute should be and can be treated in a manner consistent with the close and mutually beneficial relationship that Canada enjoys with the Government and people of the United States, including in the fisheries sector. Our two countries have cooperated closely at the bilateral and international level to advance our mutual conservation goals.

The preservation of a thriving salmon fishery on the west coast of North America is a goal that we share. I am confident that we can make the necessary longterm commitment to act accordingly and in unison to achieve that goal.

We in the Embassy would be pleased to assist you and your staff in any way we can as you prepare for these important deliberations, for which I wish you every success.

Yours sincerely,

RAYMOND CHRÉTIEN,
Ambassador

Members of the House Subcommittee on Fisheries Conservation, Wildlife and Oceans

STATEMENT OF JAMES PIPKIN, U.S. SPECIAL NEGOTIATOR FOR PACIFIC SALMON

Mr. PIPKIN. Thank you, Mr. Chairman and members of the Subcommittee. I was the Chief U.S. Negotiator for Pacific Salmon from 1994 until early 1997. I continue to be U.S. Special Negotiator and Acting Federal Commissioner.

The dispute between Canada and the United States over salmon harvest precedes my involvement by many years and indeed many decades. The current Treaty was adopted in 1985. Both countries hoped that it would provide the framework for a permanent resolution of the issue, and it did, in fact, make possible 8 years in which the parties agreed on fishing regimes and undertook efforts to address a mutual conservation problem. That status didn't last and even for those 8 years, Canada has raised a question as to whether the agreements were fully in compliance with all Treaty principles.

For the last 5 years, there has been much more disagreement than agreement. Each fishing season has been approached with an air of crisis, with accusations and sometimes with threats. This summer we saw frequent reports that one country's fishing policy amounted to waging a war on the other, and some people have begun to suggest that no treaty at all may be better than the current status.

The disagreement goes to whether the principles that appear in the Pacific Salmon Treaty are being fully implemented, and specifically to whether harvests reflect an appropriate allocation of fish.

In the short time I have, I am not going to try and explain the principles or even tell you which country is right and which is

wrong. I would only say the principles are stated in general terms and they interrelate.

The Treaty negotiators left it to the Salmon Commission to work out how the principles should be applied and that often has not proved possible. Each country has its own interpretation of how the principles should be implemented and each country strongly believes the other country's interpretation is wrong.

I became the U.S. Chief Negotiator at a time when both countries agreed to elevate the issue in priority and make a determined effort to find a solution. In 1994 and 1995, we conducted high level government-to-government negotiations. Unfortunately, they did not succeed.

Later in '95 and early '96, a mediator was asked to try to bring the parties together and, unfortunately, that didn't work either. This year the parties attempted a different way to approach the issue. The new approach reflected a joint proposal by the Governors of Alaska, Washington and Oregon, later endorsed by the tribes, and it is referred to as the stakeholder process. Other witnesses will tell you more about that process. But I would like to say the stakeholder process represented a major step forward. It recognized the best solution is likely to come from the region and not from Washington and Ottawa, and it must involve fishermen and others who have a stake in the outcome.

In addition, it recognized that because the two governments have been unable to come to terms on what the Treaty principles were intended to mean, if a solution is to be found, it will likely be a pragmatic solution, based on an examination of individual fisheries and not on theoretical grounds. This spring the stakeholders made real progress. American stakeholders both in Alaska and Washington/Oregon made far-reaching proposals that would have involved substantial sacrifice for U.S. fishermen and would have required a significant financial commitment at the Federal and State levels.

In the end, Canada decided the proposals did not go far enough. Recently, Mr. William Ruckelshaus was appointed as special representative of the President and Secretary of State. The charge of Mr. Ruckelshaus and his Canadian counterpart is to try to get the stakeholder talks going again. They have a difficult assignment.

The U.S. stakeholders stretched to make the proposals they did and they were disappointed and frustrated their proposals were not accepted. In the months since May, the prospects for resolving our differences certainly have not been enhanced by some of the provocative actions and statements that have taken place. Those events served to fuel a continued anger of the stakeholders and their concern about whether Canada has a real interest in finding a long-term, mutually acceptable solution. Nevertheless, I believe the stakeholder negotiations represent our best hope for a settlement and we will do everything we can to get that process back on track and to give it a chance.

Despite the differences between the two countries, in my prepared testimony, I have outlined the general framework of a possible settlement. In my view, any lasting settlement is likely to: one, be built from the bottom up, fishery-by-fishery, not the top down; two, involve separate regional negotiations for northern and southern fisheries; three, involve full participation by the States

and tribes in developing a solution; four, be based on abundance-based management; five, include a proposal to establish a salmon management research and conservation fund; six, involve some reduction in fishing capacity; and, seven, resolve the dispute about Treaty principles for a substantial period of time.

I explain in more detail those points in my prepared statement. The stakeholder process was on its way to addressing all of those components and it has the potential to achieve a lasting solution. On the other hand, if the stakeholder process fails, that does not bode well for the future of the Pacific Salmon Treaty.

At that point, many in the United States would be likely to recommend a hard look be taken at whether there is a real reason for the United States to remain a party to the Treaty. We hope that does not occur and we will do whatever we can to help the renewed stakeholder talks succeed. Thank you, Mr. Chairman. I would be happy to answer any questions.

[The prepared statement of Mr. Pipkin may be found at end of hearing.]

Mr. SAXTON. Thank you very much. Mary Beth, do you have some testimony for us?

STATEMENT OF MARY BETH WEST, DEPUTY ASSISTANT SECRETARY FOR OCEANS, BUREAU OF OCEANS, ENVIRONMENT AND SCIENCE, DEPARTMENT OF STATE

Ms. WEST. Surely. Mr. Chairman and members of the Subcommittee, thank you for the opportunity to be here today to discuss the Pacific salmon stakeholders process. As you know, the U.S. and Canada have asked two distinguished individuals, former EPA Administrator, William Ruckelshaus for the U.S., and former B.C. University President, Dr. David Strangway from Canada, to attempt to reinvigorate the stakeholders talks.

Because this process is ongoing and may lead to further negotiations, I will not be able to discuss the specifics of the negotiations in this hearing. However, we have offered and offer here again to provide a further confidential briefing if any of the Members so wish. In addition, because there is now litigation concerning this issue, there may be areas of discussion that we will not be able to pursue. We sincerely appreciate the assistance and responsiveness of the Members and staff throughout the last year, as we have pursued this issue, and I want to say we fully intend to continue those cooperative relationships in the future as we grapple with this issue.

The concept of involving the real constituents, those with the greatest stake in achieving a workable fishery, makes particular sense, because the major stumbling block in past negotiations with Canada has been the strongly held, almost theological, position of the two governments concerning the interpretation of the equity principle in Article III of the Treaty.

The hope is that the stakeholders can put aside those differences, concentrating instead on pragmatic, fisheries-related solutions that could be implemented through modifications to the annexes that originally went into force under the Treaty.

For this reason, working with the PSC Commissioners, State and tribal representatives and Hill staff, we developed and presented to

Canada a proposal for a stakeholders process, overseen by the governments. Canada was willing to agree to such a proposal, but only if any issues not resolved by the stakeholders would go to government-to-government negotiations. The two governments agreed to establish two groups of stakeholders, one for the North and one for the South.

Each was charged to develop pragmatic recommendations for each fishery that would implement the principles of Article III of the Treaty—conservation and equity. The governments further agreed to give stakeholder groups considerable flexibility. Each group was to decide how to organize its efforts, including the selection of co-chairs, if deemed desirable.

On the U.S. side, the stakeholders were chosen by States and tribes with the concurrence of U.S. Pacific Salmon Commissioners. Eight representatives were chosen for each group. The two governments also selected government observers for each group.

Beginning in the week of February 10th, U.S. stakeholders began their work and worked incredibly hard. They presented to their Canadian counterparts creative and far-reaching proposals. These proposals, in fact, involved more potential sacrifice than the government representatives would have predicted.

And they appeared to form a promising basis for potential solutions. By the agreed ending date for the stakeholders process, May 9, the northern stakeholders had made significant progress, but had not yet finished their work. Because of the advent of the fishing season, however, scheduling further meetings proved an insurmountable difficulty.

The southern stakeholder group defined proposals on sockeye and coho and made progress on narrowing the differences on sockeye. By May 9, however, southern stakeholders felt they had reached the end of their ability to negotiate as a stakeholder group and reported this fact to the government.

Subsequently, the governments undertook negotiations concerning the sockeye and coho fisheries. As you know, the governments were ultimately not able to achieve agreement on either fishery, although progress was made on narrowing the gap on sockeye and somewhat on coho. In particular, we were unable to get Canada to propose or to agree to a regime for the coho fishery, which meant what our science showed to be the minimum necessary standards for long-term conservation and rebuilding of the coho stock, while allowing for reasonable fisheries in both countries. Because conservation of coho was one of our major objectives, we could not see the possibility for an agreement.

During the government-to-government talks, the two sides began to look at the type of framework that might exist for an ultimate arrangement bridging our differences. Such an overall arrangement could involve specific fisheries regimes, establishing conservation and allocation systems for the fisheries at issue for a relatively long time period, such as, perhaps, 10 years.

In order to resolve the equity issue, however, any overall arrangement would likely also need to involve another component, such as creation of a salmon resource fund. Such a fund would likely involve contributions from the United States and other public or

private bodies to be used for salmon conservation management, research, enhancement and habitat restoration.

We have discussed the concept of a fund with many of you and your staffs. Our view and Congress' view of such a fund will, of course, depend on the nature of an overall solution, whether it is viewed as good for the U.S. and good for the resource.

Finally, let me speak briefly to the problems that occurred in the stakeholders process this spring. I cannot be definitive because this is the very issue we have asked Messrs. Ruckleshaus and Strangway to assess. However, let me make two general points.

First, there appeared to be considerable difference in the way the U.S. and Canada approached the stakeholders process and in the commitment of the two sides to it. The U.S. viewed and continues to view the stakeholders process as the best opportunity to achieve a resolution.

Canada, on the other hand, appeared to view the government-to-government negotiations as the real forum. The differences in these two viewpoints meant that the stakeholders were working from different points of reference. That difference will have to be resolved if we are to proceed productively.

Second, as I am sure you are all aware, Pacific salmon is a large and extremely complex subject, involving numerous fisheries and issues. In attempting to find a resolution, we must put together the pieces of a puzzle that has many interrelated parts. We have no illusions about the difficulty, but we believe we must try, and for that purpose, the Department intends to give the stakeholders process our full support. Thank you, Mr. Chairman. I would be pleased to answer questions.

[The statement of Ms. West may be found at end of hearing.]

Mr. SAXTON. Thank you very much. As you can tell, we are in the process of holding a vote. Mr. Abercrombie has a few questions and we will proceed with his questions before we break.

Mr. ABERCROMBIE. Mr. Chairman, I am not sure we can get through it all, but on this issue, Ms. West, and Mr. Pipkin, since the resolution, you are familiar with Mr. Young's resolution in July of this year, H.R. 124, urging the government to give back. I have tried to study it since then because of the unfortunate circumstances of the holding hostages, which is what I characterize the situation as being, and what I have concluded is neither government is right. This whole thing is being handled wrong.

First of all, it is ludicrous. If Canada is determined to have this government-to-government, no offense to you, Ms. West, but you are not a marine biological, are you?

Ms. WEST. No, sir.

Mr. ABERCROMBIE. You haven't done scientific research, nor does the Department of State have the kind of capacity to do the scientific research in salmon runs, changes in fisheries. You have no capacity to do that, right?

Ms. WEST. We rely on scientific advice from the Department of Commerce and the PSC.

Mr. ABERCROMBIE. Yes, right, the Department of Commerce, I am sure, has a lot of scientific advice to give. That makes my point. And I don't expect that the Canadians have much to offer either in that regard. There are principles being—please don't think I am

criticizing you personally. I am not. I think you have an impossible task here. There can't be one side saying government-to-government negotiations, another side saying we have another process, a commission, et cetera. With all that is involved in the commissions, nothing against people on the commission either, but that is not going to work. You are just going to be at an impasse. Meanwhile, people doing the fishing are frustrated. The Canadian Embassy sent a letter. Are you familiar with the letter sent to Mr. Saxton on September 15th? Have you seen that letter?

Ms. WEST. I have not seen that letter.

Mr. ABERCROMBIE. Maybe a copy could be provided. But it is very revealing, Ms. West. I want to quote a couple sentences to you. In the third paragraph, it says, "The geography of the Pacific Coast of North America and the biology of Pacific salmon stocks mean that neither United States or Canada can effectively manage their fisheries on their own. Cooperation is essential for the conservation and rebuilding of vulnerable salmon stocks."

Just on the surface of my representation to you, does that sound like a reasonable statement? It does to me.

Ms. WEST. Yes, I think that is the very reason why we have the Treaty and are trying to make the Treaty work.

Mr. ABERCROMBIE. Yes, but the Treaty isn't going to work. It is not working now and it isn't going to work. In the second to the last paragraph, he says, the preservation, this is by Mr. Chretien, the Ambassador, "The preservation of a thriving salmon fishery on the West Coast of North America is a goal we share." Does that sound like a reasonable statement?

Ms. WEST. Yes.

Mr. ABERCROMBIE. Okay. In other words, I conclude from this, and I have the map here, Pacific Salmon Treaty, the area that is involved, and because of the initiative of the Chairman, Mr. Saxton, with respect to scientific inquiry and my association with that effort on his part, where oceans are concerned and conservation is concerned, I have taken a good look at this.

There is no way that salmon are going to examine this piece of paper, right? Salmon don't look at maps. Salmon don't look at geographic borders. Salmon are not interested in commissions and salmon don't negotiate government-to-government. Has it ever been considered by anybody that, first of all, we do real scientific studies of what salmon do and why they are doing what they are doing, and in that process, then, why don't we have a fishery where we split the difference? No matter where the fishery is, no matter where the catch is, why don't the Canadians and Americans cooperate with one another and go 50-50 no matter where it is. Has that ever been considered?

Ms. WEST. Let me say, first, to the issue of science, I fully agree, and this was included in Senator Murkowski's statement, that we need to have a common understanding of the scientific issues. I think we need to work on that because I don't think the process is working now as well as it could. We need to rely on our science. We need to have common science.

Mr. ABERCROMBIE. Okay. Let's agree on that.

Ms. WEST. With regard to the question of splitting the difference, I believe that we have been trying to find with Canada an allocation scheme.

Mr. ABERCROMBIE. It is not going to work.

Ms. WEST. That the two governments would agree to. Splitting the difference across the board, I do not believe, would ever be something either side would agree to.

Mr. ABERCROMBIE. I understand, but I will tell you something right now. If the Americans were on the short end of the catch, they are not now, they would all be here in front of this Committee screaming the Canadians are taking too many salmon and we ought to work the deal out and that is not fair. And the Canadians would have a different kind of letter. Instead of talking as the Ambassador does here of the excessive U.S. catches, we would be here talking about the excessive Canadian catches. And on that note, we have to go and vote and I'm sorry.

But I am deadly serious when I say I don't want to involve myself in a ritual in the Committee and I am sure the Chairman doesn't, where we just passively acquiesce to something we don't think is going to work. The Fisher people in Canada and the United States have to seriously consider how they are going to maybe get a co-op between the two of them and work to see how everybody can prosper, and nobody will prosper if we don't have a clear understanding of what the actual salmon runs in the fisheries are all about.

[The information may be found at end of hearing.]

Mr. SAXTON. I thank the gentleman from Hawaii and we will hold your response until you get back. That is assuming you can stay.

Mr. ABERCROMBIE. You can think deeply on this while we are away.

Mr. SAXTON. Mr. Pipkin, in your statement, you listed a number of ingredients that you thought were likely necessary in building a successful negotiating process. The first that you listed was the bottom-up approach, fishery-by-fishery. Would you explain to a Northeasterner, who has not followed this issue as closely as some others, precisely what that means?

Mr. PIPKIN. I would be happy to, and this also is indirectly in response to Mr. Abercrombie's question as well. The fact is that we are dealing with a series of fisheries that have very different circumstances involved, different characteristics of the fisheries. That is partly why, in this country, we have traditionally let management be done primarily by the States and the tribes who have the expertise and knowledge about fisheries, rather than by the Federal Government. And it is why we think that the stakeholders process is so well founded, because the stakeholders are doing exactly that.

Let me give you two examples that will show the range of fisheries involved. Take, as one example, the U.S. tribes in the Washington area, who have caught Fraser sockeye for literally hundreds of years and who have Treaty rights with the United States that protect their ability to continue to fish. The fish that they catch are Canadian-spawned sockeye, but they have historic and probably

legal rights as well to continue to fish. That is one kind of circumstance that we are dealing with.

A different kind of circumstance can be described in some of the Alaskan fisheries where fish that are spawned in Alaska mingle with fish that are spawned in Canada and the fisheries that are targeted on Alaskan fish can't avoid catching some Canadian-spawned fish. That is why when the Treaty was presented to the Congress, the Secretary of State pointed out those two examples. We said in the case of the northern boundary area, stocks cannot be segregated. "The U.S. fishery targeted on U.S.-origin salmon must catch Canadian-origin sockeye in an incidental manner. . . . A reduction in interception levels would preclude a party from targeting on its own stocks. That would be plainly contrary to the parties' objective."

He said on Fraser that that was "a fishery developed and maintained jointly by the parties since the 1930s." Canada "affirmed that it had no intention of closing down a historic U.S. fishery" and the Treaty provides "an assurance that the commission will seek to avoid social and economic dislocations." So I am saying that all of these fisheries are different and that is why the stakeholder process makes sense, to look at the individual characteristics of each fishery, look at the role of interceptions in the fishery and decide what is appropriate for that fishery.

Mr. SAXTON. Now, obviously that is a position of the United States Government and presumably some Northwest fishermen or fishermen's groups; is that correct? Now, I think I heard—

Mr. PIPKIN. And the Governors of Alaska, Washington, Oregon, who proposed the stakeholder concept in the first place.

Mr. SAXTON. Now, I gather from earlier testimony that one of you gave that the Canadian position is somewhat different relative to this bottom-up approach that the United States favors. Is that correct?

Mr. PIPKIN. Traditionally, it has been. The Canadians have always favored the same kind of approach that is mentioned in the letter from Ambassador Chretien, which is you add up everything, balance it out and see who is ahead. We have always felt a solution needs to be arrived at by looking at it from the other end. But the Canadians did agree to the stakeholder process this spring and a premise of the process was you look at it on a fishery-by-fishery basis and we think that makes sense.

Mr. SAXTON. Now, beyond the fishery-by-fishery, bottom-up stakeholder approach, you also have in your testimony that it would be desirable to also have regional negotiations. Can you explain to me how this differs from the stakeholder concept?

Mr. PIPKIN. Well, in fact, that is the stakeholder concept. By setting up a separate panel for northern fisheries and for southern fisheries, it addresses the problem that I refer to in my testimony. We have always felt that it is not appropriate to say to fishermen in Alaska that they have to make up for sins in the South or vice versa, and that each State is responsible for its own actions, but it shouldn't have to be responsible for things that take place beyond its borders.

Mr. SAXTON. And, again, the United States feels strongly that the stakeholder approach is the appropriate approach, because peo-

ple who are involved in the fisheries get to help make decisions on both the Canadian and the United States side, but the Canadian position is not the same in some ways that are meaningful.

Mr. PIPKIN. Well, we are getting to——

Mr. SAXTON. Let me tell you what I am trying to get at. I remember some international negotiations that took place a few years ago where the negotiators spent some days or weeks negotiating what shape the table was going to be and I think I see a lot of negotiating taking place here over how to negotiate. Is that correct?

Mr. PIPKIN. Well, I think that the task that has been assigned to Mr. Ruckleshaus and Dr. Strangway is to look at the stakeholder process and make sure that both countries are approaching it in the same fashion, and that the objectives that the stakeholders are trying to achieve are commonly understood on both sides of the table.

Mr. SAXTON. Thank you. My time has expired, and Mr. Young, the gentleman from Alaska, has arrived, so I would like to call on him.

**STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ALASKA**

Chairman YOUNG. I thank the Chairman and I thank you for conducting these hearings. This has been an issue I have been involved in as long as I have been in Alaska, which is 34 years. I will tell you right up front, for the State Department, when this Treaty was first signed, Mr. Chairman, many years ago, I opposed it at that time. I think it was incorrect for the State to enter into the Treaty. I wanted to say that for the record.

We implemented everything we could with the Treaty and cut back on the catch of our fish, below what the Treaty originally agreed to, so I believe Alaska has played fair, much fairer than I would have if I had been Governor because I think we have done what is correct in taking care of our fisheries. And for the Canadians, I will tell you, I have seen your timber cuts and I have seen your factories. I have seen your catching. I have seen your nonconservation practices and I have seen our State do an admirable job, in fact, a job beyond any other State or any other area in the world. So I will tell you, I am probably a little opinionated about this process, right up front.

Mr. ABERCROMBIE. Why change your way of living now, Mr. Chairman.

Chairman YOUNG. Even though I had physical problems recently, I am trying to be calm, and I will be so. But the question I have is——

Mr. ABERCROMBIE. This is as calm as he gets, by the way, I hope we all enjoy it today.

Chairman YOUNG. Does the Canadian Government provide to U.S. Commissioners or U.S. science the annual harvest level of Canadian commercial harvests in a timely manner? Do we know what they are catching?

Mr. PIPKIN. I readily admit that my knowledge on this is not great and that other witnesses will be better able to answer that question, I'm sorry.

Chairman YOUNG. Then, you ought to say, no, if you don't know.

Mr. PIPKIN. I really don't know.

Chairman YOUNG. Because to my information, we do not know what they are catching. They do not have a harvest ticket. They do not have a weigh ticket. There is no reporting at all, and when it finally gets to us, it is made up of blue sky and that bothers me a great deal because they are talking about equity and they talk about fisheries and fairness and conservation. We don't know what they are doing. All I hear is they want to catch more fish, and mostly my fish. Which reminds me, can anybody answer this? Does Canada count sport-caught fish against its total harvest numbers. Does anybody know that answer?

Mr. PIPKIN. Could you repeat that?

Chairman YOUNG. Does Canada count its sport-caught fish.

Mr. PIPKIN. I think it does not.

Chairman YOUNG. It does not. In fact, we cut our king salmon or chinook to one per sport fisherman, and I believe, that is per day—no, I don't think it is per day. It is probably cutoff. We cut silver salmon to two per day to keep, and I have seen ads in the papers in Seattle, come to Vancouver, come to British Columbia and you can keep six kings and six silvers a day.

Now, where is the equity in that? I am saying this primarily for your information, because you don't know that much, but the State Department better know these things because there is an unfairness here. There is a \$70-million sport fishing program in British Columbia catching fish, far outnumbering what we catch sport-wise because we limit our catch.

Being that you don't know everything, can I ask Ms. West, what is the United States position on binding arbitration?

Ms. WEST. The U.S. has indicated to Canada on several occasions that we are not in a position to arbitrate this matter. The Treaty does not provide for binding arbitration of this kind of issue. Our general practice is that we would make a commitment to binding arbitration in this kind of case only with congressional concurrence, and it has been made clear to us by congressional committees that they would be opposed to such a process.

Chairman YOUNG. I thank you for that answer because that means a great deal to me.

Now, let's get back to the stakeholders. If I understand correctly, stakeholders are going to be the major players in these negotiations and in fact, Mr. Ruckelshaus, who I happen to know from the previous administration, is going to try to expedite that, but not take the dominating role over the stakeholders; is that correct?

Ms. WEST. That is correct. Part of the job given to Mr. Ruckelshaus and Dr. Strangway is to take a look at the stakeholders process and find ways to make it work. This responds to Mr. Abercrombie's question about the stakeholder process not working. We know that it was not able to reach a conclusion last time. We need to find out what the problems were and solve those so that we get a stakeholder's process that can work. That is why we have brought in these distinguished individuals.

