

H.R. 1367, ATLANTIC HIGHLY MIGRATORY SPECIES CON- SERVATION ACT OF 2001

LEGISLATIVE HEARING

BEFORE THE
SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE AND OCEANS

OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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**HEARING ON H.R. 1367, THE ATLANTIC
HIGHLY MIGRATORY SPECIES CONSERVA-
TION ACT OF 2001**

**Thursday, August 2, 2001
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
Washington, DC**

The Subcommittee met, pursuant to other business, at 10:47 a.m., in Room 1334, Longworth House Office Building, Mr. Jim Saxton presiding.

**STATEMENT OF THE HONORABLE JIM SAXTON, A REPRESENT-
ATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. SAXTON. [Presiding.] Thank you all for being here. And we needed to get that out of the way, and we appreciate very much your patience.

First of all, let me say that I have an opening statement that I ask unanimous consent be placed in the record in its entirety.

Inasmuch as we have a group of auspicious—I didn't say suspicious—auspicious witnesses, and I want to welcome you all here this morning. I will just say, by way of introduction, that this is certainly not a new topic to anyone in the room; that is, the matter of highly migratory species conservation and the interaction of various gear types in this fishery and the effect of various gear types on this fishery.

As everyone here knows, we have had long and very interesting discussions and sometimes other accompanying activities that this subject brings about. Certainly, it is a subject that has its share of controversy associated with it.

But the fact of the matter is that there are good reasons for us to move forward to try to understand the conservation measures that have been put in place to date and to understand the need which may exist for further conservation measures.

I, as a matter of fact, have introduced one bill, which is, I believe, H.R. 1367. The bottom line is that this bill I hope will continue to be a beacon of light to shine on this subject.

Not everybody agrees with the provisions of it. Some people agree with some of them. Some people agree with none of them. But it serves as a focal point for us to begin again, or continue, I guess I should say, the discussions on this issue.

One fact that was pointed out to me here recently in the 2001 stock assessment for fishery evaluation of Atlantic highly migratory species; I will just read this one paragraph:

The 2000 assessment for white marlin was quite pessimistic. The total Atlantic stock is estimated to be less than 15 percent of the biomass, which is considered to be the sustainable level.

Fifteen percent, it is down that low.

In 1996, the figures were that it was down 23 percent. These figures show that white marlin are down to 15 percent of what might be considered a healthy level. And current fishing mortality is estimated to be seven times higher than the sustainable level.

Given that the stock is severely depressed, the report concluded that ICCAT should take steps to reduce the catch of white marlin as much as possible.

This is what this subject is all about. And, again, I look forward to hearing the testimony of the witnesses this morning.

[The prepared statement of Mr. Saxton follows:]

Statement of Honorable Jim Saxton, A Representative in Congress from the State of New Jersey

Good morning Mr. Chairman and members of the Subcommittee. Thank you to the witnesses for joining us today. I appreciate you taking the time out of your schedules to be here.

Thank you for continuing the process to tackle this very important, yet controversial issue. I worked very hard, with a number of you last year, to get a bill enacted into law, which did not happen, much to my frustration and disappointment. I am pleased you have agreed to continue to work with me to find a compromise solution to this extremely difficult and complicated problem.

I am back to attack this issue again because we still have a fundamental problem. And I introduced HR 1367 to keep the spotlight on it. *The bottom line is longline gear is a very damaging destructive way of fishing and it needs to come out of the water.* My bill, through closure and a buyout does just that. It also provides a means for taking a hard look at what is happening with these species and what we can and should do to prevent the populations from plummeting even further, and begin the process of rebuilding the stocks. It's been done with other species and it can and should be done with these species.

I would like to state, with regard to the Administration's position, Dr. Hogarth, in reading your testimony, I am more than willing to work with you on technical changes to my bill, but there are 5 very important components which I feel strongly about. First, It is important to compensate those longline fishermen who have been affected by the NMFS closure, by purchasing their permits thereby permanently reducing the longline effort in the US. Second, the establishment of two time-area closures and offering a buy-out to those affected, to reduce by catch. Third, the research program in my bill will help to give us a better understanding of bycatch in the US as a result of this fishery. Fourth, in an effort to reduce bycatch in longlining, to have the fishermen transfer their quota to another gear. And fifth, it is important these fishermen not reenter the longline fishery.

Dr. Hogarth, with regard to the Administration's concerns to obtain appropriations, you made a valid point last year which is still a valid point today. We are talking about a substantial amount of money, but it is my commitment to work with the Appropriators to secure this funding. Priority will be given to those affected by the current NMFS closure. My goal is to get compensation, coupled with a good piece of conservation legislation, to permanently reduce the effort on this fishery.

I am pleased to be able to discuss H.R. 1367, the Atlantic Highly Migratory Species Conservation Act of 2001. This issue, as you know, continues to be extremely important to me. We stand at an historic crossroads for the conservation of highly migratory species (HMS). The effective management of Atlantic HMS is one of the most complex and difficult challenges facing the National Marine Fisheries Service. These species range widely throughout international waters and the jurisdictions of many coastal nations with diverse political perspectives on how to properly utilize and manage this valuable resource.

The fishing practices and marketing strategies are equally diverse. Unlike most other domestic fisheries, effective multilateral management is the goal of our na-

tion's HMS policy. In fact, Congress placed Atlantic HMS management authority in the hands of the Secretary of Commerce instead of the Regional Fishery Management Councils, in theory, to ensure that our government maintains an Atlantic-wide perspective and vision.

It is my firm belief that this Congress, together with thousands of concerned fisherman and conservationists, have a unique opportunity to work together to aggressively protect and rebuild stocks of HMS such as billfish, sharks and swordfish. I also believe it is our duty and obligation to fight to preserve and rebuild these now vulnerable and threatened species.

In August of 1999, I was approached by representatives of the longline industry and three recreation/conservation fishing organizations who suggested I sponsor legislation to: (1) permanently close an area of U.S. waters in the South Atlantic to pelagic longline fishing; (2) establish two time-area closures in the Gulf of Mexico to pelagic longlining; (3) reduce billfish by catch and the harvesting of juvenile swordfish; and (4) provide affected fishermen a buy out to compensate them for the loss of fishing grounds and fishing opportunities. I remain a strong supporter of this concept.

I first began work on this important issue because I feel very strongly that a balance can be achieved. Prior to and following the introduction of H.R. 3331, my first bill targeting these critical needs, I met with, and spoke to, a number of pelagic longline fisherman, recreational fisherman and their organizations, and a number of conservation and environmental groups.

I introduced H.R. 3331, in the 106th Congress, in part, because the National Marine Fisheries Service established the pelagic longline fishery as a limited-entry fishery through the HMS Fishery Management Plan. As NMFS is well aware, I have been asking them to take this action for many years. The establishment of a limited access system is critical to reduce harvesting capacity through attrition or a buyback program. Hence, once pelagic longline permits for HMS are bought-out as proposed in my bill, there would be no further vessels re-entering the fishery.

I believe in this concept because the current management system whereby NMFS publishes a regulatory rule that is challenged by seemingly endless lawsuits is not an effective way of promoting sound HMS fishery management. This system has to change.

The International Convention for the Conservation of Atlantic Tunas (ICCAT), led by the United States, approved a ten-year rebuilding plan for North Atlantic swordfish. Although the final approved plan did not go as far as I would have liked in reducing the annual quota internationally, it nevertheless set an important tone for conservation. I commend the U.S. ICCAT Commissioners for their tenacity in getting the rebuilding plan approved.

Preliminary scientific information suggests the North Atlantic Swordfish stock level seems to be improving slightly, according to the landings figures from 1998 to 1999, but even if this an accurate assessment, it is still not nearly enough to maintain a sustainable fishery. The amounts of dead discards, meaning juveniles that are too small to keep have gone up dramatically from 1998 to 1999.

The harvesting of so many juveniles poses a huge problem to enable the stock to rebuild itself, if we continue to harvest them at this rate. The NMFS even states in their "2001 SAFE (Stock Assessment and Fishery Evaluation) Report for Atlantic HMS," that "The Standing Committee on Research and Statistics cautioned that the north Atlantic recovery plan (for Atlantic Swordfish) is very sensitive to any overharvests. If recent overharvests of 10% continue, the stock would likely not have a greater than 50% probability of reaching biomass levels that will support Maximum Sustainable Yield (MSY)."

According to the latest stock assessments for Atlantic Yellowfin Tuna, the stock is still overfished, meaning there are too few fish to have a viable fishery and overfishing continues to occur, meaning we cannot keep taking this fish without harming the stock, as it cannot replenish itself that quickly.

The landings by the longline community for Yellowfin Tuna are up dramatically from 1998 to 1999, as with Bigeye, Bluefin, Albacore and Skipjack Tuna. Most alarming to me is the increase in the dead discards of both Blue and White Marlin, which are both up dramatically from 1998 to 1999. This is just unacceptable for species that are on the brink of being wiped out completely.

In evaluating the most recent data provided by the NMFS on stock assessments, I am pleased the Swordfish landing has not increased, however, I am disappointed in the increase in landings of other HMS, and I want to make it abundantly clear that we are nowhere near the end to ensure the sustainability of these species.

I reintroduced H.R. 3331 in the form of H.R. 1367 on April 4, 2001. While different from H.R. 3331, it is a strong piece of conservation legislation. It establishes annual

closures of Highly Migratory Species Conservation Zones in the Gulf of Mexico and the Mid Atlantic Bight.

This bill establishes a voluntary commercial fishing permit compensation program to all individuals holding a Directed Swordfish Initial Limited Access Permit or Tuna Longline Permit with Incidental Swordfish and shark.

Priority will be given to those permit holders, who from 1992 through 1998 fishing seasons, had significant landings of fish under those permits from the areas closed under the NMFS August 1, 2000 final rule.

H.R. 1367 has a Highly Migratory Species Bycatch Mortality Reduction Research Program, which establishes a three year research program to determine gear configurations and uses that are most effective in reducing HMS and sea turtle mortality. It is vitally important we explore all avenues to reduce this dramatic reduction in species. The most recent stock assessments conducted by NMFS reinforce what I have been saying all along - these species have been fished practically to extinction and if we don't take action now, they may never recover. That would be a tragedy.

This is the continuation of an arduous, yet critically important process, and I am confident we can provide a conservation measure that is good for our beleaguered highly migratory species of fish. I look forward to working together with all of you and continuing to fight until a solid conservation measure is passed and becomes law.

Thank you. I look forward to hearing your testimony.

Mr. SAXTON. And at this point, I will turn to Mr. Underwood for his comment.

**STATEMENT OF THE HONORABLE ROBERT UNDERWOOD, A
DELEGATE TO CONGRESS FROM GUAM**

Mr. UNDERWOOD. Thank you, Mr. Chairman.

I am in favor of conservation of our ocean resources, and I applaud your continuing efforts to promote this goal.

I am also in favor of fair and equitable uses of these resources, taking into account all of the stakeholders and the services and the benefits that they provide to their communities.

Bycatch in any fishing operation is always a concern, both for the survival of that target fishery and the target fishery for the fish that was caught as bycatch. Efforts to reduce bycatch must be taken wherever necessary, but in such a manner as to be effective as possible while causing the least amount of harm to those interests which rely on fishing operations.

Achieving this balance is a delicate and difficult task, and I look forward to hearing from the witnesses today on how a successful balance can be achieved and how we can handle this particular legislation.

Thank you, Mr. Chairman. I look forward to the testimony.

[The prepared statement of Mr. Underwood follows:]

**Statement of the Honorable Robert Underwood, A Delegate to Congress
from Guam**

Thank you, Mr. Chairman. I am in favor of conservation of our ocean resources and I applaud your continuing efforts to promote this goal. I am also in favor of fair and equitable use of those resources, taking into account all the stakeholders and the services and benefits they provide to their communities.

Bycatch in any fishing operation is always a concern, both for the survival of that target fishery and the target fishery for the fish that was caught as bycatch. Efforts to reduce bycatch must be taken wherever necessary, but in such a manner as to be as effective as possible while causing the least amount of harm to those interests which rely on fishing operations. Achieving this balance is a delicate and difficult task, and I look forward to hearing from the witnesses today on how a successful balance can be achieved.

Thank you, Mr. Chairman.

Mr. SAXTON. Thank you.

And we will get right to you folks.

Dr. Hogarth, if you would like to begin?

And I am told by staff that I need to ask unanimous consent to submit other statements for the record, and we have one here from Mr. Gilchrest, the Chairman.

[The prepared statement of Mr. Gilchrest follows:]

Statement by the Honorable Wayne Gilchrest, Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans

I would like to welcome our witnesses to this hearing on the important topic of conservation of Atlantic highly migratory species.

This hearing will focus on several important issues for conserving Atlantic highly migratory species and effectively managing the U.S. longline fishery, including time/area closures, pelagic longline vessel capacity reduction, a pelagic longline vessel permit holder compensation program, research to reduce pelagic longline bycatch mortality, and longline vessel monitoring devices.

There are significant challenges to effectively managing highly migratory species in the Atlantic Ocean because these species range over broad areas of the ocean, they are harvested by many other nations outside of U.S. waters, and they are jointly managed by an international management organization—the International Commission for the Conservation of Atlantic Tunas (ICCAT).

I am particularly interested in the scientific basis and the conservation benefits of the time/area closures in the proposed legislation and of the existing time/area closures that the National Marine Fisheries Service has implemented through regulations, and the social and economic impacts to U.S. longline fishermen of these existing and proposed closed areas.

I hope that today's hearing will provide important information and ideas for improving highly migratory fisheries management in U.S. waters of the Atlantic Ocean.

I look forward to hearing from our witnesses.

STATEMENT OF WILLIAM HOGARTH, ACTING ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE

Dr. HOGARTH. Thank you, Mr. Chairman and members of the Subcommittee.

I am Bill Hogarth, the Acting Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration.

I appreciate the opportunity to testify today on H.R. 1367, the Atlantic Highly Migratory Species Conservation Act.

Since the early 1990's, Atlantic highly migratory species have been managed directly by the Secretary of Commerce, primarily because the range of these species extends over five regional fishery management councils.

Secretarial management also facilitates the U.S. participation in the international highly migratory conservation programs and the establishment and negotiation of the U.S. position at the meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Atlantic swordfish, billfish, and some tuna species are harvested by a large number of nations and currently are considered by ICCAT to over-exported. The U.S. has worked through ICCAT to foster international cooperation for the management of highly migratory species.

The U.S. has played a key role in establishing an international rebuilding program for bluefin tuna, swordfish, blue marlin and white marlin. Our progress would not have been possible without

the strong support of the U.S. commercial and recreational fisherman, environmental groups, Congress, and others.

While our fisherman have a consistent record of compliance with these ICCAT programs, improvements in monitoring and enforcement by other contracting parties and nonmember parties must be implemented.

Consistent with the ICCAT responsibilities, the Magnuson-Stevens Act requires NOAA Fisheries to manage highly migratory species within U.S. waters. In 1999, we completed a fishery management plan for the Atlantic tunas, swordfish, and sharks, and amended an existing Fisheries Management Plan (FMP) for billfish.

These new plans include management measures to identify and rebuild over-fished highly migratory species stocks, minimize bycatch, limit access to the pelagic longline fisheries for highly migratory species, and address socioeconomic impacts on fishermen and their communities.

The longline fishery provides an important source of seafood for the American consumer. However, it, as well as several other commercial fisheries, unintentionally creates bycatch, including juvenile swordfish, billfish, bluefin tuna, and shark, and also threatened and endangered species, such as sea turtles.

To minimize bycatch, NOAA Fisheries implemented a number of regulations in their highly migratory species plan. Additionally, in August 2000, NOAA Fisheries established three additional time-area closures for pelagic longline fishing, and prohibited use of live bait in the Gulf of Mexico.

These closures are expected to reduce swordfish, sailfish, and large coastal shark discards.

And most recently, NOAA Fisheries closed the Grand Banks to pelagic longline fishing to reduce sea turtle interactions and mortality.

All of these actions are the subject of pending lawsuits.

Mr. Chairman, overall, NOAA Fisheries supports the objectives to H.R. 1367 to reduce bycatch while mitigating social or economic impacts. We would like to work with the Subcommittee to clarify and amend certain provisions of the bill that we feel are unclear or appear to conflict with other current regulations.

Also, several of the programs outlined in H.R. 1367 require appropriated funds that are inconsistent with the President's budget request. And in view of overall funding constraints, we do not intend to make a request for such funds in fiscal year 2002.

Let me say up front that one of the major concerns of the legislation is the reallocation of total allowable catch in section 12. Under the ICCAT rebuilding program for swordfish, the U.S. has been allocated a 29 percent share.

Depending on participation in the pelagic longline buyout program and the impact of all the closed areas, it may not be possible for the U.S. to harvest the total amount of reallocated catch of swordfish using handgear, which will lead to an accumulated carry-over of unharvested stocks. If the U.S. fishing fleet is unable to harvest its share of the Atlantic swordfish quota allocated by ICCAT, the quota will most likely be reallocated to other fishing

nations. If this happens, the U.S. could lose negotiating power with ICCAT, leading to reductions in future allocation.

The U.S. currently has more regulations to prevent bycatch and more areas closed to fishing with pelagic longline gear than any other nation. If the U.S. position is eroded and its share of swordfish is reallocated, the result may be more bycatch Atlantic-wide rather than less.

In addition, Mr. Chairman, we have conducted analysis for the closed areas in H.R. 1367. Depending on the redistribution of fishing effort, the closures could either have no impact on discard rates or could increase them to a small extent.

In addition, we are uncertain that two capacity reduction programs are necessary and recommend that one program be developed to address capacity reduction and vessel compensation.

Also, H.R. 1367 requires completion of the vessel compensation program in 225 days. With the National Environmental Policy Act (NEPA) requirements and all other requirements we have, we feel like, without a specific implementation process in the bill, this program would take up to 20 months.

The bill also does not appropriate funds for either buyback program. And given current funding constraints, we prefer not to commit to either program until funds are appropriated.

Additionally, H.R. 1367 requires us to notify Congress of other potential funding sources for this program. And at the present time, we are unaware of additional sources.

Once again, I would like to state that NOAA Fisheries supports the stated goals of H.R. 1367. I recognize the significance of the many issues raised today and the efforts of Congress to meet the conservation requirements that minimize adverse impacts on displaced fisherman.

I look forward to working with Congress to address our concerns with the proposed legislation.

Thank you for the opportunity to testify. I look forward to answering any questions.

[The prepared statement of Mr. Hogarth follows:]

Statement of William T. Hogarth, Ph.D. Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration U.S. Department of Commerce

Good morning, Mr. Chairman and members of the Subcommittee. I am Dr. William Hogarth, Acting Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration. Thank you for the opportunity to testify today on H.R. 1367, the Atlantic Highly Migratory Species (HMS) Conservation Act.

This bill, introduced by Rep. Saxton, would- (1) establish seasonal closures to pelagic longline fishing for HMS in the Gulf of Mexico, the Northern Mid-Atlantic Bight, and the Southern Mid-Atlantic Bight; (2) limit the number of pelagic longline sets in the Mid-Atlantic Bight during the summer months; (3) establish two capacity reduction programs to compensate eligible vessel owners for voluntarily giving up their pelagic longline permits; (4) establish a Pelagic Longline HMS Bycatch and Mortality Reduction Research Program to identify and test a variety of pelagic longline fishing gear configurations and determine which of those configurations are most effective at reducing bycatch mortality; (5) reallocate a portion of the total allowable catch of swordfish from the pelagic longline fleet to the commercial handgear fleet; and (6) require pelagic longline vessels to be equipped with vessel monitoring systems. We note that several of these programs require appropriated funds that are not consistent with the President's budget request and, in view of current overall funding constraints, we do not intend to make a request for such funds for fiscal year 2002.

As you know, Atlantic HMS, such as swordfish, tunas, billfish, and sharks, range throughout tropical and temperate oceans and include some of the world's largest and most valuable fish. They are sought after by commercial fishermen and prized by many sport anglers. Since the early 1990s, Atlantic HMS have been managed directly by the Secretary of Commerce, primarily because the range of these species extends over five regional fishery management council areas. Secretarial management also facilitates U.S. participation in international HMS conservation programs and the establishment and negotiation of U.S. positions at meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the 31-member organization charged with coordinating the science and management of tunas and tuna-like species.

Atlantic swordfish, billfish, and some tuna species are harvested by a large number of nations and currently are considered by ICCAT to be overexploited. Consequently, we must work with other nations to eliminate overfishing and rebuild these fish stocks. Both the United Nations Agreement on Straddling and Highly Migratory Fish Stocks and the United Nations Convention on the Law of the Sea stress the need for cooperation among nations to ensure effective conservation and management of HMS throughout their range. Therefore, the United States has worked through ICCAT to foster international cooperation for the management of HMS. In recent years, the United States has played a key role in establishing international rebuilding programs for bluefin tuna (1998), swordfish (1999), and blue and white marlin (2000). Our progress on the international front would not have been possible without the strong support of U.S. commercial and recreational fishermen, environmental groups and others. While U.S. fishermen have a consistent record of compliance with these ICCAT programs, improvements in monitoring and enforcement by other contracting parties and non-members are greatly needed to ensure success.

Consistent with our ICCAT responsibilities, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that NOAA Fisheries take action to manage HMS fisheries within U.S. waters. With the assistance of the HMS and Billfish Advisory panels, in April 1999 NOAA Fisheries completed a fishery management plan for Atlantic tunas, swordfish, and sharks (HMS Plan) and amended an existing fishery management plan for billfish. These new plans were among the first to be implemented under the new requirements of the Magnuson-Stevens Act and included management measures to identify and rebuild overfished HMS stocks, minimize bycatch, limit access to the pelagic longline fishery for HMS, and address socioeconomic impacts on fishermen and their communities.

Pelagic longlines are the primary commercial gear type, besides handgear, in the HMS fisheries of the Atlantic ocean, including the Gulf of Mexico and Caribbean. The longline fishery thus provides an important source of seafood for the American consumer. However, like most types of fishing gear, it unintentionally catches species and sizes of fish that, for reason of regulation or economic choice, are thrown back into the sea. While some bycatch is released alive, some is also discarded dead. These dead discards in the pelagic longline fishery have declined over the past decade; however, concerns remain about bycatch levels, particularly of juvenile swordfish, billfish, bluefin tuna, and sharks. In addition, NOAA Fisheries must address the incidental catch of threatened and endangered species such as sea turtles. To minimize bycatch to the extent practicable, as required under the Magnuson-Stevens Act, NOAA Fisheries implemented a number of regulations in the HMS Plan such as a time-area closure for pelagic longline fishing in the Mid-Atlantic Bight to reduce discards of western Atlantic bluefin tuna and a requirement for pelagic longline fishermen to move 1 nautical mile after an interaction with a marine mammal or a sea turtle.

