Written Testimony of
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H.R. 1080
"Illegal, Unreported and Unregulated Fishing Envorcement Act of 2009"
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Good morning, Madam Chairwoman, Honorable Members of Congress, fellow witnesses, and distinguished guests. I am pleased to testify before this Subcommittee on H.R. 1080, the Illegal, Unreported, and Unregulated Fishing Enforcement Act. A fisheries geneticist by training, I am a professor in the Department of Fisheries Science at the Virginia Institute of Marine Science, College of William and Mary. In addition to my academic appointment, I chair the U.S. ICCAT Advisory Committee and I have served in this position for seven consecutive two year terms. I have been a member of the U.S. delegation to the annual ICCAT commission meeting each fall for the past fifteen years. It is in this capacity that I address you today.

As you are all keenly aware, it is very uncommon for the commercial, recreational and environmental constituencies to reach consensus on any fisheries issue. With different motivations and priorities, constituency positions are often diametrically opposed, and discussions of the U.S. ICCAT Advisory Committee can be quite spirited. But this is not the case with illegal, unreported, and unregulated (IUU) fishing. On this issue, there is consensus among all members of the U.S. ICCAT Advisory Committee. IUU fishing undermines management of Atlantic highly migratory species, taking a toll on target stocks and bycatch species, including protected resources. It also seriously disadvantages U.S. fishermen. As a committee we have advocated strongly for increased multilateral measures at ICCAT to combat IUU fishing, as well as unilateral measures within the United States. Although the United States is not a major player in the catch of certain stocks managed by ICCAT, we are a significant importer of many of these species, and we have a responsibility to use market controls to deter IUU fishing.

IUU fishing is a significant problem worldwide, and it is most certainly a problem within ICCAT. Of the six nations recently identified by the United States for IUU activities, all six either failed to implement ICCAT conservation measures and/or had vessels that were engaged in fishing activities that violated ICCAT management measures. The magnitude of IUU fishing within ICCAT is most graphically illustrated within the eastern Atlantic/Mediterranean Sea (eastern) fishery for Atlantic bluefin tuna. This stock is severely overfished, with an estimated spawning biomass of 14% or 35% of that necessary for maximum sustainable yield (high recruitment and low recruitment scenarios, respectively). Rather than reducing landings to 15,000 metric tons (mt) to end

overfishing and allow a very slight scope for stock recovery as suggested by the fishery scientists comprising ICCAT's Standing Committee on Research and Statistics (SCRS), the Commission agreed to catches of 28,500 mt for 2008 and 22,000 mt for 2009, thereby ensuring continued overfishing. But that is only part of the story. Reported landings of eastern bluefin tuna were 32,398 mt for 2007, but ICCAT's SCRS estimates based on fishing capacity and market data put the actual harvest of eastern bluefin tuna at close to 60,000 mt. Simply put, the magnitude of IUU fishing for eastern bluefin is roughly equivalent to the reported (managed) catch, and the actual catch is four times the recommended level of harvest. As noted in the recent independent review of ICCAT, "ICCAT CPCs'[Contracting Parties and Cooperating Non-Contracting Parties, Entitities or Fishing Entities] performance in managing fisheries on bluefin tuna particularly in the eastern Atlantic and Mediterranean Sea is widely regarded as an international disgrace…".

Eastern bluefin tuna may be the poster child of IUU fishing at ICCAT, but it is by no means the only stock affected by these activities. Almost every species managed by the Commission faces challenges from IUU fishing. These challenges include a lack of data reporting (catch, effort, catch at size, etc.), late reporting of data (a practice that hinders stock assessments and evaluations of compliance), misreporting of data, consistent quota overages, catches of fish below the minimum size, violations of time/area closures, the use of unauthorized gears and failures to implement conservation and management measures. These data problems are significant for ICCAT's target stocks, they are even more severe for bycatch species.

Cognizant of the magnitude of IUU fishing and its destructive consequences for target species, bycatch species, and the fishers, ICCAT has adopted several measures to combat IUU fishing, including recommendations and resolutions that address (1) timely data reporting, (2) implementation of vessel monitoring systems, (3) port state control measures, (4) observer requirements for certain fisheries as well as transshipments of bigeye tuna, (5) tracking of trade for bluefin tuna, bigeye tuna, and swordfish, (6) the creation of positive and negative IUU vessel lists, and (7) the development of non-discriminatory trade restrictive measures for non-compliance involving bluefin tuna, swordfish, and unreported and unregulated catches. But having these measures on the books does not ensure compliance, as that is ultimately dependent upon the resolve of member nations to implement and enforce ICCAT management measures, as well as the resolve of the Commission to address compliance. As noted by the independent review panel "ICCAT, as a tuna RFMO [regional fishery management organization], has a sound base, it has done many things well and continues to do so, but it has failed against its objective because it CPCs have failed in their responsibilities…".