Chairman YOUNG. Well, the Canadians blame you for the demise of the stakeholders' negotiations this past spring. In fact, they use that as an excuse of leaving the table because you don't have negotiating authority. How do you respond to that accusation?

Ms. WEST. As you know, under the legislation implementing the Pacific Salmon Treaty, the authority rests with the States and the tribes. We have always, and will continue under that legislation, to need to make sure we have a consensus position on things and it is simply that process that the Canadians were referring to—that we checked with the States and tribes.

Chairman YOUNG. In these negotiations and in the stakeholders, do you see a division as far as the North and then the South, when I am suggesting northern British Columbia and Alaska negotiating, because there are different species and different stocks, and the South being British Columbia, Washington and Oregon. Do you envision that to Mr. Ruckleshaus?

Ms. WEST. Yes, I think the stakeholders will continue to be set up in two panels; a panel for the northern issues and a panel for the southern issues. I believe, as Mr. Pipkin said, that it is a major step forward to separate the northern and southern issues and I think it will assist in the eventual resolution of the matter.

Chairman YOUNG. Now, we come back—how long did it take for us to first achieve the Pacific Salmon Treaty? How long did that take; does anybody know?

Ms. WEST. It was 15 or 20 years, something like that.

Chairman YOUNG. And we had it ratified in 1985 and how many years have we been without a treaty?

Ms. WEST. We have a treaty, the Pacific Salmon Treaty is still in force. However, some of the annexes that are attached to it, which contain specific fisheries regimes, have expired. The Treaty itself still exists and we are trying to find a way to replace those annexes and make the Treaty work.

Chairman YOUNG. Now, when we do this, is there a selective group of scientists that also have their input or is this all political?

Ms. WEST. We need to rely on science. We need a common understanding of science. We rely on the science from the States, the tribes, the Pacific Salmon Commission and National Marine Fishery Service. There has been some very good scientific work done, but I will also say that it can be done better, and I think we need to look for ways to improve that process.

Chairman YOUNG. Part of the whole program, if it is to work, Canada, British Columbia has to be part of the science also. They can't expect us to issue the science, do the study and do the right things and Washington try to do the same thing. But if we were to do the right thing, that has to be part of this annex to the Treaty to make it work.

Mr. PIPKIN. And the technical panels of the Pacific Salmon Commission are bilateral panels that do include scientists from both sides. In recent years, there is a question as to whether policy and politics have gotten in the way of that process working.

Chairman YOUNG. I go back to what I said before. If you don't know what the catch is that comes out of Canada, how can you base any science on that? You can't. The second is they have a six limit of king salmon, a six limit of silver salmon a day, sports fishing, and all the sports fishermen in Washington State go up there, and we are limited to one. Where does the science come from that? Do they report that? Do you have any knowledge of that?

Mr. PIPKIN. I don't.

Chairman YOUNG. Mr. Chairman, my time has run out.

Mr. GILCHREST. Thank you, Mr. Young. This is sort of a general overall question. From Mr. Young's statement, it appears to me, and having worked with people in Alaska, one of the key ingredients, to my understanding, that improved the Magnuson Act was to take a piece out of what Alaska's Fisheries Council was doing, as far as scientific data was concerned. And you may not be able to answer this question, but what is the driving force behind Alaska in trying to meet an agreement and the driving force behind Canada in trying to meet an agreement?

You alluded to it a little bit about is it the science that people are trying to achieve, is it the political policymakers, is it the charter boat captains from British Columbia that want to get a few more people on the boat? In your opinion, what is driving the issue from an Alaskan American perspective and from a Canadian perspective? Could you both comment on that?

Mr. PIPKIN. I am not quite sure how to answer that. The Alaskans are very proud of their management of fish and the fact that most of the fisheries in Alaska are flourishing and doing very well. And they are also very proud of the science that is behind their management of their fisheries.

As to the differences between Alaskan and Canadian compliance with the Treaty, I am not sure what to say, other than just the fact the two countries are so far apart on their interpretation of the Treaty, that, you know, that has led to the problem we are in.

Mr. GILCHREST. You said the Treaty is still in force, but some of the annexes of the Treaty have expired. You also said there is a Bilateral Technical Advisory Committee, and is that a group of scientists that assess the stock of the different species, and then presents that information to both countries? Is that how that works?

Mr. PIPKIN. There are different states of information about the different species of salmon that are involved. Probably the most is known about the Fraser River sockeye and their movements are followed quite closely, and assessments are made on, I guess, pretty much a weekly basis during the season about the abundance that is coming back and all the details about that. Less is known about some other species.

In the case of chinook, they come from a very broad geographic area and the information about their origin and how many return to particular streams in British Columbia is different.

Mr. GILCHREST. Understanding the latitude of that assessment, could you say—understanding the difficulty of that science, that Alaska is erring on the side of conservation and Canada is not?

Mr. PIPKIN. I could not make that statement. This year, Canada has taken strong measures for conservation on its own part. Last year, it took some similar measures. We have always tried to put conservation first on our side of the border. There has been a dispute about the extent to which that has been true in Canada as well, but I wouldn't make a blanket statement.

Chairman YOUNG. Will the gentleman yield? You know, one of the things we have to keep in mind, 95 percent of the salmon Alaskans catch are from Alaskan waters. There happens to be, though, 3 million British Columbians, and 7 million people in the State of Washington, and we have 70,000 people in southeast Alaska. This

is a political gamut. It is not based on science. And I am really concerned because we don't know why there aren't fish in British Columbia or other areas.

In El Nino we are catching tuna now off the coast of Kodiak. A little marlin was caught off the coast of Washington State, a marlin, which is a Mexican fish. There is a tremendous change going on, and as a representative of the State that has taken care of their fish, and I want to stress this, the logging practices in Canada are deplorable. Their fishing practices were deplorable. Now, yes, they have implemented in the last two years, but you are not going to reestablish a species in two years of so-called conservation practices, and that is my frustration.

I want to bring up, Mr. Chairman, I will shut up again, there are a little bit of other politics involved in there, because there is urging by the State Department. I am asking if you are aware of this, that maybe some troops should go to Bosnia, and Canada quit sending troops to Bosnia, or more of them, if they are not there already, is for the State Department to solve the fishing problem between Alaska and Canada, and I hope that is not true because that is really going to get my poor little old heart pumping. It is not that political, is it Mary Beth?

Ms. WEST. Let me say we have taken the position all the way along that Pacific salmon is an extremely difficult issue on its own and should not be connected to other issues. That is the position we took this summer when British Columbia attempted to link it to other issues and has always been the position we have taken internally as well.

Chairman YOUNG. Could I ask one more question? In your testimony, you mention the conservation fund and contributions that would come from the U.S. and possibly public and private entities, but you never mentioned any Canadian contributions. Are they expected to be part of that package?

Ms. WEST. This is something we would have to talk about in negotiations. I certainly would hope Canada would contribute to such a fund as well because the fund would be used throughout the range of the salmon for enhancement, habitat, restoration and other resource uses.

Chairman YOUNG. Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Young. Mr. Abercrombie, any more questions?

Mr. ABERCROMBIE. Yes. Let me pickup, Ms. West, where I left, and I am going to refer to Mr. Pipkin's statement and you both can comment, but I am more interested in your reaction at this point. Have you guys coordinated your statements, by the way? Are you in accord on this?

Ms. WEST. Yes.

Mr. PIPKIN. Yes.

Mr. ABERCROMBIE. Are you sitting there as partners, if you will, at the table?

Ms. WEST. Yes.

Mr. ABERCROMBIE. Okay. By the way, your testimony is very clear, Mr. Pipkin, and I appreciate that.

Mr. PIPKIN. Thank you, sir.

Mr. ABERCROMBIE. You may not be so happy about it as a result with where I am going, but I do understand clearly what you have said here, and I think this is important, Mr. Chairman, for an understanding of whether the Treaty can proceed or whether these negotiations can proceed to come to a conclusion. You weren't here when I made my original remark and I want you to know where I am going with this.

Chairman YOUNG. I heard about it already in the hallway and I wanted to talk to you so you don't go too far down that slippery path, but go ahead.

Mr. ABERCROMBIE. I know it is a slippery path, but let me quote Mr. Pipkin, because that is the reason of where I am going. In the fall of '94 and '95, high level government-to-government negotiations took place. That didn't achieve the breakthrough, right?

Mr. PIPKIN. No, sir.

Mr. ABERCROMBIE. Then, in '95 and '96, you went to a mediator, and that didn't work either, right?

Mr. PIPKIN. No, sir.

Mr. ABERCROMBIE. And so we are still at an impasse as to how the Treaty principles should be implemented.

Mr. PIPKIN. Yes, sir.

Mr. ABERCROMBIE. Now, we have Mr. Ruckelshaus and Dr. Strangway, right?

Mr. PIPKIN. Yes, sir.

Mr. ABERCROMBIE. Okay. And I can't, for the life of me, see how they are going to operate any differently than what happened in the other situations, regardless of their good will and good intentions and qualifications. You say in your testimony at the top of page 3 that you, nonetheless, felt the stakeholder process represented a step forward, and you said that the best solution is likely to come from the region. I agree. When you say region, are you talking everything from the southeast Alaska area all the way down into Washington and Oregon?

Mr. PIPKIN. Yes, sir.

Mr. ABERCROMBIE. And out into the Pacific, obviously. Then you say, in the second paragraph, on page 3, that the stakeholders have been in Alaska, Washington and Oregon, made far-reaching proposals that would have involved substantial sacrifice for U.S. fishermen and would have involved significant financial commitment at the Federal and State levels. That is a fair quote, it is not pulling something out of context.

Mr. PIPKIN. No, sir.

Mr. ABERCROMBIE. Okay. You say the Canadians' decided the proposals did not go far enough. In what sense did they not go far enough? It is very important to me to understand that. That is not clear to me from all the reading I have gone through.

Mr. PIPKIN. Well, I don't know quite how to get into this because, you know, I am concerned both about the lawsuit that has been filed by British Columbia and also not wanting to say something that interferes with the process that is going with Mr. Ruckelshaus and Mr. Strangway, but—

Mr. ABERCROMBIE. Let me go over it, then, because we are pressed for time. Did they make a statement at the time as to what was—for example, if I understand it correctly, you said that the—

going to the U.S. Fraser sockeye fishery, the stakeholders deemed such a reduction, there was an agreement, I mean there was a proposal put forward for a permanent reduction on the part of the U.S. Fraser sockeye fishery to be effectuated through a voluntary buyout program.

The stakeholders deemed such reduction necessary in order to achieve an overall arrangement in which Canada would make a long-term commitment to reduce the coho harvest. That sounds like that was something that was agreed upon. Was it?

Mr. PIPKIN. Well, I think that the stakeholders came pretty close on some of the individual issues that were involved in the stakeholder negotiations. At the end of the day, the issue, I believe, was with Canada. Canada recognized that those negotiations represented progress on the issues, that in terms even of the equity balance, Canada sees that progress was made.

Mr. ABERCROMBIE. But they didn't agree.

Mr. PIPKIN. But at the end of the day, Canada did not think the proposals went far enough.

Mr. ABERCROMBIE. Then that gets to my point. You said, then, for the past 5 years, parties have lurched from one crisis to another and finally, on the other hand, if the stakeholder process fails, that does not bode well for the future of the Treaty.

Now, if they can't agree on something like that, when one side, the American side, was already saying, okay, we will take less and you do this and all that, why doesn't my idea, at least for discussion purposes, make some—would my idea for some discussion purposes make some sense that you develop a co-op, and that the co-op then, instead of telling people to reduce and you go through this fine line of trying to figure out exactly who takes what and when and how, particularly under the circumstances the Chairman outlined when the ocean is not cooperating with you, when the atmosphere and the elements of nature are doing as it will, nature will rule in the end, not the State Department or this Committee or anything else, we have to be in tune with nature.

Why not form a co-op, then, of all the interested parties and figure out—and then negotiate a process for the division of the potential profits based on good science that can then be put to work on behalf of the co-op in which nobody wins and loses, but, rather, the science is working on behalf of the best interests of the co-op.

Mr. PIPKIN. I think you will have a chance to ask the stakeholder Chairs, who represent fishermen, how they feel about that concept, but I really don't think that this—if what is involved with a co-op is a summing up the resource, and figuring out sort of an overall allocation—is as good a way to approach this issue as a fishery-by-fishery analysis of the characteristics of the fisheries by the people who have the most interest in those fisheries, which is a description of the stakeholders.

Mr. ABERCROMBIE. What I am saying doesn't obviate that, not in the least. On the contrary, it seems to me it would enhance it because right now you can do all of that and you are still right back where you started, which is, okay, what do we do now? Who gets what, and under what circumstances?

Mr. PIPKIN. Well, then I am afraid I probably don't understand the concept well enough, but I go back to what I was suggesting.

Mr. ABERCROMBIE. Let me ask one other question because I am at the end of my time. We have this NAFTA with the North, where we are supposed to be opening borders and I hear all about free trade all my life. We already have a NAFTA and everything is supposed to be open and free trade. Why don't we get rid of the false borders between Oregon and Washington and Canada and Alaska, and all the rest? Treat it as a region, treat it as a whole entity and everybody work together for the common good.

Mr. PIPKIN. And that is what the Pacific Salmon Treaty was intended to do, to establish science across jurisdictional boundaries——

Mr. ABERCROMBIE. But you are still acting as if it is Bosnia and Herzegovina.

Chairman YOUNG. If the gentleman will yield for a moment. What I am saying, Neal, is I want to go back to why I believe most of the fisheries in Canada are in horrible shape. If they are not willing to work on the conservation end of it like we have done, why should we be the ones that go 50-50 and let them take the fish from us?

Mr. ABERCROMBIE. Good point. Would you yield?

Chairman YOUNG. Yes. Before I do, though, look at the interest there. There is a disputed area between Canada and Alaska. There are 60 Canadian boats fishing now. We sometimes think in our water, we don't know how many fish they are catching out of our species. There is absolutely no cooperation. The stakeholders can sit down and, by the way, this goes back to about 4 years ago. The Commissioner Tobin or Prime Minister Tobin from Ottawa came down and threatened me in my office, after he was suddenly removed.

Mr. ABERCROMBIE. I don't believe you.

Chairman YOUNG. Oh, he left very quickly.

Mr. ABERCROMBIE. I think he would get about 12 seconds in there.

Chairman YOUNG. That is about what he had. If we could get the British Columbian fishermen to quit using the rhetoric and the PR firms they have hired to say how bad we are, sit down with the science and sit down with the stakeholders on both sides, I think we can reach a solution. If they don't do that, there won't be a Treaty.

Mr. GILCHREST. [presiding] Is everybody done with questions? Okay. Ms. West and Mr. Pipkin, I appreciate your time and we hope Mr. Ruckleshaus is successful.

Mr. PIPKIN. Thank you very much. We do, too.

Mr. GILCHREST. If not, maybe the Committee should go up and begin the process of negotiating.

Chairman YOUNG. Well, go to British Columbia because you can keep six kings. You can't do it in Alaska.

Mr. GILCHREST. It was very unfortunate the Commissioners for the States of Washington and Oregon could not attend the hearing today. I welcome the other two Commissioners from the Pacific Salmon Commission, Dave Benton, with the alternate Commissioner that is Jev Shelton for Alaska and Ron Allen, Commissioner for the Northwest Treaty tribes.

Gentlemen, thank you very much for taking the time to travel down here to the Nation's capital and we look forward to your testimony. Mr. Allen, we will start with you.

**STATEMENT OF WILLIAM RONALD "RON" ALLEN,
COMMISSIONER FOR PACIFIC NORTHWEST TRIBES**

Mr. ALLEN. Thank you, Mr. Chairman. It is always an honor to be here and to provide some testimony to this Committee regarding the issues that it addresses, and particularly with the U.S.-Canada, Pacific Salmon Commission Treaty. I extend my apologies, my alternate, Ted Strong, who is from the Columbia River, is not able to be here with us. He had a conflicting meeting and he couldn't be here to accompany me.

We pretty much share the tribal input on the Commission with regard to this process. But the tribes, as you well know, have long-standing treaties with the United States Government that protect our rights, and in the Northwest, of course, those treaties include the preservation of our fishing rights, and so the fishery resource and the health and the future of their fishery resource, is very important to our people, both culturally, historically and legally, and we have been very involved with this Treaty since its very beginning, back in 1985.

We were involved in negotiations and we were involved in every step of implementation of it throughout its duration. We share the frustration and the concerns that the Committee has, and we also share the same frustrations that our counterparts in Canada have as well with regard to the process. The issue for us is what is the solution here, and the tribes have spent a great deal of energy, resources, and technical resources and policy resources to make the Treaty work.

We do firmly believe the Treaty is essential for the future and the livelihood of the fishery resource in the Pacific Northwest. If we don't make this thing work, then our opinion is that we are going to suffer a very serious depletion of a resource that is important to all of our communities, from Alaska to British Columbia to the Southern States.

We firmly believe the stakeholder process is a useful process. We believe that the normal process in U.S.-Canada could have worked, but we were having problems getting off our philosophical approach about the intent or the spirit of the Treaty or the meaning of the Treaty. Often we joke we are two countries separated by the same language. We often look at this Treaty from a different perspective and the issue for us are principles in the Treaty in regard to equity, with regard to conservation, with regard to not causing any undue disruption to fisheries and to find a way to balance how we manage the fisheries from North to South.

It is a very delicate matter. And what we argue is that this is not a simple matter. People can't just come into the arena and think it is a simple matter because as the Congressman has pointed out earlier that the fish don't know these borders. They don't know these management regimes being established by different States and British Columbia and the Federal Government, so the issue is how are we as individuals going to address it? How are we going to find compromise and find reason and find a way to bridge

the gap of our perception of how this Treaty is supposed to be implemented and what the spirit of it is?

We firmly believe the answer is in abundance. The answer is how are we going to try to enhance the abundance of the fisheries? If we are going to look at equity from the perspective of counting fish, then we have a problem, because it is going to be an accounting nightmare for everyone, but we do believe the fundamental principles, that the countries of the origin of the fish should benefit and we do agree that is a fundamental principle and it should be enhanced and it should be an incentive and encouragement for the countries and the respective managers to enhance the fisheries, both natural and artificial, because there are a lot of industries out there that depend on it, and for us, in Indian country, our communities have been depending on it culturally, as has been noted earlier for hundreds of years.

We want to make sure we move forward in that process. We do believe the stakeholder process, in terms of the way it was structuring the current efforts, between the North and the South, is appropriate, so they are dealing with their issues in their respective regions. We also believe that we will eventually have to get to a collective stakeholder process to deal with chinook because chinook crosses all borders, from Alaska to Columbia River, up in the highest regions of Columbia River, so everybody should be involved in that and we believe a lot of constructive efforts have been taking place.

We believe over the course of a number of years, a lot of constructive efforts have taken place, that the success and the sophistication of our science and technology has grown. It has evolved. We have shared a great deal, and we have shared with each other a different approach and different technique on how to manage fisheries and our counterparts in Canada are agreeing with us about some components with regard to coho. We recognize there is a problem with coho and it became a political component to the fisheries because of the equity principle and that is not in the best interest of the fishery. There is no question about that, but as we resolve those differences as we bridge this gap over good science and good management techniques, as opposed to political pressures, and I might footnote, when I say political pressures, I talk about the sophistication of our fisheries. We are just better fisher people.

Our skills and techniques in fishing, on harvesting the fish are better than before and unfortunately the numbers are increasing and the resource is not keeping pace with the amount of resources out there. So the question in our minds is, what is the solution? We do believe the stakeholders, the people who do the fishing, should enter in and try to find solutions and try to separate themselves from politics. We don't think that is necessary, a complete reality of separating the two, but we do believe they are giving clean, clear instructions, the same instructions from both sides. They can achieve their objectives, but it doesn't resolve it.

Once they come to an understanding, we still have to implement it. We have to move forward on a day-to-day basis and that is the duties of all the fishery managers on both sides of the borders. So for us, the issue is not are we interested in terminating the Treaty;

absolutely not. What is going to be the cost to the fisheries if we can't agree and we end up in constant fish wars and we end up in political theatrics? That won't be constructive at all.

We believe there are constructive recommendations by the Governors Summit, from Alaska, Oregon and Washington, in terms of enhancing the fishery. We think the Congress should take a look at those recommendations in your approaches on solutions, and finally, let me say, from the tribal perspective, that the way we look at it in terms of a heritage, the past is our heritage. It includes fisheries. The present is our responsibility and the future is our challenge and are we going to have the right attitude to achieve and address that challenge? We believe we can and can achieve that objective. Thank you and I look forward to answering any questions you may have.

[The prepared statement of Mr. Allen may be found at end of hearing.]

Chairman YOUNG. Mr. Chairman, I ask unanimous consent that Neil has an opportunity to ask questions now. He has to go.

Mr. GILCHREST. Without objection, Mr. Abercrombie.

Mr. ABERCROMBIE. Thank you. Mr. Allen and Mr. Benton and Mr. Shelton, I am really interested in what you have to say and I will follow it. I will regret I am compelled to leave at this point.

Mr. Allen, your statement, though, zeros in on my point. You say we would like to separate from politics and I understand. We are both sufficiently involved in this process to understand that politics always plays a role. The point that you are making, I believe, is that you do not want to let the politics interfere with getting a solution to the question at hand and I agree with that. I was not being facetious, nor was I being superficial, I hope, in indicating to Ms. West and to Mr. Pipkin that I would like to explore the question of a co-op, a regional co-op, a transnational co-op.

I haven't detailed outlines or anything, but from what I can discover in this process, that doesn't operate against me at this particular junction, so I just wonder what your reaction is perhaps, Mr. Benton and Mr. Shelton, just to the concept of the idea, and/or whether this idea has ever been discussed before, this concept.

Mr. ALLEN. Well, for us, Mr. Congressman, we have never discussed that kind of a concept, and I know that the approach of how that would even work is an idea that I would have to go back and talk to all the travel representatives from the tribes I represent to even know whether I think that would work. It is a pretty far-reaching concept, and—

Mr. ABERCROMBIE. I am thinking primarily administratively. I am not talking about where you have to share boats or, as Mr. Young pointed out, if you were at the Dixon Entrance, you may have a preponderance of boats from one country or one area, and the patterns of the fish movement may change, and all of those things come into it.

I am thinking primarily of how you would administer the results and outcome with respect to profitability, with respect to risk taking for capital infusion, with respect to division of profits and reinvestment, with respect to having a scientific inquiry as to how the fisheries are developing and what the resources are, et cetera. That is what I am thinking of, primarily. You don't have to say yes or

no, I am just saying, is it too outlandish to even consider or is it something that at least might offer some possible way of trying to deal with these transnational biological, geographic and other questions.

Mr. ALLEN. Well, there are too many questions in there for me to give a very definitive answer. Inside of your explanation are a number of concepts and components that we believe should be a part of this Treaty in terms of our collaborative effort and I do believe we should be united. There should be a very strong bilateral effort. I have gained great respect in this process for my counterparts in the U.S. section, but as well as in the Canadian section, so we should be able to bridge the gap.

Mr. ABERCROMBIE. Mr. Chairman, can I ask Mr. Benton and Shelton a quick comment and I will back off and I appreciate your indulgence, thank you.

Mr. BENTON. Thank you, Mr. Chairman, Mr. Abercrombie. I too can't really comment on the notion of a co-op of that nature, but I would state that a lot of the elements of what you are talking about are at play, even now. For example, in Alaska, a lot of the fish that are harvested in Alaska are transported into British Columbia and processed. There is an economic relationship there. There is an economic relationship in particular with Prince Rupert in that regard before the ceasing of the MALASPINA. That economic relationship, unfortunately, no longer exists, or certainly is in question and in doubt because of that action.