Additionally, on August 1, 2000, NOAA Fisheries published a final rule that established three additional time-area closures for pelagic longline fishing and prohibited the use of live bait in the Gulf of Mexico. Together, the three time-area closures implemented in this regulation are expected, if effort is redistributed, to reduce swordfish, sailfish, and large coastal shark discards by 31, 14, and 33 percent, respectively. While the time-area closures themselves are not expected to reduce blue and white marlin if effort is redistributed, NMFS expects the ban on live bait to reduce discards of these species by approximately three percent. These regulations were also chosen, after large amounts of public input and scientific analyses, because they minimize economic and social impacts, to the extent practicable, compared to the other options considered. It should be noted that these regulations are the subject of a pending lawsuit and the outcome cannot be predicted with any certainty. Additionally, NOAA Fisheries continues to monitor the impact of the regulatory closures to evaluate their effectiveness in reducing bycatch. If the bycatch re-

duction objectives are not being met, we may modify those closures through rule-making.

Most recently, NOAA Fisheries published an emergency rule, effective until January 9, 2002, to reduce sea turtle interactions and mortality. This emergency rule closes the Northeast Distant statistical area, also known as the Grand Banks, to pelagic longline fishing and requires pelagic longline gear modifications. This regulation and the biological opinion it is based on is also the subject of a pending lawsuit.

Overall, NOAA Fisheries supports the objectives of H.R. 1367 which, similar to the requirements of the Magnuson-Stevens Act, is to reduce bycatch in the Atlantic pelagic longline fishery while minimizing any social or economic impacts. We would like to work with you to clarify and amend certain provisions of the legislation that are unclear or appear to conflict with current regulations. I will briefly review our concerns at this hearing.

Regarding the seasonal closures in section 5, NOAA Fisheries has conducted analyses for the new closed areas proposed by H.R. 1367. Using the same analytical framework developed to evaluate the regulatory closures previously implemented, the new area closures described in H.R. 1367 may have little, if any, effect on the number of fish kept or discarded. Specifically, under a scenario which assumes no redistribution of fishing effort due to the targeted buyback provisions of the bill, the area closures in H.R. 1367 are estimated to decrease the number of swordfish discards by 1.2 percent, blue marlin discards by 1.5 percent, sailfish discards by 3.2 percent, and white marlin discards by 3.5 percent (see Attachment). If any of the fishing effort is redistributed because vessels fish in other areas rather than participate in the capacity reduction program, the area closures in H.R. 1367 could either have no impact on discard rates or could increase discards to a small extent. Thus, while the area closures would not have a large impact in terms of the number of fish landed by commercial fishermen, the results of the closures proposed appear to be contrary to H.R. 1367's stated purpose to reduce bycatch.

NOAA Fisheries is uncertain how the pelagic longline capacity reduction program in section 5(c) and the pelagic longline fishing vessel permit holder compensation program in section 6 relate to one another and whether two separate programs are needed. We recommend that only one program be developed to address capacity reduction and vessel compensation.

Additionally, H.R. 1367 requires completing the section 6 vessel compensation program in 225 days (7.5 months). However, without a specific implementation process in the legislation, this program would require an implementing rule with an opportunity for public comment and an environmental impact analysis under the National Environmental Policy Act (NEPA). Consequently, completing the section 6 program could require from 14 to 20 months.

While the bill does authorize the appropriation of funds for the costs of both permit buyback programs under section 5(c) and section 6, it does not appropriate funds for either program. Given current funding constraints, we prefer not to commence either program before the appropriation of adequate funds, and we do not intend to make a request for such funds for fiscal year 2002. Additionally, the section 5(c) program requires us to notify Congress of sources of additional funds in case the appropriated funds are inadequate to cover the costs of the program. We are unaware of any other sources.

H.R. 1367 requires appropriated funds for research and we note that such funds are not consistent with the President's budget request. The bill also requires the Secretary of Commerce to collect fees on vessel landings to fund observers. If Congress intends to implement such a cost-sharing mechanism, NOAA Fisheries is concerned that a one percent fee may not fully fund this mandatory program. We are also concerned that the scientific workshop referenced under Program Design presents a potential conflict with the Federal Advisory Committee Act (FACA). An alternative would be to exempt the scientific workshop from FACA or legislatively require a FACA charter.

The section 5 vessel buyout program is stipulated to be a reverse auction open to all permitted vessels, but the bids would have to be evaluated against the priority for vessels with a fishing history in the mid-Atlantic region. NOAA Fisheries would have to determine which records would be accepted to demonstrate a landings history and would have to develop a ranking scheme to establish the priority vessels. Such a scheme will take time to implement and will increase costs over what would normally be associated with a reverse auction.

Section 6(a) of H.R. 1367 refers to "initial limited access permits" that were issued by NOAA Fisheries to qualifying vessels in July 1999 on a temporary basis. Because most of these initial permits have since expired and have been renewed, the text should simply reference "limited access permits." NOAA Fisheries also recommends that the legislation clarify that pelagic longline fishing for HMS is authorized only

for vessels with all three permits (swordfish/shark/tuna) and that the permits be surrendered as a package.

Similarly, NOAA Fisheries believes the intent of section 6(b), “ineligibility due to transfer,” needs clarification. The current text includes transfer of non-HMS federal permits and this, together with the reference date, may result in the exclusion of more vessels from the compensation program than is intended. Also, the reduction in compensation for the “fair market value” of permits not held by the vessel is perhaps not applicable, as a pelagic longline vessel must have all three permits. Finally, the intent of the rules regarding transfer of permits not surrendered after compensation is unclear. For example, could a vessel owner be compensated by the government for not using the permits in the pelagic longline fishery and then sell the permits separately to individuals in the handgear fisheries for tunas, sharks or swordfish?

If Congress intends to compensate vessel operators based on catch history, we recommend the landing payment documentation provision in section 6(e)(3) be deleted and that landing payments be based exclusively on the default landing payment determination provided for in section 6(e)(4). This would simplify and accelerate the program process, as well as reduce both the government’s and program applicants’ administrative and paperwork burdens.

Section 11(d) refers to the “expiration of the closure of the Gulf of Mexico Conservation zone,” the date of which does not appear to be specified in the legislation.

NOAA Fisheries would need more clarification on the intent of section 12, the reallocation of total allowable catch, in order to undertake the rulemaking that would be necessary to implement this requirement. Under the ICCAT rebuilding program for swordfish, the U.S. has been allocated a 29 percent share of the total allowable catch. Depending on participation in the pelagic longline buyout program and the impact of all the closed areas, it may not be possible to harvest the total amount of reallocated catch of swordfish using handgear, which will lead to an accumulated carryover of unharvested U.S. quota. If the U.S. fishing fleet is continually unable to harvest its share of the Atlantic swordfish quota as allocated by ICCAT, it is possible that the quota would be reallocated to other fishing nations. If this happens, it is also possible that the United States would lose negotiating power at ICCAT, leading to reductions in future allocations. It should be noted that, currently, the United States has more regulations to prevent bycatch and more areas closed to fishing with pelagic longline gear than any other nation. This record of compliance is not matched by all other fishing nations. If the U.S. negotiating position is eroded and the U.S. share of swordfish is reallocated, the result may be more bycatch Atlantic-wide, rather than less.

Additionally, section 12 indicates some potential for the commercial swordfish handgear fishing fleet to benefit from the fishing capacity reduction associated with the vessels involved in the section 5(c) and/or section 6 programs. If this is a quantifiable potential, we recommend that the beneficiaries repay, through post-reduction landing fees, an appropriate portion of the programs’ cost. We believe that those who benefit from capacity reduction’s effect should repay a reasonable portion of the reduction’s cost.

Regarding section 14, vessel monitoring systems, I should note that NOAA Fisheries is currently under a court order to further consider the costs and benefits of vessel monitoring systems in the pelagic longline fishery. The outcome of this litigation cannot be predicted with any certainty. Certainly, new legislative requirements will determine how NOAA Fisheries implements a vessel monitoring program.

Once again, I would like to state that NOAA Fisheries supports the stated goals of H.R. 1367. We recognize the significance of the many issues raised and the efforts of Congress to meet conservation requirements and minimize adverse impacts on displaced fishermen. I look forward to working with Congress to address our concerns with the proposed legislation.

Thank you for the opportunity to provide this testimony. I would be happy to respond to questions.

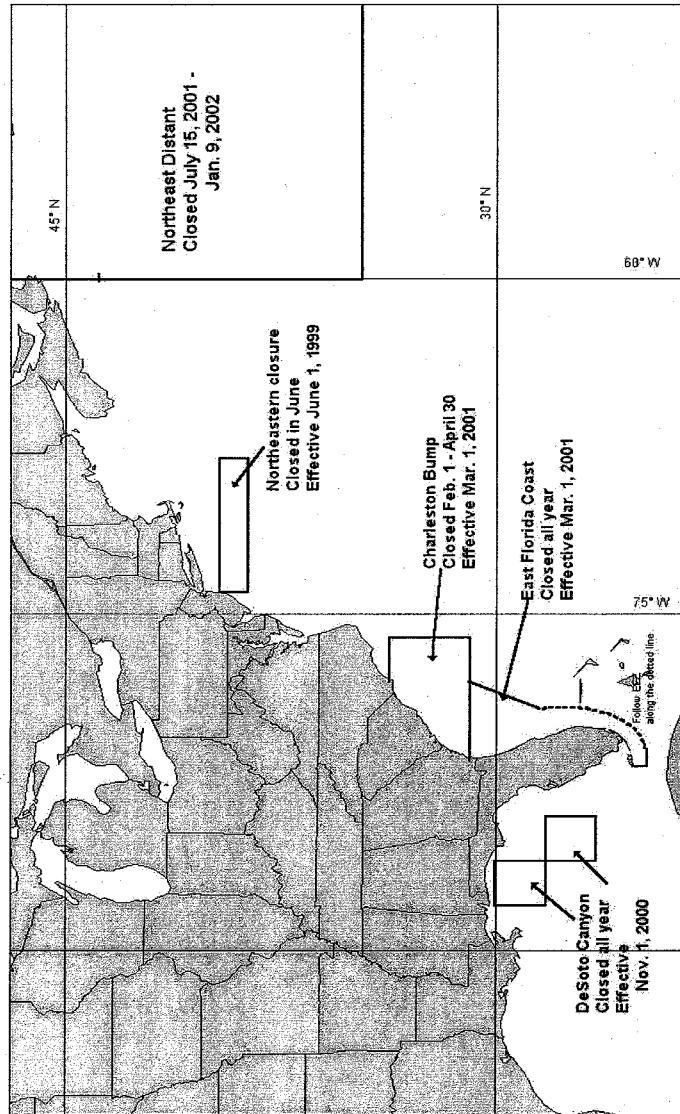
Attachment

SECTION 5 CLOSURES

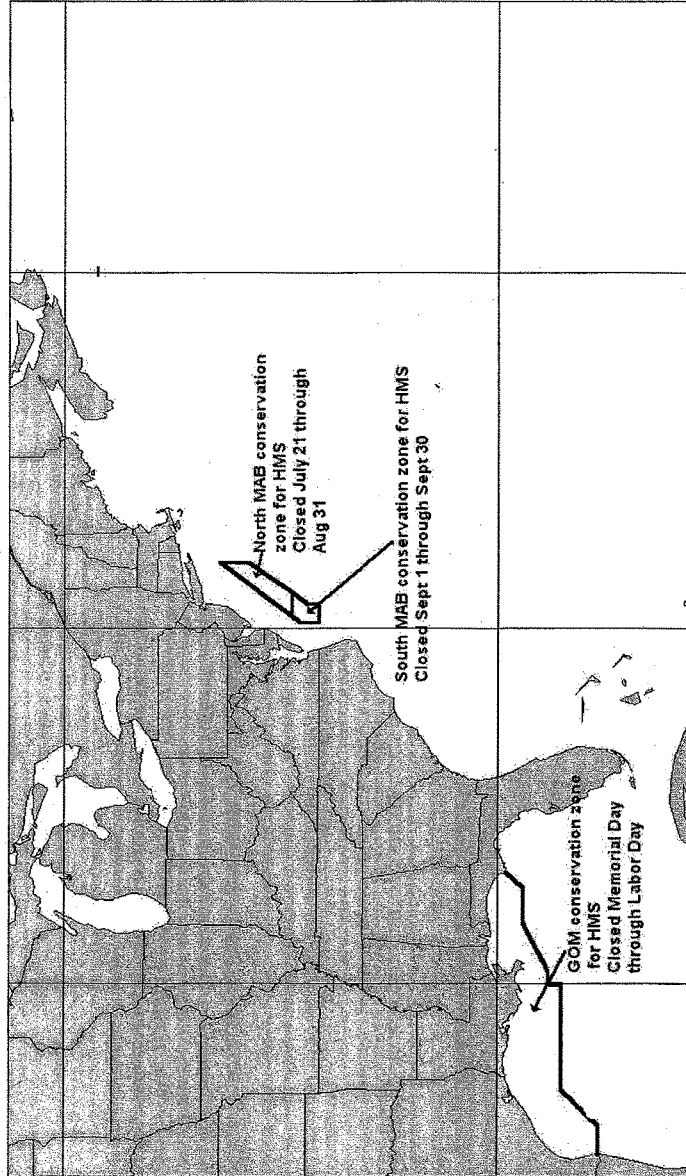
The effectiveness of the proposed closures was evaluated based on logbook data from 1995 through 1998. Positive values indicate a likely increase in fish kept or discarded; negative values indicate a likely decrease. Values are expressed in percent change. The models assume that the Gulf of Mexico conservation zone is closed from May through August, the Northern mid-Atlantic Bight conservation zone is closed from July 21 through August 31, and the Southern mid-Atlantic Bight conservation zone is closed for the month of September.

	Model	Gulf of Mexico	Northern MAB	Southern MAB	Total
Swordfish kept	No effort redistribution	-0.47	-0.18	-0.07	-0.72
	Effort redistribution	-0.28	0.70	0.29	0.71
Swordfish discarded	No effort redistribution	-0.63	-0.37	-0.20	-1.20
	Effort redistribution	-0.27	0.38	0.12	0.23
Bluefin tuna discarded	No effort redistribution	-0.02	-0.04	-0.0	-0.06
	Effort redistribution	0.09	0.08	0.0	0.17
BAYS tunas kept	No effort redistribution	-1.20	-1.61	-0.65	-3.46
	Effort redistribution	0.51	-0.66	-0.28	-0.43
Blue marlin discarded	No effort redistribution	-1.16	-0.27	-0.07	-1.50
	Effort redistribution	0.77	0.57	0.12	1.46
Sailfish discarded	No effort redistribution	-3.15	-0.0	-0.02	-3.17

	Model	Gulf of Mexico	Northern MAB	Southern MAB	Total
	Effort redistribution	0.25	0.96	0.15	1.36
White Marlin discarded	No effort redistribution	-0.52	-2.50	-0.50	-3.52
	Effort redistribution	1.77	-1.50	-0.28	-0.01
Pelagic sharks kept	No effort redistribution	-0.30	-0.65	-0.18	-1.13
	Effort redistribution	-0.25	0.28	0.03	0.06
Pelagic sharks discarded	No effort redistribution	-0.02	-0.58	-0.26	-0.86
	Effort redistribution	0.02	0.42	0.25	0.69
Large coastal sharks kept	No effort redistribution	-2.68	-0.25	-0.08	-3.01
	Effort redistribution	-3.92	0.14	0.03	-3.75
Large coastal sharks discarded	No effort redistribution	-2.20	-0.33	-0.22	-2.75
	Effort redistribution	-3.19	0.12	-0.06	-3.13
Sea turtles	No effort redistribution	-0.07	-0.07	-0.04	-0.18
	Effort redistribution	0.07	1.73	0.60	2.40



This map indicates where the NMFS closures are located and when the closures are in effect.



This map indicates where the closures would be as proposed by H.R. 1367.

Mr. SAXTON. Thank you, Dr. Hogarth.

Mr. Hayes?

Mr. HAYES. Yes, Mr. Chairman, I have a written statement, which I would submit for the record, if I could, and I will just summarize it.

Mr. SAXTON. Without objection.

**STATEMENT OF ROBERT G. HAYES, GENERAL COUNSEL,
COASTAL CONSERVATION ASSOCIATION**

Mr. HAYES. I am Bob Hayes. I am the general counsel of the Coastal Conservation Association.

And as I sit here today and I think about this problem and I think about your bill, which I commend you for introducing, I think that everyone in this room realizes that we have a problem and that our problem is very well summed up in your opening statement.

White marlin are now at about 15 percent of MSY, and they are at 15 percent of MSY in an Atlantic-wide stock, and we have an Atlantic-wide problem.

The question that your bill presents is: What should we do about that problem domestically? And then secondly, what are the elements of that bill which can lead to an international solution?

And as I said, I commend you for putting the spotlight back on this issue, because I think this is an issue that is going to be resolved ultimately in three separate forums. That would be this one, in the administration, and internationally.

Like you, I am not going to go through a history of the old bill. It was an interesting exercise.

But I would like to talk about essentially the four issues that are in this bill and essentially were in the last bill, and talk a little bit about the need to focus in on those four areas.

Of those four areas, the first one is to reduce effort. I think the buyout system makes an enormous amount of sense. I think that recreational fisherman are willing to contribute to domestic buyouts. And I think that we ought to be thinking about buyouts internationally and how to fund them.

The difficulty, as Bill just said in his testimony, and I think everyone else will say, is the difficulty with buyouts is getting the money to do them. Everyone is in favor of them. The question is, where do you get the money?

I think one of the things that we stressed in the last bill, which we would stress again, is that recreational fisherman, if they see a benefit to the resource, are willing to participate in buyouts.

The second thing is hotspots, which you have in your bill. Frankly, the things that were in the last bill which are identical to your bill were essentially drawn up in a room with a couple of scientists and a little bit of information and an enormous amount of negotiation between the parties.

They may not have been perfect. I think particularly the one in the gulf, people criticized it as not having any impact whatsoever.

I think we ought to look at a biological basis for these closures. And if we did, we would be looking at a much larger set of closed areas. Once we have done that, we can then take a look at whether these closed areas have an economic impact.

And as I said in my testimony, there are clearly high bycatch areas in the United States, including the mid-Atlantic, the western gulf off of Texas, and the northern Caribbean, essentially between the Bahamas and Cuba. Those are places that even a nonscientist like myself can look at the data and say, "Here's a problem."

The question becomes balance. What do we do about that problem? How do we go ahead and provide for conservation without necessarily or unnecessarily impacting a commercial entity. It seems to me that is the basis for the compromise.

The third thing, which I think was in the last bill, which is in your bill, is research. Research is the single largest component and, to me, one of the most attractive things in both your bill and the bill that was filed last year, and were in all of your bills last year.

If we can get the focus that you have put on this issue down here to the scientists, so that they can get the kinds of funds and structured program with the interaction of the environmental community, the recreational community, and the commercial community, to find ways to reduce bycatch and longlines, we can then set a scientific precedent that allows us to go internationally and really make some legitimate headway on this issue.

I would ask the Chairman to consider pushing in this cycle a separate research bill that did nothing but this issue and got us to a point where we had the kind of information that gave us a credibility that was irrefutable in an international forum.

Lastly, I would like to point out, as I said, this is an international issue. You have to deal with this issue internationally.

That is in no way to suggest that the United States should not take a leadership role. That means that there will be domestic regulations. There will be impacts on domestic fisherman. And there will be solutions, which are developed domestically, which we carry internationally. That is all part of leadership.

Frankly, as a person who has been to ICCAT the last 2 or 3 years, I would like to commend the commercial industry on showing enormous leadership last year on the marlin deal and then the year before that on the swordfish recovery plan. Without them, we don't have those things.

I just think that there was a lot of acrimony last year. There has been a lot of acrimony over this issue.

I think it is time for the communities to get together, work out a solution, work with you, Mr. Chairman, work with other interested members, and see if we can come up with a solution that may not be a perfect legislative solution, but will allow us to develop that leadership to take it internationally. And we pledge to work with you and all the parties in this room to do that. Thank you.

[The prepared statement of Mr. Hayes follows:]

Statement of Robert G. Hayes on behalf of the Coastal Conservation Association

Good morning, my name is Bob Hayes; I am here today on behalf of the Coastal Conservation Association ("CCA") to present their views on the issue of longline bycatch. CCA is a national organization of sport fishermen headquartered in Houston, Texas, with chapters in fifteen states on the Gulf of Mexico and Atlantic coasts. We presently have 80,000 members, many of which are involved in offshore fisheries for billfish.

As we sit here today, we must acknowledge that marlin stocks are in terrible condition. The decline of these stocks can be correlated to the growth of international

longlining for tuna and swordfish. We have an Atlantic-wide problem, and if we don't solve it, it will progress to an endangered species problem. No one wants to see that. We congratulate Chairman Gilchrist and Congressman Saxton for having this hearing today to continue the focus on this significant resource problem.

CCA became involved in this issue in the late 1980s as a result of the inaction of the federal management system to address the declining billfish populations. The thinking at the time was that conservation of billfish only required restrictions on U.S. citizens within our EEZ to control the decline. The underlying theory was that if the United States controlled its market to prevent the sale and import of Atlantic billfish and controlled the bycatch by its own fleet, the stock would recover. Regulations were established that required our fleet to discard all billfish caught in U.S. waters. Minimum size limits were put in place for recreational fisherman, and billfish were declared as the first federal marine gamefish. U.S. landings of billfish both recreationally and commercially have dropped to a point where present landings of marlin do not exceed 200 fish. It was a great plan, but it did not work.

It became clear in the 1990s that the level of catch by domestic vessels was only a small percentage of the total mortality for Atlantic billfish stocks. Recreational fishermen began to see a further decline in abundance, especially in white marlin. This led to an outcry from recreational groups and some discussions with the National Marine Fisheries Service (NMFS) to address the problem. Congress intervened with changes in the Magnuson Act in 1990 and in the Sustainable Fisheries Act. Ultimately, NMFS organized the Highly Migratory Species Office and progress toward a solution began in 1997.

The proposed solution was a set of regulations published in the spring of 1999 and the summer of 2000. The regulations addressed longline bycatch by closing large sections of the EEZ to the commercial fleet. The theory behind the closures was based on two ideas. The first was that there are identifiable hot spots in the ocean where the bycatch of longline fleets is significantly higher than other places they could fish for targeted species. The other was that it was a worthwhile and positive conservation tool to decrease the number of discards of small swordfish.

Unfortunately, for these ideas to work, there has to be an overlap of the areas and displacement of vessels has to be minimized. The NMFS rule actually increased the bycatch of marlin, sharks, turtles and marine mammals and incensed recreational fishermen to the point where CCA and The Billfish Foundation filed suit challenging the regulation. The suit, which has been joined with suits by the National Coalition for Marine Conservation and other environmental groups and a group of longliners in Florida, is now awaiting a decision here in D.C. Federal District Court. Every plaintiff in these suits is asking the Court to return these regulations to NMFS to reevaluate the size and impact of the closed areas.

In addition to the administrative efforts, there was a concerted effort by all of the communities to accomplish some conservation internationally. Beginning in the mid 1990s there was a realization that growth in both the size and efficiency of international longline fleets was having a continued detrimental effect on the health of marlin stocks. There was no question that the fleets were becoming more efficient. As the use of the gear type increased in both the tuna and swordfish fisheries, so did the bycatch of marlins.

In the last five years, three international agreements have set the framework for what could be a solution to the problem of longline bycatch. The first is a set of agreements to hold member and non-member countries accountable for conservation restrictions. In this regard, the International Commission for the Conservation of Atlantic Tuna (ICCAT) may be well ahead of every other international conservation convention except the Convention on International Trade in Endangered Species (CITES). Having said that, it still has a long way to go to make this work.

