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TESTIMONY OF J. CHARLES FOX
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BEFORE THE SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ON ILLEGAL, UNREPORTED, AND UNREGULATED (IUU) FISHING
AND SHARK CONSERVATION

APRIL 16, 2008

Chairwoman Bordallo and Members of the Subcommittee:

We greatly appreciate your invitation to appear before the Subcommittee to share our views on these two important issues which underscore the governance challenges confronting our world's oceans. My name is J. Charles Fox and I serve as a Senior Officer with the Pew Environment Group in Washington, D.C. The Pew Environment Group is the conservation arm of the Pew Charitable Trusts. We are dedicated to advancing strong environmental policies that are informed and guided by sound science on climate change, wilderness protection and marine conservation. I manage a number of Pew's international marine conservation initiatives, including three significant projects on IUU fishing and shark conservation. Before joining Pew, I served as the Secretary of Natural Resources in Maryland and as the Assistant Administrator for Water at the U.S. Environmental Protection Agency.

Summary

Congressional passage of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act in 2006 continued the United States' leadership in domestic and global fisheries conservation. Today, the United States is widely recognized as having among the strongest policies for domestic fisheries conservation in the world. In numerous international fora, the United States is also viewed as a preeminent voice for science-based ocean conservation. However, the two issues which are the subject of today's hearing will require significant additional leadership from Congress and the executive branch if we are to be successful in combating illegal fishing and in conserving sharks. Importantly, these two issues are at the heart of what we view as an emerging ocean governance crisis.

IUU fishing is defined generally as activities that contravene the established requirements of international law and policy. Rampant -- and likely growing -- IUU activities undermine the

fundamental integrity of global fisheries management institutions in many different ways. IUU fishing is driven by clear economic benefits which, in turn, are facilitated by what we view as a loose and leaky global management system for monitoring and controlling vessels, catches, and imports/exports of fisheries products. The good news is that workable solutions are available and achievable. In fact, the process of controlling IUU fishing presents substantial opportunities to improve oceans governance more broadly, as virtually all the world's fisheries management institutions will have to adopt a range of new controls on fishing vessels, ports, and markets to discern whether fisheries products are related to IUU activities or not. We recommend that Congress authorize a broader range of tools to combat IUU fishing and to constrain the importation of IUU products into the markets of the United States.

Shark fishing remains largely unregulated throughout the world. It is among the worst examples of the international community's failure to manage a fishery which has serious implications for the health of ocean ecosystems. Congressional leadership in enactment of the Shark Finning Prohibition Act in 2000 supported encouraging, subsequent action from many other nations and fisheries institutions. However, the Act included what we now understand to be unfortunate loopholes. We recommend that Congress close these loopholes and consider additional actions to improve data collection and promote the development of sustainable, science-based fisheries management plans for sharks.

Emerging Ecological and Governance Crisis

The health of the world's oceans is rapidly declining, with far-reaching implications to our planet and the livelihoods of millions of people throughout the world. Today's oceans confront a host of ecological threats, including climate change, pollution, habitat loss, invasive species and coastal development, just to name a few. Destructive fishing practices, however, overshadow them all with respect to the toll they take on marine life. Importantly, this particular challenge is reversible in a relatively short period of time and, if accomplished successfully, could yield significant economical and ecological benefits to coastal communities and the world's marine environment.

According to the United Nations' Food and Agricultural Organization (FAO), today's global fishing fleet exceeds four million vessels which remove over 85 million metric tons of fish and invertebrates from the world's oceans annually, a figure which most scientists believe is beyond the limits of what the planet can sustain. FAO estimates that about 75 percent of the world's marine fish stocks are fully fished, overfished, or depleted. Furthermore, although estimates vary, there may be an additional 30 to 50 million tons of unreported landings.

Many marine scientists believe the problem is worse than FAO suggests. A study published in *Science* magazine last year, for example, suggests that roughly one third of the world's commercial fisheries have collapsed and, that unless current trends are reversed, all of the world's remaining commercial fisheries are likely to have collapsed within the next 40 years.