In addition, the kinds of dialogue—because what I am hearing you say is your idea is that fosters a dialogue among the users that then allows us to maybe get beyond some of the theological and rhetorical issues and let them get down to practice.

Mr. ABERCROMBIE. And some of the governmental barriers.

Mr. BENTON. Exactly. And that is what I think spurred us in Alaska to try and break away from the government-to-government talks and say let the fishers from Alaska and British Columbia and fisher's from southern U.S. and southern British Columbia get together themselves and get the bureaucrats and politicians out of the room and see if they can come up with practical solutions they can live with. So in many ways, the spirit of where the stakeholders' process came from carries that element.

Whether that can lead to something else in the future of the scale you are talking about, I don't know at this time, but I think the ideas that you are talking about, are they outlandish? I think we have to think out of the box. I don't know if they are outlandish enough, but I appreciate the thought.

Mr. ABERCROMBIE. Mr. Shelton, if you could give me a brief summary, I don't want to abuse the good will of the Chair.

STATEMENT OF JEV SHELTON, ALTERNATE COMMISSIONER FOR ALASKA

Mr. SHELTON. Fair enough. Congressman Abercrombie, I certainly would not respond to the idea as being wholly off the wall, although I guess my initial reaction is, that it is quite aside from the set of issues around the borders of what is involved there. I would reinforce one of the comments that Mr. Pipkin made in passing in response to that question and that is that the kind of thing

that you are suggesting seems to me to be fundamentally what we thought we had when the Treaty was concluded in 1985.

What we had at that time was not a set of developing fisheries. These are mature fisheries where there is a reasonable amount known about the stocks involved, where we recognized that there is a shared resource with fisheries on both sides of the borders, separately the South and the North, commonly utilizing that resource, and where there is the need for that kind of cooperation in determining who got what, in order to facilitate those resources remaining healthy and productive on both sides of the border.

I don't see that there is an inherent conflict in the kind of thing you are suggesting from what I think we had at the time the Treaty was concluded. The hang up that we have encountered over the years has been in coming to grips with the question of how that shared resource is, in fact, divided up. The U.S. and the Canadians have had radically different approaches to that issue. I don't know that your proposal would go directly to resolving how you accomplish that division. I mean, 50-50, I take it to be a convenient number and not one to be taken wholly literally. There is enough history——

Mr. ABERCROMBIE. I don't mean literally in terms of the take. I meant in terms of the administrative consequences of profit-taking and/or risk capital investment, et cetera.

Mr. SHELTON. I guess in as short a time as we have here, I wouldn't be able to respond in a reasonable fashion to that kind of thing. But I mean to say, the manner in which the harvestable surpluses available from these stocks is divided is the essence, is the crux of the issue we have and the kind of thing we are dealing with is that this is a very flexible resource, in terms of its abundance.

I mean, the nature of salmon is that the abundance year to year changes over a very, very wide range and the type of proposal that has been offered on the U.S. side is to allow these catches to fluctuate with that abundance. That is where the problem has been encountered with the Canadians who want to do this on an absolute count of the numbers. Numbers in a strictly numerical system rule. That is the essence of the allocation issue, which, in your description or in the original Treaty, remains the fundamental problem here.

[The statement of Mr. Shelton may be found at end of hearing.]

Mr. ABERCROMBIE. Thank you very much. Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Abercrombie. Mr. Benton, you may give your testimony.

STATEMENT OF DAVID BENTON, COMMISSIONER FOR ALASKA

Mr. BENTON. Thank you, Mr. Chairman, I will keep my remarks brief, as time is passing on. Mr. Chairman, today we have heard a lot about the Pacific Salmon Treaty and trying to implement the various principles and projections in that Treaty, and over the course of the last couple of years, there have been a number of accusations leveled about whether or not the United States or Canada is complying with that Treaty and those provisions.

One thing, sitting here today, listening to the testimony from others and some of the questions, that certainly has occurred to me

and I think it is a fundamental issue, is what does it mean in terms of implementing the Treaty. One of the obvious and most fundamental components is the Pacific Salmon Commission itself. When the Treaty was negotiated, it was recognized at that time that the document didn't answer all the questions, so a structure was put in place that would allow those people who are most knowledgeable about the fisheries and most affected by decisions regarding those fisheries to make decisions and recommendations to the governments for implementing the Treaty.

Since 1993, Mr. Chairman, unfortunately, Canada has by and large refused to participate in the very fundamental framework and the foundation of the Treaty. In 1993, and in years since that time, there have not been substantive negotiations through the Pacific Salmon Commission. The Canadians, for policy reasons, I guess, related to their equity stance the allocation problems surrounding equity, have not participated in the Treaty itself, or in the Commission itself, in a way that would allow us to resolve these issues and implement the Treaty. That was highlighted in 1994, when then Minister Tobin staged a walk out, pretty much, from those negotiations, and then called for an aggressive fishing strategy designed to force the United States to accept Canada's interpretation of the so-called equity principle by putting pressure on southern U.S. interests in order to get Alaska to do certain things and make the U.S. Government step in to basically make those decisions, and force a decision on both the southern and United States interests.

That divide-and-conquer strategy, if you would, Mr. Chairman, has carried through to this day and we saw it this year. We, at the conclusion of the stakeholder process in the north, we had an understanding, we thought that we would reconvene stakeholder negotiations this fall. We did not agree with Canada on how to conduct fisheries, although we did agree that what we would do is ensure conservation measures were met, and that we would ensure that no disruptive actions were taken in the fisheries and that both sides would have orderly fisheries.

Obviously, the events of this summer would lead one to conclude that that was not a successful attempt. Those events began with a very well-orchestrated public relations campaign in the southern United States. It involved radio and newspaper ads by the—coming out of the Premiere of British Columbia Office, aimed at the southern U.S. fisherman that were fishing on the early stewards in the Fraser River. That set of tactics was then shifted to the North once our fisheries started and that eventually led to inciting Canadian fishermen to blockade the ferry, MALASPINA, and the Canada First strategy implemented by Minister Anderson.

That Canada First strategy is very reminiscent of the same strategy implemented by Mr. Tobin in 1994. In 1994, that strategy resulted in serious conservation problems for Canadian coho stocks, and for Canadian sockeye stocks. This year, Canadian conservationists are complaining again about the pattern of fishing Canada has instituted. This attempt to put pressure on the United States is causing conservation problems again for Canadian coho stocks. That pattern of using conservation as a lever on the United States has got to stop, Mr. Chairman, and the United States has an obli-

gation here to deliver a message to Canada that we are not going to allow that kind of tactic to influence how we approach these negotiations.

I was pleased to hear statements from the U.S. Government representatives about the stakeholder process. I concur with Mr. Allen's assessment of the kinds of progress that were made and fully support the stakeholder process. But if it is to be successful, that stakeholder process has to have some rules around it.

The first rule is that there has to be a division between northern and southern stakeholders because that allows the issues to be manageable and does not allow them to get complicated and confuse the U.S. position on those issues. We were successful last year in maintaining that ability. The second is that the stakeholders must have the authority to actually negotiate and there has to be a commitment on the government's part for both Canada and the United States, that the results of those negotiations are going to be adhered to.

Third and finally, Mr. Chairman, there can't be sort of two bites of the apple here. One of the problems we had was that the prospect during the negotiations earlier this year was that the Canadian Government and the U.S. Government were going to solve the problem if the stakeholders could not. That led to, I think, a negotiating strategy that resulted in an Oregon outcome that the stakeholders could not succeed and we cannot allow that to happen this time, it needs to be strictly the stakeholders and we should be willing to abide by what comes out of that process. Thank you, Mr. Chairman.

[The prepared statement of Mr. Benton may be found at end of hearing.]

Mr. SAXTON. [presiding] It seems to me one of the key issues here has a lot to do with the process. We heard from the previous panel and from you that the United States believes that sound conservation practices can best be arrived at through the bottom-up stakeholder approach. The Canadian Government seems to take the position that they don't want to have or would rather not have the negotiations between three or four entities that they refer to as special interest groups, but they would rather have government-to-government negotiations. How do you respond to this situation, and is this not the key problem with regard to progress?

Mr. BENTON. Mr. Chairman, in years past, at times the U.S. section has had its own differences that have prevented it from having a position on some issues. By and large, I would say, you know, in the realm of the 90 percentile range, we have had positions and had the ability to negotiate. One of the most contentious issues over the years has been chinook and what did you do with chinook management. About a year and a half ago or so, the United States section put together a proposal on chinook for presentation to Canada, and in the hopes that we would be able to engage in negotiations with Canada for a coast-wide chinook regime.

Canada has to date refused to even sit down and have us make a presentation of them of what is in that proposal, let alone negotiate it. Now, the Canadian Government and the Canadian side, in our discussions with them on chinook, throughout the years have said to us, when you get a position, we will negotiate with you. We

are looking forward to receiving it. It has been a year and a half since they have had that proposal.

We have repeatedly encouraged them to come to the table so we can negotiate with them. I tend to think and others may disagree with me, I don't know, I tend to think that is more an excuse than a reason. Yesterday in I believe it was the House Committee on International Relations, we heard a call for binding arbitration again.

This morning we heard the United States Government response on binding arbitration. From our perspective, binding arbitration isn't going to solve anything. It is going to be fraught with the same kinds of problems that you have when you go government-to-government or use an outside mediator when you bring in people that don't understand the fisheries, that are not affected by the decisions and don't have the detailed knowledge of the complexities of the fisheries. They are not going to make good decisions and it really depends, I think, on having the people that are directly affected and most knowledgeable sit at the table, in good faith negotiations, and if it is good faith negotiations, they will solve the problem.

Mr. SAXTON. Mr. Young.

Chairman YOUNG. Is the other gentleman going to give his testimony? He is not going to. Okay. Along those lines, David, is it true, the Treaty, over 1985, what was the limitation of chinook salmon that Alaska was allowed to catch?

Mr. BENTON. Under the Treaty in 1985, when we signed it, Mr. Chairman, the annex was for 263,000 chinook salmon.

Chairman YOUNG. And what is it today?

Mr. BENTON. Mr. Chairman, there is no annex in place on chinook salmon now.

Chairman YOUNG. And how many is the State allowing us to catch as far as king salmon?

Mr. BENTON. We have an agreement, Mr. Chairman, with the Southern United States that sets up an abundance-based regime for determining the harvest in southeast Alaska and under that regime this year, we were allowed a range between 277,000 and 302,000 chinook. So this year, our harvest level would be in the range, and this is for all fisheries, in the 280,000 range, I am guessing.

Chairman YOUNG. Now, my understanding is the United States helped rehabilitate several Canadian salmon runs. Is that true? A few years ago, didn't the United States work on some salmon runs in Canada?

Mr. ALLEN. Are you referring to me?

Chairman YOUNG. Yes.

Mr. ALLEN. If you are referring to the Fraser River enhancement.

Chairman YOUNG. Right.

Mr. ALLEN. I can't remember exactly when it was the Fraser River had some serious problems in one of its main tributaries. The United States contributed quite a few million dollars to assist Canada in restoring that stock, which resulted in an agreement. I can't remember if it was a treaty or not off the top of my head here, but that agreement was the United States could be able to share 50 percent of the stocks and we were managing that through the old

IPFSC regime which got replaced by the U.S.-Canada Pacific Salmon Treaty, and that commitment was made years and years ago and I couldn't tell you how much money actually went into it and how often the United States contributed to it and since then we have basically contributed in a co-management relationship to assure the restoration of those stocks.

Chairman YOUNG. One of the things in recent efforts, again, any of you can comment on this because you are all commissioners. Mr. Tobin's strategy in 1994, as I mentioned, he was a complete jerk, but Canada First, supported by Minister Anderson as to redirection of the Canadian fisheries, do you believe or do you think outside the Commission, that this is a concentrated effort or a deliberate effort and they are really not seeking any solution to this Treaty problem at all? You don't have to answer if you don't want to. I am just saying there has got to be a reason this is all occurring. It started with Tobin. It has accelerated and I don't see how. In good faith, you mentioned it, David, the Commission had a position, Alaska had a position, now they don't want to talk about chinook. They don't want to meet with you.

Mr. BENTON. Mr. Chairman, Congressman Young, my observation is Canada instituted a set of strategies to create each year a sense of crisis and urgency to try to force the United States to come their way in any negotiations and it all has to hinge on interpretation of the equity principle in their mind and that strategy has very often sacrificed conservation to meet their allocation goals.

For example, you cited Minister Tobin's 1994 actions, and as I said in my testimony, that had serious conservation consequences for both Canadian and U.S. stocks. This year, the Canada First strategy is causing concerns among Canadian conservationists. In years past, we had similar problems in Alaska with other fisheries. I don't see how Canada is acting at all like a country that wants to resolve the issue, at least not through negotiation and not through the specific Salmon Treaty process. It seems they have been mounting a strategy to look for any other processes except through the Pacific Salmon Commission and the Treaty to see if they could force their view on to the United States.

Chairman YOUNG. I would like to suggest one thing to everybody in this room. I have asked the Canadians if they would come and testify and they chose not to do so. They sent me a letter. I always love these letters. Then they want to come to my office some day and ask me for something. I also asked people in British Columbia, and they chose not to, but to go to the press instead. It was more exciting to go to the press and make a press comment.

The letter says, since the Treaty was signed in 1985, and this is up for interpretations from any one of you, U.S. interception of Canadian-origin salmon have increased while Canadian interceptions of U.S.-origin salmon have decreased. Crop interception amounts to about 40 million fish worth \$650 million.

Now, would you like to comment on that statement? I mean, being we don't get the information on what they are catching in our fish, that they indicate 40 million of their fish during that Treaty, from 85 to 96. Now, if I got my figures right, that means we were catching something like 100 million fish a year, which is impossible in southeast Alaska. That is an impossible statement, but this is

what the Canadian Prime Minister tells me, sent me this letter, with no scientific facts. You can comment if you want to.

Mr. ALLEN. Mr. Chairman or Mr. Young.

Chairman YOUNG. I am the Chairman of the full Committee and he is Chairman of the Subcommittee, so you can call me Mr. Chairman if you like, or you can call me Don or if you are from Canada, you can call me any other thing you want to call me, but go right ahead.

Mr. ALLEN. I agree with a lot of what David was saying in terms of the political problems we have and Mary Beth West made a comment in her statement that referenced a fundamental problem we had in making this Treaty work. And that is a, quote, unquote, "theological understanding" of how the Treaty is supposed to be interpreted and we got caught up in the principle of equity. And in their view, equity is very clearly numbers of fish and we argued the numbers.

Whenever we get into discussion about how we can advance constructive management approaches on any of the species, it seems to get obstructed over the equity principle, so if we can't get past the equity principle, are we going to agree to bridge the gap of the differences of fish in the way we calculate the numbers and the way we assess the value of the numbers, which is a very convoluted and complicated matter. You can end up in an economic nightmare.

Economists would love this kind of debate, but our point is if we can't get past that hurdle, then we can't get into constructive solutions on how we can manage each of the fisheries, and we have made great strides in cutting back our fisheries at great cost. The numbers of sockeye we caught and kings we have caught has diminished in terms of level of the fish. Our percentage has diminished dramatically. It has impacted our fisheries, so when we get into the arguments or debates, we talk about due disruptions versus undue disruption. There has been disruption to our fisheries as part of the commitment to the Treaty, but it is a matter of how far we have to go.

Chairman YOUNG. Well, again, though, having a guy send me a letter, his name is Ambassador Raymond Chretien, saying we have 40 million of their fish in southeast Alaska, is a ridiculous comment to make, because I think that exceeds the total amount, if you add those numbers up, and that is what one of the problems is, is on what basis does he make that comment? There is no scientific information of how they do it.

Let's get back to the Commission. We are going to have a vote here. Why can't the Commission solve this problem, the Pacific Commission? I mean, what is the holdup? What can we do? Can we fix your role as Commissioners to make sure that—make you the resolvers of this problem?

Mr. ALLEN. In my opinion, we could have if we could have gotten past the theological argument about equity. If we could get by that to get to the needs of implementing the Treaty, the Commission and its structure could do its job, but because we couldn't get to that political argument—

Chairman YOUNG. Let me interrupt you. How many are on the Commission?

Mr. ALLEN. There are eight on each country's side, each party has eight, four Commissioners and four alternates.

Chairman YOUNG. So at the table, how many, if everybody sat down, would there be physically?

Mr. ALLEN. Sixteen.

Chairman YOUNG. Sixteen. Now, do you think you have the authority to solve the problem and/or do you believe within the 16, the theology is so rampant you couldn't solve the problem?

Mr. ALLEN. Well, personally, I believe we could. I think the fisher people themselves needed to help break the logjam. Then it can work, and you have got some good people in there if they were given the instruction to do their job. What I said earlier is they can only go so far. Sooner or later, they have to hand it back to the Commission and the Commission has to do their job anyhow.

Chairman YOUNG. What I am leading up to is I believe in the stakeholder process, but, also, I can't help but think there could be a Commission set up, if you have the authority to solve this problem and take the politics out of it, and I am serious. So if you are on that Commission, you can't be expelled by the present Prime Minister or the Governor. You can't be eliminated just because you take a different position, but if you base it on science, I am referring to the Fisheries Council. I think they do an excellent job and certainly not everybody agrees, but they come down with a decision and the fishermen and conservationists, Federal Government and State government all live by that decision, and they complain sometimes, but the truth of the matter is it works.

Mr. BENTON. Thank you, Mr. Chairman. I concur with Ron. I think that if Canada decided tomorrow that they wanted to go and negotiate in the Commission and make the bilateral panels that are established under the Treaty, that are intended to resolve these issues, function properly and give the panels the authority, the panels have stakeholders on them, too, if they were to do that, then we could sit down and we could solve these problems, but they would have to do a couple of things.

One is they would have to be willing to go and actually negotiate, as opposed to take their theological condition. And the other thing they would have to do is they would have to give the power to their panels to do the job. Canada has, since 1993, has basically taken a totally different tactic, which is anything but that, and I, too, firmly support the stakeholder process, but let's be honest with ourselves. The reason there is a stakeholder process is because we are trying to accommodate Canada's pension for not negotiating in the Commission. It is just another extension of that. If they were working through the Commission process, we wouldn't be using a stakeholder process, although we would have our stakeholders involved through the panels.

Chairman YOUNG. I am out of time and we are going to have another vote.

Mr. Gilchrest.

Mr. GILCHREST. I am just fascinated by the line of questioning and I would just strongly—in fact, one of my questions is how can we resolve this issue and I think Don has hit the nail on the head, to give the panels from both countries a charge, a responsibility, and people live with what comes out of it.

Mr. Allen, you mentioned the differences, fundamental differences is the philosophy or theology about how to manage a fishery, how to enhance the fishery, the equitable distribution of that, the eight members on each side. I think you said they could probably resolve that philosophical, theological difference and come to some consensus.

Mr. SAXTON. If the gentleman will yield to me for just a moment, we have to go vote. I think what I heard Mr. Benton say is that—I think—maybe I was reading between the lines of what you said, but I think you said the Canadian Government is not serious about negotiating, pretty simple.

Mr. BENTON. Pretty simple.

Mr. SAXTON. And until they get serious about negotiating, it doesn't matter who does the negotiations because they won't occur, right?

Mr. BENTON. Mr. Chairman, that is correct. Mr. Chairman, to simplify it all down to a nutshell, Canada is presently, and has for quite a while, called for binding arbitration. The root word of arbitration is arbitrary, and one of the reasons that I believe that the United States Government has the kind of position it has for treaties in general is that if the only time the United States would agree to binding arbitration is if that was part of the originally negotiated treaty because that is a recognition, those decisions are arbitrary, they are not necessarily the product of compromise and negotiation.

Mr. SAXTON. Thank you. We have to run and vote and we will be back. This is a series of votes. There are at least two, maybe more, so we will likely be gone for a half hour or so.

Wayne, do you have further questions for the panel? Do you want to talk to the guys after the vote is what I am trying to find out. Would you wait for us? Thank you.

[Recess.]

Mr. SAXTON. Mr. Gilchrest is trying to take care of some other responsibilities. He will come back and Mr. Young will be here momentarily. I don't, for my purposes, need to get into the fine points of the negotiation process and all that stuff because it seems clear to me, from what has been said from the American side that we have a reluctant, at the very least, negotiating partner and I am curious to hear your insights as to why that is.

Obviously, they have a large fishing industry. Obviously there is limited resource, and I guess all people being relatively intelligent who are involved in the situation would conclude that if a conservation effort isn't forthcoming, that they are going to have a major problem in their big industry. So I am curious to know what might motivate them to refuse to negotiate. It doesn't make sense—I can't draw it, at this point, to a logical conclusion based on what I know about it. Would you comment?

Mr. SHELTON. Congressman Saxton, I certainly don't want to be in the position of speculating on voters in Canada. It has been true, however, from the beginning of the negotiations and certainly from the time the Treaty was signed in 1985, that this in the official Canadian view was not really a necessarily cooperative exercise, but a Canada First policy applied across the board.

The fundamental difficulty that I think we have in this Treaty is that the Canadian perception of how they own fish is really contrary to the nature of the resource, on the one hand. I mean, it is simply incompatible with the way salmon populations function. And it also is in complete denial of the notion that the United States may have legitimate interests in these fish, including some of those that spawn in Canada, and complete denial that the United States might have a legitimate perspective that can be put on the table to be negotiated, opposite the Canadian perception of their owning anything that happens to have been spawned in Canada.

That has made, I think, an extraordinarily difficult situation for any kind of meaningful negotiation to go on and it is becoming ever more difficult, the more distant from the actual fisheries the discussions have been. As the discussions have gotten outside of the realm of the fishery managers and the fishermen and those who are directly responsible for the well-being of the resource, it has become more abstract, more theoretical, a more theological kind of debate in which a lot of political face can be hung out and without any particular worry of what the consequence is that the real people have to live with, the end product.

The Treaty worked, to a reasonable extent, during its initial years and by that I mean the 4 or 6 years, where the initial negotiation of the Treaty had been translated into the negotiation of very specific fishery arrangements on both sides of the border. Those were perceived, I think, on both sides, as entirely fair and equitable. And I guess my reaction, (I approach this somewhat differently, than, I suppose, do some of my colleagues. I am a professional fisherman. I am a commercial fisherman. I am not a bureaucrat).

The solution would appear to me to require that there be some effective way to truncate the tendency to get off into the never-never land of philosophy and back into the real world, where the folk who are in the end going to be affected, have, if not a decision-making authority, have at least a very substantial input into the way in which their future is structured and the way in which the future of the resource they depend on is preserved.

The Canadian perspective and their behavior throughout this Treaty has been to put ahead of any notion of conserving the resource, the priority of getting fish taken out of traditional American fisheries and put into Canadian fisheries. That is not cooperation; that is not negotiation. This is a shared resource. It doesn't belong to one side or the other. We all invest in it, we all have interest in it, and in the end, both sides who are in that kind of a position have got to come down and work out the details of what is an acceptable pattern for conducting fisheries responsibly.

I think we showed in 1985 that that could be done. We have had experience, at least within the northern panel of the Salmon Commission, the ability to do that subsequently. There were a number of, I think, really rather innovative, in the end, quite productive agreements struck within the Alaska, northern British Columbia panel, from which all of us are benefiting today. That strikes me as the only way in which this in the end can be resolved.

I doubt there is ever going to be resolution to the theoretical debate. But as long as we are in the business where everything that we consider to be relevant and important on these fisheries is brought into a good-faith negotiation among the folk who are directly affected, (we are good neighbors, we respect each other, at that level, anyway), I think we are fully able to resolve these issues, as long as it is left on a fishery-by-fishery basis. In that sense, I have to say I really concur fully with the kind of outline provided by Mr. Pipkin. That is the only route apparent to me that stands a chance of rendering this Treaty successful.