The second agreement in 1999 established a ten-year recovery plan for swordfish. This plan was largely the result of U.S. leadership at ICCAT. It could not have been accomplished without the sacrifices of the domestic longline industry, which understood the need here at home to get a recovery plan that worked. As important as a recovery plan for swordfish is, swordfish recovery will likely only further the decline of marlin.

Therefore, the most significant agreement from a recreational standpoint was done last year when ICCAT agreed to begin to reduce the mortality of marlin and develop a recovery plan for them in 2002. The recovery plan will be the first attempt by ICCAT to develop and plan for something of no commercial value to most of the member countries. The challenge is to provide realistic and constructive management measures that can be implemented by the international longline fleet and enforced.

Finally, there was the attempt in the last Congress to put a bill together that addressed what many people thought were the four elements required to solve the problem. The four elements of the last bill were:

1. Reduction of effort in the longline fleet.
2. Closed areas to reduce bycatch.
3. Research to modify gear and /or fishing practices to reduce bycatch.
4. Development of a bycatch reduction program that could be implemented internationally.

The effort failed primarily because of the difficulty in getting agreement on which measures were necessary and the federal funds to complete the buyout.

What have we learned?

Federal management of billfish is only thirteen years old. In that period we have seen a decline in the abundance of both blue and white marlin while eliminating almost all landings of marlin by recreational and commercial fishermen. International management of billfish has only just begun. The ultimate results are very uncertain at this point.

Both domestic and international management entities seemed to have agreed on the problem: longline gear is catching billfish and other species at a rate greater than that required to keep the stock in equilibrium. Dr. Phil Goodyear believes that the present rate of bycatch may be so great that white marlin will be eligible for listing as a Category 1 species under CITES unless some international action is taken. (It has been reported that some environmental groups here in the U.S. are considering a petition under the Endangered Species Act).

We have learned that the problem is international and cannot be solved by simply restricting U.S. activities. That is not to say the restrictions at home do not help internationally. They do. But, it is to say that a domestic strategy without a clear international strategy will only result in the further decline of marlin.

We have learned that longliners are not a monolith. Longlining in the Gulf for yellowfin tuna is different than longlining in the Straights of Florida or offshore in the mid-Atlantic. The boats, economics, crew styles, what they fish for and how they fish are all different. The only thing the same is that the gear used catches something in addition to what it is intended to catch. The same can be said for the international fleets. The principle difference is that the U.S. longline industry is the international leader in conservation of both direct and indirect species. Their foreign counterparts have not felt the pressure of committed domestic constituencies that will not tolerate wasteful bycatch.

We have learned that the solutions on the table today are not going to be adequate to solve the problem. Today, the two remedies of choice are to close high bycatch areas and require that all live bycatch be returned to the sea. The hotspot approach is only being utilized domestically and it is being used on a species by species basis. The domestic longline fleet now has closed areas in the Atlantic for bluefin tuna, sea turtles and small swordfish. These closures, without a corresponding reduction in the fleet, only cause the fishing effort to be shifted. Since the data is based on historic catch, there is no way to determine the impact on the bycatch of other species. We are simply curing today's immediate problem in the hope it will not do too much damage somewhere else. Internationally, the U.S. is committed to the same approach.

We have learned that the solutions to our problem are largely based on the science at hand. Internationally, ICCAT becomes engaged because the scientists identify a problem. Once identified, the scientific community develops a solution, and within negotiated parameters, ICCAT adopts a series of recommendations to address the problem. The key to success is ICCAT's science committee. Without it, the U.S. has only its own weight to convince others of the legitimacy of its cause.

HR 1367

Today we have a new effort at a legislative approach. This bill addresses all of the areas of the last bill and, for the most part includes many of the understandings reached in the last session. It is a valuable tool to focus the Congress, the stakeholders and the Administration on this problem. We should recognize that many of the provisions of S-1911 were negotiated among the stakeholders and may not be necessary or acceptable in this Congress. With that I would like to raise a couple of issues of concern and tell the Chairman and Congressman Saxton that we are willing to work with them to create a bill that can be signed by the President.

Issue 1. This bill reduces effort through a voluntary buyout and a transfer of quota to a gear type that has no bycatch. The objective is laudable, but the reality is that the new gear type is incapable of harvesting the transferred quota. The problem is that foreign nations hungry for quota are not going to agree to let that amount go to conservation. Rather, they will push for an increase in their quota with its accompanying bycatch, and the U.S. will have achieved little conservation for the effort. If we leave the quota with the remaining fleet, we can at least control them.

Issue 2. The closed areas in the bill were negotiated last year. They should be revisited. To get the maximum biological impact for marlin, the current legislative effort should close the NMFS closed areas, plus - one in the western Gulf, an area between Cuba and the Bahamas, and an area in the mid-Atlantic. If you add these to other areas closed to longlining, the impact on the fleet is substantial. Therefore we should consider rolling closures that attempt to target when the minimal bycatch will occur. As example, a three month closure of the Western Gulf of Mexico may minimize the impact on the commercial fleet and maximize the benefit to marlins.

Issue 3. The research program in the bill should be expanded and the program shortened to allow for the use of the results by the fall of 2002. The research should focus on one issue, techniques to reduce bycatch. They could be gear modifications, rolling closures, fishing techniques or any combination of them so long as they reduce bycatch domestically and internationally.

What needs to be done?

The solution of the day for longline bycatch is closed areas. These are preferable to eliminating the gear entirely because they mitigate the impact on the fishermen while addressing the bycatch problem. The United States is using the method liberally, but its acceptance internationally is very limited. As we have seen, closed areas can be effective remedies for single problems; but since they cause displacement and do not reduce effort, something else needs to be done. Altering fishing techniques and practices has always been held out as a remedy by the commercial industry. Regulations like those recently published addressing turtle bycatch may hold some promise, but a grander more significant research program needs to be established to find methods of reducing bycatch.

Next year, the United States will have to take the lead in developing a marlin recovery plan at ICCAT. If that were today's mission, the U.S. would offer international closed areas and require the release of all live billfish. Most U.S. scientists do not believe such measures will be adequate to recover either white or blue marlin. There has to be either a reduction in longline effort or a significant improvement in bycatch reduction. The first suggests a moratorium on the building of new longline vessels coupled with a buyout, and the second suggests some technology or fishing practice changes. The U.S. does not have the information necessary to sustain a proposal to accomplish any of these proposals.

In the short term, we need a research program that focuses solely on longline bycatch and either develops an acceptable means of addressing it or comes to the conclusion that the bycatch is unavoidable. All countries can then make the determination of whether the result is acceptable.

Mr. Chairman, thank you for allowing us to present our views.

Mr. SAXTON. Mr. Panacek?

STATEMENT OF ERNEST PANACEK, PRESIDENT, BLUE WATER FISHERMAN'S ASSOCIATION

Mr. PANACEK. Thank you, Mr. Chairman. I apologize if this oral testimony goes for a little bit too long, but I wanted to squeeze a lot in.

I am disappointed, however, and I hope after the testimony and we open this up for discussion that our ICCAT commissioner could possibly enter into the discussion. I am disappointed that he didn't have the ability to sit beside me here to testify because of the serious international implications of this bill.

I don't want him to be made a scapegoat for this domestic issue because we need to realize the total picture of the need for international conservation.

My name is Ernie Panacek, but, by marriage, I am also a member of the Larson family. Our family is one of several prominent Barnegat Light families who for generations have made our living from the sea by supplying other Americans with fresh seafood. Presently, I am the manager of Viking Village dock, a diversified seafood company that also owns and operates pelagic longline vessels.

Barnegat Light fishing families are here today because we are afraid and confused. We are afraid because this bill will destroy our family businesses and a way of life that is built upon sound business practices and sustainable fishing principles. We also see our once tight-knit community of fishing families—some commercial and some recreational—being needlessly torn apart by this bill.

We are confused because we don't understand why this legislation was introduced again. This bill drives a wedge into our community that may never heal. It tells our community that the living made by one man who sells his catch of fish to feed Americans must be stopped so that another man can catch the same fish for fun.

Mr. Chairman, this legislation should not become law because it is bad for conservation. If a large part of the mid-Atlantic Bight is closed during our most productive fishing months, our boats will be forced to fish farther south, where inevitably we are going to catch more billfish and small swordfish, and that is bad for conservation.

Furthermore, the mid-Atlantic has the most productive tuna and swordfish grounds for our fleet of smaller boats. As we are forced further south, we will also catch less tuna and swordfish and be forced to increase our effort in a futile attempt to make up the difference.

This closure on top of the 3 million square miles of other U.S. longline recent closures will prevent the U.S. from catching its bycatch swordfish quota. ICCAT will reallocate our unused quota to other nations like Japan, Spain, Brazil, and Namibia, who frankly could care less about billfish conservation and the release of juvenile swordfish bycatch.

The more quotas these other nations receive as a result of us being forced out of our most protective fishing grounds, the more billfish and small swordfish will be killed.

I expect that you want to know why our industry so strongly opposed the mid-Atlantic closures this year if we agreed to similar measures as a consequence of your arm-twisting last year during consideration of the Breaux bill. We did so very reluctantly, and we did so primarily because Senator Breaux had requested a compromise to deal with your demands.

By that point, we were convinced that no matter what compromise we offered, we would never have the benefit of your support. Because we had worked so closely and so hard with a coalition of commercial and mainstream recreational groups for over 2 years, we also made that concession in order to ensure that our industry would not be the ones blamed for killing what could have been a great, landmark conservation bill.

Since then, NMFS has closed huge areas to our boats without providing any relief for devastating economic impact on our fisherman and families. Our fleet has almost nowhere left to fish.

Today it is crystal clear that our fleet cannot survive without the mid-Atlantic during the most productive fishing months. We can no longer afford to look the other way on any scientifically unjustified closure designed to appease New Jersey sport fisherman.

Each year, despite our efforts, our fleet, using the same hooks as the sport fisherman, incidentally catches some white marlin in the mid-Atlantic Bight. One hundred percent of these fish are returned to the water, almost 75 percent of them alive.

The few white marlin that we inadvertently kill in the areas that Mr. Saxton wants to close represent only one-half of 1 percent of all white marlin reported killed in the Atlantic fisheries; 99.5 percent of white marlin mortality occurs somewhere else, predominantly by the foreign fleet.

For every white marlin that our fleet incidentally kills in the mid-Atlantic, we catch more than \$50,000 worth of food fish, mostly yellowfin, bigeye and swordfish. The total annual ex-vessel value of our mid-Atlantic longline fishery is greater than \$8 million, which makes this a very, very productive area.

Mr. Chairman, another reason this bill should not become law is because it will hurt our coastal fishing communities.

Several years ago, this Committee helped pass the Sustainable Fisheries Act. This act requires striking the balance between conservation and the preservation of our small coastal fishing communities.

A mid-Atlantic closure would generate the least conservation benefit in return for the greatest economic harm. This is unbalanced, and it is unfair.

I expect that you will say that this is why this bill provides not one but two buyouts. Mr. Chairman, 10 buyouts still wouldn't be good for our community.

A buyout will only ensure that those who hold the mortgages on our boats and homes get paid. Without a fishery, our community will be transformed forever from one of self-reliant people and a self-sustaining year-round economy to one that is totally dependent upon the annual influx of summer tourists. A buyout is not going to preserve our community.

A buyout does nothing good for conservation either. If the U.S. fleet is eliminated, longline fishing and longline fishery management will be turned over to the nations who have proven their disregard for sustainable fisheries conservation.

If the United States unilaterally removes itself from the fishery, it will also remove itself from the table where international conservation measures are developed, diminishing our influence as a conservation leader.

Finally, Mr. Chairman, I ask you and the other members to look at the chart at the end of my written testimony, and there you will see how the catch of white and blue marlin has increased more than 100 percent in the three largest recreational billfish tournaments in the mid-Atlantic region in the 4 years for which I have data. What this chart tells you is that the longline fisherman are not degrading the recreational fishing experience in these mid-At-

lantic tournaments, nor are they affecting the incredibly rapid growth of the recreational fishing industry.

Our commercial and recreational fisheries can coexist and thrive as they have for generations without these closures or the other divisive measures in this bill. It is foolhardy for the U.S. to adopt a policy that turns our commercial fisheries and fisheries management over to other nations who will do a terrible job of conservation.

It does not make sense to turn our strong U.S. market for swordfish and tuna completely over to foreign nations to supply, and it does not make sense to reduce our nation's fishing industry to nothing more than a sport. It is not good for conservation, it is not good for our fishing communities, and it is just not good for this country.

Mr. Chairman, obviously our families have long-term interests in the sustainability of these fisheries. We have been doing this for generations. We are the conservationists, and we want a sustainable fishery. The record shows that it was U.S. pelagic longline industry that made it possible for the U.S. to successfully negotiate the rebuilding plans for swordfish and white and blue marlin at ICCAT over the past few years.

We have supported all manner of scientific research on our fishery and have provided an incredible amount of volume of data to the government, certainly far more than our recreational counterparts. Yet our reward for this exemplary record of contributing to conservation is the unilateral stepwise extermination of our industry by our government. Why? Is it because we have been successfully demonized by a handful of well-funded sport fishing and so-called conservation groups?

This bill would do nothing more than bring us one more step closer to our grave. Longline vessels and the families from many other coastal fishing communities, such as Ocean City, Maryland, Wanchese, North Carolina, and Venice, Louisiana, would tell you the same story.

If the best interests of America's fishermen are not to be respected, perhaps others will be concerned that this bill also pits the interests of commercial fishermen and their communities from one state against the interests of sport fishermen from another.

I urge you not to pass this legislation.

Mr. Chairman, my written testimony contains several constructive suggestions for alternative actions this Committee and its members could take to contribute to Atlantic HMS fisheries' conservation and the health of our industry. These alternatives include support for Congressman Shaw's legislation to provide emergency relief for Florida fisherman thrown out of business by the National Marine Fisheries Service final rule.

Mr. SAXTON. Excuse me, Mr. Panacek, we try to operate here under a 5-minute rule, and you are now over 11 minutes. So if you could summarize, we would appreciate it.

Mr. PANACEK. Yes, Mr. Saxton. I have about 1 minute.

Mr. SAXTON. Thank you.

Mr. PANACEK. We recommend focusing on the huge international conservation problems we have at ICCAT, including the lack of foreign compliance, illegal foreign fishing, and the continued importa-

tion of ICCAT illegal fish into the U.S. market. We need to move away from this constant bashing of U.S. commercial fishermen who for years have been doing everything humanly possible and technologically possible to improve conservation.

We are not the problem. Instead, let's start focusing on the real problems: foreign fisheries. Achieving ICCAT compliance would eliminate the animosities that plague our domestic fisheries.

Thank you for your consideration.

[The prepared statement of Mr. Panacek follows:]

Statement of Ernie Panacek, General Manager, Viking Village, Inc.

Mr. Chairman, thank you for this opportunity to testify before your subcommittee today. Please forgive me if much of my testimony is directed toward my good friend and Congressman, Mr. Jim Saxton, who is the author of the legislation that we are here to discuss.

I am very disappointed that our ICCAT Commissioner was not permitted to testify alongside of me concerning the serious international implications of this bill. He should not be made to be the scapegoat for our disagreements in New Jersey. I have attached a copy of a memo prepared by our ICCAT Commissioner at Congressman Jones' request which includes a discussion of the negative consequences of this legislation on the international management of highly migratory species.

My name is Ernie Panacek, but by marriage I am also a member of the Larson Family. Our family is one of several prominent Barnegat Light families who for generations have made our living from the sea by providing fresh seafood to other Americans. Presently, I am the manager of Viking Village fish dock, a diversified seafood company that also owns and operates pelagic longline fishing vessels that harvest swordfish, tunas and sharks from the mid-Atlantic bight.

Barnegat Light fishing families are here today because we are afraid and confused. We're afraid because this bill will destroy our family businesses and way of life that is built upon generations of sound business practices and sustainable fishing principles. We also see our once tight-knit community of fishing families some commercial and some recreational being needlessly torn apart by this bill.

We're confused because we don't understand why this legislation was introduced. This bill drives a wedge into our community that may never heal. This bill tells our community that the living made by one man who sells his catch of fish to feed his family must be stopped so that another man can catch the same fish for fun.

These families are also here to ensure that I do a good job of telling you why this legislation should not become law. I'll do my best.

This legislation should not become law because it is bad for conservation.

There are others here today that can explain the science far better than I, but no one is here today who knows better than I that if you close a large part of the Mid-Atlantic Bight during our most productive months of fishing for tuna and swordfish, that our boats will be forced to fish further to the south. We can't go north or to the east because most of our boats are not big or safe enough for distant water fishing. Many can't even carry enough fuel to get to those fishing grounds. We'll be forced to go south, and when we go south, particularly below Cape Hatteras, we will catch more billfish and small swordfish, and that's bad for conservation.

I can also tell you that the Mid-Atlantic Bight includes the most productive tuna and swordfish grounds for my fleet within the EEZ. If we have to fish further south, we will catch less tuna and swordfish on the same number of hooks. Some boats may be able to add a few hooks to try to make up for the difference, but overall we are sure to catch less tuna and swordfish than we do now. Why is that bad for conservation? A Mid-Atlantic closure, on top of the nearly 3 million square miles of longline closures NMFS put into effect earlier this year, will forever prevent the United States from using a substantial portion of its north Atlantic swordfish quota allocated by ICCAT. This quota will not go unused. It will be reallocated by ICCAT to other nations like Japan, Spain, Brazil and Namibia who, frankly, could care less about billfish conservation or releasing juvenile swordfish bycatch. The more ICCAT quotas these nations ultimately get as a result of this bill, the more billfish and small swordfish will be killed.

I expect Mr. Saxton wants to know why our industry so strongly opposes his Mid-Atlantic closures this year if we reluctantly agreed to similar measures because of

his arm-twisting during consideration of the Breaux Bill last year. Well Mr. Saxton, that was then and this is now. The context is completely different.

First and foremost, Senator John Breaux, the Senate champion of our legislation asked us to offer some compromise so that he could accommodate Mr. Saxton's and Senator Torricelli's demands. These demands were to close the Mid-Atlantic Bight or they would block the bill. We very reluctantly offered a compromise for two reasons. First, by that point in time we were all thoroughly convinced that no matter what compromise we offered, neither Mr. Saxton nor Mr. Torricelli would give their support to the bill. Second, because we had worked so closely and so hard with a coalition of commercial and mainstream recreational groups for over two years, we wanted to make sure that our industry would not be blamed for killing what could have been a landmark conservation bill.

Since then, our world has changed and the opportunity to achieve the balance of the Breaux bill has been lost. Since then, NMFS has closed nearly 3 million square miles of the Atlantic to our boats without providing any relief for the devastating economic impact on our fishermen and families. Today, the remaining fleet has almost nowhere left to fish. We wonder if that is the true goal of the Saxton Bill.

Today, it is crystal clear that our fleet cannot survive without the Mid-Atlantic during the most productive fishing months. We can no longer afford to look the other way on any scientifically unjustified closure designed to appease some NJ sportfishermen. Our experience last year taught us a bitter lesson. We now know that even our own representatives in Congress will rebuff any repeat of our constructive attempt to promote conservation in an unprecedented coalition with the mainstream recreational fishing industry.

Mr. Chairman, another important reason *this bill should not become law is because it will hurt our coastal fishing communities*. Several years ago this Committee helped pass the Sustainable Fisheries Act, which made substantial revisions to the Magnuson-Stevens Act, the cornerstone of our national fishery policy.

Among other things, the Sustainable Fisheries Act set forth the fundamental US fishery policy that an appropriate balance must be achieved between conservation objectives and the preservation of the social and economic viability of our small coastal fishing communities. Perhaps I've already said enough about just how bad this bill is for the social and economic fabric of our small community. But, maybe just a few more statistics will drive the point home.

Each year, despite our best efforts, our fleet incidentally catches some white marlin in the Mid-Atlantic Bight. One hundred percent of these fish are returned to the water, nearly 75% are returned alive. The few white marlin that we inadvertently kill in the mid-Atlantic closures proposed in this legislation represent less than one-half of one percent (0.005) of all the white marlin reported to ICCAT to be killed in the Atlantic fisheries. More than ninety-nine point five (99.5) percent of white marlin killed in the Atlantic fisheries are killed outside of the proposed Mid-Atlantic Bight closures, the vast majority by foreign fishermen.

Mr. Chairman, for every white marlin that our fleet accidentally kills in the Mid-Atlantic Bight region, our fishery catches more than \$57,061 worth of food fish, mostly yellowfin and bigeye tuna as well as swordfish. The total annual ex-vessel value of our Mid-Atlantic longline fishery is about \$8 million. This is a very productive fishing area with a relatively minimal amount of billfish bycatch.

Mr. Chairman, a Mid-Atlantic closure would generate the least conservation benefit in return for the greatest economic harm a result completely contrary to sound fisheries management. For this reason, this bill should not become law. It does not achieve an appropriate balance between conservation objectives and the socio-economic needs of our coastal fishing communities. In fact, it is incredibly unfair.

I expect that my good friend, Mr. Saxton, will respond by telling us that this is why his bill provides for not one, but two buyouts. Mr. Chairman, ten buyouts still wouldn't be good for our community. A buyout does nothing for fishery-based communities except make sure that those that hold the mortgages on our boats and homes get paid. Without our fishery, our community will be transformed forever from one composed of self-reliant people and a self-sustaining year-round economy, to one that is totally dependent upon the annual influx of summer tourists and residents who come to lie on the beach or sport fish for three months of the year. Ironically, I have personally surveyed many of these tourists and one of the reasons they come to Barnegat Light is to experience the atmosphere of a real commercial fishing community. I have no idea what our community will do or become for the remaining nine months, but a buyout does not provide an alternative.

A buyout does nothing good for conservation either. As I've tried to explain, if you eliminate the US fleet, the management of such fisheries will be turned over to nations that have proven their disregard for sustainable fishery conservation. As I'm sure our ICCAT Commissioner would confirm, if we unilaterally remove ourselves

from the fishery, we will also unilaterally remove ourselves from the table where international conservation measures are developed at ICCAT.

Finally, Mr. Chairman, I ask you and the other Members to look at the chart at the end of my testimony. There you will see how the catch of white and blue marlin has increased each year in the three largest recreational billfish tournaments in the Mid-Atlantic region. This increase is more than 100% in the four years for which I have the data. I hope this makes clear the point that our longline fishermen are obviously not degrading the recreational fishing experience in these Mid-Atlantic tournaments! I hope it also gives some indication of how recreational fishing effort and catch is growing by leaps and bounds in this country.

Our commercial and recreational fisheries can coexist and thrive as they have for generations without the need for any closures. It just doesn't make sense for the US to adopt a policy that turns our commercial fisheries and fisheries management over to other nations who will do a terrible job of conservation, it doesn't make sense to turn our strong market for swordfish and tuna completely over to foreign nations to supply, and it doesn't make sense to reduce our nation's fisheries to nothing more than a sport. It's not good for conservation, it's not good for our fishing communities, it's just not good for this country.

But that is where things seem to be going, Mr. Chairman. Obviously, our families have a long-term interest in the sustainability of these fisheries we've been doing this for generations. We are conservationists. We want a sustainable fishery. As our ICCAT Commissioner will tell you, it was the US pelagic longline industry that made it possible for him to successfully negotiate the conservation rebuilding plans for swordfish, white marlin and blue marlin at ICCAT over the past few years.