The European Union (EU) controls the world's largest exclusive economic zone (EEZ), has the largest fisheries market, and operates one of the largest fishing fleets on the planet. Yet, a 2007 report by the European Commission concluded that fully 80 percent of EU fisheries are

overfished. Here in the United States, 41 fish stocks are still subject to overfishing, which is about 20 percent of all assessed stocks, according to a 2007 report of the National Marine Fisheries Service (NMFS). It is also important to note that about 50 percent of our domestic fisheries are still classified as “unassessed” by NMFS.

Fisheries are an inherently public asset which, in theory, should be managed by governments to maximize public benefits and protect ecological functions. In practice, governments promulgate regulations, typically in the form of catch limits, gear restrictions, or area closures, which are designed to promote sustainable fisheries and prevent what is often referred to as “the tragedy of the commons.” Protective regulations and effective compliance mechanisms are essential to securing sustainable fisheries and constraining the relatively narrow and often short-term economic interests of the fish producers, processors, and distributors, as well as the nations that support them.

Historically, in the United States and abroad, it has proved exceptionally difficult to achieve the goal of sustainable fisheries. Because of the leadership of Members of this Subcommittee, however, this may be changing in the United States. The reauthorized Magnuson-Stevens Act includes significant new requirements designed to end overfishing, promote timely rebuilding of overfished stocks, and assure that fisheries management decisions are based upon sound science. Today, the United States possesses a relatively robust, science-based fisheries management regime with relatively sophisticated controls on its fishing vessels.

International fisheries management regimes pale by comparison. In the international waters of the high seas, for example, there are about 50 different regional bodies which share responsibilities for managing fisheries. Some focus on individual species, such as tuna or salmon, while others focus on geographical areas, such as the North Atlantic or the Southern Ocean. Some regional bodies lack management authority, and many do not enforce or use the authority that they have. Collectively, the various regional fisheries bodies implement an inconsistent patchwork of management regimes that have proven ineffective for conserving fisheries, achieving sustainability, and protecting the world’s oceans.

The world’s tuna fisheries, for example, are emblematic of the emerging international ocean governance crisis. The seven principal market species of tuna are the most valuable, sought-after fish in international and national waters, likely responsible for more hooks and nets in the ocean than any other species. Global tuna catches have doubled since the mid 1980s, quadrupled since 1970, and today account for fully 11 percent of the total value of world fish landings for consumption. Over 4 million tons of tuna are caught each year, enough to fill 200,000 semi-trailer trucks.

Five of the world’s largest regional fisheries management organizations (RFMOs) regulate tuna catches in both national and international waters. These RFMOs are governed by representatives of many different nations involved in tuna fishing and operate largely through consensus-based procedures. In theory, each is required to establish science-based catch limits that support the sustainable management of tuna and the protection of ocean ecosystems. In practice, most of the tuna RFMOs frequently fail to set or enforce protective or effective catch limits for tuna. Most

have also fallen short in their responsibilities to constrain fishing sufficiently to protect turtles and seabirds, or conserve sharks and other pelagic fish.

At its annual meeting late last year, for example, the International Commission for the Conservation of Atlantic Tuna (ICCAT) failed again to protect critically endangered bluefin tuna, despite predictions from its own scientists that a collapse of the Eastern Atlantic population was imminent. Even the Chairman of ICCAT, William Hogarth of NMFS, responded to the outcome of the meeting by saying, “In 2008, if we don’t go back and do what’s necessary, I think ICCAT is probably finished as a managing body. I think someone else will manage bluefin tuna for us.”

Whereas tuna fishing management organizations *regulate* poorly, some other fisheries remain *completely unregulated* internationally, compounding ocean governance challenges. Most high seas bottom fishing areas, for example, do not fall within the authority of any existing RFMO. A similar situation exists for many non-tuna pelagic species such as jack mackerel. These loopholes are becoming particularly problematic as coastal waters become increasingly overfished and vessels venture into previously less-fished areas of the deep sea. Some of the worst examples of these unregulated fisheries involve vessels which use highly destructive bottom trawling gear on seamounts, deep sea coral reefs, and other vulnerable marine ecosystems. With respect to high seas bottom fishing, recent action by the United Nations’ General Assembly has stimulated encouraging policy changes in the South Pacific, the Southern Ocean, and in the European Union. However, limited progress has been made on controlling bottom fishing in the North Atlantic, the North Pacific, or the Indian Ocean.