Chairman YOUNG. Can I go back to my thoughts a moment ago? What if the State Department of the United States and the Canadian Government of Canada were to invest the authority exclusively with the Commission and, say, solve this problem. Do you think you could do it?

Mr. SHELTON. Yes.

Mr. SAXTON. But that supposes the Canadian Government—

Chairman YOUNG. What I am suggesting and what I am still frustrated—and if the Canadian press thinks I am being mean to Mr. Tobin, that is unfortunate, what bothers me the most about this, because they have been very aggressive in their position media-wise about how bad the Alaskan fishing process is and how wrong we are and they have 40 million fish. And I still say that is a terrible, fictitious number. They played the role very well in the media.

Now, I think if we could get the State Department and the Commission on board and say, all right, we are going to make this offer, and see what the Canadians say, and if they say, because I think there has been good effort so far, and this at least exposes them to what they are, nonnegotiators. They want our fish, they don't want to conserve the fish. They want our fish because they don't have their own fish. That is the reality. This is something we want to bounce around. I can't do it myself.

I hope Mr. Ruckelshaus can speak on that line, but you have your stakeholders. You would have a Commission that is very well represented by the States and Canada if they sit at a table and I think you can solve the problem. I don't think the theology would be that ripe in the group. That is just an idea, Mr. Chairman. You are looking for solutions.

I want to thank the panel, by the way. I don't have any other questions. I do thank you for appearing and presenting your points of view, and I believe if the Canadians want to solve this, we can solve it, because I think we are more willing to do it. I am not willing to give up everything.

Mr. SAXTON. Let me follow up, if I may. When we were talking a minute ago about the reluctance of the Canadians to seriously negotiate, it seems this is a big wide world and in order for negotiations to take place, sometimes leverage needs to be created in one way or another to help those who do want to negotiate. Are there some things, outside of perhaps the direct negotiation process that you have been involved in that need to be done in order to help create a situation where they might be more than willing to negotiate?

Mr. ALLEN. Well, let me just add quickly, I think the stakeholders had made good success in closing the gap, and they were

close. Now incorporated into it, and you will hear in the next panel, that there are some needs we will have from the Congress in order to close this gap, so that is going to be a component to this effort.

Mr. SAXTON. Thank you very much.

Mr. BENTON. I would like to respond briefly to your question. I think the key and fundamental issue here, in terms of these negotiations, is Canada right now does not feel they have anything they have to lose. They have it going both ways. Canadian politicians are finding it very convenient and quite useful to use the United States, both North and South, as the enemy to further their own domestic political agendas and that is certainly going on with British Columbia. And as long as that can continue, and as long as Canada can institute things, like a Canada First policy, that then hurts U.S. fishermen, just to further their basic position of trying to drive a wedge between the United States and move these negotiations to some other venue.

As long as they can get away with that, we are not going to be able to settle this dispute, and if there is something that I think that needs to happen, it would be that the United States Government and this Congress needs to send a clear message to Canada that the stakeholders process is it, and if you can't—if those people can't solve it, then we have a real fundamental problem here and our bilateral relationship, at least on fisheries matters, is in serious trouble. They have to have a clear message something is at stake for them, otherwise they can continue to play the scam they have been.

Chairman YOUNG. I have one question I forgot to ask. Mr. Ruckelshaus asked me the other day—I asked the question, I said what if we don't have a Treaty, what if we don't adopt the appendices, and he said, well, probably endangered species would be implemented, and I forgot to ask, how can you apply the endangered species to British Columbia and would they recognize it. It doesn't do any good to apply it to us because our species aren't in danger.

They say sockeye out of the Columbia River and the Snake River are in danger, and I said I could refurbish that quickly if they let me do it. There are a few people who don't want us to do it. They can put a damn Canadian Wolf in Yellowstone Park but they can't put an Alaskan fish in the Columbian River. That is sort of the stupidity of some of our government officials nowadays, but they could do that.

But what I am saying is I don't think that is a legitimate threat to Alaska because we have a good species, and especially if Canada wouldn't follow the restrictions, I mean, we would be whistling in the dark, and I have no indication they would, but do you think that endangered species somehow could be applied to this thing?

Mr. BENTON. Mr. Chairman, the Endangered Species Act would have some implications for Alaska, but it does whether or not we have a Treaty. So I, for one, don't necessarily make those linkages, but I would say, and I agree with Ron's testimony, that we want to try and make this Treaty work. We need to have a Treaty with Canada.

If this Treaty doesn't work, however, maybe we need a new treaty, and maybe we need one that is less ambiguous about some of these terms. Now, the last time around, it took a long time to nego-

tiate a treaty, and certainly our preference is to try and make this one work, and we think the structure can work if Canada wants to come to the table, but, believe me, if the stakeholders process fails, I can't imagine another process going forward that is better or more likely to have success. And so far as binding arbitration is considered, that is tantamount to renegotiating the Treaty anyway, so we might as well consider methods that we can go and tell Canada, look, this Treaty is off the table and we are going to come back and look at a new one, so that is the only answer I can have on that issue.

Chairman YOUNG. I thank the panel.

Mr. SAXTON. Thank you very much for being with us. You have been very helpful and we apologize for so many interruptions.

The third and last panel is made up of Mr. Jim Bacon, Chair of the Northern Stakeholders Panel, and Mr. Rick Applegate, Chair of the Southern Stakeholders Panel. Welcome aboard.

Mr. BACON. Thank you.

Mr. SAXTON. We are anxious to hear your testimony. Mr. Young, do you have something?

Chairman YOUNG. I just wondered, Mr. Applegate, do you say you all or what, I mean, southern negotiating board.

Mr. APPLGATE. We tried everything we could think of to make progress.

Mr. SAXTON. You may proceed as you are comfortable.

STATEMENT OF RICK APPLGATE, CHAIR, SOUTHERN STAKEHOLDERS PANEL

Mr. APPLGATE. Yes, Chairman Saxton and Chairman Young, we appreciate the opportunity to be here today. I am the Chair of the U.S. Southern Stakeholders and when the negotiations were under way, I was West Coast Conservation Director for Trout Unlimited.

I need to say that today I am a Senior Policy Advisor with the National Marine Fishery Service, so my views today don't necessarily represent the position of the Federal Government. We as stakeholders are I think very fortunate to have had the opportunity to participate in these unique negotiations.

We examined our long-held views. We made some significant and very much unprecedented proposals and we almost got the job done on the southern issues, particularly on coho and sockeye. And even now with so much acrimony and the recrimination that grows out of this past fishing season, we still basically know the terrain of an agreement with Canada. The rough dimensions are not all that hard for us to discern. It is clear both nations suffered a great deal this year and the need for resolution remains very great.

Now in the negotiations, as charged by our governments, we tried to avoid ritualistic debates on the equity principle under the Salmon Treaty, and we offered a series of pragmatic and creative proposals to do a couple things, ensure conservation of west coast salmon and a reasonable sharing of the fishery resource. We insisted as a first principle, that the wild coho stocks of the West Coast had been harvested at excessive rates and those rates needed to come down; that large harvest reductions were required to conserve the wild stocks of both nations, not just U.S. stocks.

We submitted a substantial amount of technical analysis, along with our proposed harvest reductions and we did, in response to an issue that was raised earlier, include a proposal for reporting the volume of Canadian recreational harvest off Vancouver Island. We were well aware that any reductions in Canadian coho harvest, beyond those required to conserve coho stocks, would entail concessions from U.S. fishers on the levels of Fraser River sockeye harvest. We were willing to pay for coho reductions that allowed for a U.S. fishery, but not for the substantial reductions that were required to conserve the resource.

Now, for a variety of reasons, Canada did not table a firm, scientifically sound, long-term coho harvest regime as part of the negotiations and that, more than any other factor, is why we were unable to reach an agreement and it is an area that needs more work on a technical and policy level now.

On the sockeye side of the equation, we proposed a substantial reduction in the U.S. interception of Fraser-bound sockeye. And in order to make those cuts larger, we agreed among our stakeholders on a sizable and unprecedented buyout of a large portion of the non-Treaty U.S. sockeye harvest share. That was a difficult and very painful step for U.S. fishers, but we knew it was essential, if an agreement was to be reached with Canada.

The Canadian reaction to that proposal, treating it as something of a minor U.S. domestic matter, made it very hard for our stakeholders to stay at the table, but we did stay at the table. In effect, at bottom, our sockeye proposal would have left Canada with over 80 percent of the Fraser River sockeye harvest and we were very disappointed with the ultimate Canadian reaction to that important and as I say, unprecedented U.S. proposal. We moved a long, long way from historical harvest levels.

To the ultimate question of why we didn't get an agreement, I don't think anyone will ever have a complete answer that is satisfactory. We certainly felt, based on the signals we received from the Canadian side, we were getting very close to an agreement. So we were baffled and discouraged when at the end of negotiations, we seemed to be further apart than ever.

A couple things that will help in further negotiations. First, as has been mentioned before, we need clarification of the terms of the negotiations. Both parties have to understand the table they are sitting at is the table at which a final agreement will be reached. The U.S. stakeholders, for their part, did not look at some later negotiating process and for that reason, we put on the table our strongest, best and our most creative options.

Second, there was kind of an unspoken connection between northern and southern issues. There had been an effort to keep them separate and I think that would have been beneficial. It seemed like when progress was being made in the North in the negotiations, we made progress in the South and then we bogged down together and that linkage was troublesome and probably needs to be clarified in the future.

Third, I want to say not all the problems occurred on the Canadian side. We had some coordination problems in the U.S. that I referred to in the testimony and I think those have been corrected now, but they were very problematic at the time. Let me just add,

the Commissioners and U.S. Government negotiators abided by the rules that were put to the negotiations. They made no effort to intrude upon or sway our stakeholder efforts and they were very helpful. We had a high regard for the work of Jim Pipkin, Mary Beth West and Commissioners Allen, Benton and the others. All this good work, of course, still languishes in the shadow of not having an agreement with Canada.

It leaves people to wonder what an unfulfilled and largely inoperative salmon treaty is really worth. For me, and I believe for most of those who have tried to make the Treaty work for a decade or more, it is not irretrievably broken yet, even though it may appear to be. We are very disappointed an agreement has not been reached, but there is no point in giving up or succumbing to another few months of bellicose rhetoric. The issues are simply too important for that.

So we have still to reach an agreement, and the frustration and disappointments and even the embarrassment of that are with us. But when the dust of this year's feuding finally clears, we will still be left with the same problems and the same basic prospects for a resolution. These issues are not intractable. We got very close, and I still believe we are about a series of difficult negotiations and a handshake away from a long-term agreement with Canada. Thank you for the opportunity to appear and I will be happy to answer any questions you may have.

[The prepared statement of Mr. Applegate may be found at end of hearing.]

Mr. SAXTON. Thank you for the testimony. Jim, you are up.

STATEMENT OF JIM BACON, CHAIR, NORTHERN STAKEHOLDERS PANEL

Mr. BACON. Thank you, Mr. Chairman, and members of the Committee. Thanks for the opportunity to testify today. My name is Jim Bacon. I am a commercial fisherman from Juneau, Alaska. I have been fishing for over 20 years and currently serve as Chairman for the U.S. Northern Stakeholders.

No international agreement is of greater importance to Alaska and my fishing industry than the Pacific Salmon Treaty. Commercial fishing is the largest private employer in Alaska and the Pacific Salmon Treaty plays a major role in the management of our State salmon resource.

Since the inception of the Treaty in 1985, the boundary area between southeast Alaska and northern British Columbia has experienced several record salmon returns. It is important to note these facts when attempting to navigate through the sea of rhetoric generated by the Canadian media machine.

The issue now before us in the boundary area is not conservation of depleted salmon stocks, but rather how to devise a fair sharing arrangement which allows both countries to effectively harvest its salmon resource. The Pacific Salmon Commission, established by the Treaty, is to serve as the forum for both countries to exchange information for the dual purpose of conserving salmon and achieving optimal salmon production.

Canada, unfortunately, has subverted these treaty principles by dwelling solely on the issue of accounting for Canadian-spawned

salmon caught, incidentally, by U.S. fishermen. When Canada could not prevail on this single issue, it abandoned the Commission process. Unwilling to follow the Canadian lead, the U.S. proposed a new format involving stakeholders, those who actually fished for or processed salmon.

The stakeholders' task was to break the ideological gridlock that had stalled previous talks within the Salmon Commission and between the governments, to formulate realistic fishing agreements that protected and enhanced the salmon resource while preserving the tens of thousands of jobs, dependent on the Pacific Coast salmon stocks. In hindsight, it is obvious that Canada had no intention of allowing its stakeholders to reach agreement.

This was never more evident than on the last day of stakeholder talks, when after lengthy consultation with its government, the Canadian stakeholders returned with a hard line position designed to bring the talks to a halt. Premier Glenn Clark then unleashed a barrage of anti-American sentiment which brought his fishing community to a boiling point, culminating with the blockade of the Alaska ferry and Prince Rupert.

Despite condemnation by the community of Prince Rupert, the Canadian Federal Government and members of this Committee, Premier Clark termed the blockade courageous. This atmosphere of lawlessness then turned itself on the Canadian Government, with the staging of illegal fisheries in northern British Columbia.

The Canadian fishermen cited a tremendous surplus of salmon, returning to the Skeena River, as the basis for conducting these illegal fisheries. It is notable that the catch of these same Skeena River salmon by Alaskan fishermen provides the basis upon which Canada claims that we are pirating Canadian fish or fishing Canadian stocks to extinction.

The claims are insupportable and this best illustrates our point of departure with Canada. The State of Alaska and its fishing industry have an unparalleled history of salmon management success. We would never embark upon a fishing regime detrimental to salmon, either U.S. or Canadian origin. However, we refuse to adopt a Canadian ideology, which relegates the harvest of Alaskan salmon to the avoidance of Canadian-origin salmon present during our fisheries.

Simply put, the salmon are not segregated while in Alaska waters. Such a policy would not benefit Canadian salmon stocks or its fishermen and would cause grave economic hardship to the coastal communities of southeast Alaska. I do believe the stakeholder process can lead to a fair and durable agreement between our countries. However, without a strong message from our government to Canada that the stakeholder process is the only forum outside the Pacific Salmon Commission for negotiation, without this commitment, the process will fail.

Equally important, Canada must plainly understand the theatrics and media sound bites will not bring forward U.S. concessions. We are gravely troubled by the lawsuit filed last week in Seattle by the British Columbian Government and its fishing industry, seeking \$325 million in damages against the U.S. for alleged Treaty transgressions. The filing of a lawsuit cannot lay the groundwork for productive negotiations. Thank you, Mr. Chairman.

[The prepared statement of Mr. Bacon may be found at end of hearing.]

Chairman YOUNG. Thank you, Jim. A couple questions. To your knowledge, is there any accounting for the sport fishing in Alaska, as far as numbers?

Mr. BACON. In Alaska?

Chairman YOUNG. Yes.

Mr. BACON. Yes, there is.

Chairman YOUNG. Well, that's good. I probably should have asked them because I have to go back. If you were willing to give up 80 percent, Mr. Applegate, of the catch, did that include the sport-caught fish in Canada, include the sport-caught fish in the Alaskan waters? You cannot solve this equation problem of amounts of fish if you don't include the sporting fish, is that correct?

Mr. APPELATE. The 80 percent, we would have left Canada with over 80 percent of the Fraser River sockeye.

Chairman YOUNG. You were willing to cut 80 percent of the Fraser River sockeye commercially.

Mr. APPELATE. That is essentially a commercial fishery obviously, and they would have had over 80 percent. On the coho side, however, we did raise the concern about their unreported recreational harvest. Our general impression is that it has been small in the past, but what we wanted was an accounting system so we could be sure that it did not adversely affect either the shares or the conservation of the resource. We had that as part of our proposal.

Chairman YOUNG. So the accounting system—you agreed to the sport fish in the accounting system.

Mr. APPELATE. Well, we didn't reach a final agreement with them. It was part of our proposal that they expressed some reservations about.

Chairman YOUNG. Well, I can't see how we can do this legitimately if we don't take all takings of fish into consideration. The escapement on the Fraser River, is that healthy, Jim, to your knowledge?

Chairman BACON. Again, the Fraser issues were covered in the southern panel.

Mr. APPELATE. It has been a well-managed and rebuilding run over time, and in fact, we argued the abundant-based approach to management of Fraser River sockeye is the kind of approach we should have for the coho resource as well. So there has not been a large conservation problem with respect to Fraser River sockeye as there has been in the case of both Canadian and U.S. wild coho stocks.

Chairman YOUNG. Jim, without the Annexes with the Treaty, how does that affect you in the Southeast, as far as fisheries?

Mr. BACON. Well, how does the implementation—

Chairman YOUNG. Because we are not—we are now what, 4 or 5 years without the adoption of the Annexes to the Treaty. Does that affect you adversely? Does it have any affect? Does it cause you any problems?

Mr. BACON. In prior years, when we were unable to reach an agreement that designed a specific annex for the fishery, I am a

purse seiner. I participate in the District 104 purse sein fishery. In prior years, without a Treaty agreement, Alaska made the decision to unilaterally abide by previous agreements, and so basically, we continued to operate as if we did have an agreement, and this was done in a manner to continue to extend—to continue to extend the olive branch to Canada that we want to negotiate and set up a regime in the boundary area.

In this year, after we—we felt mistakenly, in hindsight, we were close to getting an agreement in the fishery and when that was jerked out from underneath us, it was a decision, and the State can speak to this, but it was a decision on the part of the State that we are going to fish based on the abundance of Alaskan stocks in the region and take appropriate conservation measures necessary to protect all of the stocks in the region and basically we are not going to continue to abide by expired annexes.

Chairman YOUNG. To your knowledge as a fisherman in the State, you are not abandoning conservation principles.

Mr. BACON. Absolutely not.

Chairman YOUNG. Let's go back to stakeholders. You heard my suggestion. Do you think the Commission with stakeholder representation could solve these problems or do you think we ought to go back to stakeholder negotiations totally, if the Commission had the authority from the Federal Government and the Government of Canada to solve the problem? Can you comment on that because I am looking for a solution.

Mr. BACON. Yes, Mr. Chairman. I agree with Commissioner Benton's response to that, which is if Canada understands clearly the Pacific Salmon Treaty set up the Salmon Commission to be the forum to resolve these issues and they understood there was no end running of that forum. There was no way around that. Then they would realize that that would be the—that could be a very effective forum for resolving these issues, and it is a forum that does include stakeholders such as myself and it does include representation from our industry and we would be comfortable in that forum.

Chairman YOUNG. What I am saying is they made a proposal and the only thing they support is binding arbitration, with the outsider being the arbitrator who knows nothing about fisheries. But if you had the Commission set up under the Treaty, which they did sign, and gave the Commission the authority or direction that their recommendations would be the law, and if we offered that to the Canadian Government and then if they say to the Canadian Government—if British Columbia said, no, they are exposing them for what they are and that is they want all the fish. They don't want conservation purposes. They don't want to reach an agreement. They want to use this as a political gamut, and I really think it would be calling their bluff big time, and I don't know whether it can be done or not, but I would like to have Mr. Ruckelshaus, the State Department and yourselves, the State of Alaska, the State of Washington, the State of Oregon, people involved in this problem, say, okay, can this work, and I always thought the Commission could do it. I mean, that is the way we set it up.

I probably did not agree with the Treaty the first time because I have dealt over the years with different aspects, and I wasn't

sure everybody wanted to live up to it, but the Commission was a good idea. Do either one of you have any other suggestions on how you think this issue can be solved? You said you were real close and then you stepped away from it. Were you communicating between the North and the South while you were at it?

Mr. APPLGATE. There were briefings from time to time where both northern and southern issues were discussed. I think in the longer term, getting back to a table and negotiating is obviously in everyone's interest. Both sides sustained a lot of damage this year. Certainly the U.S. coho fishery has been very depressed over time and the sockeye fishery can't live with the kind of instability we have seen. I think the suggestion of some combination of commissioner and stakeholder representation may very well be the way to get that done.

Chairman YOUNG. What I am saying to the Chairman, we have to somehow get Canada's attention, and other than my suggestion, we make them an offer that the Commission is the law and if they turn that down, that means they are not acting in good faith. I don't know how else you can do it. The State Department is not anxious to really enforce any of the—what I would call unfair trade practice with Canada anyway, timber and a few things they managed to ship to the United States without any reservations at all. I am not knocking you right now, I am serious about that. Somehow we have to get them back to the table to make this thing work, as far as I am concerned.

Before I do this, you heard my comments about 40 million salmon caught, incidentally, from the Canadian Embassy down here. How could he reach that number? Forty million salmon is a big bunch of fish in 10 years.

Mr. BACON. Mr. Chairman, I don't know. We have seen some tremendously creative mathematics. There are people within the Canadian section that they referred to as biometricians and we refer to as biomagicians and people that can—they can take a tremendous amount of information and translate numbers, and both parties can do it and both parties have very smart people with good calculators that can create a whole barrage of numbers that we could argue about ad nauseum and in the very end, it wouldn't make a hoot of difference to the people who fished there or the stocks.

Chairman YOUNG. Let me ask you a question, in southeast Alaska how many salmon are caught on an annual basis a year by all fishermen?

Mr. BACON. We have had runs—prior to this year, I don't know what the return is from this year, but we have had, in southeast Alaska alone, we have had runs that were upwards of 100 million.

Chairman YOUNG. That is all species.

Mr. BACON. That is all species.

Chairman YOUNG. But 40 million salmon caught, when 95 percent of the salmon we catch in our water are produced in Alaska, we are talking about intermingled stock of 5 percent, and the numbers don't add up is what I am saying.

Mr. BACON. And also, Mr. Chairman, Canada will take—the United States has had a Fraser River fishery, as has been explained for a very long time, but Canada will take every Fraser

River sockeye harvested and say that is a Canadian fish, basically taken from Canada by the United States.

Chairman YOUNG. Although they originated in the Stikine or the Taku Rivers.

Mr. BACON. Well, there was a very interesting discussion in the stakeholder process. We attempted to work on establishing appropriate percentage shares of stocks. Prior to that discussion, Canada always said all the sockeye you catch are ours. When we attempted to establish an appropriate percentage share based on a historical number of those sockeye they were saying were all theirs, they all of a sudden said, well, wait a minute, a lot of those sockeyes you guys produce and you are trying to establish a number based on your own fish and that is not fair. And I thought, well, at last, if the stakeholders process accomplished anything, at least it got them to understand we do produce sockeye in southeast Alaska, but these are sort of incremental successes.

Chairman YOUNG. Mr. Applegate, in your testimony, you said there is increasing pressure on all salmon species, but my knowledge, and, Jim, you can address this, too, do we have any more new salmon fishermen in Alaska or are we limited by limited permits?

Mr. BACON. In Rick's situation and the situations in the South are different with different stocks.

Chairman YOUNG. You don't have limited permits in that area.

Mr. APPELEGATE. We do not. The real situation is the coho stocks have been declining and that is what I mean by the intensifying pressure. There is obviously an effort to keep fisheries going on those stocks and what we have got to do is turn them around, so they are back on the path to recovery. Occasionally, in some years, there are some portions of the Fraser River run that are small as well and that are a concern.

Chairman YOUNG. Let me get back to that reestablishment of the stocks. Are you one that believes there are other ways of reestablishing stocks in those rivers, too, or do they have to have the same DNA that the river produces. We have cohos in the northern part of Alaska. I am sure we would be willing to help you out. The price is terrible. They are great fish, but we can't sell them. I mean, it is one of the biggest disasters we have ever had.

Mr. APPELEGATE. We have envied your abundance there. I think in the case with the coho, there are obviously some habitat and enhancement activities that can be undertaken over the long-term to keep the run sustainable. We have an interest in making sure that we have diverse life histories of coho and strong runs in a wide variety of watersheds in the Puget Sound area so we don't want to just homogenize those runs.