We have supported all manner of scientific research on our fishery and have provided an incredible volume of data to the government on our activities far more than any other fishery for tuna and swordfish. Yet our reward for our exemplary record of conservation and cooperation with US fishery conservation objectives is the unilateral stepwise extermination of our industry by our own government. Why? Is it because we have been successfully demonized by a handful of well-funded recreational and so-called conservation groups? This bill would simply bring us one more step closer to our grave.

Mr. Chairman, in addition to our concerns with a Mid-Atlantic closure, there are several other concerns we have with this bill.

(1) The bill would appear to impose a lifetime ban on any fishermen who accepts a buyout under this bill from ever being a longline fisherman again. I have never seen anything like this before. Our fishery is already the subject of a strict limited access system. If the longline permits and/or vessel itself are permanently retired under a buyout, why in the world would Congress want to prevent a fishermen from ever being a fishermen again? If a longline fishermen with a permit wants to sell that permit to a fishermen that accepted the buyout so that he can get back into the fishery someday, why would that be a problem? It would not increase the number of permits or boats or fishing effort in the fishery. It would not affect conservation whatsoever. Is the idea to punish our fishermen? Would this be Constitutional?

(2) Another provision of this bill would appear to arbitrarily reallocate longline swordfish quota to the "hand-gear" category. As I understand it, the hand-gear category includes both harpoon fishermen and recreational fishermen. It may not be unprecedented, but it would certainly be unusual for Congress to preempt the normal authority and procedures of NMFS to allocate US swordfish quota among different US fishermen. More importantly, this provision would guarantee that more US quota would go unused and be reallocated to foreign fishing nations. This is because neither the old swordfish harpoon fishery nor the recreational swordfish fishery has ever harvested more than about 10 percent of the US swordfish quota. This is unlikely to change. As I've explained, the reallocation of unused US swordfish quota to foreign fishing nations will have a negative impact on the conservation of swordfish, tuna and billfish.

(3) Among the many other flawed parts of this bill is the notion that a "pelagic longline fishing vessel capacity reduction program" is necessary. This fishery is not overcapitalized and is not in need of capacity reduction. In fact, this fishery is already undercapitalized, especially since the NMFS time-area closures put so many southern fishermen out of business earlier this year. As a consequence, this fishery is not able to fully utilize its ICCAT swordfish quota.

Prior to those closures, NMFS had reported the capacity in this fishery had fallen from 250 to 140 fulltime vessels. Today, we estimate that there are less than 100 active fulltime pelagic longline vessels in the US Atlantic fleet. The University of Miami did a recent study concluding that the optimal fleet size to utilize our ICCAT swordfish quota would be approximately 160 active vessels. To reiterate, this fishery

is substantially undercapitalized. The provisions of this bill appear to ignore this fact.

Mr. Chairman, longline vessels and the families that own and operate them are not just from Barnegat Light, but are a fundamental part of many coastal fishing communities in America such as Ocean City, Maryland, Wanchese, North Carolina and Venice, Louisiana. Fishing families from those communities could tell you the same story. I urge you not to pass this legislation.

Fortunately, there are a number of constructive alternatives to this legislation that our industry would like to suggest to the Committee for their consideration. I believe these alternatives could provide substantial benefits to conservation and our industry.

- (1) Support the initiative of Congressman Clay Shaw and others in the Florida Delegation to secure emergency financial assistance to those vessel owners and shoreside enterprises that were summarily forced out of business by the NMFS time-area closures implemented earlier this year off the coasts of South Carolina, Georgia and Florida, and in the Gulf of Mexico. It is rare for NMFS to take the draconian step to completely close a substantial fishery and thereby force fishermen completely out of business. Without getting into the merits of these closures, it is even more unusual for Congress not to step in and provide some form of relief to those fishermen and businessmen whose livelihoods have been sacrificed in the name of fishery conservation.
- (2) Develop legislation to prohibit the importation of fish caught by foreign fishermen in excess of ICCAT quotas or otherwise caught in violation of ICCAT conservation regulations. Currently, with the sole exception of undersized swordfish, the US Customs is powerless to prevent the entry of such ICCAT illegal fish. Although many of the necessary product-tracking capabilities are already in place, there is apparently no US law that prohibits foreign fishermen from exporting such fish into the US. Legislation can and should be developed that is consistent with the extensive multilateral conservation regulations and principles of both ICCAT and the Food and Agriculture Organization (FAO) to stop once and for all the US providing a "black market" for ICCAT illegal fish. I encourage the members of this committee to find the courage to take this step to ensure that the U.S. market cannot be used to benefit non-compliance with international fishery conservation and management programs. Our fishermen are responsible for only a minor percentage of the overall Atlantic-wide harvest of these international species. Ensuring compliance with the international conservation program is our only hope for someday achieving the maximum sustainable harvest level from some of these overfished resources.
- (3) A lack of compliance with ICCAT regulations is a real problem with many ICCAT member nations. The European Union nations are among the most problematic at ICCAT. Many of their actions have seriously undermined the effectiveness of ICCAT, its science and its conservation regulations. The US Commissioners have launched a large-scale emergency initiative to deal with the EU problems at ICCAT that will lead to better conservation. They have strong support in the Senate and within the Department of State. They also need the strong support and assistance of this Committee.

There is also a large fleet of pirate longline vessels operating in the Atlantic that do not belong to ICCAT and are not subject to any conservation regulations whatsoever. There is a large effort underway through ICCAT and the FAO to combat this illegal and unreported fishing that completely undermines ICCAT conservation goals. Our ICCAT Commissioners, our State Department, and our Commerce Department all need the help and support of this Committee to address this problem.

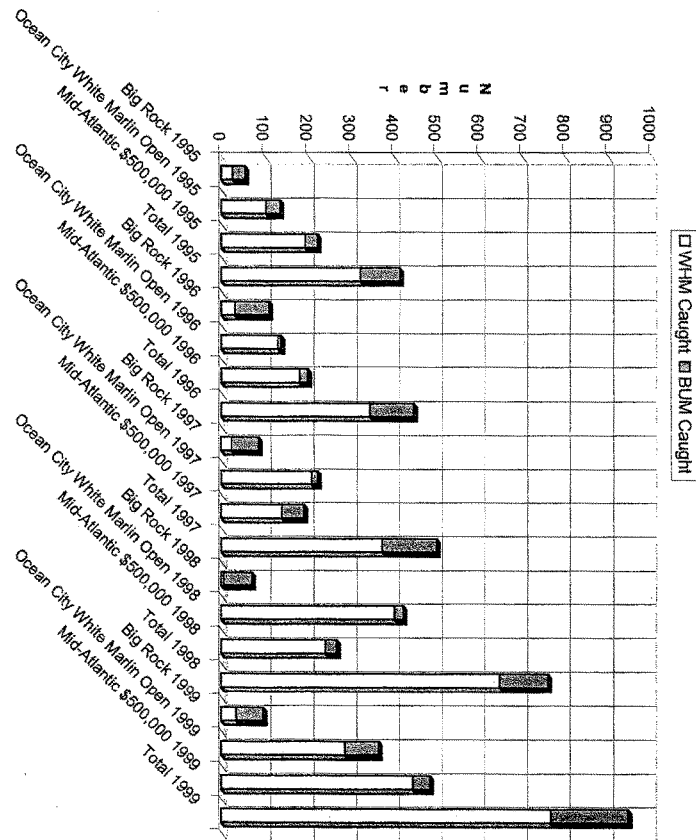
In fact, perhaps the most constructive contribution this Committee could make toward solving the international conservation issues at ICCAT would be to hold a hearing on the EU and other ICCAT management problems. Such a hearing would help call attention to this matter in Congress and help encourage high-level officials in the Bush Administration to pursue diplomatic solution with the EU. Demonizing American fishermen is a complete waste of time and is counter-productive to solving these international problems. We need to focus on the international issues where 95% of the fishery occurs and where nearly all of the conservation problems originate.

Mr. Chairman and Members of the Subcommittee, thank you for allowing me to testify. I hope that you will find the courage to "do the right thing" and not allow the Saxton Bill to move forward.

Our fishermen continue to be the world's leaders toward truly effective international recovery of these important fish to benefit all stakeholders and our future generations. If you have any questions or need more information on these issues,

please contact Glenn Delaney who is our U.S. ICCAT Commercial Commissioner,
Nelson Beideman who is BWFA's Executive Director, or myself.
Thank you for your consideration.

Recent Trends in Mid-Atlantic Tournament Marlin Catches



***ATTACHMENT TO ERNIE PANACEK TESTIMONY

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23 June 2001

TO: Congressman Walter B. Jones

RE: HR 1367 – Congressman Saxton’s Longline Fishing Bill --
Domestic and International Scientific and Management Implications

There is no scientific or fishery management basis for the bill to close substantial portions of the Mid-Atlantic Bight (MAB) to longline fishing.

- Billfish and swordfish are managed internationally by the International Commission for the Conservation of Atlantic Tunas (ICCAT). ICCAT has already established conservation rebuilding plans for white marlin, blue marlin and swordfish. All of these ICCAT conservation rebuilding plans were spearheaded by the US. All of these ICCAT conservation rebuilding plans represent the consensus of the ICCAT international scientific and management community. All of these ICCAT conservation rebuilding plans had the benefit of substantial input from the environmental community and from the commercial and recreational fishing industries. Because other, more effective conservation measures were adopted by ICCAT, none of these plans ever contemplated or require the US or any other nation to establish closures (such as the MAB closure) in any of their waters.
- In addition to the comprehensive analyses performed by the international scientific community, US longline bycatch has been studied extensively and repeatedly by National Marine Fisheries Service (NMFS) scientists as well as independent billfish scientists under contract to The Billfish Foundation (recreational fishing industry). The objectives of time-area closure management are (1) to identify discrete “hotspots” in the ocean where the rate of bycatch is disproportionately high, and (2) to shift longline fishing effort away from such areas into areas where the rate of longline bycatch is low. Consistent with ICCAT scientific findings, US scientific analyses have all concluded that the MAB is NOT a bycatch “hotspot” area, and that there is NO scientific basis to close the area for the purpose of billfish bycatch reduction. In fact, such data indicate that the MAB has the lowest billfish bycatch rate of any NMFS statistical area within the US EEZ.
- Therefore, there is no US or international scientific or fishery management basis for the bill to close the MAB to longline fishing.

The bill will increase the mortality of Atlantic billfish, including white marlin, blue marlin, sailfish and spearfish. (3 reasons why)

- (1) The MAB has the lowest rate of US longline billfish bycatch of any NMFS statistical area in the US Atlantic EEZ (as measured by catch of billfish per unit of fishing effort). By closing substantial portions of the MAB during peak fishing effort months, the bill will shift US longline fishing effort into areas of the ocean where higher rates of billfish bycatch are experienced. Thus, the result of the bill would be an increase in the mortality of billfish.
- (2) The MAB has among the highest longline catch per unit of fishing effort for tuna and swordfish of any NMFS statistical area in the US Atlantic EEZ. Yellowfin tuna, bigeye tuna and swordfish are the primary target species of the MAB longline fishery.

By closing substantial portions of the MAB during peak longline fishing effort months, the bill will shift longline fishing effort into areas with lower rates of tuna and swordfish catch per unit of effort. Longline fishermen will naturally attempt to compensate for this loss of fishing efficiency and catch by increasing their fishing effort in order to catch the same amount of fish they did in the MAB. As explained above, this increase in longline fishing effort would have to occur in areas with higher rates of billfish bycatch.

Therefore, by causing an increase in overall longline fishing effort, the bill will cause an even further increase in the mortality of billfish.

- (3) Approximately 3 million square miles of the Atlantic ocean and Gulf of Mexico are already subject to US time-area closures for US pelagic longline fishing. These time-area closures are designed to reduce various types of longline bycatch. Consequently, the US longline fleet is now unable to catch the full quota of its most important species--north Atlantic swordfish-- allocated to the U.S. through ICCAT. No other gear-type—including the US “hand gear” category—has ever had the capacity to catch more than about 10% of the current US north Atlantic swordfish quota. In other words, realistically, there exist no other gear alternatives to longline fishing that could catch the US quota of swordfish.

By closing the MAB and reallocating some portion of the US longline swordfish quota to the “hand gear” category, the bill will further reduce the ability of US fisheries to harvest the full quota of north Atlantic swordfish allocated to the US through ICCAT. The bill will increase the unharvested portion of the US swordfish quota. As a matter of ICCAT allocation procedure, such unharvested US swordfish quota will be reallocated to other ICCAT swordfish fishing nations. With the exception of Canada, all other major swordfish longline fishing nations have a much higher rate of billfish bycatch mortality than US longline fishermen. The more swordfish quota such nations receive from ICCAT, the more longline fishing effort they will make and, therefore, the more billfish bycatch they will have.

By causing US swordfish quota to be reallocated to other ICCAT fishing nations, the bill will increase the mortality of billfish.

The bill will undermine the effectiveness of ICCAT and put the US in violation of international obligations.

- Billfish, specifically white marlin and blue marlin, are among the most critically overfished species of fish managed under the authority of ICCAT. Any action taken by the United States to increase the mortality of white marlin or blue marlin will undermine the effectiveness of the ICCAT rebuilding plans for these species.
- Therefore, by increasing the mortality of marlins, the bill will undermine the effectiveness of the ICCAT rebuilding plans for these species and will put the US in violation of its international obligations to ICCAT. Actions taken by nations to undermine the effectiveness of ICCAT and specific ICCAT conservation measures may be subject to trade sanctions under US and international law.

The bill will undermine the ability of the United States to negotiate future billfish conservation measures at ICCAT.

- Billfish and other highly migratory species of fish such as tunas and swordfish cannot be effectively managed unilaterally by the United States or any other individual nation. More than 40 nations are represented as members of ICCAT and there are many other nations that are not ICCAT members that also employ longline fishing fleets in the Atlantic. Therefore, effective conservation and management of Atlantic tunas, swordfish and billfish demands multilateral cooperation among all nations fishing in the Atlantic.
- ICCAT provides the forum for such cooperation and its member nations are obligated to implement ICCAT conservation recommendations for tunas, swordfish and billfish. The US is the conservation leader at ICCAT, but has very limited if any leverage over other ICCAT nations. Thus, the effectiveness of the US Commissioners to successfully negotiate conservation measures that are binding on other nations depends in part on the credibility of both the US Commissioners to ICCAT and the credibility of the US proposals made by such Commissioners.
- Unilateral actions taken by the US that are inconsistent with ICCAT scientific advice and management recommendations undermine the credibility of the US Commissioners. Unilateral conservation actions taken by the US in advance of ICCAT taking similar actions also undermines the ability of the US Commissioners to secure the cooperation of other nations to conserve species. There is no incentive for other nations to make concessions for conservation if the US has unilaterally and prematurely made such concessions.
- An excellent example of how such "unilateral disarmament" seriously undermines US effectiveness at ICCAT is the case of billfish conservation. In 1988, the US unilaterally adopted by regulation a requirement for all US longline fishermen to release 100 percent of all billfish caught, whether alive or dead. Because the US had acted unilaterally and prematurely, it had little or nothing to put on the negotiating table for billfish conservation and ICCAT. Consequently, it took the US thirteen years to finally succeed in convincing other nations at ICCAT to adopt a similar, but less stringent requirement to release white marlin and blue marlin, and that achievement was made primarily because

the US gave some of its swordfish quota to Japan. During those 13 years, white marlin and blue marlin populations suffered extreme overfishing by foreign longline fleets and declined substantially.

- Closure of substantial portions of the MAB and other provisions of the bill are inconsistent with ICCAT scientific advice and management recommendations. In addition, these provisions of the bill are both unilateral and premature in the ICCAT context. Therefore, the bill will undermine both the credibility of the United States at ICCAT and the negotiating strength of the US Commissioners. Consequently, the bill will undermine the future ability of the US to secure billfish conservation measures at ICCAT.

The bill discriminates against US longline fishermen in favor of foreign longline fishermen contrary to US policy and law.

Generally, an objective of US fishery management policy is to prevent US fishermen from being discriminated against relative to their foreign competitors. Specifically, for example, section 304(g)(1)(C) of the Magnuson-Stevens Act mandates the Secretary of Commerce to “minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors” when preparing or implementing fishery management measures for tunas, swordfish and billfish.

US longline vessels account for approximately 5% of the total longline fishing effort and approximately 3 % of the total longline bycatch mortality of billfish in the Atlantic. The US longline bycatch mortality of billfish in the MAB = 0.1 % (one tenth of one percent) of total Atlantic longline billfish bycatch mortality reported to ICCAT. The US longline bycatch mortality of white marlin in the MAB = 0.5 % (one half of one percent) of total Atlantic longline billfish bycatch mortality to ICCAT. Actually, US longline bycatch mortality are much lower than this because a substantial percentage of Atlantic longline billfish bycatch is not reported to ICCAT.

Foreign longline fishing vessels account for more than 95 percent of the longline fishing effort and nearly 97% of the longline bycatch of billfish in the Atlantic reported to ICCAT. These figures are actually lower than reality because a substantial percentage of foreign longline billfish mortality is not reported to ICCAT.

Although US longline bycatch of all species of fish and sea turtles is extremely small relative to foreign longline fisheries in the Atlantic, the US government has unilaterally applied approximately 3 million square miles of time-area closures to the US longline fleet in order to reduce bycatch.

In comparison, there are no US or international time-area closures that apply to any foreign longline fishing vessels in the Atlantic in order to reduce bycatch.

The bill would close a substantial part of the MAB to US longline fishermen and would not close any waters to foreign longline fishermen. Therefore, the bill discriminates against US longline fishermen in favor of foreign longline fishermen contrary to US policy and law.

The bill will maximize adverse economic impacts and minimize bycatch conservation contrary to US fishery policy and law.

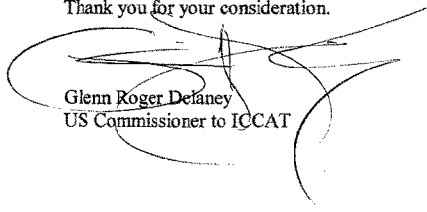
As generally set forth in the National Standards of the Magnuson-Stevens Act (16 USC 1851), the objective of US fishery policy is to maximize conservation benefits and minimize adverse economic impacts on US fishermen and fishing communities.

As discussed above, the MAB has the lowest rate of billfish longline bycatch of any NMFS statistical area within US waters. Therefore, closing the MAB to longline fishing will in itself achieve the MINIMUM of bycatch conservation possible. Furthermore, as explained above, closure of the MAB will actually increase billfish bycatch mortality by forcing US longline fishermen to fish in areas with higher rates of billfish bycatch.

The MAB also is an area with one of the highest rates and values of tunas, swordfish and other directed species catch among the NMFS statistical areas within US waters. The approximate average annual value of the longline catch in the MAB is \$8 million. Yet, the comparative rate of billfish bycatch mortality is relatively small. For example, US longline vessels catch an average of \$57,061 worth of tuna, swordfish and other valuable food fish for every 1 white marlin mortality they cannot prevent.

By closing the MAB, the bill will achieve precisely the opposite result of US fishery policy objectives. The bill would achieve the absolute minimum (if any) conservation benefit for the maximum of adverse economic harm to US fishermen and fishing communities.

Thank you for your consideration.



Glenn Roger Defaney
US Commissioner to ICCAT

Mr. SAXTON. Thank you very much.
Mr. Scott?

**STATEMENT OF GERRY SCOTT, DIRECTOR, SUSTAINABLE
FISHERIES DIVISION, NATIONAL MARINE FISHERIES SERVICE**

Dr. SCOTT. Thank you. Good morning, Mr. Chairman and members of the Subcommittee.

My name is Gerald Scott. I am director of the Sustainable Fisheries Division of the National Marine Fisheries Services' Southeast Fisheries Science Center in Miami, Florida. I am also functioning as the U.S. lead scientist to ICCAT.

Thank you for the opportunity to testify today on H.R. 1367, the Atlantic Highly Migratory Species Conservation Act.

I have been requested by the Subcommittee to offer views on how the Southeast Fisheries Science Center helps manage the pelagic longline fishery through research, data collection, and analysis, and on the bill's new research program, on the use of VMS and how the measures taken in the legislation will affect stocks of highly migratory species throughout the Atlantic.

The Southeast Fisheries Science Center has lead responsibility for scientific investigations into the biology and fishery productivity of Atlantic highly migratory species. These investigations are carried out in support of the U.S. scientific commitment to the International Commission for the Conservation of Atlantic Tunas, and in support of our domestic highly migratory species fishery management demands.

Our primary responsibilities for highly migratory species are to monitor catch and effort of U.S. Atlantic fisheries affecting the stocks, to conduct stock assessments on highly migratory species stocks, and to conduct biological research on the stocks in support of these stock assessments. Through these research, data collection, and monitoring activities, we provide advice on the sustainable harvest levels, and on the likely range of impact on the stocks of various future management measures considered for application to highly migratory species fisheries, including the U.S. Atlantic pelagic longline fishery.

These tasks require collaboration and coordination with other NMFS research and management offices, and also require frequent interactions with other Federal, state, academic, and private institution scientists, as well as coordination with scientific consultants to the various U.S. HMS fishery constituencies.

Our research direction is guided by recommendations made by ICCAT and by the U.S. ICCAT advisory Committee. With increasing frequency, Atlantic HMS research is also conducted through appropriation pass-through funding and through funding of competitive research activities.

Each year, our U.S. HMS research and monitoring activities are reported upon in the U.S. national report to ICCAT.

Research into gear of fishing pattern modifications which could mitigate the impact of pelagic longlines on bycatch species while at the same time minimizing the impact on the fishery is of high priority. The program identified within the bill would certainly enhance our research capabilities for evaluating bycatch mitigation measures.

Due to past reductions in research funding for billfish and other HMS investigations within the SEFSC, the program identified in the bill would permit reestablishing staffing to levels that would allow fuller conduct of billfish research within the SEFSC.

Investigations into gear modifications for reducing billfish mortality have in fact been initiated. Preliminary results indicate that the use of circle hooks can be a promising means of reducing billfish and other species bycatch mortality. However, the number of observations from which to draw inference are low and direct experimental applications within the fleet have not yet been conducted to permit drawing scientific conclusions that their application by the industry would result in lower billfish mortality while minimizing the impact on target species catches.

Research on methods to reduce sea turtle interactions with the U.S. pelagic longline fleet fishing on the Grand Banks has also been initiated. The experimental design for this research was developed in consultation and collaboration with other scientists investigating methods of reducing sea turtle interactions with pelagic longline vessels fishing from Hawaii and with pelagic longline fishers involved in the Grand Banks fishery.

From a scientific perspective, the use of vessel monitoring systems on board pelagic longline vessels could provide for finer spacial and temporal resolution for catch and effort data collection than is custom or requirement.

ICCAT has in fact asked for scientific advice on times and areas of fish concentrations that might be restricted to fishing as a way to promote recovery for over-fished species. Such advice has been requested for juvenile swordfish and it is anticipated that SCRS, which is the Standing Committee for Research and Statistics, will report its findings to ICCAT at its 2002 meeting.