The 1995 United Nations’ Agreement on Straddling and Highly Migratory Fish Stocks (FSA) established a range of overarching and quite protective fisheries conservation policies that should have vastly improved ocean governance. Unfortunately, some fishing nations are not parties to the FSA. Moreover, many of the parties themselves and the RFMOs of which they are members have not adopted or implemented the full range of binding conservation, management, enforcement and compliance obligations. Similar sporadic and inconsistent results have also plagued a number of conservation-oriented “soft-law” agreements by parties to the FAO, including the 2001 International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (IPOA-IUU) and the 1999 International Plan of Action for the Conservation of Sharks (IPOA-Sharks). In general, these voluntary fisheries management instruments, which provide important improvements in international law and policy, have proved less than successful in achieving the goals they sought.

Illegal, Unreported and Unregulated Fishing

Today’s fisheries markets reflect the complexities of many modern product supply chains, creating significant challenges for fisheries managers. Wild salmon, for example, can be caught in the near-Arctic waters of the Barents or Bering Seas by vessels of many different nations. These fish, in turn, can be exported to China or Russia for processing, before being re-exported to consumer markets in the EU, United States, or Japan. Similar – and sometimes even more complicated -- patterns exist for other marine species, including tuna, swordfish, cod, and pollack. In addition, at-sea transshipment of fisheries products, such as transfers from fishing

vessels to large refrigerated vessels or reefers, makes an already-complex supply chain even more difficult to monitor or trace. Today's fishing vessels can stay at sea for many months at a time, relying upon large reefers to collect and market their catch, while re-supply vessels bring fresh food, crew, equipment, and fuel.

Under international law, all fishing vessels must fly the flag of a single nation, which is responsible for assuring compliance with applicable fishing laws, policies, and regulations. Unfortunately, many so-called "flag states" are either incapable of or uninterested in meeting their obligations. Moreover, vessels can change their flag state, or "re-flag," frequently and indiscriminately, employing a loophole under international law which allows them to fish under so-called "flags of convenience." In fact, such transactions can occur at sea, inexpensively and in only a matter of hours by accessing web-based, flag state registries such as www.flagsofconvenience.com.

Fisheries managers must respond to this complex environment with effective means of monitoring and controlling fishing activities, including credible threats of enforcement. Unfortunately, it is simply not possible within the context of current governance regimes and practices. However, there are a number of important emerging opportunities to change current practices and provide far greater controls on fishing practices and, at the same time, constrain IUU fishing.

IUU fishing is defined generally by FAO as activities which contravene established requirements of RFMOs, nations, or international law. This definition is commonly understood to include what is often called "pirate fishing," whereby a vessel is either un-flagged or changes its flag specifically with the intent of avoiding certain obligations. However, this definition also includes activities that are simply inconsistent with established policies and procedures of RFMOs and nations. For example, if an EU vessel captures bluefin tuna in excess of the quota established by ICCAT or by using illegal gear types, that product is considered IUU fishing.

The actual extent of IUU fishing is unknown. However, a 2006 IUU report by fisheries ministers from six major fishing nations estimated its value at up to \$9.5 billion each year. Most experts now believe this estimate is too low. A more comprehensive analysis of the status and trends of IUU fishing is presently being completed by the United Kingdom's Department of Environment, Food, and Rural Affairs (DEFRA) and should be available in the next several months. In general, in some high value fisheries, such as bluefin tuna, IUU fishing may be responsible for up to 50% of total catches. Similar, disproportionate impacts also occur in remote ocean waters, such as the Southern Ocean, or in the waters of developing countries.