Chairman YOUNG. I have been hard on the Canadians today and I think justifiably so. But go back to the practice. At any time in the discussion of rehabilitation of the streams of the Canadian Rivers or anything, and the logging practices they have implemented and practiced for years, the ITT Rainier pulp mill that used to dump the raw waste into the rivers and the oceans for years and years, and were doing it until, I think, 3 years ago, has that ever been in part of this negotiation or discussion about rehabilitating Canadian stocks.

Mr. APPLEGATE. In fact, we have habitat protection and restoration problems on both sides of the border.

Chairman YOUNG. Very little on our side of the border, I want you to know that. We have healthy strong runs on our side of the border, in the northern part.

Mr. APPLEGATE. I am speaking about Puget Sound where it is very clear we have our work cut out for us.

Chairman YOUNG. See, I hate to say it, but I am very prejudiced. I am an Alaskan representative. I am not a Washington representative.

Mr. APPLEGATE. I understand. Some of us go up there as often as we get a chance.

Chairman YOUNG. I know. We are going to talk to you about that. Go ahead.

Mr. APPLEGATE. My point is there are habitat protection and restoration problems on both sides of the border. Those have been discussed some in the negotiations, and obviously we won't correct all the problems simply by balancing or restricting harvest to both nations. We have work to do.

Chairman YOUNG. Going back to the endangered species concept, have you proposed or encouraged a view on endangered species? And I am referring primarily to sea lions and a few other species that are endangered and cannot be managed that are killing all our smolts as they come out of the locks and that type of thing. I mean, how do we adjust to that?

We tried to do it in Congress, by the way. We gave the authority to remove that animal permanently, if you wanted to, and I don't think anybody has done that. But there are going to be other predators other than fishermen that are preying upon a diminishing stock, and has there been any discussion of how you would solve that problem? Are you going to let Congress try to do it for you because we are going to get pressure after a while to do something else, you know.

Mr. APPLEGATE. Mr. Chairman, we didn't discuss that much in the stakeholder negotiations, but there are a few sea lions that have been evacuated in the Puget Sound area and the issue has come up as well in the Columbian River. There is a bounty program on squawfish that are predators on migrating juvenile salmon—so there is some attention being paid to that.

Chairman YOUNG. If you follow what I am saying, you cannot solve this problem if the other predators are increasing, which they have increased dramatically, but I went through the old years, Jim, when we used to have a bounty on seals in Alaska, and by the way, a few other things, too, which I won't mention, but it was to protect the fish, because fish was king down there. It was protect the fish, and did a fairly good job. And as we go through the cycle, we have to understand, to protect another endangered species, then we also have to recognize that if the endangered species is eating the other, then we are losing the battle. Something has to be done, otherwise we are going to lose this war.

Mr. APPLEGATE. If I could, Mr. Chairman, one other way the Endangered Species Act came up in our discussions, we did note that in the case of wild coho stocks, there has been some pressure in Alaska, or in British Columbia I mean, to have similar legislation,

given the depressed status of those populations, so it is not just a problem we have in the Puget Sound area. It is potentially one they have in Canada as well.

Chairman YOUNG. As I say, this whole salmon issue is not only interesting because we had two nations and three States involved here, and we also have the Atlantic Salmon, which is being farm raised. Before I finish, I can never understand how Chile, who competes directly with our fish, Jim, get all their eggs from the State of Washington. Now I can never figure that one out.

I mean, I can go to Seattle and go on a fish run and the fish are coming out of Chile, but the eggs originated in the State of Washington. And when you have a shortage of fish in the State of Washington, I can't figure out how can you sell those eggs to Chile to have them shipped back to us and knock our prices down. I hope as time goes by we can solve some of those problems, too.

I want to thank both of you. And don't feel bad about not having anyone here. What happens is we have all these different votes and committee meetings and this has been long because there was a disruption of votes and this has gone longer than I thought it would. I want to thank both of you and hopefully we can solve this problem and work very hard to do so. Thanks for being before us. The hearing is adjourned.

[Whereupon, at 1:40 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

STATEMENT OF JAMES PIPKIN, U.S. SPECIAL NEGOTIATOR FOR PACIFIC SALMON AND
ACTING U.S. FEDERAL COMMISSIONER OF THE PACIFIC SALMON COMMISSION

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to be here today to discuss Pacific salmon.

I am Counselor to the Secretary of the Interior. I became involved in the U.S./Canada salmon issue in 1994, when the State Department appointed me U.S. Special Negotiator for Pacific Salmon and asked me to act as Chief Negotiator in government-to-government negotiations with Canada. I was also named Acting Federal Commissioner on the Pacific Salmon Commission. Later I was given the personal rank of Ambassador in connection with that work. In February of this year, I was succeeded as Chief Negotiator by Ms. Mary Beth West, Deputy Assistant Secretary of State. I continue to be U.S. Special Negotiator and Acting Federal Commissioner.

The dispute between Canada and the United States over salmon harvests precedes my involvement by many years, indeed, many decades. Salmon are not great respecters of jurisdictional boundaries, and, for as long as anyone can remember, the two countries have argued about who has the right to catch which fish. From time to time, international arrangements have temporarily settled the issue, but only temporarily. Changes of circumstance have caused one country or the other to feel aggrieved, and the issue has been reopened.

The current Treaty was adopted in 1985. Both countries hoped that it would provide the framework for a permanent resolution of the issue, and it did in fact make possible eight years in which the parties agreed on fishing regimes and undertook efforts to address a mutual conservation problem. That status did not last, and even for those eight years, Canada has raised question as to whether the agreements were fully in compliance with all Treaty principles.

For the last five years, there has been more disagreement than agreement. Each fishing season has been approached with an air of crisis, with accusations, and sometimes with threats. This summer we saw frequent statements in the press that one country's fishing policy amounted to waging a "war" on the other, as well as claims of "piracy." Some people have begun to suggest that no treaty at all may be better than the current status.

The disagreement goes to whether the principles that appear in the Pacific Salmon Treaty are being fully implemented, and specifically to whether harvests reflect an appropriate allocation of fish. There are two major principles in the Treaty. The parties agreed to conduct their fisheries and salmon enhancement programs so as to (1) "prevent overfishing and provide for optimum production," and (2) "provide for each party to receive benefits equivalent to the production of salmon originating in its waters." The first is referred to as the "conservation" principle, and the second is commonly called the "equity" principle. In addition to those two major principles, there are three sub-principles. The Treaty says that in fulfilling obligations under the two main principles, the parties are to take into account (1) "the desirability in most cases of reducing interceptions," (2) "the desirability in most cases of avoiding undue disruption of existing fisheries," and (3) "annual variations in abundance of the stocks."

I am not going to try to explain the principles or tell you which country is right and which is wrong. I would say only that the principles are stated in general terms, and they interrelate. (A former Canadian commissioner described the Treaty as a "bare-boned document with no agreement on even simple concepts.") The Treaty negotiators left it to the Pacific Salmon Commission to work out how the principles should be applied, and that has often not proved possible. Each country has its own interpretation of how the principles should be implemented, and each believes strongly that the other country's interpretation is wrong.

I became the U.S. Chief Negotiator at a time when both countries agreed to elevate the issue in priority and make a determined effort to find a solution. In the fall of 1994 and the first half of 1995, we conducted high-level government-to-government negotiations. The United States advanced a proposal that we hoped might provide a breakthrough. It did not.

Later in 1995 and the first part of 1996, the countries invoked the aid of a well known diplomat to act as a mediator to try to bring the parties together. That did not work either, and eventually the mediator announced that the two countries were simply too far apart for his effort to be successful.

In short, despite a determined effort by both countries, Canada and the United States have been unable to resolve their differences with respect to how the Treaty principles should be implemented.

This year, the parties attempted a different way to approach the issue. The new approach reflected a joint proposal by the governors of Alaska, Washington, and Or-

egon, later endorsed by the tribes, and it is referred to as the "stakeholder" process. Ms. West, and others here today, will tell you more about that process.

Let me just say that the stakeholder process represented a major step forward. It recognized that the best solution is likely to come from the region, not from Washington and Ottawa, and it must involve fishermen and others who have a stake in the outcome. In addition, it recognized that the two governments have been unable to come to terms on what the Treaty principles were intended to mean and that if a solution is to be found, it will likely be a pragmatic solution, based on the characteristics of individual fisheries, and not on theoretical grounds.

The stakeholders made real progress. They met for several months in panels, one for fisheries in Alaska and north central British Columbia, and one for fisheries in southern British Columbia and Washington State. They listened to each others' needs, and they made proposals that narrowed the gap. The American stakeholders, both in Alaska and in Washington/Oregon, made far-reaching proposals that would have involved substantial sacrifice for U.S. fishermen and would have involved a significant financial commitment at the Federal and state levels. The stakeholders went farther than we had been able to go in government-to-government negotiations, and we were hopeful that the U.S. stakeholder proposals might finally provide the breakthrough that we all sought. In the end, that did not happen, because the Canadians decided that the proposals did not go far enough.

Recently, as you know, Mr. William Ruckelshaus, former EPA Administrator, was appointed as Special Representative of the President and the Secretary of State. The charge of Mr. Ruckelshaus and his Canadian counterpart, Dr. David Strangway, is to try to get the stakeholder talks going again. Mr. Ruckelshaus has my wholehearted support, as I continue to believe that the stakeholder negotiations provide the best opportunity for resolving our disagreement with Canada. Mr. Ruckelshaus and Dr. Strangway began work in late July, and the next few months will be critical.

In my opinion, during the stakeholder talks that ended in May, the U.S. stakeholders really stretched to make the proposals they did. They were genuinely disappointed and frustrated that their proposals were not accepted. They were angry about the way the process ended. In addition, the prospects for resolving our differences certainly have not been enhanced by the "Canada first" policy that was adopted this summer with respect to Fraser sockeye, the blockade of the Alaskan ferry "Malaspina," the threats to close the submarine testing base at Nanoose Bay, the frequent provocative statements made by some in Canada, or the lawsuit recently filed by British Columbia. Those actions serve to fuel the continued anger of the stakeholders and their concern about whether Canada has a real interest in finding a mutually acceptable solution.

Nevertheless, as I indicated before, I believe that the stakeholder talks represent our best hope for a settlement, and we will do everything we can to get that process back on track and to give it a chance.

The controversy with Canada is complicated. It requires a solution that puts in place a system for long-term cooperation, and that system must give priority to conservation needs while also resolving allocation issues. The controversy involves legal rights of Indian tribes on both sides of the border. It has economic, cultural, and social implications. It encompasses a number of fisheries with dissimilar characteristics and dissimilar management opportunities. According to the Canadians, a solution must address alleged past "equity imbalances" as well as allocations that are fair for the future. The dispute has defied previous attempts at resolution.

Although a settlement has thus far proved elusive, I think I can outline for you the general framework of a possible settlement.

- **A settlement is likely to be built from the bottom up, fishery by fishery, not the top down.** Efforts to agree on the theoretical intent of the Treaty have failed, and a successful resolution is likely to start from an analysis of reasonable fishing arrangements for individual fisheries and the role of interceptions in each of those fisheries. That is why the stakeholders were asked to take a pragmatic, fishery-by-fishery approach.

- **A resolution of the dispute is likely to involve separate regional negotiations.** It is not fair to penalize fishermen in Washington State for what happens in Alaska, and vice versa. Under our system, the states (and tribes), not the Federal Government, are the primary managers of fisheries, and it is appropriate to make a state accountable for management decisions concerning its waters but not the waters of other states. A separation of northern and southern issues was adopted in the stakeholder process.

- **A solution must have the full support of the states and tribes.** The legislation implementing the Pacific Salmon Treaty places the authority in the states and tribes. Any solution must be approved either by the U.S. Congress

or the U.S. section of the Pacific Salmon Commission. As a practical matter, if the affected region does not support a proposed settlement, the settlement will not go forward. A settlement is more likely to gain that support if the region has a major role in developing the settlement. In the stakeholder process, the U.S. stakeholders were nominated by the governors and the tribes, and any solution accepted by the stakeholders has a good chance of receiving the support of the states and tribes.

• **A settlement is likely to involve abundance-based management.** Years of experience under the Treaty have demonstrated that catch ceilings tend to be regarded as entitlements and that a ceiling approach to management is less consistent with conservation needs than an abundance-based approach. (For many years, an abundance-based approach has been in effect for Fraser River sockeye, where each country agrees to take a certain percentage of the allowable catch, and where the allowable catch is determined annually based on abundance). The stakeholder panels seemed to be in agreement on that point.

• **A negotiated agreement will probably include a proposal to establish a salmon fund.** Because the two countries disagree on what the Treaty principles were intended to mean, the stakeholders were unable to come to a consensus on whether any reasonable fishing arrangements will fully satisfy the "equity" principle of the Treaty. That is why the U.S. northern stakeholders came up with the concept of a fund for salmon conservation, research, management, enhancement, and habitat restoration. Such a fund could bridge the gap between the two countries on the intent of the "equity" principle.

• **A settlement may involve a reduction in fishing capacity.** During the southern stakeholder negotiations, consideration was given to a permanent reduction of part of the U.S. Fraser sockeye fishery, to be effectuated through a voluntary buy-out program. The stakeholders deemed such a reduction necessary in order to achieve an overall arrangement in which Canada would make a long-term commitment to reduce its WCVI coho harvests.

• **A solution must resolve the dispute about Treaty principles for a substantial period of time.** For the last five years, the parties have lurched from one crisis to another. If painful changes are to be made in fisheries, and if significant contributions are requested from Federal and/or state treasuries, the solution must be long term and it must fully resolve the dispute during that term. The stakeholders were considering fisheries arrangements that could extend for approximately ten years.

The stakeholder process is well suited to address all of these components. That is the principal reason I have such a strong belief that the stakeholder process is our best chance for a lasting solution.

On the other hand, if the stakeholder process fails, that does not bode well for the future of the Pacific Salmon Treaty. At that point, many in the United States would be likely to recommend that a hard look be taken at whether there is any real reason for the United States to remain a party to the Treaty. Termination of any treaty is a major step and one that should only be taken after a thorough assessment of pros and cons, including consultation with the Congress, the governors, the treaty tribes, and all other interested parties. However, if the stakeholder talks cannot be restarted or if they end in failure, many may recommend that consideration be given to that option. We hope that does not occur. We will do whatever we can to help the renewed stakeholder talks succeed.

Thank you, Mr. Chairman. I would be happy to answer any questions.

STATEMENT OF MARY BETH WEST, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS, SCIENCE AND TECHNOLOGY

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to be here today to discuss Pacific salmon. As you know, we have been working hard on this issue during the past year, and I am pleased to be able to discuss the stakeholders process that has been instituted to attempt to resolve U.S.-Canadian differences concerning the interpretation and application of the 1985 Pacific Salmon Treaty.

As you are aware, the U.S. and Canada have asked two distinguished individuals—former EPA Administrator William Ruckelshaus for the U.S. and former B.C. University President Dr. David W. Strangway for Canada—to assess how the stakeholders talks can best be continued and to attempt to reinvigorate that process. These eminent persons are now meeting with the stakeholders, state officials, and with interested Members of Congress to further their mandate. Because this process is ongoing and may lead to further negotiations, I will not be able to discuss the

specifics of the negotiations in this hearing. However, we have offered—and offer here again—to provide further confidential briefings if any of the members so wish. In addition, because there is now litigation concerning this issue, there may be areas of discussion we will not be able to pursue.

As we have addressed Pacific salmon issues during the year, we have attempted to keep in close communication with the Subcommittee and its staff. We sincerely appreciate the assistance and responsiveness of members and staff as we have posed questions and ideas. We have also worked very closely with the Governors' offices and fisheries representatives of the states and Treaty Indian tribes involved with Pacific salmon, and with the U.S. Pacific Salmon Commissioners. We certainly hope and anticipate that these cooperative relationships will continue as we continue to grapple with this issue.

Mr. Pipkin has already described in general the nature of our dispute with Canada and the attempts to resolve it during the past several years. I will limit my remarks, in particular, to the stakeholders process.

When I came to my current position in the Bureau of Oceans, and International Environmental and Scientific Affairs (OES) slightly less than a year ago, two sets of discussions on Pacific salmon were ongoing. First, the governors of Alaska, Washington and Oregon had made a proposal, arising out of the Sitka Summit, for a stakeholders process in which persons directly involved in the fishery would be engaged in an attempt to resolve the Pacific salmon issue. This proposal also received support from Congressional representatives.

The concept of involving the real constituents—those with the greatest stake in achieving a workable fishery—was an idea that had surfaced before. This seemed a favorable time to look at it seriously. The idea made particular sense because the major stumbling block in past negotiations with Canada had been the strongly-held, almost theological positions of the two governments concerning the interpretation of the "equity" principle in Article III of the Treaty. We hoped that the stakeholders would be able to put aside those differences, concentrating instead on pragmatic, fisheries-related solutions, and opening the possibility of fisheries-based solutions that could be implemented through modifications to the Annexes that originally went into affect under the Treaty.

Second, government-to-government discussions were ongoing between the Assistant Secretary of State and the Canadian Special Representative concerning methods to resolve the impasse.

It soon became clear that these parallel tracks should be combined into a proposal for a process. Working with the PSC Commissioners, state and tribal representatives and Hill staff, we developed and presented to Canada a proposal for a stakeholders process overseen by the governments. Canada was willing to agree to such a proposal, but only if any issues not resolved by the stakeholders would go to government-to-government negotiations.

The two governments agreed that as part of a renewed commitment to resolve disputes concerning Pacific salmon, they would ask two groups of stakeholders to review individual fisheries and make recommendations to the chief negotiators. One stakeholder group was to look at northern boundary fisheries, and the other group was to review southern fisheries, starting with the fisheries in which sockeye and coho are harvested.

It was agreed that each group was to be charged to develop pragmatic recommendations for each fishery that would implement the principles of Article III of the Treaty—conservation and equity. It was also agreed that if the stakeholder groups had made sufficient progress, the governments might ask them to consider other matters.

The governments further agreed to give the stakeholder groups considerable flexibility. Each stakeholder group was to decide how to organize its efforts, including the selection of co-chairs if deemed desirable. The governments were to supply information, expertise, or other assistance.

On the U.S. side, stakeholders were chosen by the States and tribes, with the concurrence of the U.S. Pacific Salmon Commissioners. Eight representatives were chosen for each group. The two governments also selected government observers for each group.

The governments' chief negotiators—Yves Fortier on behalf of Canada and myself on behalf of the U.S.—first met with the newly appointed stakeholder groups in Portland the week of February 10 to formally give them their assignments. On subsequent occasions, Mr. Fortier and I held discussions to assess whether progress was being made, whether changes should be made in the charge to the stakeholder groups or the process being followed, and whether 1997 fishing regimes would be covered by the process already engaged, or whether they should be negotiated separately, and if so, when and how. The negotiators took a "reality check" on March

15 and determined that sufficient progress was being made to continue the process, but that it was too early to tell if the process could address 1997 fisheries regimes. The Canadians, however, insisted on setting an ending date for the stakeholders talks. Because the stakeholders' work did, in fact, need to be completed prior to the fishing season, we agreed with Canada to an ending date of May 9.

The U.S. stakeholders met internally and with their Canadian counterparts a number of times between February 10 and May 9. U.S. stakeholders presented to their Canadian counterparts creative and far-reaching proposals. These proposals, in fact, involved more potential sacrifice than the government representatives would have predicted, and they appeared to form a promising basis for potential solutions.

By May 9, the northern stakeholders had made significant progress but had not yet finished their work. However, because many of the northern stakeholders on both the U.S. and Canadian sides began fishing for halibut in mid-May, followed immediately by the advent of the salmon fishing season, scheduling further meetings after May 9 proved an insurmountable difficulty.

The southern stakeholder group defined proposals on sockeye and coho, and made progress in narrowing the differences on the sockeye fishery. One of the proposals of the group would involve a reduction in the U.S. non-tribal commercial sockeye fishery through a voluntary buy-out of 40 percent of that fishery, creating an overall reduction of 20 percent for the U.S. fishery. Because such a program would necessarily involve state and Federal funding, the stakeholders and U.S. Government representatives held initial consultations with the State of Washington and with Congressional staff concerning this matter. While those consultations revealed differing Congressional views, the general consensus was that funding of a buy-back might be possible in the context of an overall deal that is good for the U.S. and the fishery. Thus, the stakeholders went forward to discuss the proposal with their Canadian counterparts, making it clearly subject to Congressional appropriation action.

By May 9, the southern stakeholders felt that they had reached the end of their ability to negotiate as a stakeholder group, and reported this fact to the governments. Subsequently, the governments undertook negotiations concerning the sockeye and coho fisheries.

As you know, the governments were ultimately not able to achieve agreement on these issues. Although progress was made in narrowing the gap on sockeye, we were, in the end, unable to achieve agreement on either fishery. In particular, we were unable to get Canada to propose or to agree to consider a regime for the coho fishery which met what our science showed to be the minimum necessary standards for long-term conservation and rebuilding of the stocks harvested by that fishery while allowing for reasonable fisheries in both countries. Because conservation of coho was one of our major objectives, we did not see the possibility for an agreement.

In addition, it was not possible at that late date to deal with 1997 fisheries regimes. Although Canada attempted to put those regimes—including a regime for chinook—on the table, agreement on such regimes would not have been possible in the time frame before the commencement of the fishing season. Therefore, the U.S. proposed that the two sides agree on a framework for future talks addressing chinook and that we agree to exercise coordinated management on the other stocks for 1997—similar to the arrangements that had been in effect in 1996.

During the government-to-government talks, the two sides began to look at the type of framework that might exist for an ultimate arrangement bridging our differences on equity. It appeared that such an overall agreement would involve specific fisheries regimes establishing conservation and allocation systems for the fisheries at issue for a relatively long time period, such as, perhaps ten years. In order to resolve the equity issue, however, any overall arrangement would likely also need to involve another component such as the creation of a salmon resource fund. Such a fund would involve contributions by the United States—and perhaps by other public or private bodies—into a fund to be used for salmon conservation, management, research, enhancement and habitat restoration—likely both in Canada and the United States. We have yet to decide from where such funding would come, but it would have to be accomplished consistent with the Balanced Budget Act of 1997. We have discussed the concept of a fund with many of you and your staffs. Our view—and Congress' view—of such a fund will, of course, depend on the nature of the overall solution, and whether it is viewed as good for the U.S. and good for the resource. We will continue to work closely with you and your staffs on this issue.

Finally, let me speak briefly to the question of the problems that occurred in the stakeholders process this spring. I cannot be definitive, because this is the very issue we have asked Messrs. Ruckelshaus and Strangway to assess. However, let me make two general points. First, there appeared to be considerable difference in the

way the U.S. and Canada saw the stakeholders process and in commitment of the two sides to it. The U.S. viewed, and continues to view, the stakeholders process as the best opportunity to achieve a resolution. Canada, on the other hand, appeared to view the government-to-government negotiations as the real forum for resolution. The differences in these two viewpoints meant that the stakeholders were working from different points of reference. That difference will have to be resolved if we are to proceed productively.

Second, as I am sure we are all aware, Pacific salmon is a large and extremely complex subject, involving numerous fisheries and issues. In attempting to find a resolution, we are plagued by the need to put together the pieces of a puzzle that has many interrelated parts. Bringing all the issues to the table and finding solutions that can be crafted and implemented rationally and in a reasonable time frame has proved to be—and will continue to be—extraordinarily difficult. We have no illusions about the difficulty. But we believe we must try.