Inasmuch as the typical spatial resolution of the international catch effort data reported to ICCAT is a 5 degree Latitude by 5 degree Longitude level, the scientific advice that can be provided may be at too coarse a scale for the Commission's use in development of time-area closures. SCRS has recommended collection and reporting of finer scale catch effort data to support these types of analyses.

Broad-scale application of VMS in the international fleet could promote such data collection and reporting schemes. It should be noted, though, that the U.S. has made use of fine-scale—that is, 1 degree by 1 degree—information from logbooks in evaluating time-area closures for management of the U.S. fleet in the absence of VMS.

Fishery management measures taken in the legislation that in my view have the most direct potential effects on HMS are the time-area closures and the vessel buyout provisions.

As indicated in Dr. Hogarth's testimony, estimates of impact of the time-area closure provisions on U.S. catches of various species could range from a few percentage point reductions to the same magnitude increases, depending on the behavior of the fleet in reaction to the time-area closure.

The odds of the closures resulting in reductions in catch are improved if coupled with the fishing effort reduction mechanism, such as outlined in the bill. While even slight reductions in catch can

provide conservation benefit to the species stocks affected, it is very unlikely that the change of magnitudes anticipated resulting from the time-area closures described in the bill could be detected in any stock assessment since the signal to noise would be quite small in this case.

The effort reduction measures could result in larger impacts, which might be more easily measured in the context of stock assessments, but those too depend on the magnitude of the effort removed from the fleet.

Both effort reduction and time-area restrictions for various components of that Atlantic HMS fisheries are in place and under further consideration by ICCAT as management tools. The time-area and effort reduction measures outlined in the bill are consistent with management measures undertaken by ICCAT member parties.

Thank you, Mr. Chairman for the opportunity to testify. I look forward to answering any questions you or other members may have.

[The prepared statement of Mr. Scott follows:]

Statement of Gerald P. Scott, Ph.D., Director, Sustainable Fisheries Division Southeast Fisheries Science Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Good morning, Mr. Chairman and members of the Subcommittee. I am Dr. Gerald Scott, Director of the Sustainable Fisheries Division of the National Marine Fisheries Service's Southeast Fisheries Science Center in Miami, Florida. I also function as the U.S. Lead Scientist for the International Commission for the Conservation of Atlantic Tunas (ICCAT). Thank you for the opportunity to testify today on H.R. 1367, the Atlantic Highly Migratory Species (HMS) Conservation Act.

I have been requested by the Subcommittee to offer my views on how the Southeast Fisheries Science Center helps manage the pelagic longline fishery through research, data collection, and analysis. I have also been requested to provide views on the new research program and the use of vessel monitoring systems (VMS) as proposed in H.R. 1367; how the measures taken in the legislation will affect stocks of highly migratory species throughout the Atlantic; what conservation and management measures are currently in place through the International Commission for the Conservation of Atlantic Tunas; and what measures in H.R. 1367 could be used internationally to help rebuild highly migratory species. In subsequent sections, my views are provided on these topics.

Southeast Fisheries Science Center HMS Research and Monitoring

The NMFS Southeast Fisheries Science Center (SEFSC) has lead responsibility for scientific investigations into the biology and fishery productivity of Atlantic HMS species. These investigations are carried out in support of the U.S. scientific commitment to the International Commission for the Conservation of Atlantic Tunas and in support of our domestic HMS fishery management demands. Our primary responsibilities for HMS are to monitor catch and effort of U.S. Atlantic fisheries affecting these stocks, to conduct stock assessments on HMS stocks, and to conduct biological research on these stocks in support of stock assessments. Our stock assessment research involves integration of available information on the biological characteristics, fishery harvesting, and environmental effects on HMS populations for the purpose of providing scientific advice on the effects and sustainable fishing levels for these resources. The outcomes of stock assessments are also used to project the likely impacts of different fishery management scenarios on the HMS populations and fisheries of concern.

These tasks require collaboration and coordination with other NMFS research and management offices and also require frequent interactions with other Federal, state, Academic, and Private Institution scientists as well as coordination with scientific consultants to the various U.S. HMS fishery constituencies.

Our activities undertaken in monitoring the range of HMS fisheries include collection of basic fishery catch, effort, and size frequency statistics (via port agents and some specialized sampling programs), within season tracking of landings (e.g., quota

monitoring of swordfish, bluefin tuna, and large coastal sharks), sampling and estimation of recreational harvests of HMS species (through statistical sampling programs administered from NMFS Headquarters, e.g., Large Pelagic Survey, LPS, and Marine Recreational Fishing Statistics Survey, MRFSS), implementation and management of fishing logbook programs (e.g., Atlantic Pelagic Logbooks), implementation and management of the cooperative tagging program, and collection of by-catch statistics through logbooks and fishery observer programs.

SEFSC scientists take on lead roles for development of methods for and the conduct of international and domestic stock assessments of Atlantic HMS species stocks. U.S. Atlantic HMS research activities have evolved and diversified through a process of consultative reviews and planning discussions with scientists, fisheries managers, industry and conservation community concerns. Our research direction is also guided by recommendations made by ICCAT and by the U.S. ICCAT Advisory Committee. With increasing frequency, Atlantic HMS research is also conducted through appropriation pass-through funding and through funding of competitive research activities.

Annually, U.S. HMS research and monitoring activities are reported upon in the U.S. National Report to ICCAT. In the past few years, this research has focused on multiple fronts including: methodologies to determine the genetic discreteness of large pelagic fishes in the Atlantic; conduct of larval surveys for bluefin tuna and other large pelagics in the Gulf of Mexico; development of robust estimation techniques for population analyses; approaches for characterization of uncertainty in assessments and methods for translating that uncertainty into risk levels associated with alternative management approaches; continued coordination efforts for the ICCAT Enhanced Research Program for Billfish and for the Bluefin Year Program; conduct of the Cooperative Tagging Center which tracks tagging and recovery of tagged billfishes (swordfish, marlins and sailfish) and tunas; application of high technology, electronic tags for the purposes of investigating migratory patterns and habitat use of various species; as well as conduct of cooperative research with scientists from other nations on development of assessment methodologies, on biological investigations and on development of indices of abundance for species of concern to ICCAT.

New Research Program

This bill would establish within the National Marine Fisheries Service at the Southeast Fisheries Science Center, a Pelagic Longline Billfish Bycatch and Mortality Reduction Research Program to identify and test a variety of fishing gear configurations and uses for reducing highly migratory species mortality and sea turtle mortality in the exclusive economic zone of the United States in the Atlantic Ocean. Research into gear or fishing pattern modifications which could mitigate the impact of pelagic longlines on bycatch species while at the same time, minimize impact on the fishery, is of high priority. The program identified within the bill would certainly enhance our research capabilities for evaluating bycatch mitigation measures. Due to past reductions in research funding for billfish and other HMS investigations within the SEFSC, the program identified in the bill would be useful in reestablishing staffing to levels that would permit fuller conduct of billfish research within the SEFSC. Some investigations into gear modifications for reducing billfish mortality have been initiated. For example, the use of circle hooks as a means of reducing the mortality of marlins compared to the use of other hook types using both direct at-sea observation and through electronic tag applications have provided promising preliminary results. The number of observations from which to draw inference are low and direct experimental applications within the fleet have not yet been conducted, to permit drawing scientific conclusion that their application in the industry would result in lower billfish mortality, while minimizing impact on target species catches. Research on methods to reduce sea-turtle interactions with U.S. pelagic longline gear fishing on the Grand Banks (an area, outside the U.S. EEZ, of relatively high sea turtle interactions, but relatively low marlin interactions) has been (in fiscal year 2001) initiated at the SEFSC. The experimental design for this research was developed through several workshops and in consultation and collaboration with NOAA Fisheries scientists investigating methods of reducing sea turtle interactions with pelagic longline vessels fishing from Hawaii, and with pelagic longline fishers involved in the fishery. Field experiments, conducted in cooperation with fishers active in the fishery, are scheduled to begin in late August or September. Due to the relatively rare event nature of interactions with sea turtles on a per day fishing basis, the number of days fishing that need be observed to measure impacts of the gear modifications with a reasonable degree of certainty is relatively large, which translates into high costs for conducting this research. Marlins

are also a relatively rare event, on average, in the catch of the U.S. pelagic longline fleet.

Use of VMS

From a scientific perspective, the use of vessel monitoring systems on board pelagic longline vessels could provide for finer spatial and temporal resolution for catch and effort data collection than is the current custom or requirement. With greater resolution comes the possibility of refining estimates of how and when fishing effort and catch occurs. This, in turn, could lead to greater ability to evaluate fishing success relative to fine-scale at-sea environmental information and investigations into the affects of these features on the catchability and relative abundance of HMS species.

ICCAT has requested scientific advice for a number of species stocks on times and areas of high fish concentrations that might be restricted to fishing as a way to reduce fishing mortality rates for overfished species. Such advice has been requested for juvenile swordfish and it is anticipated that SCRS will report its findings to the Commission at its 2002 meeting. In as much as the typical spatial resolution of the international catch-effort data reported to ICCAT is at a 5 Latitude x 5 Longitude level, the scientific advice that could be provided may be at too coarse a scale for the Commission's use in development of time-area closures. The Standing Committee on Research and Statistics of ICCAT has recommended collection and reporting of finer scale catch-effort data to support these types of analyses. Broad-scale application of VMS in the international fleet could promote such data collection and reporting schemes. It should be noted, though, that the U.S. has made use of finer-scale (typically 1 x 1 catch effort information from daily logbook set records) in evaluating possible time-area closures for management of the U.S. fleet in the absence of VMS.

How the measures taken in the legislation will affect stocks of highly migratory species throughout the Atlantic and their use internationally to help rebuild highly migratory species

In my view, the fishery management measures taken in the legislation that have the most direct potential effects on HMS are the time-area closures and the vessel buy-out provisions. As indicated in Dr. Hogarth's testimony, estimates of impact of the time-area closure provisions on U.S. catches of various species could range from relatively small (a few percentage points) reductions to relatively small increases depending on the behavior of the fleet in reaction to the time-area closures. The odds of the closures resulting in reductions in catch are improved if coupled with a fishing effort reduction mechanism such as outlined in the bill. While even slight reductions in catch can provide conservation benefit to the species stocks affected, it is very unlikely that change of the magnitudes anticipated resulting from the time-area closures described in the bill could be detected in any stock assessments since the signal to noise would be quite small. The effort reduction measures could result in larger impacts which might be more easily measured in the context of stock assessments, depending on the magnitude of effort removed.

Both effort reduction and time-area restrictions for various components of the Atlantic HMS fisheries are in place and under further consideration by ICCAT as management tools. The time-area and effort reduction measures outlined in the bill are consistent with management measures undertaken by ICCAT Member parties.

What conservation and management measures are currently in place through the International Commission for the Conservation of Atlantic Tunas?

ICCAT's website (www.iccat.es) maintains a current listing of the conservation and management measures currently in place and agreed to by the Member Parties. The conservation and management measures vary by stock, but include management tools such as size limits, catch quotas, time-area closures, and other measures. Attached in an appendix (pdf from the ICCAT web site) is a summary of these measures through 1999.

Mr. Chairman, thank you for the opportunity to present testimony. I would be happy to respond to questions.

HISTORICAL SUMMARY TABLE OF CONSERVATION MEASURES AND MANAGEMENT MEASURES ADOPTED BY ICCAT

by

Dr. P. M. Miyake

This document is a summary of regulatory measures taken by the Commission, reflecting personal interpretation of the author. Therefore it is not a legal document. The intention is only to give some guidance to the users as to which recommendations they should look into. Users are advised to refer to the original recommendations and resolutions, when legally applying the measures, or citing the ICCAT measures.

HISTORICAL SUMMARY TABLE OF ICCAT CONSERVATION AND MANAGEMENT MEASURES

NOTE: YEAR = Year of entry into force, or years to which quotas were or are applicable.
 LARGE BOLD ITALICS = The management measures currently in force
 NUMBER IN [] = Reference numbers assigned to the Recommendation or Resolution (see attached COMPENDIUM)
 * = Text of the Recommendation or Resolution is not included in the "Compendium".

YELLOWFIN TUNA (*Thunnus albacares*)

Year	Quota (catch limit)	Size limits	Others	
1973		• 3.2 kg minimum size with 15% tolerance in number of fish [74-1]		
1994			• No increase in effective effort over the level in 1992	[93-1]
1997			• 25% of FAD fishing vessels and 5% of others to be covered with observers	[96-1]
1998				
1999			• Moratorium on FAD fishing, Nov. 1999 to Jan. 2000 in E. Trop area	[98-1]
2000			• Moratorium on FAD fishing, November 1 to January 31 of the following year 4 S-N; 20W-African coast. Observers must be aboard on whole surface fleet concerned	[99-1]

BIGEYE TUNA (*Thunnus obesus*)

Year	Quota (catch limit)	Size limits	Others
1980		• 3.2 kg minimum size with 15% tolerance in number of fish	
1996	• Reduce catches to MSY level	[95-8]	
1997			• 25% of FAD fishing vessels and 5% of others to be covered with observers
1998	• Chinese Taipei limit 16,500 MT	[97-15]	• Provide a list of vessels (>80 GRT) fishing Atlantic bigeye
1999	• Chinese Taipei limit 16,500 MT	[98-3]	• Limit on number (associated with GRT) of Atlantic BET fishing vessels (>24m LOA) to average number of 1991-1992 • Not applicable to countries catching less than 2000 MT average over recent five years • Provide a list of vessels (>24 m LOA) fishing Atlantic bigeye • Limit number of vessels to fish BET and inform of it to the Commission by Aug. 31. • Limit number of Chinese Taipei BET fishing vessels to 125 • Moratorium on FAD fishing, Nov. 1999 to Jan. 2000 in E. Trop area
2000			• Moratorium on FAD fishing, November 1 to January 31 of the following year.

SWORD FISH (*Xiphias gladius*)

Year	NORTH		SOUTH	
	Quota (catch limit)	Size limits	Quota (catch limit)	Size limits
1991	- Major fishing nations reduce F mortality by 15% for fish over 25 kg. - SWO target fishery limit F mortality at 1988 level - Non-target fishery 10% incidental catches of the total weight [90-2]	Minimum size 25 kg (or 125 cm LJFL) with 15 tolerance in number of fish [90-2]	- SWO target fishery limit F mortality at 1988 level - Non-target fishery 10% incidental catches of the total weight [90-2]	Minimum size 25 kg (or 125 cm LJFL) with 15 % tolerance in number of fish [90-2]
1995	Canada 1500 MT Portugal 1500 Spain 6230 U.S.A. 3970 Others <1993 level Japan incidental catch <8% of total weight [94-1]		- Countries catching >250 MT not to increase 95/96 catches from 1993-94 level whichever is higher. - Countries catching <250 MT should not catch over 250 MT in 1995 and 1996. [94-1]	
1996	Canada 1400 MT Portugal 1400 Spain 5500 U.S.A. 3500 Others <1993 level Japan incidental catch <8% of total weight [94-1]	Minimum size 25 kg (or 125 cm LJFL) with 15% tolerance in number of fish or 119 cm without tolerance [95-10]		
	Excess or under quota be adjusted in the following years (within three consecutive periods) [95-11]			

SWO-Continued				
Year	NORTH		SOUTH	
	Quota (catch limit)	Size limits	Quota (catch limit)	Size limits
1997	Canada 10.00% Japan 6.25% Portugal 7.50% Spain 41.25% U.S.A. 29.00% Others 6.00% [95-11] Canada 1130.00 MT 10.00% Japan 706.25 6.25% Portugal 847.50 7.50% Spain 4661.25 41.25% U.S.A. 3277.00 29.00% Others 678.00 6.00% Bermuda 23.00 [96-7] [97-6] • Excess quota to be reduced from subsequent years & should not exceed total quota of 3-year period [95-11] • (except Japan, for 5-year period). [96-7] • Penalty: excess of catch limit in one management period to be reduced by 100% of amount of such excess in next management period. [96-14] • Penalty: For 2 consecutive yrs. of excess harvest, a reduction equal to a min. of 125% of excess or possible trade restrictive measures [96-14], [97-8] • Trade restrictive may be taken for serious violation. [96-14]	Paragraph deleted	Paragraph deleted	• Overages/underages in quotas/catch limits to be added/subtracted according to adjustment year [98-13]

SWO-Continued			
Year	NORTH		SOUTH
	Quota (catch limit)	Size limits	Quota (catch limit) Size limits
1998	Canada 1100.00 MT Spain 827.00 Portugal 827.00 Spain 4337.50 United States 3190.00 Others 660.00 Bermuda 27.00 [96-7] [97-6] "Others" must reduce catches by 45% of their 1996 levels as reported by SGRS in 1997 [97-6]		Allocation % (Future) Brazil 16.00% Spain 40.00% Japan 25.75% Uruguay 4.75% Oth. C.P. 5.50% Others 8.00% Quota (1998-2000) Brazil 2339.2 MT Spain 5848.0 Japan 3764.6 Uruguay 694.5 Oth. C.P. 804.1 Others 1169.6 Total 14620.0 [97-7] • Other C.P. and others should not increase catch above recent level. [97-7] • Overage/underage of 1998 quota to be subtracted/added from quota in next two years period [97-7] Excess quota to be reduced from subsequent years & should not exceed total quota of 3-year period [96-14, 97-8] • Penalty: For 2 consecutive yrs. of excess harvest, a reduction equal to a min. of 125% of excess or possible trade restrictive measures [96-14], [97-8] • [97-8] are Exempted for Brazil, South Africa & Uruguay, by objection [97-8]

SWO-Continued				
Year	NORTH		SOUTH	
	Quota (catch limit)	Size limits	Quota (catch limit)	Size limits
1999	Canada 1070.00 MT EU 668.70 Portugal 802.50 Spain 4413.75 United States 3103.00 Others 642.00 Bermuda 26.00 [96-7] [97-6] "Others" reduce 1998-1999 catches by 45% of their 1996 levels as reported by SCRS in 1997		Same as 1998	[97-7]
2000	TAC inclusive dead discards = 10,600 MT, Quota: EU 5073 MT U.S.A. 2951 Canada 1018 Japan 636 Others 498 UK(OST) 24 Dead discards 400 Dead discards divided by 80% US 20% Canada. {TAC-dead discards-UK OST} to be distributed by percentage of [95-11] Others over 100 MT should limit less than 53% of 1996 catches (reported in 1997 SCRS). If landings were less than 100 MT, 1996 catches were limit. Japan's adjustment of overage/underage 3 years (1997-2001) [99-2]		Same as 1998	[97-7]

SWO-Continued				
Year	NORTH		SOUTH	
	Quota (catch limit)	Size limits	Quota (catch limit)	Size limits
2001	TAC inclusive dead discards = 10,500 MT, Quota: EU 5073 MT U.S.A. 2951 Canada 1018 Japan 636 Others 498 UK(OST) 24 Dead discards 300 Others over 100 MT should limit less than 55% of 1996 catches (reported in 1997 SCRS). If landings were less than 100 MT, 1996 catches were limit. Japan's adjustment of overage/underage 5 years (1997-2001) [99-2]			
2002	TAC inclusive dead discards = 10,600 MT, Quota: EU 5073 MT U.S.A. 2951 Canada 1018 Japan 636 Others 498 UK(OST) 24 Dead discards 200 Others over 100 MT should limit less than 55% of 1996 catches (reported in 1997 SCRS). If landings were less than 100 MT, 1996 catches were limit. Japan's adjustment of overage/underage 5 years (1997-2001) [99-2]			

ALBACORE (<i>Thunnus albacunga</i>)						
Year	NORTH			SOUTH		
	Quota (catch limit)	Size limits	Others	Quota (catch limit)	Size limits	Others
1995				• 1995 catch < 90% of 1989-1993 average catches [94-13]		
1996						
1997						
1998				• Catch limit 22,000MT for actively fishing nations (average catches of 100,000MT or less in 1992-96 period) • Others, & those developing new ALB fisheries, limit <110% of 1992-96 average • LL non-albacore target countries, 4% (in weight) or less of total bigeye catch in South Atlantic [97-5]^a		
1999	• Countries with an average catch <200MT in 1993-95 should limit annual catches to 200 MT • Japan endeavor to limit ALB catches to <4% in weight of total LL BET catch in Atlantic. [98-8]		• If catch > 300MT, limit on fishing capacity (i.e. number of vessels) to average of 1993-1995 and submit the list of vessels [98-8]	• Countries (other than EC) actively fishing: 1999 catch limit 27200 MT. • Others (including EC): limit <110% of 1992-96 average catches • Japan endeavor to limit ALB catches to <4% in weight of total LL BET catch in Atlantic [98-9]		
2000				• US endeavor limits ALB catch no more than 4% of total LL SWO catch. • 98-9 to be extended to 2000 [99-7]		

BLUEFIN TUNA (*Thunnus thynnus*)

Year (valid since...)	WEST			EAST		
	Quota (catch limit)	Minimum size	Others	Quota	Minimum size	Others
1975	• Limit on fishing mortality to recent levels [74-1]	• 6.4 kg (15% allowance in number of fish) [74-1]		• Limit on fishing mortality to recent levels [74-1]	6.4 kg (15% allowance in number of fish) [74-1]	
1982	Canada 250 MT Japan 305 U.S.A. 605 [81-1]		• No fishing on spawning stock (Gulf of Mexico) [82-1] ^a • No transfer of fishing effort from E to W or W to E Atlantic [82-1] ^a			
1983	Canada 575.3 MT Japan 699.4 U.S.A. 1387.3 [82-1]					
1992		• 30 kg or 115 cm (8% tolerance in weight) [91-1]	Overage of quota will be reduced from following year quota [91-1]			
1993	Canada 458.6 MT Japan 559.5 U.S.A. 1109.9 [92-4]		• BFSTD for frozen fish (starting in September) [92-1]			
1994	Canada 458.6 MT Japan 250.0 U.S.A. 1234.8 [92-4]		• BFSTD for fresh fish (starting in June) [93-3]	• Central North Atlantic maximum of 715 MT [93-6]		• Mediterranean closure to LL (>24m) from June 1 to July 31 [93-7]
1995	Canada 540.2 MT Japan 559.5 U.S.A. 1311.6 [94-12] In future: If TAC=2200-2600 above proportion If TAC > 2669 Canada 21.54% Japan 26.32% U.S.A. 52.14% [94-12]	• No economic gain from fish < 30kg (115cm) [94-12]		• No increase in fishing mortality from 1993-94 level [94-11] • Central North Atlantic limited to sum of 1994 & 1995 (i.e. 1300 MT [93-6]	• No catches of age 0 fish (<1.8 kg) [94-11] NOTE: "age 0 fish (<1.8 kg)" amended to "fish less than 3.2 kg" [98-4]	

BFT-Continued						
Year (valid since...)	WEST			EAST		
	Quota (catch limit)	Minimum size	Others	Quota	Minimum size	Others
1996	Canada 540.2 MT Japan 333.0 U.S.A. 1311.4 [94-12] Bermuda 4.0 [95-7] *		• BFT recovery program [95-4] *	• 25% reduction of fishing mortality starts (to be accomplished by end of 1998 [94-11] NOTE: above provision was superseded by [98-5] (except for those presented objections to [98-5] ?)		
1997	Canada 533.6 MT Japan 433.0 U.S.A. 1344.4 [96-4] * Bermuda 4.0		• Penalty: excess of catch limit in one management period to be reduced by 100% of amount of such excess in next management period [96-14] • Penalty: For 2 consecutive yrs. of excess harvest, a reduction equal to a min. of 125% of excess or possible trade restrictive measures [96-14], [97-8]	French quota: Atlantic Ocean: 440MT and Med 3400MT [95-5]	• Prohibition of retaining on board, landing and sale of age 0 fish (<1.8 kg) by fishing vessels [96-3] - NOTE: "age 0 fish (<1.8 kg)" was amended to "fish less than 3.2 kg" [98-4] • Penalty: excess of catch limit in one management period to be reduced by 100% of amount of such excess in next management period. [96-14] • Penalty: For 2 consecutive yrs. of excess harvest, a reduction equal to a min. of 125% of excess or possible trade restrictive measures. [96-14]	• PS closure in Mediterranean: Aug 1 to 31 [96-2] • No planes or helicopters supporting fishing operations in Mediterranean in June [96-2]

BFT-Continued						
Year (valid since...)	WEST			EAST		
	Quota (catch limit)	Minimum size	Others	Quota	Minimum size	Others
1998	Canada 532.6 MT Japan 133.0 U.S.A. 1344.4 Bermuda 4.0 [96-4]		NEI catches should be investigated and clarified or statistics adjusted [97-3]	French quota, Atlantic Ocean, 400MT and Med 4850MT [95-5]	* In addition to prohibition to retain on board, land, and sell age 0 fish (<1.8 kg), the landing, possession or sale of such fish in markets of coastal states bordering the Convention area also prohibited. [97-2] NOTE: "age 0 fish (<1.8 kg) has been changed to "fish less than 3.2 kg". [98-4]	
1999	Canada 573 MT France(OT) 4 Japan 453 U.S.A. 1387 UK (OT) 4 Discards: 79 US 85.72% Canada 7.14% Japan 7.14% [98-7] * Allowance for dead discards = deduction of 79 MT or 2.82 % (whichever higher) US 85.72% Canada 7.14% Japan 7.14% % unused discards can be added to quota [98-7]	* Tolerance: in average each 4 yr period, fish <40 kg or <155cm limited to <8% (in weight of total BFT quota on national basis [98-7] * Encourage tag & release of BFT <30 kg or <115 cm FL, by commercial & recreational fishermen [98-7] * Overages/underages in quotas/catch limits to be added/subtracted according to adjustment year [98-13]		China 82 MT Croatia 950 EC 20165 Japan 3199 Korea 672 Libya * 1300 Morocco * 820 Tunisia 2326 Non-contract. 2486 [98-5] *NOTE: Not valid for Libya and Morocco who presented & recon-firmed objections	* Prohibition on landing, possession and sale in markets bordering Convention Area of fish weighing <3.2 kg by fishing vessels [98-4]	* PS Closure: Adriatic May 1 to 31; Rest of Med July 16 to August 15 [98-6]

<i>BFT-Continued</i>						
<i>Year (valid since...)</i>	<i>WEST</i>			<i>EAST</i>		
	<i>Quota (catch limit)</i>	<i>Minimum size</i>	<i>Others</i>	<i>Quota</i>	<i>Minimum size</i>	<i>Others</i>
2000				China 70 MT Croatia 876 EC 18590 Japan 2949 Korea 619 Libya* 1199 Morocco* 736 Tunisia 2144 Non-cont 2291 [98-5]		

*NOTE: Morocco and Libya exempted since they presented and reconfirmed objections .