IUU fishing has serious effects that extend beyond the obvious and significant environmental impacts. In consensus-based RFMOs, for example, the widespread prevalence of IUU fishing often prevents some nations from supporting or adopting conservation-oriented controls on fishing. These nations argue that any constraints on their activities will be diluted by IUU fishing effort. In addition, because the level of IUU fishing is very difficult to determine, it undermines scientists' ability to establish accurate estimates of sustainable legal fishing. IUU fishing may also be undermining consumer confidence in the integrity of fisheries products. Many leading distributors of fisheries products in the EU, and some in the United States, are

aggressively seeking to source their products from sustainable and non-IUU sources. Unfortunately, these distributors still do not have reliable means of discerning whether significant amounts of their products are a result of IUU fishing or not.

Over the past several years, there has been growing international awareness -- and support for -- actions to eliminate IUU fishing. Perhaps more importantly, there are a handful of emerging, truly substantial initiatives which, if adopted and implemented properly, could significantly constrain IUU fishing:

1. **EU IUU Regulation** – Last fall, the European Commission proposed the world’s most comprehensive market-based regulation to combat IUU fishing. The proposed regulation prohibits the importation of all IUU fisheries products into the EU. It establishes a documentation scheme which requires flag state certification of all fisheries products before they can enter an EU port, including processed products imported from third countries. It also prohibits all at-sea transshipments of fish, and it includes significant penalty authorities. The Commission’s proposal is expected to be formally considered by the Council of the European Union this June.
2. **Port State Control Agreement** -- In March 2007, parties to the FAO agreed to adopt a binding new agreement to establish control measures in ports where fish are landed, processed or transhipped. Specifically, the agreement is expected to define minimum measures to: (1) conduct background checks on vessels prior to granting docking privileges; (2) undertake inspections of catches and equipment; (3) establish broad new information collection requirements about vessels, owners, catches, and compliance histories; and, (4) deny vessels engaged in IUU fishing the ability to offload their catch and access other port services. The agreement is expected to be adopted by parties to the FAO in the spring of 2009, after which it will be open for ratification by nations throughout the world.
3. **Global Record of Vessels** – Presently, the International Maritime Organization excludes many fishing vessels from its international numbering scheme, effectively preventing the widespread use of common identifiers which could help nations and RFMOs track fishing vessels which change flag states. FAO is presently working with IMO to develop a global registry for vessels involved with fishing, including those performing transshipment and support functions. If adopted throughout the world, and complemented with other initiatives, the Global Record of Vessels would significantly enhance the effectiveness of IUU control programs worldwide. FAO hopes to complete this initiative within the next several years.
4. **Monitoring, Surveillance and Control (MCS) Network** -- A handful of progressive nations created and support the MCS network, which was established with the intent of coordinating global enforcement and compliance activities to establish credible deterrence for IUU activities. Presently, the network is chaired by the United States’ chief fisheries enforcement officer. This network shares intelligence gathered from multiple sources, sponsors enforcement trainings and, when appropriate, coordinates enforcement actions against IUU fishing. Multilateral support for the network is now growing. However, it remains somewhat limited in its effectiveness because it lacks sufficient capacity.

- 5. United States' IUU Regulation** – The Magnuson-Stevens Act included significant new authorities and requirements for the Department of Commerce to certify on a regular basis whether nations are taking appropriate action to constrain IUU fishing and to allow the imposition of trade sanctions to promote compliance. NMFS issued an Advanced Notice of Proposed Rulemaking in June 2007 and is expected to issue a proposed rule in the near future. It is noteworthy that the timeline for proposal has slipped many months, and that the first deadline for a report to Congress under the new provisions is two years after the date of enactment, or December 2008.

These five significant and emerging developments complement many other IUU control initiatives sponsored by RFMOs, FAO, and individual nations. A number of RFMOs, for example, have adopted procedures to “black list” both known and suspected IUU vessels. Parties to the Northeast Atlantic Fisheries Commission (NEAFC) have adopted a port state control scheme to deny port access to any fishing or transport vessel blacklisted by NEAFC. Similar actions are being advanced and considered by many other RFMOs and fishing nations.