I believe we must try, in particular, because we do not see any other really viable alternatives at this point. We have said publicly on numerous occasions that in view of the many processes we have tried, the stakeholders process appears to be, perhaps, the only remaining viable possibility of finding a way to bridge U.S. and Canadian differences under the Pacific Salmon Treaty. If we are not successful, then many may urge that we begin consultations with Congress and with the states and tribes to determine whether the Treaty is still useful. That is a decision I hope we do not have to face, and it is why the State Department intends to give the stakeholders process our full support in attempting to find a resolution.

Thank you, Mr. Chairman. I would be pleased to respond to questions

STATEMENT OF JEV SHELTON, ALTERNATE COMMISSIONER FOR ALASKA PACIFIC
SALMON COMMISSION

Mr. Chairman:

My name is Jev Shelton. I own and operate the fishing vessel "Kirsten Anna" in southeast Alaska where I have fished for the past 26 years. I am honored and pleased to have the opportunity to submit testimony to the Committee on the topic of the Pacific Salmon Treaty (PST). As Alaska's alternate Commissioner in the Pacific Salmon Commission (PSC) and as a commercial fisherman, this Treaty at this time is to me a critical and most difficult subject. As issues surrounding the Treaty have evolved recently, review by this Committee is most appropriate and timely.

I have been involved in negotiations with Canada regarding Pacific salmon since 1974, some 11 years prior to the conclusion of the PST. Subsequently, I have served on the U.S. Northern Panel of the PSC and for the past four years as Alaska's alternate Commissioner. With that background I would like, for perspective, to begin with some observations on the earlier stages of this Treaty and its negotiation.

PST Principles

The PST typically is described, undoubtedly too simplistically, as founded on two principles. Conservation of the salmon resource in which both nations have long-standing interests was an obvious objective. Rather than being merely another motherhood and apple pie platitude, however, conservation issues were at the time of signing the PST particularly relevant. The immediate pre-Treaty years were a period of short-term depression of most northern salmon stocks and of acceleration in the more chronic decline especially of some southern chinook and coho salmon populations. The latter was due in large part to substantial loss of critical freshwater habitat from dam construction and other development. This trend was exacerbated by Canadian fishery policy, instituted in the late 1970's and early 1980's, to increase harvests of chinook and coho stocks bound for spawning areas in the U.S. without regard for the conservation consequences to those salmon populations. This action was designed to pressure the U.S. into a treaty arrangement with provisions more favorable to Canada.

The second principle, optimistically and unrealistically referenced as "equity", was historically the focus of fundamental disagreement between the U.S. and Canada. It remains the primary source of Treaty-related conflict to this day. In the abstract, the proposition that each nation should derive benefits equivalent to the production of salmon originating in its waters seems reasonable and practical enough. However, for fish with life cycles as complex as those of the salmon species, their respective myriad stocks mixing and depending upon life stages spent and resources consumed in the waters of both countries, determining an agreed basis for equitable sharing of harvests of salmon is not at all simple or straightforward. This complexity was captured at least in part in Article III as a listing of factors to be taken

into consideration in reaching agreed allocations. The desirability of reducing interceptions and of maintaining traditional fisheries as well as the need to account for the substantial fluctuations in annual abundance of salmon outline the extraordinarily intricate situation that surrounds negotiating fair sharing of salmon harvests.

Taken in the abstract, limiting interceptions and maintaining traditional fisheries were incompatible, almost mutually exclusive. This polarity captured the different national perspectives on the desired basis for determining overall harvest allocations. In the view of the U.S., resolution of the conflicting perspectives could be achieved only in the context of concrete fishery negotiations. In the detailed negotiation of specific fishery arrangements, each side brought to bear all of the considerations it deemed to be of importance in a lengthy process of give and take. The practical expression of fair sharing, or equity, had to be what the respective sides could agree was proper and responsible conduct of each specific fishery. This is what was accomplished in the 1985 Treaty agreement, a document that in its specific fishery agreements clearly was accepted as fair and equitable to both sides.

Certainly to Alaska, the acceptability of the PST in 1985 was based on the practical expression of the Treaty provisions in the individual fisheries incorporated under annex. Those agreed arrangements confirmed the meaning of the Treaty text. The U.S., and again certainly Alaska, did not agree to a document that could later be manipulated by Canada to restructure or destroy traditional American fisheries.

1985 PST Fishery Negotiations

In the immediate pre-treaty period, Canada argued aggressively to curtail various U.S. fisheries that it maintained were adversely affecting Canadian interests. Canada focused primarily on the State of Washington fisheries for Fraser River sockeye salmon. Canada also initiated an aggressive fishing policy on stocks of importance to various U.S. fisheries. This involved both intensifying fishing effort in established fisheries, such as the troll fishery for chinook and coho salmon off Vancouver Island and the net fisheries along the Alaska boundary in Dixon Entrance, and by initiating new fisheries, such as the troll and net fisheries for Fraser River sockeye salmon outside the existing Convention area and fisheries in the transboundary rivers and in the western section of Dixon Entrance. These Canadian actions did influence the ultimately agreed fishery arrangements to Canada's advantage.

The protracted negotiations leading up to the PST in 1985 involved very serious compromises and adjustments to U.S. fisheries. Alaskan fishermen paid a significant price for their inclusion in the final agreements. Substantial reductions in several long-standing fisheries were negotiated. A loss of more than 20 percent of its previous average annual harvest of chinook salmon was imposed on the Alaska troll fishery as part of the coastwide chinook rebuilding program. The District 104 (Noyes Island) purse seine fishery was restricted to an average numerical ceiling of sockeye salmon during the initial three or four weeks of the season, a limit that has resulted in foregoing the harvest of an estimated 66 million salmon by that fleet during the period 1985-1996. The vast majority (roughly 90 percent) of that foregone catch was destined for spawning streams in southeast Alaska. Alaska's drift gillnet fleets off the transboundary Taku River and Stikine River lost 15 percent and 35 percent respectively of the annual sockeye salmon catches to new inriver Canadian fisheries. Additionally, the Canadian net and troll fisheries along Alaska's boundary in Dixon Entrance were allocated harvest levels substantially greater than any observed historically.

It is necessary to note that commercial fisheries are the backbone of the economy in southeast Alaska. The fishing industry is the largest employer in the region and, in many of the small, remote communities, it is virtually the only source of economic activity. To all residents of this region, alternative employment opportunities are scarce or non-existent. Thus, the sacrifices made in Alaska's fisheries in order to accomplish Treaty agreement were and are deeply felt and economically very significant. They were agreed, however, in the belief that Treaty-governed fishery stability and cooperation with Alaska's Canadian counterparts were necessary in the longer term to optimize production of the shared salmon resource and thus worth the costs.

Conservation Issues and Actions

Contrary to Canadian rhetoric in the public media, Canada and the U.S. have established very different track records on salmon conservation issues while the PST has been in force. As a general matter Canada has continued the pattern established in pre-Treaty years, choosing to ignore or even aggressively to exacerbate specific salmon stock concerns identified by the U.S. This outrageous behavior has, in fact, been increasingly typical, not an isolated incident, and is part of Canada's attempts to force acceptance of its perspective on "equity". Former Ambassador David

Colson took Canada to task on this issue in a 1994 letter to his Canadian counterpart, Yves Fortier.

"Canada's insistence on its (equity) point of view has been the direct cause of the inability of the Pacific Salmon Commission to address in any reasonable and mature way coho and chinook stock conservation problems associated with U.S.-origin stocks in Canada's sport and commercial fisheries off the West Coast of Vancouver Island. Since the beginning, Canada has refused to address those problems unless the United States promised to reduce its catches in totally different fisheries, in different regions, on different stocks of fish, and where there has been no call for cut-backs for conservation reasons."

"Canada's attitude stands in marked contrast to that shared by, I believe, all U.S. constituents. I simply can not imagine the United States government, or one of our constituent groups, refusing to cooperate to address a stock conservation problem."

It is noteworthy that later in 1994 Canada pursued its "Tobin doctrine", overtly attempting to maximize disruption to U.S. fisheries and fish stocks. The primary consequence of those actions was substantial damage to coho and sockeye salmon stocks returning to streams in British Columbia, but coho salmon returning to Washington waters also were impacted negatively. A somewhat similar "Canada first" policy is being employed in the current fishing season.

Canada, especially in the most recent two or three years, has grossly overstated or misrepresented stock conservation circumstances in Canada. Specifically, in 1996 and 1997 Canada has exaggerated claims of severe depression of wild chinook salmon on Vancouver Island. Available data simply does not support those claims. Returns to one major hatchery have been suppressed for two years, but other hatchery returns and, most critically, wild chinook runs to the area have been stable or even increasing during this period. In fact, Canada has just announced the opening of another directed commercial fishery on those chinook stocks beginning this month. Yet for the past two years Canada has mounted a major public relations effort to castigate Alaska for fishing inappropriately in the face of looming stock extinctions, not just poor returns. Canada cynically is crying "Wolf". These assertions are nothing more than partisan Canadian hype, whether for internal Canadian political purposes or for leverage in American public opinion, but they do create the difficulty of casting doubt on the veracity even of Canadian-generated technical information.

Canadian representatives also have demanded curtailment or closure of U.S. fisheries while failing to take comparable action in Canadian fisheries harvesting the same stocks, for example, fisheries harvesting Nass River sockeye salmon in 1997. Somewhat similar circumstances surround what Canada terms early Skeena River coho salmon. Repeated claims have been made in recent years that various Alaskan fisheries are overharvesting that population. However, despite intense inquiry by Alaska, Canada has provided virtually no data on coho stock status, Alaskan fisheries that might take those coho have been substantially curtailed compared to pre-Treaty years, and Canadian fisheries have been intensified greatly to harvest enhanced Skeena River sockeye salmon with which those coho must migrate.

Clearly Canada has not made good on its Treaty obligation to cooperate in conservation of the shared salmon resource. Rather, its use of the stock conservation issue within the PSC and in the broader public arenas rendered the term "conservation" effectively meaningless. Similarly, Canadian claims of American "overfishing" refer only to harvests in U.S. fisheries that are larger than Canadian political officials would like, not at all to harvest levels that are biologically unjustifiable. Canada now employs this set of issues only as another tool in the political effort to achieve its aim of reallocating harvests into Canadian fisheries.

The American record on salmon conservation actions stands in stark contrast to that of Canada. Numerous examples of fishery adjustments or closures in order to facilitate reaching biological escapement goals, including for stocks returning to Canadian rivers, are on record both in Alaska and in Washington. Notably, in 1994 the U.S. terminated its fisheries on Fraser River sockeye at the conclusion of the "Tobin doctrine" debacle. Although significant numbers of those sockeye salmon for the first time in that season were available to U.S. fishermen who had been denied any appreciable harvest allocation, Canadian overfishing had so decimated the return that its future was seriously threatened. In this case, American fishermen bore virtually the entire conservation burden for a return to a river in Canada, a salmon run the harvest of which Canadian policy explicitly is attempting to minimize or deny in U.S. fisheries. The restraint demonstrated in requiring conservation objectives to override allocation concerns highlights the completely opposite priorities governing American and Canadian behavior in this Treaty.

In Alaska, where salmon runs generally are very healthy, the State management agency always has responded with fishery restrictions in response to indications of

poor returns to Canada of stocks that can be identified in Alaskan fisheries. For example, the District 101 (Tree Point) drift gillnet fishery and even the Noyes Island purse seine fishery have been restricted in time and/or area in at least 9 of the 13 years of the Treaty in order to facilitate obtaining escapement objectives for Nass River sockeye salmon. In Alaska's abundance-driven fishery management system, such restrictions are an ordinary, accepted occurrence in all fisheries whenever stock abundance is low from whatever cause. Much of Alaska's success in maintaining consistently healthy salmon populations undoubtedly is due to the commitment to place the biological status of the resource as the first priority. No real distinction is to be drawn in Alaska for stocks that happen to spawn in Canada as long as appropriate reciprocal action is taken to protect those populations by Canadian fishery managers.

Beyond specific stock considerations, the U.S., at Alaska's instigation, has moved to place all negotiated Treaty fishery arrangements onto a basis that is more consistent with long-term salmon conservation needs. Primarily at Canada's insistence, most fishery annex arrangements under the PST have involved set annual ceilings, or quotas. Such a system fits with the Canadian fixation on balancing interceptions numerically, but it is not compatible with the nature of the salmon resource, given the large annual fluctuations in abundance, or with rational fishery management strategies. In fact, numerical ceilings are certain ultimately to produce entitlements that are above sustainable levels. This already has occurred in both the chinook and coho salmon fisheries off Vancouver Island.

Although Canada has yet fully to concur, the U.S. has committed to placing all Treaty fishery arrangements on an appropriate abundance-driven basis. This means sharing an, harvestable surplus proportionally such that systematic overharvest does not occur and that each country shares both the benefits of large returns and the obligation to insure the long-term health of the resource through necessary fishery restrictions when abundance is low. After all, one feature of real fishery equity must be appropriate sharing of the burden of sustaining the resource. It cannot only refer to the benefits in the division of the catch.

Canadian "Equity" Dogma in the PST Impasse

Although the initial several years under the PST passed relatively smoothly, it was evident even early on that Canada's objective was to accomplish a significant reduction or restructuring of traditional U.S. fisheries in Alaska as well as those directed at Fraser River sockeye salmon in Washington. Canada's simplistic view of "equity" as a national balancing of the value of interceptions was the primary factor underlying their drive to impact U.S. fisheries. Rather than embarking on a cooperative effort to enhance a shared salmon resource, and thus also the viability of the traditional fisheries in both nations, Canada increasingly has narrowed its focus on PST issues to an effort to benefit only Canadian interests at the expense of U.S., particularly Alaskan fisheries. A Treaty that, to be successful, needed to generate practical, mutually acceptable, and stable fishery arrangements has instead become the platform for Canadian ideological assaults on U.S. fisheries as well as overtly aggressive fishery actions and now rhetoric and action that is no longer confined to the fishery realm.

Canada steadfastly maintains that it is systematically and substantially disadvantaged in the harvests of Pacific salmon. This is a position that follows from Canada's peculiar, I would say preposterous, view of what constitutes fishery equity. Theirs is a point of view that, as Ambassador Colson noted, the United States did not accept during Treaty negotiations, in the Treaty text, or since. It is worth reviewing briefly the Canadian position on "equity" and noting at least some objections to that position that are of most significance to Alaska.

Canada asserts gratuitously that any salmon spawned in Canada belongs fully to Canada wherever it migrates in its complex life cycle. If a Canadian-spawned salmon is caught in any U.S. fishery, its value is to be calculated as debt owing Canada. Fishery equity, then, is simply an equivalence in the value of salmon "intercepted" in the two nations after all of the fisheries coastwide are accounted together. Whenever an imbalance of the value of "interceptions" exists, an obligation is incurred by the advantaged party. In Canada's view, that obligation should be satisfied by adjusting fisheries, either to decrease "interceptions" in the fisheries of the advantaged country or to increase those in the disadvantaged nation. Canada claims that no other considerations bear on fishery equity in the PST and that their view must form the basis for any long-term resolution of the issue. This highly contentious proposition has sharply divided the U.S. and Canada for over 30 years and that division arguably has been the sole cause of the degeneration in the functioning of the PST, including the failure to reach resolution in the recent stakeholder process.

To the United States, and especially to Alaska, the Canadian equity viewpoint is and always has been completely unacceptable. The issue was not resolved in the agreed Treaty text, as clearly stated by Ambassador Colson and noted above. Rather, all who participated in the Treaty negotiations understood clearly that the wording in Article III did not accomplish an agreement on a theoretical level. Subsequently, the U.S. Section of the PST has made a number of attempts to demonstrate to Canada that the Canadian approach to fishery equity is neither equitable nor workable and has suggested various alternative formulations. In particular, the U.S. argued that a theoretical solution was not necessary and that finding ways to cooperate in achieving each nation's goals and objectives for its salmon fisheries was both practical and a far more productive use of the human resources committed into the PST. In recent years, the U.S. has elaborated a proposal for accomplishing agreed proportional sharing within each of the relevant fisheries as an equitable and practical basis for implementing the Treaty. Canada has refused to consider all suggested approaches.

The problems posed by the position on which Canada is so insistent are sufficiently fundamental and pervasive that ultimate U.S. acceptance is out of the question. A sample of the reasons for this assessment follows.

Canada refuses to accept that all of the considerations included in Article III of the PST must have a meaningful bearing in generating equitable Treaty arrangements. Specifically, continuation of traditional fisheries and, most critically, taking into account the very substantial variations in annual abundance of salmon as essential elements in any agreed scheme of fair sharing in the PST are simply dismissed by Canada. They demand that only their peculiar view regarding "interceptions" be treated as relevant to a settlement of standing with regard to fishery equity.

The Canadian position ignores most of the biological and economic realities of the salmon resource. It is simply capricious to insist that full ownership of salmon is conferred by the location of spawning. For the stocks in question in the PST, most of the life cycle of salmon spawned in Canada is spent in U.S. marine waters where they gain all of their economic value. It takes the ocean, indeed the U.S. ocean in this case, to produce a salmon. Their very survival is dependent on this residence and while in U.S., and Alaskan, waters they consume important and valuable American marine resources at substantial cost to U.S. interests. These salmon are truly a shared resource to which both nations make necessary contributions and in which both nations have legitimate long-term interests. Demanding all of the benefits from stocks that happen to be spawned in Canada does not square with the respective costs and responsibilities involved in their production and certainly not with the basis for the U.S. entering the Treaty agreement in the first place.

Balancing the value of interceptions is simply a numerical accounting exercise. As such it is inherently inconsistent with the biological functioning of the salmon resource and its rational management, especially when applied across the vast areas and very different stock conditions encompassed by the PST. Application of such an approach to fisheries coastwide inevitably will generate fishery limits not keyed to the status of the resource. By creating obligations that are unrelated to stock abundance on a fishery-by-fishery basis, Canada's proposed system will cause the loss of substantial harvestable surpluses in years of high abundance, particularly in fisheries that are keyed to local stocks not of concern to Canada. Even more seriously, it will lead to serious overfishing in years of poor returns under the guise of achieving an "equitable" balance of harvests. The latter is not at all a theoretical concern only. Canada has fished far beyond what was justified on a number of occasions, in their own words for the purpose of approaching their version of equity, both on the west coast of Vancouver Island where chronically depressed stocks of chinook and coho salmon have been damaged further and in Dixon Entrance in years of very poor returns of pink salmon to southern southeast Alaska. No method for determining fishery equity in the PST can be acceptable if it leads to sanctioning such abuses, if it more generally is incompatible with the essential variations in salmon abundance, or if it can be employed to drive unrelated fisheries without regard to the status of the stocks in those fisheries.

Implementation of Canada's approach to equity would unacceptably allow Canada to manipulate and control U.S. domestic fisheries in at least two ways. For reasons wholly unrelated to the strength of the resource, such as altering the allocation pattern among Canadian users, Canada may reduce or terminate traditional fisheries that harvested some salmon spawned in U.S. territory. Reallocating harvests into in-river First Nations fisheries is one ongoing example of such change in Canada. By thus reducing "interceptions", Canada's system

would force compensatory adjustment of unrelated U.S. fisheries even though no biological reason for such adjustment existed. Second, U.S. fisheries would be vulnerable to internal production decisions taken unilaterally in Canada. Large-scale hatchery or other enhancement projects in Canada can introduce massive numbers of salmon into Alaskan waters particularly where traditional fisheries harvest primarily domestic stocks. By saturating, or "flooding", a fishery in this manner, Canada could force significant restructuring of those fisheries. This would amount to Canada being able to treat Alaska as a subordinate colony, required to sacrifice its resources for the development of a valuable commodity for Canada and at the same time required to disrupt its local economy in order not to interfere with Canada maximizing its benefits from that artificially enhanced resource. This latter circumstance already is a matter of practical concern as Canadian enhanced production of both chinook and sockeye salmon have significantly altered the species and stock composition of long-standing Alaskan fisheries that are now primary targets in Canada's public relations assault on Alaskan salmon harvests.

Finally, but by no means exhausting the list of criticisms of Canada's equity dogma, Canada has used their theory as an excuse to justify whatever fishery actions they deem to be in their interest. By simply maintaining that they perceive themselves to be disadvantaged in the balance of interceptions, Canada has prosecuted fisheries in circumstances where conservation of the stocks involved obviously was jeopardized. Examples of such behavior occurring off the west coast of Vancouver Island and in Dixon Entrance have been noted above. Canada also has fished substantially outside any reasonable interpretation of the limitations stipulated in agreed fishery annex arrangements, as in their Area 3 net fisheries where their annual catches have averaged more than twice the agreed limit. They simply shrug off any criticism of those actions by claiming that these are "equity fisheries". Canada thus uses its unilateral view of equity as a self-serving tool that, in its estimation, overrides all other Treaty obligations. The U.S. clearly cannot continue to condone such Canadian behavior or the attitude and theory that underlie it.

Settlement of the fishery equity issue wholly on their terms has become the Canadian prerequisite for substantive talks on any practical fishery issue of concern to the U.S. for the past four years. This was true initially within the PSC, subsequently in a series of less public government-to-government settings, and most recently in the stakeholders process. As Canada has become more strident and more entrenched in its ideological position, the PSC has been rendered wholly ineffective and Canadian actions dangerous to the well-being of the salmon have increased. The U.S. is fully justified, rather is obliged, not to capitulate to the Canadian demands, both due to the lack of merit in Canada's equity argument and to the totally unacceptable actions that Canada is willing to take in its name.

Stakeholders Process and Its Future

Others will submit testimony to the Committee regarding the events and details surrounding the stakeholder discussions conducted earlier this year. I will not attempt to cover that material except for a few brief observations on that process and the possibility of its continuation.

In retrospect it is apparent that this year's stakeholders discussions took place with incompatible expectations prevailing on the two sides. Both northern and southern groups on the U.S. side were prepared fully to negotiate all aspects of the fishery issues in their regions. Had they succeeded in reaching agreement with their Canadian counterparts, it was clear that those negotiated terms would indeed have been approved for implementation by all in the U.S. Canada, however, gave no such authority or latitude to its stakeholders, requiring them to meet daily with their national section leaders "for instructions" and assuming throughout that those discussions were only a preliminary to government-to-government negotiations where all decisions would be taken.

In the discussions themselves, both U.S. groups made sincere attempts to find the way to acceptable specific fishery arrangements. In doing so, dramatic and far reaching concessions were offered to Canada in both the Washington sockeye and Alaskan Noyes Island fisheries, the two American fisheries of most sensitivity to Canada. All on the U.S. side were impressed by the extent of the sacrifices offered in the attempt to move sufficiently toward Canadian positions to make agreement possible. These U.S. offers went well beyond any previously made in Treaty-related negotiations. Canadian stakeholders offered little new that was of substance and, at least in the north, avoided any substantive discussion of Canadian fisheries. The northern Canadian stakeholders were candid from the beginning that they viewed the purpose of the discussions only to be the transfer of more fish from Alaskan into

Canadian fisheries. Clearly they were authorized only to get what commitments that they could from Alaska and not to offer substance in return. These were not negotiations. When the respective discussions ended over Canadian equity demands in the north and Canadian refusal to be responsive to a serious U.S. conservation proposal without even greater equity compensation in the south, both U.S. stakeholder groups were fully justified to feel unfairly used.

Canadian officials obviously never took the stakeholder process seriously. It remains unclear whether Canada ever would empower such a group to negotiate their own interests in a manner that would, as a practical, political matter, obligate Canada to accept the outcome. If further stakeholder negotiations are to be scheduled, this issue certainly needs to be clarified.

United States officials failed to insure that the two countries' stakeholder groups were on equal footing when the discussions were initiated. By committing to Canada that subsequent government-to-government negotiations were in the offing to deal with equity issues and any specific fishery matters not resolved by the stakeholders, Canada was presented with yet another opportunity for two bites of the apple. This simply continued the pattern that has surrounded the PST in recent years where all incentive was removed from the Canadians to reach agreements in that forum because they had available a less technically restrictive and, in their estimation, more politically advantageous route available in higher levels of the governments.