BILFISHES

Blue marlin (*Makaira nigricans*)White marlin (*Tetrapturus albidus*)Sailfish (*Istiophorus albidus*)Spearfish (*Tetrapturus pfluegeri* and *T. belone*)

Year	Quota (catch limit)	Size limits	Others	
1996			• Promote voluntary release of live bilfish taken (with tags when feasible)	[95-12]
1997			• Promote use of monofilament leaders	[96-9]
1998	• Start reduction of landings of BUM & WHM by at least 25% from 1996 level (not applicable to small-scale artisanal fish)			
1999	• Accomplish 25% reduction of BUM and WHM	[98-10]		
2000	• BUM and WHM landings to be less than levels to be achieved by end of 1999	[98-10]		

OTHER RECOMMENDATIONS & RESOLUTIONS RELATIVE TO CONSERVATION MEASURES AND COMPLIANCE

1987	ICCAT Enhanced Research Program for Billfish started	
1990	Start of 4-year Albacore Research Program	
1992	ICCAT Bluefin Year Program (BYP) started PHG established (with Terms of Reference)	[92-2]
1993	Bluefin Tuna Statistical Document Program (BTSD) started for frozen fish (Sept. 1)	[92-1]
1994	Bluefin Tuna Statistical Document Program (BTSD) started for fresh fish (June 1) Government validation of BTSD can be transferred to recognized institutions if certain conditions are met High-seas vessels registration required	[93-3] [92-2] [94-8]
1995	Action Plan to Ensure the Effectiveness of the Conservation Program for Atlantic Bluefin Tuna "Cooperating Parties" defined Encourage satellite tracking vessel monitoring system (Recommended in 1995) Cooperation with FAO with regard to study on the status of stocks and by-catch of shark species (Recommended in 1995) Interpretation of the BTSD Reporting formula for the biannual BTSD summary to be provided by the National Offices to the Secretariat Vessel sighting, report sighting of fishing vessels operating not complying regulatory measures	[94-3] [94-6] [94-8] [95-2] [94-5] [94-4] [94-9]
1996	BFT recovery program Enhanced Research Program for Billfishes started Action Plan to Ensure the Effectiveness of the Conservation Program for Atlantic swordfish	[95-4] [95-12] [95-13]
1997	BFT and SWO Compliance in the North Atlantic Monitoring foreign vessels landings and transshipments at national ports. (Adopted in 1997) Prohibition of large-scale pelagic drift-net fishing Prohibit imports of BFT from Belize and Honduras, following the Action Plan Mutual validation of BTSD by EC countries Clear definition on status of Cooperating Parties Vessels sighting report for illegal fishing	[96-14] [97-12] [96-15] [96-11] [96-10] [97-17] [97-11]
1998	SWO Compliance in the South Atlantic (Objected by Brazil, Uruguay and S. Africa) Analyze and clarify NEI catches Prohibit imports of BFT from Panama, following the Action Plan Resolution to improve compliance with minimum size regulations Revised ICCAT Port Inspection Scheme Transshipment or transfer of ICCAT species at sea only from Contracting Parties or Cooperating Parties/Entities/Fishing Entities BTSD for re-exports of bluefin defined BET rebuilding plan (adopted in 1998) North and South SWO Recovery Scenarios Established Working Group for Allocation Criteria (with Terms of Reference)	[97-8] [97-3] [96-12] [97-1] [97-10] [97-11] [97-4] [98-16] [98-17] [98-15]

1999	<i>Ban on landings and transshipments of vessels from non-contracting parties identified as having committed a serious infringement</i> <i>Mutual validation of BTSDs by EC countries</i> <i>Definition of reporting form for SWO compliance</i> <i>Application of three compliance recommendation (BFT and N. SWO, S. SWO and MINIMUM SIZE)</i> <i>Pilot program for vessels monitoring (10% or ten tuna fishing vessels over 24m, whichever larger should have VMS starting in 1999)</i> <i>Unreported and unregulated catches of tunas by large scale LL in Convention Area (requesting import countries to report information on such operations)</i> <i>Exchange of information of BET tuna fishing vessels</i> <i>East Atlantic BFT rebuilding plan</i> <i>West Atlantic BFT rebuilding plan</i> <i>Collection of information on catch and landing of IUU large scale longline vessels</i>	[98-11] [98-12] [98-14] [97-12] [98-13] [98-2] [98-5] [98-7] [98-18]
2000	<i>Prohibit imports of SWO from Belize and Honduras, following swordfish action plan</i> <i>Swordfish rebuilding plan</i> <i>Provide better data on recreational fisheries</i> <i>Prohibit imports of BFT from Equatorial Guinea, according to 96-14.</i> <i>Lift the import prohibition of BFT regarding Panama (96-12)</i> <i>Ensure vessels not engage in IUU activities and urge importers, transporters and other concerned business people to refrain from transaction of tunas from IUU vessels.</i> <i>Endorse catch plan for IUU.</i> <i>Endorse FAO IPOA Fishing Capacity</i>	[99-4] [99-2] [99-9] [99-10] [99-8] [99-12] [99-13] [99-13]

Mr. SAXTON. Thank you, Mr. Scott.
Mr. Donofrio?

**STATEMENT OF JAMES A. DONOFRIO, EXECUTIVE DIRECTOR,
RECREATIONAL FISHING ALLIANCE**

Mr. DONOFRIO. Good morning. Thank you, Mr. Chairman.

My name is Jim Donofrio, and I am the executive director of the Recreational Fishing Alliance, also known as the RFA.

I want to thank you, Mr. Chairman and members of the Subcommittee, for inviting me here today to testify on H.R. 1367, the Atlantic Highly Migratory Species Conservation Act of 2001.

H.R. 1367, introduced by you, Mr. Chairman, is the legislative remedy needed to reduce the number of pelagic drift longlines in the Atlantic EEZ and Gulf of Mexico. It is imperative that Congress makes clear its commitment to remove this destructive gear from our nation's waters.

Under the current regulations finalized by the National Marine Fisheries Service, the closed areas for highly migratory species are under fire by numerous and disparate lawsuits. These lawsuits have been filed by all sectors of the fishery: the longliners, some recreational groups, and some environmental groups—all looking for a different outcome.

When management by lawsuit becomes the way fisheries are handled in this country, it is time for the Congress to take the lead. There are many excellent provisions in H.R. 1367, and RFA leadership, membership, and affiliated clubs applaud Mr. Saxton for his willingness to take on this battle again.

In particular, we like the following sections and hope to see them as part of this package when it is signed into law.

In the purposes section, we like purpose No. 4, which strives to ensure sustainable fisheries for highly migratory species. We like the mid-Atlantic Bight is afforded protection, especially in light of the high interaction this destructive gear has with marlin. Expanding this protection both to a larger geographic area and for a longer period of time—throughout the seasonal migration of the marlin, for example—would afford even more protection.

We strongly urge Mr. Saxton to discuss the best approach with affected parties.

The effort limitation provision looks workable and should achieve its goal to limit the number of sets in the mid-Atlantic Bight. The RFA applauds the expansion of the bycatch mortality reduction research program to include all highly migratory species and sea turtles. This program will be an excellent model for other nations, which we share with our highly migratory species.

The research that is done through this program should show whether the gear is truly destructive, as the RFA maintains, or simply misunderstood, as the longliners themselves claim.

The RFA members strongly believe that an observer program that can verify the actual bycatch from these vessels while the experiment with different gear configurations may make a huge difference in how longliners impact nontargeted species. I will speak more on that later in my testimony.

Section 12, which reallocates the portion of the total allowable catch of swordfish to handgear and harpoon fisheries, will certainly

answer that argument that if a U.S. longliners do not fish for these fish, some other nation will.

We will retain our domestic quota. And judging from the huge swordfish being landed by harpooners from Menemsha, Massachusetts, we will be able to fill our quota as well.

The enclosed July 20th edition of Martha's Vineyard Gazette reports that two boats landed 47 adult swordfish that dressed over 200 pounds, an astonishing amount of this high-value fish. In fact, just one trip resulted in almost 10,000 pounds of swordfish.

Why this is astonishing is, according to the NMFS statistics, last year's entire total of harpooned swordfish was a mere 960 pounds.

Mr. Chairman, that is less than 10 percent of these two recent trips. I suspect the recent closure to the Northeast distant fleet of longliners may be a factor in this dramatic rebound of the swordfish population.

According to marine biologists, swordfish are highly resilient fish, and if given a chance to spawn before harvested, stocks will rebound in a very short period of time.

Another example of the swift return of swordfish, which also shows that a localized effort makes a big difference, can be found in a NMFS publication entitled "Draft Amendment 1 to the Fishery Management Plan for Atlantic Swordfish, Including Environmental Assessment and Regulatory Impact Review."

As you can see by the chart, when the mercury scare occurred in 1971, the longliners had no market for swordfish and directed their gear on other fish. The swordfish population starts a quick and steady climb. The information in this chart was compiled from the NMFS data that longliners themselves reported.

But we will get back to H.R. 1367. Section 13, which requires the Secretary of Commerce to closely monitor the fishery on an annual basis and further requires the Secretary to take steps to minimize bycatch, is light years ahead in conservation, and we hope to see this section retained in its current form.

Our main concern about pelagic drift longlines is the non-selectivity of the gear. The longliners argue that their gear can be managed so that bycatch does not occur. The RFA maintains that if this were the case, longlines would not have been thrown out of the Grand Banks for jeopardizing the continued existence of endangered sea turtles.

The RFA offers this: If the gear is destructive, it should be out of the water, not just in the areas that NMFS has regulated, not just in the areas where H.R. 1367 deems necessary, but everywhere.

In order to discover if this gear is manageable, research needs to be conducted. We can all agree it has not been done yet. The jury is still out on the gear, literally. However, the record clearly shows that since the introduction of long-lining in U.S. waters, white marlin and blue marlin swordfish populations have been on a dramatic downward spiral.

Should NMFS be directed by Congress to implement the comprehensive research program outlined in Mr. Saxton's bill, all interested parties will know whether the gear should be part of our fisheries harvesting mix or should be removed from our waters permanently.

We strongly urge the Subcommittee to approve such a comprehensive research program during this Congress. Our highly migratory species are too valuable to leave to chance or to bad science or what we have now: incomplete science, inadequate observer coverage.

And to be candid, the RFA does not think it is possible to fish this gear without causing appalling levels of bycatch. Therefore, it is the goal of the RFA to help ensure that pelagic drift longline gear will be phased out of all U.S. waters by 2006.

Mr. Chairman, thank you for the opportunity to testify, and I would be pleased to answer any questions you have.

[The prepared statement of Mr. Donofrio follows:]

Statement of James A. Donofrio, Executive Director, Recreational Fishing Alliance

My name is Jim Donofrio, and I am the Executive Director of the Recreational Fishing Alliance, also known as the RFA. The RFA is a national 501(c)(4) non-profit political action organization whose mission is to safeguard the rights of salt water anglers, protect marine, boat, and tackle industry jobs, and ensure the long-term sustainability of our nation's marine fisheries. Thank you Mr. Chairman and members of the Subcommittee for inviting me here today to testify on H.R. 1367, the Atlantic Highly Migratory Species Conservation Act of 2001.

H.R. 1367, introduced by Congressman Jim Saxton, is the legislative remedy needed to reduce the number of pelagic drift longlines in the Atlantic EEZ and the Gulf of Mexico. It is imperative that the Congress makes clear its commitment to remove this destructive gear from our nation's waters. Under the current regulations finalized by the National Marine Fisheries Service, the closed areas for HMS (Highly Migratory Species) are under fire by numerous and disparate lawsuits. These lawsuits have been filed by all sectors of the fishery - the longliners, some recreational groups and some environmental groups - all looking for a different outcome. When management by lawsuit becomes the way fisheries are handled in this country, it is time for the Congress to take the lead.

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The effort limitation provision looks workable and should achieve its goal to limit the number of sets in the Mid-Atlantic Bight. The RFA applauds the expansion of the Bycatch Mortality Reduction Research Program to include all highly migratory species and sea turtles. This program will be an excellent model for the other nations with which we share our highly migratory species. The research that is done through this program should show whether the gear is truly destructive, as the RFA maintains, or is simply misunderstood, as the longliners themselves claim. The RFA members strongly believe that an observer program that can verify the actual bycatch from these vessels, while they experiment with different gear configurations, may make a huge difference in how longlines impact non-target species. I'll speak more on that later in my testimony.

Section 12, which reallocates the portion of the total allowable catch (TAC) of swordfish to the hand gear and harpoon fisheries, will certainly answer the argument that if the U.S. longliners do not fish for these fish, some other nation will. We will retain our domestic quota and judging from the huge swordfish being landed by harpooners from Menemsha, Massachusetts, we will be able to fill our quota as well. The enclosed July 20th edition of the Martha's Vineyard Gazette reports that two boats landed 47 harpooned adult swordfish that dressed out at over 200 pounds each, an astonishing amount of these high value fish. In fact this one trip resulted in almost 10,000 pounds of swordfish. Why this is astonishing is that according to the NMFS statistics, last year's entire total of harpooned swordfish was a mere 960 pounds. Mr. Chairman, that is less than ten percent of these two recent

trips. I suspect the recent closure to the Northeast distant fleet of longliners may be a factor in this dramatic rebound of the swordfish population. According to marine biologists, swordfish are highly resilient fish and if given a chance to spawn before harvested, stocks will rebound in a very short period of time.

Another example of the swift return of swordfish, which also shows that a localized effort makes a big difference, can be found in the NMFS' publication entitled "Draft Amendment 1 to the Fishery Management Plan for Atlantic Swordfish Including an Environmental Assessment and Regulatory Impact Review." (see enclosed chart) As you can see by this chart, when the mercury scare occurred in 1971, the longliners had no market for swordfish and directed their gear on other fish. The swordfish population starts a quick and steady climb. The information in this chart was compiled from the NMFS data that longliners themselves reported. But let me get back to H.R. 1367.

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Should the NMFS be directed by Congress to implement the comprehensive research program outlined in Mr. Saxton's bill, all interested parties will know the whether this gear should be a part of our fisheries harvesting mix, or should be removed from our waters permanently. We strongly urge the Subcommittee to approve such a comprehensive research program during this Congress. Our HMS species are too valuable to leave to chance or to bad science or what we have now - incomplete science and inadequate observer coverage. To be candid, the RFA does not think it is possible to fish this gear without causing appalling levels of bycatch. Therefore, it is the goal of the RFA to help insure that pelagic drift longline gear will be phased out of all U.S. waters by 2006.

Thank you for this opportunity to testify. I will be pleased to answer any questions you may have.

Swordfish Landings In Port of Menemsha Surprises the Island

By MARK ALAN LOVEWELL

Fishermen, sightseers and friends filled the Menemsha docks on Wednesday when the fishing boat Quitsa Strider II came in. The word was out. They had hit the jackpot.

Capt. Jonathan Mayhew, 50, of Chilmark and his crew had 31 harpooned swordfish on ice aboard. It has been years since a local fishing boat did so well. Hours later, his brother Gregory Mayhew and his crew on the fishing boat Unicorn landed 16 of the same.

These were big fish: Their average dressed weight was around 200 pounds. The largest weighed 306 pounds.

"This was a nice run," said Capt. Jonathan Mayhew. And for his crew of

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VINEYAR

Swordfish Landings Surprise Vineyard

From Page One

three, the trip was tremendous.

"This is the highlight of my life," said crew member Willie Whiting, 28, of West Tisbury. "I am a little bit awestruck. We did better than we dared to hope."

The swordfish fishery has been troubled for years. Stocks were decimated by an unregulated international and national long-lining fishing fleet. Fisheries managers from Florida to New England were unable to respond in time to the decline of the fishery; other nations entirely ignored warnings from scientists that there was trouble ahead.

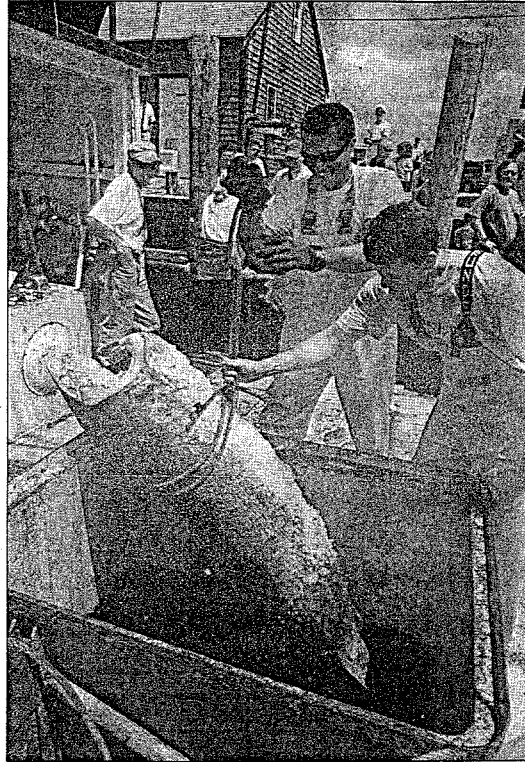
As a result, the harpooning of swordfish became a moribund industry. Unlike the long-lining industry, which captures fish of all sizes, the harpooning fishery is selective. Harpooners take only mature swordfish, adults that have spawned at least once, as they swim near the surface. The dressed weight of a fish is over 100 pounds. Dressed weight represents about 75 per cent of the fish's original size, after its head and gut have been removed.

The history of swordfishing in Menemsha is sufficiently troubled that no one expected the Quitsa Strider II would have such a good run.

Captain Mayhew said when the Quitsa Strider left the dock on Tuesday, July 10, with 16 tons of ice, crewmembers understood they would probably have a marginal catch at best. Most of the heavy fishing on swordfish takes place far north in Canadian waters or far south in Florida waters. In the last several years, harpooning for swordfish has been abysmal for the few New England fishermen who take the chance to go out.

It took more than a day of motor-ing before the 72-foot fishing boat reached the fishing ground, the waters of Georges Bank near the Hague Line. "I got a couple of reports that there were fish out there," Captain Mayhew said, and so they spent the first day exploring.

On the second day of fishing, they



UNLOADING AT MENEMSHA: Capt. Jonathan Mayhew, left, at the winch, Willie Whiting and Brady Goodell.

Mark Lovewell

kept a journal of the voyage. They used a video camera to capture some of the action. Unfortunately, Captain Mayhew said, he is competing with imported sword-

came upon their first swordfish. Captain Mayhew said he tried to harpoon a fish four times, and four times, he missed. He said he then made the smart decision to leave the harpooning to his mate, Todd Goodell.

Mr. Goodell, 35, West Tisbury, has always been the ship's major striker, with years of experience. He is a quiet but spirited fisherman.

They were about 192 miles east of Squibnocket where they saw fish. "We were at Winkies Canyon," the captain said, using the unofficial name of a fishing spot frequented years ago by Turtle Lawry of Edgartown and his fishing spotter, a man named Winkie.

Swordfish are mavericks of the sea. They don't swim in schools like other fish. The captain said the swordfish swim in what they call a "body of fish." When they are basking, these fish don't like to see each other; still they are in the same general area of the open ocean.

"This is the first body of fish we've seen in 10 years," the captain said.

Brady Goodell, 34, of Middleboro, grew up on the Island. He is a self-employed specialist in wireless telecommunications. He joined his brother on the Quitsa Strider II as a crewman with the idea that he was on vacation, on a voyage that might not occur ever again. "I figured I was seeing the end of an era," he said. Mr. Goodell said: "I thought I saw the end of harpooning in the '80s; this was about seeing it one more time."

But from this trip, Mr. Goodell came home with an unexpected memory: "I harpooned my first fish."

The seas were what fishermen call greasy calm. On only two days did the fishing boat lower the "birds" into the water to act as stabilizers. "There was a good swell, but it was calm," Mr. Goodell said. To fill his time, and to pay tribute to the moment, Mr. Goodell

the excitement.