Collectively, recent international initiatives to constrain IUU fishing are very encouraging. However, it is also clear that the collective impact of these individual actions will not yet produce a truly coordinated and effective global system to combat IUU fishing. This conclusion is based upon the concern that: (1) information may still not readily available or shared among key parties in consistent and transparent ways; (2) different standards and criteria for “black lists,” certifications, and authorizations are emerging throughout the world; (3) key markets will still be open to IUU products; and, (4) credible flag state control and enforcement is still lacking.

Fundamental questions, for example, such as what species is caught where and by whom remain difficult to answer. At present, this information is collected by some flag states and some RFMOs but not by others, and it is typically not shared with -- or accessible to -- either port states, market states, fish processors or distributors seeking to control IUU fishing. Similar questions are emerging with the various “black list” (and some “white list”) initiatives of port states, flag states and RFMOs. How does a vessel get on or off a list? What are the consequences? What happens if a vessel re-flags? Unfortunately, the answers to these questions seem to vary considerably throughout the world, contributing to inconsistent and ineffectual results in constraining IUU fishing.

Ultimately, the world’s flag, port, and market states must agree upon an integrated, efficient and transparent system for managing all fishing activities if they are to control IUU fishing. Negotiating such a system within existing international frameworks is clearly a daunting – and perhaps impossible – task for the immediate future. However, we believe that there are a number of crucial steps which can and should be taken immediately. These steps form the basis of our recommendations for action by this Subcommittee.

Recommendations to the Subcommittee for IUU Fishing

The reauthorized Magnuson-Stevens Act provides powerful tools to restrict the importation of IUU fisheries products through the sanctions procedures authorized in the High Seas Driftnet

Fishing Moratorium Protection Act. In some ways, however, these tools may be too inflexible to achieve their desired purpose. We would encourage the Subcommittee to consider augmenting current authorities to allow the utilization of a broader range of mechanisms to prevent IUU fisheries products from being imported into the United States.

The new Magnuson-Stevens Act Amendments, like the Pelly Amendment and the Packwood-Magnuson Amendment, establish specific criteria and procedures to certify the actions of an entire nation, with an explicit understanding that such a certification could lead to escalating trade sanctions against a nation once it is certified as allowing its vessels to engage in IUU fishing. In practice, these high-stakes procedures capture the attention of offending nations and sometimes lead to settlement negotiations that improve conservation of natural resources. However, these procedures are rarely used, as they are often viewed as an inappropriate or overly aggressive response that may be at odds with other foreign policy or trade interests of the United States.

The Subcommittee may wish to consider authorizing additional, more narrowly-targeted authority to prohibit the importation of IUU fisheries products, similar to the proposed regulations in the EU. Under such an approach, the United States would be able to take action against vessels, companies or individuals, regardless of whether it elected to certify an offending nation as engaging in IUU fishing. Importantly, this approach would necessarily require the adoption of more effective and compatible traceability regimes to discern whether fisheries products were IUU or not, which is already authorized in various provisions of the reauthorized Magnuson-Stevens Act. In addition, given the large markets of the United States and the EU, such an approach would effectively establish a protective new international standard that would have significant impacts on fisheries management regimes throughout the world.

The Subcommittee may also wish to consider explicit new funding authorizations for the MCS Network, the Global Record of Vessels, and the establishment of new mechanisms to consolidate and coordinate relevant fisheries enforcement and compliance information. The Committee may also wish to express a clear intention that the United States use the process of the negotiations for the Port State Control Agreement to secure a single international framework or institution which would be responsible for collecting and disseminating either catch data, or specific enforcement and compliance information, or both.