This Treaty is in very serious trouble. Its Commission is hardly functioning. Repeated government-to-government efforts have failed to break the stalemate. The initial stakeholder process came to nothing. I must say that, in the present climate, I am most skeptical that a further stakeholder process can be established that will generate a reasonable opportunity to reach bilateral agreement. Nonetheless, it may well be worth another attempt at establishing stakeholder discussions that truly are negotiations as long as a set of necessary conditions are met.

Canada needs to be put on notice, and to accept, that binding negotiations of Treaty fishery arrangements will occur within the stakeholders groups only. Any unresolved issues could be passed only to the PST for additional work.

This process should be put to Canada as the final chance to salvage the PST. Failure of the stakeholders to find acceptable common ground should lead to termination of the Treaty agreement. Canada must be given no reason to believe that it can return to discussion between the governments on these issues.

No unreasonable time restrictions should be placed on the stakeholders' efforts. It will at the least take some time to overcome the tensions and ill-will that currently dominate the atmosphere around these fisheries.

Negotiations should continue on the basis of separate northern and southern regions. Dealing with the set of fisheries with which the stakeholders are directly familiar should be a manageable task. Only confusion and pressure for unacceptable trading of fishery interests across regions could result from recombining into a coastwide forum.

In conclusion, Canada has made a mockery and a travesty of the PST. They have turned a practical arrangement that held promise for long-term benefits for all in the north Pacific region into a contentious, polarizing political circus. Their narrow and overzealous insistence on a wholly inequitable implementation of the Treaty plays well in Canadian internal politics, but the accompanying Canadian actions have only negative effects on the salmon resource and on the working relationships of those who manage or utilize the salmon resource. The real frustration now is not so much that many talented people's time and efforts have been wasted to date but that this Treaty at present is arguably the cause of significant damage to certain salmon stocks and to the working people who depend on them. It also now is perceived as an irrational threat to the continued viability of a number of traditional fisheries that are responsibly managed and economically critical in their region. That these effects are ongoing creates the urgency to begin a stakeholder process that is structured such that it might succeed or to proceed to terminate the Treaty. Time is not a passive element if present conditions are permitted to continue.

What is needed now is a clear and unequivocal message to Canada that increased Canadian flexibility and good-faith negotiations among participants who are immediately knowledgeable about the fisheries are required if the Treaty is to be salvaged. Failing an honest Canadian commitment to negotiations at that level, there seems little wisdom in continuing the charade of this Treaty. I do not suggest withdrawal from the PST lightly.

However, if the PST serves only to provide a pretext for Canadian political posturing and policies that ultimately damage the salmon resource, then regrettably its termination is in the best interests of both U.S. and Canadian citizens who depend on the well-being of those salmon.

Thank you for the opportunity to offer some of my thoughts to the Committee. I would be happy to respond to questions that Committee members might have.

STATEMENT OF DAVID BENTON, CHAIRMAN, U.S. SECTION-PACIFIC SALMON
COMMISSION, DEPUTY COMMISSIONER-ALASKA DEPT. OF FISH AND GAME

Thank you for the opportunity to appear before the House Subcommittee on Fisheries Conservation, Wildlife and Oceans regarding the Pacific Salmon Treaty, embodied in U.S. Public Law 99-5 and adopted by the 99th Congress on March 15, 1985. Following several decades of international meetings and negotiations, the United States and Canada signed the Pacific Salmon Treaty in March, 1985. An earlier draft treaty, presented to the two governments by the respective negotiators in 1982, was not ratified by the United States due to opposition by Alaska and several Pacific Northwest fishery groups. Alaska supported ratification of the 1985 Treaty after some of the controversial provisions in the 1982 draft treaty were amended. While supporting ratification, Alaska's delegation to the negotiations at that time was under no false illusion that the Treaty would provide only benefits. There would be some costs and these were recognized. The assessment was made, however, that potential treaty benefits would significantly outweigh the costs, especially in the long term.

Article III of the Treaty sets forth the Treaty's basic tenets. It states, in part, that each Party shall conduct its fisheries and enhancement programs so as to prevent overfishing, provide for optimum production, and provide for each Party to receive benefits equivalent to the production of salmon originating in its waters. In fulfilling these obligations the Parties shall take into account the desirability in most cases of reducing interceptions, the desirability in most cases of avoiding undue disruption of existing fisheries, and annual variations in the abundance of stocks. Clearly, these provisions were crafted as a package and no one provision can be isolated from the others. The various fishery arrangements, or "annexes", negotiated on an ongoing basis by the U.S. and Canada are intended to implement these provisions. The Pacific Salmon Commission is the forum established under the Treaty where these negotiations are to take place. The Treaty directs the two countries to "cooperate in management, research and enhancement" to achieve the goals outlined in the Treaty.

PACIFIC SALMON TREATY PRINCIPLES

The Treaty's general conservation principle is expressed in Article III, section 1(a): **"Prevent overfishing and provide for optimum production."** This principle is, of course, fundamental not only to the Pacific Salmon Treaty but to Alaska's fisheries management program, as well as those of Canada and the Pacific Northwest states.

The potential benefits of managing fisheries according to this principle are obvious, the costs of ignoring it, as has happened in some cases are also obvious. Management of Alaska's salmon fisheries, based on this principle which is also embodied in the state constitution, has greatly increased salmon runs and the harvests realized by Alaskan fishermen since statehood.

Certain salmon stocks from Canada and the United States intermingle in the domestic waters of both countries as they migrate and rear in marine coastal areas. As a result, salmon from one country are harvested by the other country's fishermen as they harvest salmon in their own country. Clearly, conservation is an obligation of both countries.

To the extent that the Treaty encouraged cooperative management arrangements between Canada and the U.S. that fostered the conservation principle, fishermen of both countries benefited. Prior to the Treaty, instances occurred where uncoordinated, and, in some cases, uncontrolled fisheries resulted in conservation problems which reduced potential harvests. As I will elaborate further, there are still instances where the conservation obligation has been compromised because of Canada's perspective on implementation of the so called "equity" provisions of the Treaty.

Because the Treaty directed the two countries to "cooperate in management, research and enhancement," Alaska expected to see the information bases required to manage salmon stocks for optimum yield increase and expand much faster than without a treaty. In some cases it would be impossible for either country to fully develop information bases for certain salmon stocks without the cooperation from the other country. The intent was for Alaska, the Pacific Northwest states, and treaty tribes to expand and improve their salmon management and research programs.

The Treaty's sharing principle is stated in Article III 1(b) "provide for each Party to receive benefits equivalent to the production of salmon originating in its waters," and elaborated upon further in Article III (3); "In fulfilling obligations pursuant to paragraph 1, the Parties shall take into account: (a) the desirability in most cases of reducing interceptions; (b) the desirability in most cases of avoiding the undue disruption of existing fisheries; and (c) annual variations in the abundance of the stocks."

This is the so called "equity" principle. On the surface, these provisions appear very reasonable, but in reality they have been the source of the most controversial issues for the Commission. Much of the problem is due to Canada's interpretation that Article III 1(b) supersedes all other provisions of Article III. Although information and interpretations on both salmon interceptions and "benefits equivalent to the production of salmon" is incomplete, and no bilaterally agreed approach exists to determine "benefits," Canada has mounted an ever-escalating campaign to force its view on how these provisions are interpreted and applied. Canada has initiated a pattern of fishing that has exacerbated conservation problems, and they have mounted a distorted public relations campaign, including acts of civil disobedience, in attempts to force the U.S. to accept Canada's interpretation of the Treaty. Canada's actions are not those of a country that is trying to reach an acceptable, negotiated resolution of the issues.

BENEFITS OF THE PACIFIC SALMON TREATY

Both Parties have received benefits from the Pacific Salmon Treaty. The Treaty established a set of fishery performance standards that have, in many instances, stabilized the fisheries coastwide and provided realistic expectations of fisheries for the industry on an annual basis. The Treaty has contributed to a substantial increase in some, but not all salmon populations. Significant exceptions include some southern chinook stocks and some southern coho stocks which have been adversely affected by aggressive fishing strategies in Canada, poor ocean survival, negative freshwater habitat impacts from upland activities, or some combination of all these. For many of these stocks, Canadian actions have been a significant factor in their decline.

The Treaty has permitted full utilization of the resource where surpluses have developed, while at the same time potentially limiting impacts on stocks of importance to the other Party. During the Treaty years, Alaska has managed its fisheries consistent with negotiated annex arrangements. Even in years when agreements were not reached, Alaska has managed consistent with previous annex arrangements or based on the abundance of our own salmon stocks. Those arrangements and management approaches have constrained the fisheries during periods where there is a significant presence of Canadian spawned salmon. In other words, we believe that Alaska has met its Treaty obligations.

Also, under the Treaty, bilateral sharing of data for all salmon stocks has become routine. The status of knowledge of major salmon stocks in Southeast Alaska and Northern British Columbia has increased significantly through the Commission's bilateral Northern Boundary and Transboundary River Technical Committees. Cooperative bilateral management of transboundary river fisheries (Taku and Stikine Rivers) in Southeast Alaska and Northern B.C. has resulted in significant increased harvests of sockeye salmon for both countries. A major component of this is the bilateral enhancement program, using Snettisham Hatchery in Southeast Alaska.

These efforts have moved the parties towards optimum production, a main objective of the Treaty. Southeast Alaska fishery managers routinely coordinate inseason with Canadian Department of Fisheries and Oceans (DFO) managers in Prince Rupert, B.C. and Whitehorse, Yukon Territory. This has led to greatly improved estimates of population levels inseason and the ability to adjust fisheries for agreed proportional sharing of the harvestable surplus. We believe that these examples show that cooperative management has worked in the past and can continue to work effectively in the future.

Chinook salmon is another area where recent progress has been made. In June, 1996, the U.S. Section of the PSC reached an historic agreement for Southeast Alaska chinook fisheries, the U.S. Letter of Agreement (LOA) for managing the SEAK chinook fishery. Instead of fixed ceilings, the approach establishes catch levels that fluctuate annually with the expected abundance of chinook salmon. Both conservation and fair sharing would be achieved by lowering harvests at reduced fish abundance and increasing harvests only when fish abundance increases. The abundance-based approach for Southeast Alaska chinook fisheries incorporates harvest rate reductions 30-45 percent BELOW the original treaty base period.

We believe that the LOA represents a major step forward in chinook conservation and management. In response to conservation concerns, the 1996 Southeast Alaska

harvest was reduced to 147,000 chinook, 44 percent below the catch ceiling established under the Treaty with Canada, and the lowest in 85 years. However, in 1997 abundance increased and harvest levels were imposed accordingly, with harvest reaching the 280,000 range. Most importantly, scientific work conducted this year resulted in significant improvements to the model used by the Chinook Technical Committee to measure abundance pre-season, as well as a new methodology to use inseason fishery performance data to more accurately measure abundance and adjust fisheries accordingly. The bilateral Chinook Technical Committee confirmed that this methodology gives the most accurate measure of chinook abundance.

CANADIAN BEHAVIOR IN TREATY NEGOTIATIONS

Canada has refused to actively negotiate in the Pacific Salmon Commission forum since 1993, seriously disrupting progress on critical conservation problems and cooperative resource management programs. Canada walked away from bilateral negotiations in the Chinook Work Group in 1993, and has refused to participate in this forum since. Canada refused to negotiate any fishery arrangements for the 1993 fishing season within the Pacific Salmon Commission. They demanded government-to-government, last minute arrangements, and the U.S. reluctantly complied because of conservation concerns for some salmon stocks. This same pattern of non-cooperation carried over into the 1994 negotiating cycle for the Pacific Salmon Commission. Canada once again inappropriately mixed conservation and allocation issues to get concessions associated with their perspective on "equity." Canada did not respond to a U.S. proposal for chinook salmon arrangements in 1994, and boycotted a treaty negotiation session scheduled in February, 1994. All of this over the "equity" allocation issue. After they boycotted the meetings, Canada implemented the infamous transit fee on American boats traveling through Canada to Alaska, an act clearly in violation of international law.

Canada's attitude towards conservation was clearly identified on June 9, 1994 when Fisheries Minister Brian Tobin announced that Canada would fish aggressively in order to "maximize disruption" to U.S. fisheries. Canada relentlessly pursued an aggressive fishing regime in its West Coast of Vancouver Island (WCVI) coho and chinook fisheries with the publicly stated purpose of increasing pressure on the U.S. to resolve the "equity" issue. Canada's aggressive fishing policy in WCVI and Georgia Straits fisheries came at the expense of its own chinook and coho stocks. In 1994, Canadian fishermen were encouraged by the Canadian government through Mr. Tobin to harvest as aggressively as possible, contributing to the "grab all" attitude in the Canadian commercial fleets. This strategy contributed significantly to the "disappearance" of over one million Fraser River sockeye salmon, and exacerbated conservation concerns for southern Canadian coho stocks. The Fraser River Public Review Board, established by Canada following the disastrous 1994 Fraser River sockeye salmon fisheries, made a determination that as a result of these actions, one more 12-hour commercial fish opening for the Canadian fleet could have virtually eliminated the late run of sockeye salmon into the Adams River.

THE 1997 NOYES ISLAND (ALASKA DISTRICT 104) PURSE SEINE FISHERY

This pattern has carried through to this day, and has led to the illegal ferry blockade in Prince Rupert and the aggressive "Canada First" strategy of Minister Anderson, which is reminiscent of Mr. Tobin's actions in 1994.

Canada claims that the events of this year have been caused in part by what they refer to as Alaskan overfishing of Nass and Skeena sockeye salmon early in the season (pre-week 31) in 1997. Let's set the record straight and put this fishery into perspective.

Overfishing in the Treaty means harvesting at levels that will adversely impact the parties ability to achieve escapement goals. It does not mean, as Canada now interprets, that the U.S. is harvesting more than Canada likes. What Canada fails to acknowledge is that there is no agreement between the two parties regarding early-season management of the Noyes Island fishery. The annex expired in 1993 and, since Canada chose to scuttle the Stakeholder negotiations in May, 1997 there was not any interim arrangement for the 1997 fishery. Alaska managed this fishery based on the *abundance* of pink salmon and the desire to spread the fleet out into other fishing districts in Southeast Alaska.

If the Alaska management intent was to maximize interceptions of sockeye salmon, the number of hours of fishing at Noyes Island would have been far higher. Allowing considerably more fishing time at Noyes Island would have maximized sockeye harvests without negatively affecting our domestic stocks. Instead, fishing time was restricted even though this meant that Alaska had to forego harvests of sizable pink and chum salmon runs.

Previous annex arrangements covered the early part of the fishery, referred to as the pre-week 31 period. In the 1997 pre-week 31 (July 27) period, 573,000 sockeye salmon were harvested at Noyes Island, with 386,557 being of Nass/Skeena origin. At the same time Alaska had caught 1.2 million pink and chum salmon. Canada's harvest of Nass/Skeena sockeye salmon for the same period was 1,842,000. About one out of every three sockeye caught at Noyes Island come from Alaska, not Canada. The pink and chum salmon are almost all Alaska spawned fish. The ratio of sockeye to pink in the Alaska fishery was lower than the 5-year average for this time period. For this year, keep in mind Alaska had 100 boats on the water in this fishery. They worked about 15 hours per week at Noyes Island. By contrast, 800 Canadian boats are participated in their nearby sockeye fishery, with 48 hours on and 24 hours off. If Alaska were redirecting its fishery to target on Canadian fish, these numbers would be far different.

Skeena sockeye usually comprise about 80-90 percent of the total Canadian Nass/Skeena return. Note that approximately 70 percent of the Skeena sockeye return is produced in man-made spawning channels. When the Canadians built these facilities they were well aware that some of these fish would return through traditional Alaskan fishing areas. These facilities have been very successful at producing fish and as their production has increased so has the Alaskan catch. The fact that these Canadian enhanced fish flood through Alaska waters has meant severe disruption to Alaska's traditional fisheries and is at the heart of Canada's "equity" dispute in the north. Without the artificially produced fish wild Canadian sockeye would only account for about 1 percent of the southern Southeast Alaska gillnet and seine salmon catch on an annual basis.

In addition, there has been no overfishing of these fish. Escapement goals for Skeena sockeye have been met, and there are no conservation problems. The escapement goal is 900,000 sockeye, and the current escapement is at 1.65 million sockeye. In fact, the escapement goal for sockeye salmon has been exceeded for the past 5 years to the detriment of the run. The result is that in both 1998 and 1999, sockeye returns to the Skeena River may be significantly reduced because of DFO's inability to prevent over-escapement.

Earlier in the season, there was some concern expressed by Canadian managers about escapement goals for the Nass River. In response to these early-season concerns, Alaska restricted our boundary fisheries, yet Canada refused to close their outer Area 3 fishery even though large numbers of Nass sockeye are harvested in this fishery, stating that this would result in foregone harvest by their fishermen. These actions speak loudly about Canada's participation in reciprocal conservation efforts, and in retrospect appears to have been more closely tied with their political strategy. As it turns out, they have achieved an escapement of over 240,000 sockeye salmon, with an escapement goal of 200,000.

This continuous pattern of politicizing basic fishery conservation and management makes it very difficult for Alaska fishery managers to coordinate and cooperate with their Canadian counterparts. In the end, Canada's actions simply serve to build distrust and suspicion, to the detriment of our respective salmon management programs and our shared salmon resource.

As a final point with regard to sockeye, Canada will no doubt complain about the incidental harvest of Fraser River sockeye in the Alaska fishery in 1997. El Nino events pushed Fraser River sockeye further north this year, as evidenced by the fact that approximately 89 percent of the run is returning through Johnstone Straits as opposed to the more traditional route through the Straits of Juan de Fuca. This has led to the "Canada First" fishing strategy, designed to deny, to the extent possible, the harvest of Fraser sockeye by the southern U.S. Canada complains about Noyes Island, saying that we are violating the Treaty, even though there is no agreement. Yet, down south, they are doing everything possible to reduce the U.S. share of Fraser sockeye.

Assuming that we've caught 250,000 Fraser sockeye in the District 104 fishery this year, that would equal 3 percent of the total harvest in the District. That would be the highest percentage since we've been keeping track of those numbers. It would also be around 1 percent of the total Fraser run if it comes in at 24 to 25 million. That would be in line with harvest levels in 1989, 1990, 1992, and 1994.

CHINOOK SALMON

As mentioned earlier, in June, 1996, the U.S. Section of the PSC reached a historic agreement for Southeast Alaska chinook fisheries, the U.S. Letter of Agreement for Managing the SEAK chinook fishery. *Canada has been critical of the U.S. agreement, but for over one year has refused to meet with the U.S. to discuss the proposal, let alone jointly develop a mutually acceptable approach to managing chinook salmon coastwide.*

The U.S. has repeatedly called for chinook negotiations, and Canada has refused to come to the table. They have taken every possible opportunity to avoid substantive negotiations. We believe this is because they know that if they matched the reductions in the LOA in their fisheries, they would be severely limited due to the status of the stocks in their fisheries.

Since the Treaty began, chinook stocks comprising the catch in WCVI and Georgia Straits fisheries are in serious trouble compared to the stocks in the SEAK fishery:

WCVI—chinook abundance (worst year, down 63 percent) remains consistently low (except for one year) averaging 25 percent below pre-Treaty levels. Forty percent of the catch comes from non-rebuilding stocks.

Georgia Straits—chinook abundance (worst year, down 71 percent) remains consistently low in all years averaging 41 percent below pre-Treaty levels: 76 percent of the catch comes from non rebuilding stocks.

The conservation ethic embodied in the U.S. Letter of Agreement for the SEAK chinook fishery is exemplified in its application to both the WCVI and Georgia Strait fisheries. Under abundance-based management, both of these Canadian fisheries would have had past actual harvests reduced by about 50 percent, and in several years both fisheries would have been canceled with zero allowable harvest because of low abundance for their respective chinook stock components.

CANADIAN THEOLOGY AND THE "CANADA FIRST" FISHING STRATEGY IN 1997

It is quite ironic that Canada expects the U.S. in the north to follow expired fishery annex terms (Pre-week 31 sockeye restrictions at Noyes Island), yet they are doing everything possible to punish the southern U.S. in terms of denying access to Fraser River sockeye. Canada has taken advantage of the high proportion (89 percent) of the sockeye run that is approaching the Strait of Georgia from the northern (Johnstone Strait) route. As of August 15, cumulative catches in commercial fisheries now amount to 4,015,000 in Canadian waters and 551,000 (including 116,000 at Noyes Island). This Canadian total does not include 623,000 sockeye harvested in river by the First Nations.

As part of their strategy, Canada also initiated purse seine fisheries in Area 20 in an effort to ensure no U.S. catch of Fraser sockeye. These net fisheries were heavily criticized by former DFO officials and environmental groups because of the adverse impacts on endangered coho salmon stocks in the southern U.S. and southern B.C. According to the groups, more than 60,000 endangered coho may have been harvested. The groups were particularly critical of DFO's decision to open fishing to large-scale seiners, creating a "wall of nets" that prevented almost any fish from escaping. This aggressive fishing plan has been described by Canadian conservationists as a "scorched earth" policy.

Canada implemented these aggressive fishing strategies in an attempt to force the U.S. to move toward the Canadian interpretation of the sharing principle of the Treaty. The Canadian interpretation is that U.S. fisheries must be restructured to "numerically balance" the inevitable interceptions between the two countries. This numerical based approach fails to address key components of the Treaty. It is inconsistent with the optimum production of salmon, it does not address Treaty language regarding no undue disruption of traditional fisheries, and it does not adequately address annual variations in the abundance of the stocks. "Equity" is not a simple minded balancing of interceptions. The U.S. has not agreed with the Canadian approach and has instead proposed an "abundance-based" approach to equity whereby the two countries would negotiate shares of the abundance based on the status of the stocks in each fishery. This approach would address conservation issues, would promote optimum production and would result in the fair sharing of coastwide salmon stocks.

STAKEHOLDER NEGOTIATIONS

Numerous attempts have been made over the past few years to resolve the "equity" allocation dispute. These have included several government-to-government negotiations as well as one attempt using an outside expert to mediate between the two sides. All failed. This dismal record clearly showed that something new had to be tried.

In the fall of 1996, the U.S. proposed to Canada that Stakeholders be charged with negotiations on Pacific Salmon Treaty matters. In February, 1997 the governments of Canada and the United States convened a Stakeholder process in a renewed effort to resolve differences. They agreed to a process in which salmon industry representatives, or Stakeholders, were authorized to review individual fisheries and negotiate long-term fishing arrangements. The concept, originally proposed by the Governors of Alaska, Washington, and Oregon, was designed to achieve regional

solutions for salmon harvests and allocations between the two countries. This led to the creation of two stakeholder groups: one to address Canadian and U.S. salmon fisheries in the northern boundary area, or Dixon Entrance, and the other to address Canadian and U.S. salmon fisheries in southern British Columbia and the Pacific Northwest. The charge was to develop pragmatic recommendations for each fishery that would implement the principles of Article III of the Pacific Salmon Treaty.

The bilateral Northern Stakeholders met four times between February and May, 1997. U.S. Northern Stakeholders focused on abundance-based approaches which addressed conservation needs and proportional sharing of the resource (as opposed to ceiling fisheries which are not responsive to abundance). Canada's primary focus was on reducing U.S. interceptions of Nass and Skeena sockeye salmon caught incidentally in the Alaska District 104 purse seine fishery. During these negotiations U.S. Northern Stakeholders proposed a number of concessions designed to reach long-term fishery arrangements and satisfy all provisions of Article III of the Pacific Salmon Treaty. One of the main problems encountered in these negotiations was that between meetings, the Canadian side appeared to retrench to their "equity" ideology, and any progress which was made in previous talks was often lost. Another major problem was the specter of government-to-government talks following the conclusion of the Stakeholder negotiations.