"The weather was perfect and the fish were wonderful, magnificent. They are a brilliant purple when they are swimming," Mr. Goodell said.

Captain Mayhew said on one of their first days they harpooned five swordfish, a catch unheard of in these times. Yet on another day they harpooned 11. The captain spent a good deal of his time on top of the topmast, 55 feet above the sea, looking for fish. Only adult swordfish are known to surface, allowing their fin to be seen. The crew of the Strider used a spotter airplane to find at least half of the fish they caught.

The fishing boat's pulpit extends 16 feet forward of the bow. Mr. Goodell stood there, harpoon in hand, and like fishermen of generations ago, waited for his moment and threw the harpoon at the living, moving purple target just below the surface.

"We were very excited," the captain said.

Offshore fishing has changed a lot since Captain Mayhew first went to sea, and has become a lot less lonely. He kept in daily contact with his wife, Anne, and their children using a global cellular phone. "I called every night," the captain said.

Captain Mayhew is convinced the reason why they had a good trip has more to do with fisheries management than luck. Federal fisheries managers have imposed more strict limits on the long-lining industry in waters where the swordfish are known to spawn and migrate.

But there is an unpleasant side effect that goes with the landing of so many large fish. The market on the Island and on the mainland has become flooded with fresh swordfish. As of yesterday, Captain Mayhew has been unable to sell all of the fish he caught at a price he wants.

fish that are already on the Island market from Canada, Africa and South America. Local markets buy and sell based on demand, and no one could have anticipated that so many harpooned swordfish would hit the market from Menemsha in one day.

"They offered me only \$4 a pound in New Bedford. That is what we got 20 years ago," the captain said.

So he has taken his campaign to sell swordfish to radio. He placed an advertisement on WMVY asking that the Island public request locally caught swordfish from Menemsha at their fish market and at restaurants. He is urging seafood lovers to ask specifically for the locally caught fish.

Captain Mayhew is a former Chilmark selectman and he has been active in fisheries management issues from Boston to Washington, D.C. This may be the first time he has tried to promote the marketing of swordfish, but it is not the first time he has come up head to head with an industry that is in need of better management.

Captain Mayhew contends harpooned swordfish caught by a Menemsha fisherman is the best swordfish money can buy. There is no bycatch, there is no waste, no accidental harvesting of juvenile fish and no confusion; this, quite simply, is the best way to catch swordfish. The money earned is kept in the local economy.

On the Menemsha dock on Wednesday, there were generations of Islanders watching as the fish were unloaded. Dick Goodell watched his two sons carrying the swordfish. "Those guys haven't stopped smiling since the boat came in," he said. "This is a big deal."

Thomas Goodell, eight, of West Tisbury watched his father, Todd, talk to other fishermen. "This is cool. I might do it when I grow up if they are still doing it," the boy said.

Figure 8
U.S. AND CANADA HARPOON LANDINGS
IN METRIC TONS

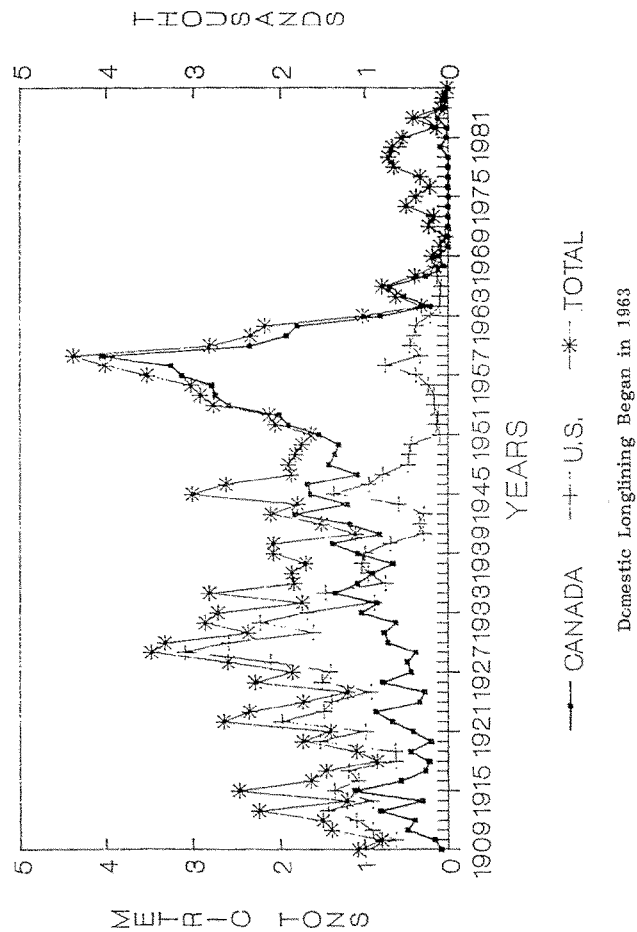
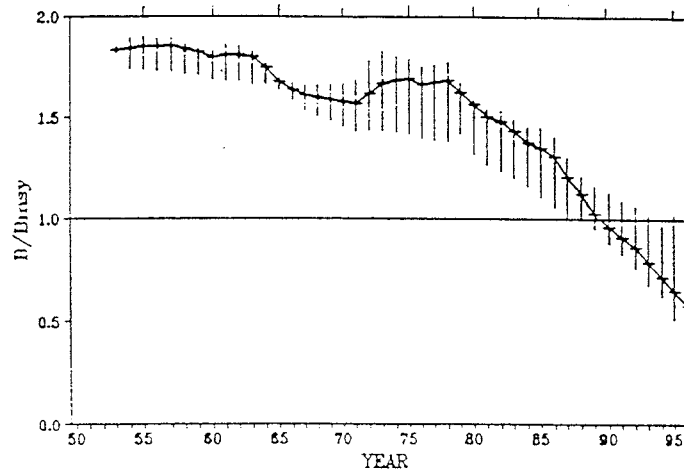


Figure 1. North Atlantic swordfish biomass ratio relative to B_{MSY} from the base case ASPIC model (bars are bootstrap 80% confidence intervals) (reproduced from SCRS, 1996).



- 1950 - Canadian harpoon landings escalate
- 1963 - Domestic longlining begins
- * 1971 - USDA establishes 0.5 ppm methyl mercury limit for swordfish sale
- * 1978 - Methyl mercury limit raised to 1.0 ppm
- 1979 - US landings escalate
- 1980 - Spanish landings escalate
- 1984 - World Court establishes the Hague Line; "northeast peak" of Georges Bank placed under Canadian control
- 1991 - ICCAT recommends quota for the first time; sets minimum size limit
- 1992 - ICCAT recommends an increase in the quota
- 1995 - ICCAT recommends a decrease in the quota
- 1996 - ICCAT recommends a decrease in the quota to the replacement yield level; establishes sanctions for non-compliance with its management recommendations (including non-member states)

Mr. SAXTON. Thank you very much, Mr. Donofrio.
 Now we will hear from Tim Hobbs, a representative of the National Coalition for Marine Conservation.

**STATEMENT OF TIM HOBBS, FISHERIES PROJECT DIRECTOR,
 NATIONAL COALITION FOR MARINE CONSERVATION**

Mr. HOBBS. Thank you, Mr. Chairman.
 My name is Tim Hobbs. I am the fisheries project director with the National Coalition for Marine Conservation.
 I sincerely appreciate the opportunity to testify before you today on H.R. 1367 and efforts to control pelagic longline fishing in U.S. waters.

First off, I would like to thank you, Mr. Chairman, for the tremendous amount of time and effort you have put forth to address the issue of longline bycatch and other issues facing our Atlantic highly migratory species.

At this time, while we support the intent of this legislation, we do not feel, as it is currently drafted, that it goes far enough in providing the needed level of conservation for blue and white marlin.

H.R. 1367 would leave the existing NMFS area closures in place and would supplement those area closures with additional ones to achieve additional conservation benefits for blue and white marlin. This is important because the NMFS closures should significantly benefit certain highly migratory species. Swordfish, large coastal sharks, and sailfish are expected to receive substantial decreases in bycatch reduction up to or over 40 percent.

We fully support the NMFS closures, and we would also support additional closures targeted at reducing blue and white marlin bycatch. However, we feel at this time that the area closures in H.R. 1367 are not substantial enough to address the bycatch problem adequately.

The area closures in the mid-Atlantic Bight we believe are of such a limited scope, both spatially and temporally, as to provide a very minimal level of conservation for white marlin. We are concerned that displaced fishing effort concentrated on the boundaries of these closed areas could actually negate the conservation benefits that might be achieved by them, since they are indeed so small.

And as Mr. Hayes pointed out earlier, the gulf closure in the bill covers an area where there is very little longline fishing effort. In fact, the National Marine Fisheries Service estimated last year that this exact closure would only reduce billfish bycatch by "generally less than 1 percent."

We believe that additional time-area closures in U.S. waters should be implemented to achieve reductions in blue and white marlin bycatch that are commensurate with the levels of reduction achieved for swordfish, large coastal sharks, and sailfish through the closures now in place.

My organization could support a properly structured buyout of U.S. Atlantic pelagic longline vessels. We could support a buyout for two reasons: One, for effort reduction, and we think such a buyout should focus on removing the active vessels from the fishery, as this would provide the most immediate conservation benefit. And secondly, we could support a buyout to compensate vessel owners that can demonstrate an adverse economic impact resulting

from the area closures—either area closures that are currently now in place or any area closures to be implemented in the future.

We strongly support the provisions of the bill that would transfer the portion of the bought-out swordfish quota from the longline categories to the handgear categories. Harpoon and rod-and-reel gear can take swordfish—large, mature fish—with absolutely no bycatch, thus eliminating the problems of pelagic longline gear.

And this is an important point. As we attempt to rebuild these fisheries, it is going to be important to shift to more selective fishing gears, as we do not believe the HMS fisheries can be sustainable, especially in an ecosystem context, if pelagic longlines are the primary gear used.

For several years, there have been discussions into ways that longline gear could be modified to reduce the levels of bycatch. Unfortunately, to date, there has been virtually no testing of these gear modifications to determine their potential in reducing bycatch. We would certainly support legislation mandating NMFS to conduct a research program to test gear modifications. We envision a program that would test things such as the length of mainline used, the soak time, the types of hooks that are used, and other methods to determine if there is any potential in reducing longline bycatch.

This is very important because we need to determine what options are at our disposal to reduce longline bycatch. At this time, time and area closures are the only means that we have. And in fact, we may find that closures really are the only means available to reduce longline bycatch, but we need to determine through gear modification research what other options might exist.

We also believe that vessel monitoring systems need to be implemented quickly. We would urge the National Marine Fisheries Service to work primarily on addressing the temporary injunction against VMS. And if the agency wishes to secure congressional appropriations later, it could then reimburse fisherman who were required to purchase VMS. But VMS needs to be implemented immediately. We have several time-area closures currently in place, and there is virtually no means of enforcement, so it is very important to get it in place as soon as possible.

Thank you very much. I am grateful the opportunity to testify before you. We are highly supportive of your efforts, Mr. Saxton, and we thank you very much for providing the leadership necessary to tackle these important issues. Thank you very much.

[The prepared statement of Mr. Hobbs follows:]

Statement of J. Timothy Hobbs, Jr., Fisheries Project Director, National Coalition for Marine Conservation

Good morning Mr. Chairman, Mr. Saxton and members of the Subcommittee. I am Tim Hobbs, Fisheries Project Director with the National Coalition for Marine Conservation. The NCMC is the nation's oldest public advocacy organization dedicated exclusively to conserving ocean fish and their environment. My organization has been involved in fisheries management issues since 1973 and we are widely recognized as a leading advocate for the conservation and responsible management of highly migratory species—swordfish, billfish, tunas and sharks. I sincerely appreciate the opportunity to testify before you on HR 1367 and efforts to control pelagic longline fishing in U.S. waters.

First of all, I would like to thank Mr. Saxton for the tremendous amount of time and effort he has put forth to address the problems facing our highly migratory species. These species are vital to the health of our marine ecosystems and extremely

important to U.S. recreational and commercial fishermen and to the well being of our coastal communities. We commend Mr. Saxton for championing this issue.

The current state of highly migratory species in the Atlantic is deplorable, largely due to the widespread use of pelagic longline fishing gear. Pelagic longlines are highly indiscriminate in the number, size and type of marine species they catch, and produce high rates of mortality, a combination that makes this gear especially detrimental to the offshore marine ecosystem.

Since Congress made reductions in bycatch and bycatch mortality a domestic priority under National Standard 9 of the 1996 reauthorization of the Magnuson-Stevens Act, my organization has been calling for measures to improve data collection and to address the documented bycatch problems of pelagic longline gear in U.S. waters. In February of 1998, NCMC published a report, titled *Ocean Roulette: Conserving Swordfish, Sharks and Other Threatened Pelagic Fish in Longline Infested Waters*. This report examines every conceivable management option for its potential in reigning in longline bycatch. A lengthy analysis reveals that the only way to effectively reduce longline bycatch is to remove the gear from the water where and when it is doing the most damage. More traditional management measures, such as size or trip limits, are simply unsuited to address the bycatch problems of such an indiscriminate fishing gear.

Since completing *Ocean Roulette*, my organization has urged the National Marine Fisheries Service (NMFS) to implement a comprehensive bycatch reduction program to reduce longline bycatch of all impacted species through a suite of time-area closures. At long last, NMFS published Amendment 1 to the Highly Migratory Species Fishery Management Plan (HMS FMP) on August 1, 2000, which closed 133,000 square miles to longline fishing, either seasonally or year-round. NCMC fully supports the NMFS closures. Under NMFS estimates, these closures, which are now fully implemented, will reduce longline bycatch of juvenile swordfish by up to 42%, large coastal shark bycatch by up to 43%, and sailfish bycatch by up to 44%. These reductions are substantial and will provide significant benefits to the rebuilding efforts of these overfished species.

Unfortunately, blue and white marlin only receive a residual benefit from the NMFS closures and estimates of bycatch reduction for these species are, at best, a meager 6-12%. This fact is made worse because blue and white marlin are by far the most overfished of the Atlantic highly migratory species. The most recent ICCAT stock assessment estimates blue marlin at 40% of healthy population levels (MSY) and white marlin at a mere 15%. Clearly, more action must be taken to stop the decline of these important species. Additional time-area closures to longline fishing in U.S. waters should be implemented to achieve a level of bycatch reduction for blue and white marlin commensurate with the level of relief provided to swordfish, sharks and sailfish from the closures now in place.

We are aware that one of the primary objectives of Mr. Saxton's bill is, in fact, to achieve additional conservation for blue and white marlin. We fully support this goal and we look forward to working with Mr. Saxton and the Subcommittee towards achieving it. At this time, however, while we support the intent of this legislation, we do not feel the bill as currently drafted goes far enough in securing the needed level of conservation for overfished blue and white marlin.

Time/Area Closures in HR 1367

HR 1367 would leave the existing longline closures promulgated by NMFS (by the August 1, 2000 Final Rule) in place and would implement additional closures to achieve a higher level of conservation. We fully support this course of action. The NMFS closures were developed through the established fishery management process, have been thoroughly reviewed and commented upon by the public several times, and are based on the best scientific data available. Previous legislation addressing longline fishing in U.S. waters would have rescinded these area closures, an act we feel would be entirely inappropriate. As stated above, the conservation benefits of these closures to certain highly migratory species are significant.

The Mid-Atlantic Bight is an area where white marlin are known to congregate during the summer months. HR 1367 proposes two annual time-area closures to longlining in this region: a 40-day closure covering approximately the 100- to 1,000-fathom depth contours from the Hudson Canyon to the Poorman's Canyon; and a 30-day closure covering approximately the 100- to 1,000-fathom depth contours from the Washington to the Norfolk Canyons.

NCMC concurs that white marlin are concentrated in these areas at these times. However, we believe that both of these closures are of such limited scope, both spatially and temporally, as to provide little benefit to white marlin. We are concerned that displaced longline fishing effort concentrated on the fringes of these small closures could negate the conservation benefits achieved by them. We believe the mid-

Atlantic closures in HR 1367 must be expanded to achieve a greater level of conservation for white marlin.

HR 1367 would also close an area in the western Gulf of Mexico from the shore out to 500 fathoms, from the U.S./Mexico border to approximately Cape San Blas, Florida. This is exactly the same closure that appeared in previous legislation. Unfortunately, there is very little longline fishing occurring in this area and, therefore, closing it would do little for conservation. In fact, in an April 5, 2000 letter to Senator John Kerry last year, then-Assistant Administrator for NOAA Fisheries Penny Dalton stated that this same closure would only result in a reduction in billfish bycatch of "generally less than 1%." This closure will accomplish little towards achieving the purposes and objectives of this legislation.

There are, however, areas in the Gulf of Mexico with higher levels of longline bycatch that should be considered for closure. NMFS originally proposed a seasonal closure in the western Gulf of Mexico that was expected to reduce billfish bycatch by up to 15%.

There are other documented areas of high blue and white marlin bycatch, such as in the northern Caribbean, which should also be considered for potential closure. I would be happy to work with Mr. Saxton and the Subcommittee in obtaining and reviewing studies and data showing longline bycatch in all of these areas.

Buyout

NCMC could support a properly structured buyout of U.S. Atlantic pelagic longline vessels either to reduce longline fishing effort or to compensate fishermen demonstrably impacted by the time-area closures, having derived a substantial portion of their income from an area now off-limits to fishing. A buyout for the purposes of effort reduction should focus primarily on removing active vessels from the fishery, with addressing latent fishing effort and preventing reinvestment into the fishery important, but secondary, goals. Removing active vessels from the fishery provides immediate relief to overfished stocks.

Vessels accepting a buyout for compensatory reasons must be able to demonstrate a significant, adverse economic impact directly resulting from recently enacted time-area closures. This can be achieved through appropriate qualification criteria.

Quota Transfer

We strongly support Section 12 of HR 1367, which would transfer the portion of the U.S. swordfish quota caught by bought-out vessels from the longline to the handgear (harpoon, rod and reel) categories. Harpooning swordfish is a traditional fishery that first started in the late 1800s. Contrasted with longlines, fishermen using harpoons or rod-and-reel take only large, mature fish with absolutely no bycatch, thus avoiding the two major problems with pelagic longlines. The selectivity of harpoon fishing is probably why this fishery was sustainable for over 100 years.

The objectives of the Highly Migratory Species FMP implemented by NMFS in 1999 include restoring both the traditional harpoon fishery as well as the traditional recreational fishery, participation in both of which has dwindled in recent years as the swordfish stock declined from unsustainable fishing practices.

NCMC strongly supports a transition from the use of pelagic longlines to more sustainable and selective fishing gears, such as harpoon or rod-and-reel. Time-area closures to longlining are necessary to protect juvenile swordfish (and other fish) while stocks recover, but a shift to more sustainable gears is necessary as we begin to rebuild these stocks, as we do not believe the swordfish fishery can be sustainable, especially in an ecosystem context, if longlines (as commonly fished) are the primary gear used.

Research

Methods of modifying the way longlines are fished to reduce bycatch have been discussed for years, but so far, few gear modifications have actually been tested to determine whether or not they hold any promise for reducing bycatch. We need to determine, once and for all, whether any modifications exist that could be adopted to reduce bycatch. We would support legislation mandating NMFS to conduct a comprehensive research program to test various gear modifications for their bycatch reduction potential. We envision a research program that would test, among other things, the duration of soak time, length of the mainline used, or various hook types to determine potential for reducing bycatch.

Conducting this research is essential for the future management of these species, both in U.S. waters and internationally, for we must fully assess all options at our disposal for reducing longline bycatch. The value in conducting this research lies not only in finding modifications that would presumably allow longline fishing to continue in U.S. waters, but in finding an exportable method of bycatch reduction that could be adopted by foreign fleets as well. This research would also help determine

whether or not we must rely upon time-area closures as the sole method of reducing bycatch.

Future Action

As you may be aware, my organization strongly opposed previous legislation that restricted the ability of the Secretary to take future additional action to modify or expand the time-area closures. We see absolutely no reason why such a restriction should ever accompany management action with uncertain effects.

My organization fully endorses Section 13 of HR 1367, which charges the Secretary with monitoring the effectiveness of the area closures on an annual basis and taking additional action as necessary to reduce bycatch and to comply with the law. As it is difficult to judge the effectiveness of the area closures due to shifts in fishing effort and effort displacement, annual variations in movements of the fish and other factors continually analyzing their effectiveness is crucial to maximize their success in reducing bycatch over the long term.

Vessel Monitoring Systems

There are several time-area closures in the Atlantic and Gulf of Mexico currently in effect to reduce longline bycatch of finfish and sea turtles, yet there is no adequate means of enforcement. The only effective method of enforcing large-scale time-area closures, the boundaries of which are often far out to sea, is with Vessel Monitoring Systems (VMS). We have repeatedly urged NMFS to implement VMS to be ready concurrent with the implementation of time-area closures, yet the system is still not in place. Logbook entries and dockside sampling, the means by which NMFS claims it can enforce the closures, are by no means adequate. NMFS has dragged its feet and has failed to respond to a Court-ordered injunction against VMS for almost a year. As there is a dire need for timely implementation of VMS, we believe NMFS should focus its efforts primarily on lifting the injunction, thus mandating VMS for all Atlantic pelagic longline vessels, and secondarily to securing congressional appropriations. If NMFS is ultimately successful in gaining congressional appropriations for VMS, it could later reimburse fishermen who were required to purchase it. Enforcement of important conservation measures should not be stalled while NMFS pursues congressional funding with no guarantee of success. VMS must be implemented as quickly as possible.

Mr. Chairman, Mr. Saxton and members of the Subcommittee, I am grateful for the opportunity to share my thoughts with you today on future efforts to achieve needed conservation measures for overfished Atlantic highly migratory species. We are highly supportive of your efforts on this issue, Mr. Saxton, and commend you for providing the leadership necessary to tackle these issues, which are often contentious and difficult to find solutions palatable to all sides. We especially look forward to working with all of you to achieve additional conservation measures for blue and white marlin. I would be happy to answer any questions.

Mr. SAXTON. Thank you very much for your perspective, Mr. Hobbs.

Are you any relation to David Hobbs, who is the President's legislative liaison person?

Mr. HOBBS. No. No, I am not.

Mr. SAXTON. We are going to go to Mr. Underwood for whatever comments or questions he may have after hearing the high degree of agreement between all the witnesses.

[Laughter.]

Mr. UNDERWOOD. Thank you. Thank you, Mr. Chairman, and thank you for the opportunity to hear a very wide-ranging series of opinions about this matter. This is a matter that obviously requires congressional attention.

And I think it is certainly not limited to the Atlantic. I think these are international issues, as well as issues that affect an area that is closer to my own responsibility, the Pacific.

I was struck, actually, trying to understand the interaction between recreational fishing and fishing as a commercial enterprise. And to some extent Mr. Panacek's characterization that long-lining has been demonized is probably fairly accurate. I think there is cer-

tainly not a wide-ranging level of support for those kinds of activities.

But I did want to ask perhaps Dr. Hogarth—or others may want to respond to this—Mr. Panacek asserts in his testimony that by limiting the time spent by closing certain areas to this kind of activity, that basically the quotas will simply be reassigned to someone else, and thereby really, in effect, undermining the conservation intent of the legislation. In other words, it may make us feel that we are actually making a bold strike for conservation of the species.