Shark Conservation

Sharks are among the ocean's most threatened animals. Most sharks grow slowly, mature late, produce few offspring, and are extremely vulnerable to overfishing. The IUCN Red List of Threatened Species reveals that a full 20 percent of the 547 species of sharks and rays assessed are threatened with extinction. Deep sea sharks are particularly vulnerable. Charismatic shark species like hammerheads, great whites, makos, oceanic whitetips, porbeagles, threshers, sawfish and basking sharks are considered threatened. Even the blue shark -- among the most abundant, productive and heavily-fished pelagic sharks -- is classified by the IUCN as "near threatened," with documented declines of 50 to 70 percent in the North Atlantic.

Shark fisheries are largely unmanaged and unregulated throughout the world. Data on sharks are notoriously incomplete. Very few formal stock assessments have been completed by fisheries scientists, in large part because they have not attained the management priority of more commercially important species. However, there is significant evidence of precipitous declines in shark populations around the world, with some species likely already incapable of recovery.

Sharks are fished with many different gears throughout the world's oceans, including longlines, gillnets, and trawls in coastal, pelagic and deep sea waters. They are targeted for their fins, meat, and liver. Shark fins are the most valuable part of most sharks, with the exception of some species valued highly for their meat or large livers. Sharks are targeted both directly and jointly with other species, particularly tuna and swordfish. In some cases, sharks are considered bycatch. In these instances, sharks are either released or "finned," which is the practice of removing fins and discarding the carcass at sea. In general, bycatch appears to be declining because of: 1) growing markets for many shark products, including meat; 2) declines in other marine fisheries; and, to a lesser extent, 3) new finning prohibition policies which require retention of shark carcasses. However, it is important to note that, while bycatch is declining as sharks become more fully utilized, shark exploitation may be still increasing.

In 1999, in response to growing concerns about the status and trends of shark populations worldwide, parties to the FAO negotiated a non-binding International Plan of Action for Sharks (IPOA-Sharks) which urged nations to develop and implement shark conservation strategies and conduct regular population assessments. The 1999 IPOA-Sharks urged the development of National Plans of Action for the Conservation of Sharks. To date, only a small number of shark fishing nations have developed such plans and few are being implemented effectively. The United States submitted its Plan of Action in 2001 and is among a very small number of nations which set and enforce catch limits for a wide variety of shark species. The EU, by contrast, which includes many of the world's largest shark fishing nations, expects finally to adopt its non-binding Plan of Action late this year and in the meantime regulates the catch of very few shark species.

In 2000, the United States Congress enacted the Shark Finning Prohibition Act which prohibits any person under the jurisdiction of the United States from: (1) engaging in the finning of sharks; (2) possessing shark fins aboard a fishing vessel without the corresponding carcasses; and, (3) landing shark fins without the corresponding carcass. Importantly, the law included a rebuttable presumption that finning had occurred if the weight of the fins exceeds 5 percent of the total dressed weight of the carcasses. This so-called "fin-to-carcass ratio" matched the 1993 finning regulations for the United States' Atlantic coast and was added to assist in enforcement, given significant on-board processing of sharks. The Act also encouraged the United States government to work to end finning by other countries and in international waters. In 2004, the United States succeeded in securing the first international finning ban at ICCAT, a measure that was quickly replicated at most RFMOs, all of which included language authorizing fin-to-carcass ratios.

In 2003, the Council of the European Union prohibited finning by all persons under the jurisdiction of the EU. However, at 5 percent of *whole* weight (as opposed to *dressed* weight), its fin-to-carcass ratio was more than twice as high as that of the United States. And,

unfortunately, because of the differences, the RFMOs decided not to specify whole or dressed weight, resulting in a weak international standard. In 2006, the Lenfest Ocean Program hosted an expert workshop involving leading EU and United States shark scientists who published a paper concluding that fin-to-carcass ratios were exceptionally complicated to establish and enforce. Instead, the scientists recommended that fisheries managers adopt “fins-attached” policies, which require that sharks be landed with their fins naturally attached to their carcasses. This approach, they argued, would simplify enforcement, provide high quality information for fisheries managers, and increase the value of the finished product. We have attached to our testimony a summary of the expert workshop.