It is our anticipation that sometime this fall that at least the Northern Stakeholder group will reconvene in another attempt to reach long-term fishing arrangements satisfactory to both parties. Alaska still believes that this process is the only way we can resolve these issues. However, we need to learn from our experiences earlier this year if this process is to have any chance of success. First, separating northern issues from southern issues is the only logical way to proceed in the Stakeholder negotiations. Combining northern and southern issues will significantly complicate the issues and frustrate the negotiations.

Second, and most importantly, the Stakeholders from both sides of the border must be empowered to negotiate. There was great concern among our Stakeholders regarding the ability of the Canadian Stakeholders to make a deal and have it stick. And third, it has to be absolutely clear that the Stakeholder process is *the* forum where these allocation issues will be resolved. As long as the Canadians believe that they can negotiate these issues in some other forum if the Stakeholders don't reach agreement, the process is doomed to failure. The Canadians can no longer be offered two bites of the same apple. The responsibility to get this point across to Canada rests with the U.S. Federal Government.

Alaska believes that the Stakeholder process is the only way these allocation issues can be resolved. If the issues can not be resolved at the Stakeholder level, then the U.S. must seriously evaluate further participation in this Pacific Salmon Treaty.

Thank you for the opportunity to testify and I will be pleased to answer any questions.

STATEMENT OF RICK APPLIGATE, CHAIR, U.S. SOUTHERN STAKEHOLDERS

Mr. Chairman and members of the Committee, I am Rick Applegate, appearing today as Chair of the U.S. Southern Stakeholders in the Pacific Salmon Treaty negotiations. During the course of the 1997 Treaty negotiations, I was West Coast Conservation Director for Trout Unlimited—covering Alaska, Washington, Oregon, Idaho and California for that national fishery conservation organization. I have left that position, and am currently serving as Senior Policy Advisor at the National Marine Fisheries Service. I am still an avid fisherman and a vitally interested stakeholder in this important negotiation process. Obviously, my views today do not necessarily represent the position of the National Marine Fisheries Service or the Federal Government.

I believe we, as stakeholders, were fortunate to have the opportunity to participate in this unique negotiating effort. For us, it was a creative and demanding time, where we examined our own long-held views, made significant and unprecedented proposals and almost got the job done for coho and sockeye in the South. No amount of subsequent controversy should cloud that fact. And even now, with so much acrimony and recrimination from this fishing season, we still know the terrain of an agreement with Canada. Its rough dimensions lie before us and they are not all that hard to discern. Both nations suffered a great deal in the absence of an agreement this year—in ways more critical, more harmful and sometimes more ridiculous than any of us would have hoped.

As charged by our convening governments, the U.S. stakeholders sought to avoid the ritualistic debates of past deliberations on the equity issue. We attempted to

offer and discuss with the Canadian stakeholders a series of pragmatic and creative proposals that would ensure conservation of West Coast salmon and a reasonable sharing of the fishery. From the beginning, we insisted as a first principle that the wild coho resource had been harvested at excessive rates—nearly double what they should have been—rates that could not be continued. We made the point that large harvest reductions were required to conserve the wild stocks of both nations, not just U.S. stocks, and that those reductions were needed immediately. We submitted a substantial amount on technical analysis to accompany our coho proposal and ensured that U.S. and Canadian scientists had the opportunity to review our proposal within the confines of the negotiations.

We also noted the importance of a reasonable level of continued fishing opportunity in the U.S. and our coho harvest regime would have accomplished both the conservation and fishery objectives. At the same time, we were well-aware that any Canadian coho harvest reductions beyond those required to conserve wild coho stocks would be met with an understandable insistence on concessions from U.S. fishers on the levels of Fraser River sockeye harvest. However, we insisted that Fraser River sockeye harvest reductions by U.S. Treaty and non-Treaty fishers should not be required to obtain conservation-based reductions in the West Coast Vancouver Island coho troll fishery. We were perfectly willing to pay for coho reductions that allowed for a U.S. coho fishery, but not for the substantial reductions necessitated by the conservation requirements we all knew were needed to protect and restore naturally spawning coho.

Unfortunately, notwithstanding the depressed status of Canadian wild coho that required a complete shutdown of the West Coast Vancouver Island coho fishery this year, Canada was not willing to table a firm, scientifically sound, long-term coho harvest regime as part of these negotiations. They indicated that significant reductions would be achieved in the current harvest year, but were unwilling to commit in any detail to an abundance-based regime for the future. Nor did they supply any substantial technical analysis accompanying their coho regime proposals. That, more than any factor, is why we were unable to reach an agreement. It wasn't for lack of willingness on our part.

On the sockeye side of the ledger, we made unexpected and unprecedented progress within the U.S. stakeholders in a relatively short period of time. We proposed and discussed with the Canadian stakeholders a substantial reduction in the U.S. interception of Fraser River-bound sockeye. These were permanent harvest share reductions that would be reflected in lower Treaty and non-Treaty harvests. In order to table cuts of significant magnitude, we agreed among the U.S. stakeholders on a sizable and unprecedented buyout of a large portion of the non-Treaty U.S. sockeye harvest share. This was a difficult and painful step for U.S. fishers, but one we agreed was essential if an agreement was to be reached with Canada. In considering this buyout to be merely a minor matter, and in treating it on occasion as something of a nuisance, the Canadian stakeholders made it extraordinarily difficult for the U.S. stakeholders to remain at the negotiating table.

In effect, with our sockeye harvest proposal, we offered to leave Canada with over 80 percent of the allowable Fraser River sockeye harvest, maintaining a U.S. harvest that was substantially below the pre-Salmon Treaty levels. We would have retained significantly less than 20 percent of the harvest for traditional U.S. fisheries; and we were very disappointed with the ultimate Canadian reaction to this important and unprecedented U.S. proposal.

Obviously, we should not try to negotiate or second-guess the specific terms of a potential agreement here today. This is not the forum in which an agreement under the Treaty will be reached. Nor should we simply congratulate ourselves for being reasonable in the negotiating process. I will not do that. But I do believe that the U.S. Southern stakeholders took practical and courageous positions—and they have more than a few scars to prove it. They went well beyond what was anticipated when the process began and they tasted briefly the possibility of that elusive long-term agreement with Canada on North Pacific salmon issues.

To the ultimate question why we did not get an agreement with Canada, no one will ever have a complete answer. We certainly felt, based on signals we received from the Canadian side, that we were getting very, very close to what was required to reach that agreement. So we were baffled and discouraged by the turn of events at the end of the negotiations—when we suddenly seemed farther apart than ever.

Several items are worthy of note for future negotiating efforts on these important issues. First, we—or some other set of negotiators—need to have a clarification or reclarification of the terms of engagement and those terms need to be clearly understood and committed to by the stakeholders from both nations.

For example, we worried from time to time whether the Canadian stakeholders were actually empowered to and intending to negotiate a long-term solution with

us—or whether they were simply testing the U.S. proposals and positioning themselves and their government for what they anticipated would be a later negotiating process in some other government-to-government forum. The U.S. stakeholders did not look to some other process and, for that reason, we put on the table our strongest, best and most creative options early in the discussions. That is why we were unhappy when Canada consistently reacted as if we were not moving far enough later in the negotiations.

Second, at critical times, there seemed to be an unspoken connection between progress on Southern issues and the status of discussions on Northern matters. When things went well in the North, we rolled along in good order in the South. When things bogged down in the North, we seemed instantly to have more difficulty in the South. Given that the issues were to be separated for these negotiations, that was a troublesome linkage. It was disappointing and unfortunate and bears clarification so that it does not impair further proceedings.

Third, to note that not all these problems were the province of one side in the negotiations, it can be noted that, at a most critical juncture in the negotiations, we encountered some serious difficulties within the State of Washington. Notwithstanding our consistent briefings on the negotiations, we suffered an unfortunate and decisive period of confusion and delay during which it appeared that the Washington Department of Fish and Wildlife was actually in disagreement with both the negotiating process and the substantive positions we as stakeholders were advancing. We were able to clear up those issues, but not before the damage was done. The chaos at that critical time was very distressing to the U.S. stakeholders and to those who were following our work—and it was not lost on the Canadian negotiators. It put our Federal negotiator in a very difficult position and, in short, it was very costly. It was clear that the confusing skirmish could not have occurred at a worse time and it disrupted our work as stakeholders and our negotiations with Canada. I am optimistic that Washington has taken the necessary steps to ensure that this unfortunate circumstance will not occur in the future. That is important because these negotiations are complex and need to be pursued in a manner that provides for public involvement while allowing the negotiators to continue the negotiating process. That will always be a difficult challenge and we need to ensure that appropriate entities are well-coordinated and in the loop to avoid future misunderstandings as these difficult issues are pursued.

I would be remiss today if I did not note that the Commissioners and U.S. government negotiators fully abided by the rules set for the negotiating process. Commissioners Turner, Pipkin, Allen, and Benton and their alternates received our reports—both the promising news and the disappointing—in good humor and made no effort whatsoever to intrude upon or sway our further stakeholder negotiations. The Commissioners were very helpful and were profoundly surprised with the rapid strides we were able to make against the backdrop of so little progress in spite of all the best efforts in the past.

In addition, we all had and continue to have a high regard for the depth of knowledge, persistence and patience Mary Beth West and Jim Pipkin brought to this process. They maintained their respected presence throughout, even when some of us were ready to throw up our hands—or put up our fists—with the Canadian negotiators.

Of course, all this good work still languishes in the shadow cast by the absence of an agreement with Canada. It leaves people of good heart and minds to wonder what an unfulfilled and largely inoperative Salmon Treaty is worth. For me, and I believe for the clear majority of those who have tried to make this Treaty work for a decade and more, it is not irretrievably broken yet, even though it may appear to be. We are willing to persevere and try once again if asked to do so and there are other fishery leaders who could pursue this work if a new team is in order. We are, of course, very disappointed that agreement has not been reached, but there is no point in giving up or succumbing to another few months of bellicose rhetoric. The issues are simply too important to all of us and to the resource.

I do not believe that the stakeholders somehow failed. We have not achieved an agreement to be sure. That is at once frustrating, disappointing and even a bit embarrassing—as I hope it is to our Canadian counterparts. But, when the dust of this year's feuding clears and we have all sobered up again, we will still be left with the same problems and the same basic prospects for a resolution. These issues are not intractable. And I still believe that, on the Southern issues at least, we are but a series of difficult negotiations and a set of handshakes away from a long-term agreement with Canada.

Thank you for the opportunity to appear. I would be happy to answer any questions you may have.

STATEMENT OF JIM BACON, JUNEAU, ALASKA

Mr. Chairmen, members of the Committee,

Thank you for the opportunity to testify today. My name is Jim Bacon. I am a commercial fisherman from Juneau, Alaska. I have been fishing for over 20 years and currently serve as the chairman for the U.S. Northern Stakeholders.

No international agreement is of greater importance to Alaska and my fishing industry than the Pacific Salmon Treaty. Commercial fishing is the largest private employer in Alaska—and the Pacific Salmon Treaty plays a major role in the management of our state's salmon resource.

Since the inception of the Treaty in 1985, the boundary area between southeast Alaska and northern British Columbia has experienced several record salmon returns. It is important to note these facts when attempting to navigate through the sea of rhetoric generated by the Canadian media machine. The issue now before us in the boundary area is not conservation of depleted salmon stocks—but rather how to devise a fair sharing arrangement which allows both countries to effectively harvest its salmon resource.

The Pacific Salmon Commission established by the Pacific Salmon Treaty, is to serve as the forum for both countries to exchange information for the dual purpose of conserving salmon and achieving optimal salmon production. Canada, unfortunately, has subverted these Treaty principles by dwelling solely on the issue of accounting for Canadian spawned salmon caught incidentally by U.S. fishermen. When Canada could not prevail on this single issue, it abandoned the Commission process.

Unwilling to follow the Canadian lead, the U.S. proposed a new format involving stakeholders—or those who actually fish for or process salmon. The stakeholders task was to break the ideological gridlock that had stalled previous talks within the salmon Commission and between the governments. That is, formulate realistic fishing agreements that protected and enhanced the salmon resource while preserving the tens of thousands of jobs dependent on Pacific Coast salmon stocks.

In hindsight it is obvious that Canada had no intention of allowing its stakeholders to reach agreement. This was never more evident than on the last day of stakeholder talks when, after a lengthy consultation with its government, the Canadian stakeholders returned with a hardline position designed to bring the talks to a halt.

Premier Glen Clark then unleashed a barrage of anti-American sentiment which brought his fishing community to a boiling point, culminating with the blockade of the Alaska Ferry in Prince Rupert, despite condemnation by the community of Prince Rupert, the Canadian federal government, and members of this committee, Premier Clark termed the blockade courageous.

This atmosphere of lawlessness then turned itself on the Canadian government with the staging of illegal fisheries in northern British Columbia. The Canadian fishermen cited a tremendous surplus of salmon returning to the Skeena River as the basis for conducting these illegal fisheries. It is notable that the catch of these same Skeena River salmon by Alaska fishermen provides the basis upon which Canada claims that we are pirating Canadian fish or alternatively-fishing Canadian stocks to extinction. These claims are insupportable. And this, best illustrates our point of departure with Canada. The State of Alaska and its fishing industry have an unparalleled history of salmon management success. We would never embark upon a fishing regime detrimental to salmon, either U.S. or Canadian origin. However, we refuse to adopt a Canadian ideology which relegates the harvest of Alaskan salmon to the avoidance of Canadian origin salmon present during our fisheries. Simply put, the salmon are not segregated while in Alaskan waters. Such a policy would not benefit Canadian salmon stocks or its fishermen, and would cause grave economic hardship to the coastal communities of southeast

I do believe the stakeholder process can lead to a fair and durable agreement between our countries. However, without a strong message from our government to Canada, that the stakeholder process is the only forum outside the Pacific Salmon Commission for negotiation. Without this commitment, the process will fail. Equally important, Canada must plainly understand that theatrics and media sound bites will not bring forward U.S. concessions. We are gravely troubled by the lawsuit filed last week in Seattle by the British Columbia government and its fishing industry seeking \$325 million in damages against the U.S. for alleged treaty transgressions. The filing of a lawsuit cannot lay the ground work for a productive negotiation.

STATEMENT OF W. RON ALLEN, PACIFIC SALMON TREATY COMMISSIONER, TREATY
INDIAN TRIBES

Mr. Chairman and members of the Committee, I am W. Ron Allen, appearing before you today as U.S. Commissioner to the Pacific Salmon Commission. I, and my colleague Mr. Ted Strong, serve on the Commission as representatives of the Treaty Indian Tribes of Washington, Oregon, and Idaho.

As you know, our tribes have a huge historical, cultural and economic stake in all matters relating to salmon in the Pacific Northwest. Our interests are manifest in treaties between our tribes and the United States, treaties recognized in numerous Federal court rulings and many statutes, including in particular the Pacific Salmon Treaty Act, the law that implements the Pacific Salmon Treaty on the U.S. side.

Tribes were at the forefront of the negotiations which led to the Pacific Salmon Treaty in 1985, and have involved themselves constructively in every step taken since that time. We intend to be involved in every step taken to implement the intent and commitments, whatever they are including technical and policy actions.

As you might expect, we share in the frustration over the failure, so far, to find a solution to the disputes with Canada over implementation of the Pacific Salmon Treaty. More importantly, our people have felt the consequences of that failure in the form of a continuing erosion in our fisheries, and therefore our treaty rights, and in the lost opportunities to rebuild and restore the salmon runs that are so vital to our cultures.

The stakeholder process begun earlier this year was not an idea that originated through the tribal leadership. Nevertheless, hopeful that this process afforded a unique opportunity finally to resolve issues that have dogged us for too many years, the tribes actively supported the proposal. We did so despite serious concerns that this new process, for a time at least, would supplant the normal PSC process, including the institutional treaty and statutory safeguards, at our insistence, to help ensure that our treaty rights would be protected.

We committed time and resources to the stakeholders process to give it every opportunity to succeed. We appointed five of the eight members on behalf of United States on the southern stakeholder group. One of the tribal stakeholders, Mr. Charles "Pete" Hayes, a beloved and widely respected former chairman of the Nez Perce tribe, passed away during the process. Despite our sadness at the loss of this great man, whose memory we honor, we forged ahead, appointing a replacement to continue the important work that he helped begin.

The tribes provided key technical and policy staff to support the efforts of the U.S. stakeholders. We also called together tribal representatives, frequently and at short notice, to interact with the stakeholders, and to hold together the unusual coalition that would be essential to making their innovative proposals work.

In short, we did whatever we could to make the stakeholders process a success. You can imagine our frustration and disappointment at the failure, so far, to reach agreement, especially in light of the highly-charged political environment in which we now find ourselves.

Now, let me try to get more directly to the specific questions posed to us by the Committee. The stakeholder process differed from previous negotiations in a number of significant ways.

First, it involved persons with a direct stake in the outcome, persons arguably more interested in pragmatic solutions to the problems of the fishery than in carrying on the philosophical debate over the meaning of the treaty's so-called equity principle. Any solution that might emerge from such a group, it was thought, would be far more likely to gain acceptance by the affected constituents than an "answer" emanating from government negotiators.

Second, by separating into two regional groups, the process afforded an opportunity to find solutions tailored to the specific and unique circumstances of fisheries in those regions. This approach, which is not without some controversy within our group, was intended to reduce the fear that one region would be played off against another in order to satisfy perceived national obligations.

It is important to note, however, that the initial charge given to the stakeholders did not include management of chinook salmon fisheries, an enormously complicated problem because of the far ranging migratory nature of that species. (Chinook originating in the Columbia River, for example, are harvested in Southeast Alaska and Canada, as well as in Washington, Oregon, and Idaho.) Thus, the ability of the stakeholder process to make progress on chinook issues remains untested. It is the tribes' view that chinook management and conservation issues must be dealt with on a coast-wide basis. This will require a melding

of the northern and southern stakeholder groups into a unified forum, if indeed the stakeholder process continues.

Third, at the same time that fisheries were split into northern and southern regions for the stakeholder process, fisheries *within* a region were combined. For example, in the south the stakeholder process vested within one group license to negotiate regimes for both coho and sockeye. This contrasts with the way things are set up within the Pacific Salmon Commission panel process, wherein Fraser sockeye and pink fisheries are dealt with by the Fraser River Panel, and all other southern area fisheries are dealt with by the Southern Panel. This can have both positive and negative implications; whereas it lends itself to negotiation of a "package" of arrangements in the south, it increases the likelihood of tradeoffs between southern fisheries that affect and involve different sets of constituents.

Fourth, and also in contrast to the normal PSC process, the stakeholder process was relatively unencumbered with the sometimes-burdensome requirements of the bilateral PSC panel process. Among other things, this allowed negotiations to occur at a much faster rate, and within the relative "safety" of an environment shielded from the constant scrutiny of onlookers. Of course, as you can imagine, this approach also carries with it a certain downside, particularly from the point of view of those who are excluded from the room, and reduces the protections afforded by a more open, inclusive process. For this reason, the closed process employed in the stakeholder process likely would not be acceptable for very long, and certainly not as a permanent replacement for the normal panel structure and process of the PSC.

As to the question of the major impediments to an agreement, there are many levels at which this question could be addressed. Obviously, the two countries hold fundamentally different views on interpretation and application of the Treaty's so-called "equity principle" and, in particular, how that principle should be manifest in the various fishery regimes.

But I could also describe to you impediments rooted in different views about how much weight should be afforded to the historical nature of certain fisheries, and the degree to which these fisheries should be shielded in some way from equity adjustments. I could expound on the standing of aboriginal and treaty-Indian fisheries relative to commercial and recreational fisheries, in both countries. I could tell you about a number of unresolved scientific and technical issues. I could elaborate on roadblocks we have encountered in our efforts to move from management by fixed ceilings to management based on the annual abundance of stocks. And, of course, I could describe to you in considerable detail the difficulties inherent in any multi-party negotiation process that depends upon broad consensus to achieve success.

Each of these issues, and many more, have contributed to the impasse, and every one of them would take more time to describe in detail than we have here today.

We were asked to identify some of the problems encountered in the stakeholder process. The purpose of the question, I believe, is to help answer another question, which is how to avoid those problems in subsequent negotiations. *The problems fall into two broad categories. One category* of problems is rooted in process, and in particular the nature of the instructions given, either explicitly or implicitly, by both sides to their respective stakeholders.

There is no doubt on the part of U.S. participants that the Canadian stakeholders entered the talks fully expecting that they would not be cutting the final deal. That step would occur in a subsequent government-to-government negotiation. In contrast, the U.S. side made it clear from the beginning that the stakeholder process is where the action is. And, I believe, we took great pains as U.S. Commissioners not to interfere with the course of their deliberations. Admittedly, from my point of view, this was a somewhat risky proposition; who knew what they might come up with, and at what cost? As it turned out, thanks to the hard work of our stakeholder team, they broke some new ground, coming up with surprisingly innovative proposals. Unfortunately, total success proved illusive. But a clear lesson has emerged: the success of a stakeholder-driven process requires a commonly understood set of instructions. All participants must believe that theirs is the exclusive venue for decisions; they cannot believe that someone else eventually will make the final hard decision or overrule them.

The *second* class of problems is, unfortunately, much harder to address. No matter what process "fixes" we might come up with, at the end of the day we will get to the point where we must confront, and resolve, differences of substance. The nature of those differences, as a result of many years of negotiations, the stakeholder process, and the recent government-to-government discussions that followed, are relatively well-defined. Canada will want certain changes in our fisheries, and we will want certain changes in theirs. Both sides know what those changes are. Tough choices eventually will have to be made, or expectations radically modified. Trust that if it comes down to imposing changes upon fisheries against the will of affected

participants, the cost will be very high. Trust also that the tribes will be ever vigilant that their treaty rights not be further eroded by any "solution."

Can the two countries get beyond their differences and agree to long-term fishery regimes? I do not know the answer to that question, but I can tell you that tribes stand ready to continue trying.

As to what should be the U.S. position in future negotiations, it would be a mistake to lay them all out today, for obvious reasons. However, I do believe that the stakeholder process has gone a long way toward clarifying the key elements of an agreement. Future negotiations should build upon that foundation. In some cases, clarification of underlying scientific issues might help, particularly for southern coho management. It is unlikely that a completely new set of substantive proposals will emerge to take the place of what already has been developed.

Your last written question asks if it is time to serve notice to the Canadians to withdraw from the Pacific Salmon Treaty. It is, in some respects, an odd question to put to us, the representatives of the treaty tribes, embroiled as we are at this very moment in yet another difficult struggle in this Congress to defend our treaty rights.

No, it is not time to withdraw from the Pacific Salmon Treaty. The Treaty clearly has problems. But throw it away? Of course not. Where would we be then? How long will it take to get a new treaty? How many of the salmon will disappear before we get our human act together.

No, the answer is not to terminate the Treaty, in abandoning the basic promises our two countries gave to each other. That is not the way great nations should behave. The only honorable thing we can do is to continue trying, to work on these problems until we succeed in solving them.

Congress can help the U.S. delegation resolve these fishery management problems by building upon the foundation established by the Governors of Alaska, Oregon, and Washington at last year's Sitka Salmon Summit. In Sitka, the Governors committed to working together to rebuild and restore wild salmon populations as well as the habitat essential to this restoration goal. The Tribes support this commitment calling on the States and Federal governments to endorse this initiative regarding our shared resource.

The success of future PSC agreements with Canada regarding harvest sharing, long-term health of the salmon resource, and the cultural and economic benefits derived by our communities depend on the Federal commitment to the recommendations of the Governors.

We look forward to working with this Congress regarding these proposed solutions. Thank you for the opportunity to be here today. Ted and I will be happy to try to answer any questions.