ICCAT has successfully adopted trade restrictive measures against several non-member countries for non-compliance, but there has been great reluctance to penalize any member nation for similar activities. Until recently, without a centralized mechanism to identify non-compliant parties, it was up to member nations to announce to the Compliance Committee their lapses in compliance and actions they were taking to address the problems. Not surprisingly, few parties requested the floor during this stage of the

meeting. Failing self-identification, it was left to member nations to question other parties regarding their reported catches and compliance with specific management and conservation measures. Meaningful dialogue at this point in the agenda was often short-lived with the head commissioner for the European Community, a party with compliance challenges, voicing his opinion that it was unproductive to point fingers, and that past transgressions should be forgiven in an effort to move on. With a dearth of self-identifications or questioning of other parties during the sessions of the Compliance Committee, one was left with the false impression that the Commission was not experiencing problems with IUU fishing and other matters of compliance. This is certainly not the case. As noted in the external review, "ICCAT's failure to meet its objectives is due in large part to the lack of compliance by many of its CPCs".

Although ICCAT's past record in dealing with compliance has been unacceptable, there is hope for the future. Last year Dr. Christopher Rogers of the United States became Chair of the Compliance Committee, and with strong support from Dr. Fabio Hazin, Chair of the Commission, there have been major changes in the operation of the Compliance Committee resulting in a much more effective and transparent process. The compliance of parties with management and conservation measures is now presented in a compliance "report card", with the expectation that those members listed as non-compliant will explain their problems and actions to correct the situation. From a lack of interventions, it was apparent that many parties were hoping this item of the agenda would close without much discussion, but Dr. Rogers did not let that transpire. What resulted was a productive discussion, species by species, country by country, of compliance failures and actions being taken to address the problems. Compliance with the many management and conservation measures for the eastern Atlantic/Mediterranean bluefin tuna fishery will be taken up next week during a special intersessional meeting of the Compliance Committee.

The change in attitude of the Compliance Committee is encouraging, but the problems of non-compliance and IUU fishing facing the Commission are very large. As previously noted, the impact of the conservation and management measures taken by ICCAT is dependent on the collective resolve of member nations to address these issues, and past history demonstrates that these will not be sufficiently timely nor effective to address many of the problems facing the species and fisheries under ICCAT's purview. More help is needed.

The reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) was a step in the right direction, providing extra tools to combat IUU fishing, including the mechanism for the identification of IUU fishing nations and subsequent bilateral process, the opportunity to build capacity for fisheries data reporting and monitoring, the development of IUU vessel list, and the sharing of fisheries enforcement information.

Although the reauthorization of the MSA affords more opportunities to combat IUU fishing, there is room for improvement. Some members of the U.S. ICCAT Advisory Committee worked closely with members of Congress in the reauthorization of the MSA,

and there has been dissatisfaction with the implementation. Many Committee members were surprised by the limited number of countries identified for IUU fishing by the National Marine Fisheries Service in January of this year. One cause for this is procedural, and hopefully, the lengthened time period to determine a listing will help to improve this situation. Further, providing NOAA clear authority to identify nations for violations of RFMO measures, such as the lack of data reporting, could also help address these activities. IUU fishing is a major problem, and it certainly extends well beyond the six nations that were identified.

HR 1080 will provide the opportunity for increased enforcement actions relative to IUU fishing. However, in order to be effective, we will need to improve our ability to detect IUU fishing. The NOAA Office of Law Enforcement is already over committed and it is not clear how they will be able to meet increased expectations without additional resources. It is also worth noting that use of the International Trade Data System will improve NOAA's ability to screen imports but also has limitations. Electronic data exchange is only part of the solution. It will require enhanced scrutiny of the reported information by fisheries experts to effectively identify and exclude IUU fishery products.

HR 1080 is a good measure, and I want to highlight another area of interest to the Subcommittee concerning the reauthorization of MSA. The concept that fishery products coming into the United States be taken with comparable measures for the reduction of bycatch (including interactions with protected resources) as those required for our fishers is an important one. Apparently, assessing comparable measures of bycatch reduction has proved problematic, especially when many countries do not report bycatch information. We cannot let a lack of data suffice for an assurance that all is OK. The United States has been proactive in the protection of bycatch species, including protected resources such as sea turtles and marine mammals, often at considerable expense and/or loss of fishing opportunities to our industry. To ensure that these resources receive widespread as opposed to regional protection, and to avoid penalizing our fishermen for their conservation actions, we must ensure that fishery products coming into our ports are held to the same bycatch mitigation standards as those that we impose on our fishermen.

In closing, I would just like to reiterate that IUU fishing is a major problem within ICCAT and other international fisheries fora. Multilateral actions, while well intentioned, have fallen far short of combating this problem, mainly due to the fact that many nations do not implement or enforce the agreed upon conservation and management measures. Therefore, as a major fish importing nation, it is our responsibility to ensure that we do not promote IUU fishing through our markets. HR 1080 makes progress in this regard, providing new and improved tools to combat IUU fishing. And considering the financial incentive for this destructive practice, we need all the help we can get. On behalf of the U.S. ICCAT Advisory Committee, I thank you for your time and consideration.