NMFS appears to be moving in this direction as well. Last week, after many months of public consultation, NMFS announced that the Final Environmental Impact Statement for Amendment 2 to the Consolidated Highly Migratory Species Management Plan includes a requirement that sharks be landed with their fins attached. Language encouraging fins-attached policies was also included in the 2007 fisheries resolution of the United Nations General Assembly.

Recent judicial action has brought to light a significant loophole in the Shark Finning Prohibition Act that requires Congressional action to redress. In March of this year, the Ninth Circuit Court of Appeals held that the ban on possession of shark fins without their corresponding carcasses did not apply to a United States’ flagged charter vessel that purchased fins at sea from vessels likely engaged in finning. This decision validates practices that we believe circumvent the intention of Congress in enacting the finning ban in 2000, specifically its apparent intent to capture vessels that supply and support fishing vessels engaged in finning.

Recommendations for the Subcommittee on Shark Conservation

H.R. 5741 was introduced by Chairwoman Bordallo and seven of her colleagues on April 9, 2008. We congratulate her for this leadership and thank her for this initiative. The bill would significantly improve shark conservation and we strongly support its enactment. As drafted, the bill would: (1) remove the existing rebuttable presumption on fin-to-carcass ratios; (2) modify the ban on possession of shark fins to make it clear that possession of illegally obtained fins is prohibited aboard any vessel under the jurisdiction of the United States; and, (3) allow the imposition of import restrictions on nations without shark conservation measures that are comparable to those of the United States.

There are three main ways to enforce a finning ban: (1) require that sharks be landed with their fins attached; (2) allow fins to be detached at sea and establish a maximum weight ratio between fins and carcasses; and, (3) allow fins to be detached at sea and require corresponding counts of fins and carcasses. Our experiences over the past several years have led us to the conclusion that a fins-attached policy is by far the best way to implement a finning ban. Such an approach simplifies enforcement while improving data collection and quota monitoring, as sharks are more readily identifiable with their fins still attached.

H.R. 5741 does not require a fins-attached policy. It does, however, remove the existing rebuttable presumption that possession of fins in excess of 5 percent of the shark carcasses on board is evidence of finning. This presumption of the 2000 Act, while well-intentioned, may

inadvertently become an impediment to a fins-attached requirement that would be more practical for enforcement and data collection. As such, we support its removal and we thank the Chairwoman for this initiative.

Congress should ensure that the rebuttable presumption is replaced by policies that are more protective of sharks, not less so. As a practical matter, the most lasting and straightforward approach would be to require a fins-attached policy as a matter of law. However, we understand the reluctance of the Committee to dictate enforcement policy outright. As such, it is essential to understand how the executive branch intends to enforce the ban on finning.

The bill's provisions allowing importation restrictions for nations without comparable shark conservation measures are extremely important. Shark fins are now among the most expensive seafood in the world. As such, shark fins likely continue to be the major driver for excessive exploitation. However, finning bans, while very important, will not by themselves result in the sustainable management of sharks.

Only a very small number of nations have established catch limits or rebuilding plans for sharks. Not a single RFMO has done so, with the exception of an interim moratorium on directed shark fishing in the Southern Ocean. While shark *finning* is illegal throughout much of the world, shark *fishing* remains largely unregulated. This simply must change.

H.R. 5741 would allow the application of the enforcement provisions of the High Seas Driftnet Fishing Moratorium Protection Act to nations without regulatory shark conservation programs that are comparable to those of the United States. These provisions will likely have a significant impact among major shark fishing nations and RFMOs, most of which respect the policies of the United States and value our markets. We believe such action is further justified by the recent reauthorization of the Magnuson-Stevens Act and the clear nexus between shark fishing/finning and IUU activities.

These proposed enforcement provisions will greatly advance the cause of shark conservation. In effect, the United States would establish a new international norm for the importation of shark products to its market. Such action will likely encourage the adoption of sustainable shark management plans by nations and RFMOs throughout the world. We are particularly thankful for this initiative by the Chairwoman and the bill's co-sponsors.

Chairwoman Bordallo and Members of the Subcommittee, thank you again for your leadership on fisheries conservation and for this opportunity to appear here this morning.