At the same time, Mr. Donofrio asserts in his testimony that through skilled recreational fishing—I was reading about the harpooning, and I asked Mr. Saxton if he had been harpooning to see how successful that is. It would have to be, in my estimation, pretty enormously successful in order to—

[Laughter.]

I am not doubting that is feasible or not, but I also understand in your testimony, Dr. Hogarth, that you have doubts that this quota could be made up in recreational fishing as well. So could you respond to that in some way?

Dr. HOGARTH. Thank you, Mr. Underwood.

Yes, it is our concern that it cannot be made up. We have 29 percent of the swordfish, for example, and the indications are that we could not make this up with the use of handgear. And what happens is that, when you deal with the ICCAT, there is a very good chance that we would lose this quota to other countries. And the handgear would not be able to harvest the amount.

So that is a concern of ours, that we would lose quota in the process.

And the other countries who would pick this up, they honestly do not have the regulations and do not have the time-area closures or the other regulations that the U.S. has on its fleet. And so we would probably lose some conservation.

You know, that has been one of our major concerns right now, what we have done to the longline industry, both in the Pacific and the Atlantic, is that effort is obviously being taken up by Spain and other countries. And they do not practice saving turtles, for example. And the increase in the take of turtles is something that concerns us.

So we are trying to work with industry now on gear research, because we think if we can get some gear modifications in through the State Department and international avenues, we will be able to transfer that technology, such as we have done in the shrimp industry with the turtle excluder devices.

Mr. UNDERWOOD. We don't want to make the commercial practices of other nations the measure of how we carry out our own activities, and so it presents us with a little bit of a quandary.

Is it your estimation—perhaps others would like to comment on this—that we are doing as much as we can internationally in order to create the kind of fishing practices climate that we want? Are we putting enough pressure on the other countries?

Dr. HOGARTH. I will take the first stab at that.

In several instances, no, we are not. When it comes to the sea turtles, we are definitely not. We have to use the multilateral type

of agreements, bilateral agreements with foreign countries, and we have to use the State Department. And we plan to do that. We have already talked to the State Department about several avenues, once we can develop technology.

The longline industry, while right now it may appear it is sort of under attack, we are also working in the shrimp industry, for example, we have TEDs, or turtle excluder devices. Foreign countries have to meet those requirements or they cannot export shrimp to the U.S. That is something Congress did, and it is working very effectively.

In the Southeast region, we inspect those countries at least annually to make sure that they are abiding by the regulations. So if we can develop the technology, I think we have avenues in order to send this overseas.

Through ICCAT, we are having some problems there with compliance. There is no doubt the European Union is not complying the way we think it should. It is going to be a major issue for the commissioners at the next meeting. It is a continual battle that we have to get other countries in compliance. But it is something we continue to battle with.

But we know in the U.S. that we have through the highly migratory species management plan, we feel like the time-area closures, we have tried to address the bycatch problem, and I think for several species we have done that.

But, no, on an international level, particularly longline, we have a lot of work to do.

Mr. UNDERWOOD. Go ahead Mr. Panacek, and then Mr. Donofrio and Mr. Hobbs.

Mr. PANACEK. Thank you, Mr. Underwood.

I would like to just emphasize the fact that the United States fishermen have set the examples for all the foreign countries. We've set unprecedented conservation measures, and they have complied and complied and complied, to the point of going out of business to set an example for the international countries, the foreign countries, who are almost and unfortunately laughing at the United States and continuing to catch all the fish that they want, including tremendous amounts of billfish that they catch and sell.

And if we don't get the recreational and the commercial together in the United States and realize that ICCAT is the only solution to this billfish problem, it won't matter that the United States isn't fishing in the mid-Atlantic Bight or anywhere, including the recreational boats, because there won't be any fish left if it is up to them.

Mr. UNDERWOOD. Thank you.

Mr. Donofrio?

Mr. DONOFRIO. Thank you, Mr. Underwood.

I want to say I respectfully disagree with Dr. Hogarth on this scenario. I think ICCAT is necessary, but I believe that the National Marine Fisheries Service and the commercial longline industry has been hiding behind it. And as far as the perspective of looking at the Atlantic Ocean as one big pond and that these fish are commuting back and forth like they are on Concorde, that just doesn't happen.

We have a continental shelf here that is rich in marine life and it holds fish. There is a lot of north-south migration. And I think it is the duty of the U.S. Congress to step in at this time and protect the industries—both traditional commercial industry and recreational industry—from the ravages of this gear. Harpooning in U.S. waters indicates that more harpoon swordfish were landed in poundage than were caught by the U.S. longline fleet, and it can be done again.

And we may not get all the quota. And if we lose a little bit of that quota, we are not losing it out of our EEZ. The other countries, Spain, Japan, etc., they will take that quota, but they are going to be catching it somewhere else in the world. We are still protecting our 200-mile limit. And that was the objective of that bill in 1976, and I think we need to move forward on that.

Mr. UNDERWOOD. Okay, thank you.

Mr. Hobbs?

Mr. HOBBS. Yes, I wanted to reiterate a point that Mr. Donofrio just made.

Harpooning might seem like a primitive gear, but I would not underestimate the ability of harpoon fishermen to harvest swordfish. The heyday of the swordfish harpoon fishery was 1959, and U.S. and Canadian harpoon fishermen harvested more swordfish by harpoon in 1959 than are taken by the two countries today with all the gears.

So I think the potential does exist to make the transfer to more selective fishing gears. And I think that if we can make the point at ICCAT that we are restructuring our fishery to make it more selective, that should go a long way toward securing the leadership that we need there.

Mr. UNDERWOOD. Go ahead, Mr. Saxton. I admire your leadership on this issue.

Mr. SAXTON. I think Mr. Underwood and I are kind of out in the cold on the harpooning.

You know, when we think of harpooning, we think of old sailing ships and something that is kind of archaic or old-fashioned.

And, Mr. Hobbs, to hear your explanation, that may not necessarily be the case. If as late as 1959 there was a successful harpoon fishery that was economically viable, your position is that maybe it is today as well. Is that what you are saying?

Mr. HOBBS. Well, I think the potential certainly exists. In 1959, the fishery was much healthier than it is today.

One of the problems with pelagic longline gear, unfortunately, is that it harvests juvenile swordfish just as easily as mature swordfish, and that has altered the population structure of swordfish. So it might make it difficult to achieve a harpoon fishery that depends upon large, mature fish if widespread longline fishing is allowed to continue without areas to reduce juvenile swordfish bycatch.

But I think certainly the potential exists to expand these fisheries to pick up some of the slack where we can shift away from longline gear.

Mr. SAXTON. Mr. Hayes?

Mr. HAYES. Yes, I want to get back to improving ICCAT, but first I want to say one thing about harpooning.

The objective here is laudable.

Mr. SAXTON. I am sorry?

Mr. HAYES. The objective is laudable. Essentially what the idea is, is to find the gear that reduces the bycatch. Mr. Donofrio and Mr. Hobbs are simply suggesting that here is a gear that will do it, either handgear or harpoon gear.

It does have some other interesting side effects. And I think in the short term, Mr. Hogarth is right. It would have some very negative side effects internationally.

Mr. SAXTON. Why is that, please?

Mr. HAYES. The difficulty is that if you had the ability—let's assume that you went ahead and reduced the quota as exactly as in your bill, and we went and reduced it by as much as 40 percent of the catch, we don't have today a harpoon and a handgear capability to go out and suddenly fill that in.

One of the things in my history is I ran the development program for the National Marine Fisheries Services. I got to develop the Alaska fishing fleet. I gained some concept of how you do this.

It would cost us millions of dollars to train fishermen, to develop the gear, and, as Mr. Hobbs correctly points out, the stock structure is such that you couldn't do it anyway, not until the stock recovered. And that is going to be some substantial period from now.

Mr. SAXTON. Why is that?

Mr. HAYES. Well, because they are not big enough.

Mr. SAXTON. I have been dealing with the longline part of this for a couple of years now, but I don't know the harpooning end.

Mr. HAYES. It is just that, you know, what we would be creating in a fishery development standpoint is a brand new fishery. Now, it may be historically a fishery. There are people out there that do it. But are there infrastructure, boats, people trained?

What I know about the harpoon fishery is it is highly dangerous. Do we have the appropriate safety mechanisms in place to keep people from sitting out there on the prow of that boat and doing that activity on the high seas? I think it is a difficult question, frankly, as to whether you could simply transfer it.

But my point is that we are focused on a solution that may not be the thing that we ought to be focused on. What the solution is, is how do we harvest tuna and swordfish and reduce the bycatch of the things that we want to reduce the bycatch of.

And I think what Mr. Hogarth was suggesting, and I think what everybody on this panel has suggested, is that what we need to be doing is accelerating a research program to do exactly that.

Mr. SAXTON. Okay, let's talk about research for a minute.

I understand that you are into kind of two areas of research. You are interested in two areas of research.

The one area is to try to find a way to create a fishery that has less bycatch problem, that is a general thing, and maybe you have some ideas about how to do that.

Particularly related to the second thing that I understand that you are interested in, and that is research relating to the effect of water temperature on various species of highly migratory species. Am I saying that right?

Mr. HAYES. Is that me?

Mr. SAXTON. Yes, sir.

Mr. HAYES. Yes, that is correct.

I think it is a combination of essentially two things. I refer to it as technical changes, and I had a conversation Dick Webber, frankly, and he corrected my definition of technology.

I think the concept of hotspots probably is the right concept, so the question then becomes: How do we avoid large areas where this bycatch occurs? Can we do that by looking at water temperature, the difference between temperatures that tuna stay in and the marlin stay out of? I understand that there may be some fairly attractive fishing practices that you could develop which could significantly reduce the bycatch.

And that would mean that you create hotspots and you would trade them in different places, and you might have what they call rolling closures, which is actually what the mid-Atlantic closure—

Mr. SAXTON. That is what we were trying to do in the last session.

Mr. HAYES. And the question I think a lot of people have raised is whether that was effective or not. And to be perfectly honest, as you know, that was a negotiated thing, and maybe, as I suggested earlier, let's start going back and taking a science look at it first, and then let's start doing the balance on what that economics is, and then let's make an appropriate balance and come up with something.

But I think the concept of hotspots and the concept of gear modification together are the kinds of things that we could take internationally and that we could do domestically that won't have this huge negative impact that the longline community has just suggested and which would significantly reduce the bycatch billfish.

And the question is, where do we get that research? And what I have been suggesting is that what we ought to do is compel our good colleague here, Mr. Hogarth, and our good colleague here, Mr. Scott, to develop a research program. And maybe they could come back to the Committee and develop such a research program for you, and then we could collectively, as a community, go figure a way to get that done.

Mr. SAXTON. And what would you think would be the specific objectives of this research project? I mean, we don't need a research project to tell us there is a problem.

Mr. HAYES. No, we don't need that. Absolutely do not. No.

My view is that the objective of that is to determine specific enforceable ways of using longline gear that does reduce the bycatch of—my interest is in marlins, but also large sharks, turtles, all of these other things.

That is the objective. It is, how do you reduce this bycatch? That is a scientific objective, as I see it. And then we can start talking about the economic impacts.

Mr. SAXTON. And how do you identify hotspots? How do you think we identify hotspots?

Mr. HAYES. I am a terrible scientist, but let me at least tell you what people have told me.

There are a number of areas out there in which you can fish where the bycatch of marlins is more significant than if you went someplace else and there, both by way of time and area—the Florida Straits, that is the only one I know of that everybody agrees to.

But everyone agrees that that is a hotspot, particularly as it applies to marlins and sailfish.

Mr. SAXTON. Doesn't everybody agree that there is a hotspot in the Mid-Atlantic Bight July through the end of September, which we identified?

Maybe you are saying that that hotspot was identified and defined as being too small, but everybody agreed on those dates, everybody agreed that that was a hotspot, and everybody tentatively agreed to have a time-area closure there.

Now, are you saying that was too small?

Mr. HAYES. No. What I think, actually, was that that area—since I had something to do with sort of defining those spots, I think this is what we were trying to do. We were trying to identify an area where we could get a maximum amount of bycatch reduction coupled with the minimal amount of impact on the longline fleet.

Mr. SAXTON. Not everybody, but some people would like to have a viable longline fleet that catches swordfish and that doesn't catch other highly migratory species and turtles, et cetera.

Mr. HAYES. This is "Mr. Hotspot," I think; better than I am.

But the hotspot theory at least, the scientists at the outset did not come up with that as a specific area that was a hotspot.

It was just, frankly, the gulf area that we closed. It wasn't a hotspot either. We weren't really trying to use that kind of an effort in the gulf anymore than, frankly, we tried to use in the mid-Atlantic. I don't think there is any question that there is a huge bycatch of white marlin in the mid-Atlantic. I am not suggesting anything else.

But I don't think we were specifically looking at this concept of hotspots when we entered into the discussions on the mid-Atlantic. It was more trying to negotiate those two points.

Mr. SAXTON. I want to ask you and others in a minute what you think, based on the scientific information that we currently have, what are the elements that create a hotspot.

But first, Mr. Hobbs is dying to say something.

Mr. HOBBS. Yes, thank you, Mr. Chairman.

I just wanted to point out something that Mr. Hayes said, and that is to start with the science. Let's look at what kind of reduction we want to achieve for white marlin. With swordfish and large coastal sharks and sailfish, we have achieved maybe up to 42, 43, 45 percent reductions in bycatch.

So I think the initial question should be, okay, let's try to do something similar for white marlin. And then we look at what areas could we close at what times that would achieve that level of bycatch reduction.

I mean, we think that the area closures in the mid-Atlantic as currently drawn might not be big enough to provide enough conservation benefits. We don't know that because we have never seen a scientific analysis of those areas.

But with the NMFS closures, there was detailed scientific analysis with both effort displacement and no-effort displacement that estimated the levels of bycatch reduction.

So I think if we can identify these hotspots with the goal of, "let's achieve this much bycatch reduction," and then analyze them, then we have some numbers to work with and some areas to work with

that we know are going to achieve the levels of reduction that we want.

Mr. SAXTON. Mr. Panacek?

Mr. PANACEK. Yes, Mr. Chairman.

It has always been my understanding that the mid-Atlantic Bight has never been, and statistics show that it is not a hotspot. It is one of the lowest areas of interaction of small swordfish and billfish.

The research needs to show us that that is the case, and I think we need to look elsewhere. It is not in the mid-Atlantic Bight that we have that problem.

Mr. SAXTON. Mr. Donofrio?

Mr. DONOFRIO. Thank you, Mr. Chairman.

I don't know what data the other side was looking at, but we have NMFS data here that clearly indicates well within our EEZ tremendous hotspots for white marlin bycatch. And I have provided the Committee with this data.

Mr. SAXTON. Are those the maps that we used last year?

Mr. DONOFRIO. Yes, sir. It is NMFS data.

Mr. SAXTON. Mr. Scott, hotspots—can we identify them?

Dr. SCOTT. I think we can identify them so long as we agree on what the real objective is. And so far what I have heard is that there is a multitude of objectives.

No single time-area solution I think exists to match all of the objectives that I have heard around the table—one being white marlin, the other being sea turtles, still another being small swordfish.

So it is very difficult to identify specific areas, unless they are very large and very long in time, that would meet all of those objectives simultaneously.

I can say that there has been an evaluation of the relative effectiveness on expected reduction in catch for the specific times and areas that are identified in the bill, and that is information provided in the written testimony of Dr. Hogarth. So that information does exist.

I know I am getting off the idea of hotspots in general, but in specific terms to what is in the bill, the magnitude of conservation benefit is relatively small. As I tried to point out in my testimony, the magnitudes in expected reduction in catch here would probably not be measurable in any biological sense from the standpoint of status of any of these stocks we would be considering.

Yes, I believe we can identify hotspots, but I think we first have to agree on what the primary objective is that we want to try and manage. If it is overall bycatch, that is going to be something I think that is better promoted gear modifications perhaps, as a first step, then first taking blanket time-area closures for very, very large and very, very extensive periods of time.

Mr. SAXTON. If you identified a species or more than one species, such as white marlin and blue marlin, and you said that because NMFS data indicates that the white marlin, for example, stock is estimated to be less than 15 percent of biomass, and you wanted to identify places where longline gear would not be appropriate because you wanted to provide an opportunity for this species to recover, could you identify those areas?

Dr. SCOTT. I believe, based on the detailed catch and effort information that we have collected from pelagic longline fishery, those areas can be identified. And in fact, there have been areas identified that relate to high catch rates of things like white marlin. So, yes, in my view, it is possible, on an international scheme.

What I tried to point out in my testimony was that the level of detail on the data that is reported to ICCAT is much coarser than the level of detail that we use domestically for making these hotspot determinations. And because of that, you end up working with much larger areas of the ocean that may not be judged to be as appropriate for time and area closures by international members to ICCAT.

So there is a conflict there with respect to the level of detail that is available for making these Atlantic-wide determinations of hotspots. The hotspots we are able to identify very fine-scale data relate to where the U.S. fishery operates, and that is primarily on the western side of the Atlantic, ranging down somewhat south of the equator, traditionally not much on the eastern side of it.

Mr. SAXTON. Let me ask a series of other questions.

And let me say, before I do, I am going to have to leave here in about 10 minutes. At 12:30, there is a meeting of the New Jersey delegation, and we are going to vote on the Patients' Bill of Rights this afternoon, and that may not ring an important bell with some of you, but it is really important right now, here, as the New Jersey delegation is pivotal in how this moves forward. So I am going to have to attend that meeting.

But let me just take the 7 or 8 minutes to ask a series of questions.

Bob Hayes, Mr. Scott just mentioned a regulatory regime aimed at different gear types. Would you comment on that?

Mr. HAYES. I think he is right. I mean, there are two levels to this.

The first level is, what do we do domestically because we have better information domestically. So we do hotspots when we can identify them, and we modify the entire gear to the extent we can with whatever technology we apply.

Mr. SAXTON. Are you talking about different kinds of hooks or different—

Mr. HAYES. It is shorter soak times. Actually, it is the very same stuff that they are doing this research right now on in the turtle business. They are going to do a seven boat turtle research program. It is that kind of research. It is, how do you modify the gear?

Now, it may well be, and I think Mr. Donofrio suggested it, it may well be that despite the claims that you can do this, it can't be done.

If it can't be done, then I think we have a different choice. But if it can be done, then we ought to be requiring, by regulation, our industry to fish in a way that will minimize this impact.

Now, if it is gear modifications, frankly, those are things that are much easier to take internationally than these large closed areas, because the problem with hotspots identification internationally is, as Gerry points out, you are talking huge areas of the ocean. And the only place we do have data, which we could restrict those a lit-

tle bit, is from our own fleet, which, frankly, I think will be somewhat suspect when we go internationally.

Mr. SAXTON. Mr. Donofrio, do you want to comment?

Mr. DONOFRIO. Thank you, Mr. Chairman.

I disagree. I think the gear has got to go. And based on people we have talked to—I have a letter here I would like to enter for the record from Louis Larsen's family, Betsy Larsen from Menemsha, who's Dad actually pioneered long-lining in 1963. He and his family were harpooners before that for three generations.

And Mr. Larsen regrets that he ever got involved with long-lining. And at the time, the early days, they did short sets because there were so many fish. So the shorter soak times, that experiment has already been conducted. When there was fish, it was a shorter soak time. You have to get the line in right away.

And the gear just does not work. And this comes right from the mouths of people that have done that and now regret they have done it.

[The information referred to follows:]

Larsen's Fish Market, Inc.
P. O. Box 172
Chilmark, MA 02535

July 31, 2001

The Honorable Wayne Gilchrest, Chair
House Subcommittee on Fisheries Conservation, Wildlife and Oceans
2245 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Please allow me to introduce myself. I am the owner of Larsen's Fish Market and my name is Betsy Larsen. I come from a long line of commercial fishermen. My father, Louis Larsen, was one of the great harpooners of his time. Our homeport is Menemsha, Massachusetts.

I strongly urge you to support Congressman Jim Saxton's Atlantic Highly Migratory Species Conservation Act of 2001. I feel this bill would be very effective in reducing bycatch and allowing currently overfished stocks of pelagic fish to recover.

Swordfish have been taken commercially off the Northeastern United States for nearly 200 years. Until longlining started in 1963, all swordfish landed were harpooned. Longliners set out 40 miles of line and thousands of baited hooks to catch swordfish while harpooners use traditional methods. Harpooners pick only mature swordfish that have spawned at least once. Harpooning is clearly the best way to catch swordfish.

We feel that restricting the use of longlines in the Mid-Atlantic and the Gulf of Mexico will contribute significantly to the rebuilding of swordfish stocks and the overall reduction of longline bycatch. We also feel that the compensation program is a fair and reasonable way to reduce longline effort without leaving fishermen empty handed.

It is my hope that with the passage of Congressman Jim Saxton's Atlantic Highly Migratory Species Conservation Act of 2001, swordfish populations will return to the Healthy levels they once were and the traditional harpoon fishery will rebound as well.

Very truly yours,

Betsy Larsen

Mr. SAXTON. Mr. Hobbs and then Mr. Panacek. Gear type?

Mr. HOBBS. Yes. We have been discussing potential gear modifications for several years, and I think that has been one reason why other measures to address longline bycatch have been put off, because everybody thinks we can do some gear research and find a way.

And that may be the case, and we certainly want to do gear research, but we don't think that we should put off other management measures that would provide conservation benefits now while we get a research program in place and work out the details. It is going to take, probably, several years to conduct the research.

So it might be several years before we would actually get any benefits from the research. And in the meantime, we think we need some conservation measures now, because white marlin especially are so badly off.

Mr. SAXTON. Mr. Panacek?

Mr. PANACEK. I would just like to comment quickly on Mr. Donofrio's statement about the gear is bad.

The longline gear is not bad. For the number of hooks we set in the mid-Atlantic Bight, bycatch is minimized tremendously by the right conditions, the water conditions, whether there are fish there, the temperature, the time of year, and it is a highly selective, low-volume fishery. They are looking for a high-quality fish, not a big volume. We cannot simply go anywhere with our gear and catch highly migratory species.

Mr. SAXTON. This will have to be the last, probably, question, and whoever wants to respond to, but let me start with Bob Hayes, because I think he gave me the idea.

Water temperature has a lot to do with what fish are present at any given time. And I think that is true, and you are indicating that is true. And if that is true, is it possible to identify the places where various species that may be threatened are located and avoid fishing in those areas at the appropriate time?

Mr. HAYES. actually, I think our colleagues in the commercial community could tell you exactly where those are, and what those temperatures are, and at what depth they are, and I suspect, with a reasonable amount of research, that Gerry Scott could confirm them. I don't think that is an impossible exercise.

Mr. SAXTON. Anyone else want to comment?

Okay, well, look, I am really sorry that we got started late because of votes. I am really sorry that we have another vote now, but that is kind of the way things happen here.

I appreciate you all coming from various parts of the country, especially from New Jersey. I know there is a very interested and large delegation here from the New Jersey coast, and we appreciate all of you being here.

And we will look forward to working with all of you on this subject as we move forward together. Thank you very much. The hearing is adjourned.

[Whereupon, at 12:10 p.m., the Subcommittee was adjourned.]