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Sustainable Fisheries, Robust Trade

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Thank you Mr. Chairman, and good afternoon. My name is David Schorr and I am speaking today on behalf of the World Wildlife Fund. Known internationally by its panda logo, WWF is one of the world's largest privately funded conservation organizations, with more than 5,000,000 members worldwide, and with offices and projects in over a hundred countries. As an organization that combines science-based conservation in thousands of field projects with solutions-oriented policy advocacy, WWF has an abiding interest in the topic of this hearing.

Before going further, I want to thank you for the opportunity to testify here today, and wish to express our appreciation to you and your fellow Senators on the Subcommittee for your leadership and foresight in holding these hearings. We are today in a moment of relative trade policy calm, but pivotal developments in US trade relations are likely not far beyond the horizon. It is a very good time to look ahead and ask what kind of trade policies are needed for this new century.

Fisheries and the Trade-Environment Link

Almost two decades ago, WWF was one of the first organizations to recognize the profound links between trade and environment. Like many of our colleagues in the environmental community, we were concerned in part with how trade liberalization—if blindly pursued—could exacerbate the depletion of the world's natural resources and the erosion of its environmental quality. We were concerned then, as in some instances we might still be concerned today, with how trade policies and environmental policies can sometimes conflict. But from the outset, WWF rejected the simplistic notion that trade liberalization is inherently evil. On the contrary, we have consistently viewed sustainable trade and constructive trade policies as fundamental to the success of our environmental mission. This has led WWF, at the risk of some controversy, to support trade liberalization initiatives that we believe are likely to advance environmental husbandry, even as we have opposed trade initiatives that appear likely to do more environmental harm than good.

The trade-environment link is an especially sensitive one whenever trade is based directly on natural resources. This is certainly true for trade in fish products. Fishing is the last global economic activity to rely on the hunting and gathering of wild animals. Feeding billions of people, and directly or indirectly employing hundreds of millions,

fishing is the only economic sector in which so many lives and livelihoods depend on the health of untamed ecosystems.

But as elemental as our relationship to the sea remains, fishermen today are no longer primitive hunters and gatherers. With our extraordinary new technologies, our steadily rising human population, and—yes—our vastly expanded international trade in fish products, we have in the span of only a few decades brought the Earth's once abundant fisheries to the brink of catastrophic exhaustion.

To reverse this current crisis of depletion, governments must continue to improve the way we manage and regulate fisheries. But command and control regulations alone are not likely to succeed. Fisheries management must go hand in hand with attention to the underlying economics—to the commercial and social realities—that are the ultimate drivers of fishing activities.

Today, the economics of fishing are dangerously out of balance. It is not only that we face a classic “tragedy of the commons”, in which short term economic calculations drive rational fishermen in “open access” fisheries to deplete the resource on which they depend. We also face a world where the price signals and production costs of fisheries products are heavily skewed by subsidies, where trade in illegal contraband is a significant share of the world market, and where consumers are routinely isolated from basic information about what they are buying when they step up to the fish counter or sit down at their favorite seafood restaurant.

Governments policies obviously matter a lot to the economics of fishing. And, as commerce in fisheries products has grown and gone global, national and international trade laws have become a critical piece of the puzzle. Today, nearly 40% of fisheries products (by live weight) enter international trade—and that is a figure which ignores the substantial flow of products from fleets fishing in the waters of foreign countries for sale back in their own domestic markets.

Mr. Chairman, as Congress considers how best to advance US trade policies, there are several areas that deserve your attention with regard to fisheries. I begin with fisheries subsidies, where much has been accomplished but where much remains to be done at the World Trade Organization.

Fisheries Subsidies: An Opportunity for Groundbreaking New Rules

As you know Mr. Chairman, negotiations towards innovative new WTO disciplines on fisheries subsidies have been underway as a core element of the Doha Round since 2001. With strong leadership from successive administrations, and with bipartisan support in Congress, the US was the prime mover in launching the fisheries subsidies talks, and has played a critical role moving these negotiations towards a significant and groundbreaking success. Indeed, these negotiations hold the promise of making an important contribution not only to the future of sustainable fisheries but to the development of the multilateral trading system itself.

Effective WTO disciplines will make a real difference to the economics of fishing. Fisheries subsidies are estimated to have a global value equivalent to nearly 20% of the ex-vessel sales of wild caught fish—a scale of subsidization that cannot help having a profound impact on patterns of production and trade. Many of these subsidies continue to expand fishing capacity where there are already too many boats, or increase fishing pressure where there are already too few fish. This is why the heads of state and world leaders who met at the 2002 World Summit on Sustainable Development in

Johannesburg placed the successful conclusion of the WTO fisheries subsidies negotiations among a handful of top priorities for ending the worldwide overfishing crisis.

But it is also important to note how the fisheries subsidies negotiations are helping transform the WTO and international trade policy dialogue itself. When the WTO was born in 1994, the trade and environment debate was mainly dominated by the mutual fears of trade officials and environmentalists. With the famous tuna-dolphin GATT dispute and the environmental controversy over NAFTA still freshly in mind, many environmentalists were calling for the WTO to change its rules and practices to reduce perceived conflicts with environmental policies—some were calling for the WTO to go out of business altogether. At the same time, many trade officials viewed environmental demands as a dangerous interference with the pursuit of liberalized trade. Developing countries in particular were nearly unanimous in decrying "trade and environment" as little more than a smokescreen for "green protectionism."

Nothing has done more to refocus the trade and environment debate in a positive direction than the WTO fisheries subsidies negotiations. Through a long technical and political dialogue—a dialogue that has ironically benefited from the repeated delays in concluding the Doha Round—negotiators in Geneva have arrived at a consensus (or, at least, a near-consensus) on several fundamental points that in 1994 would have been difficult or impossible to imagine. Although as yet falling short of an agreement on specific new rules, the WTO talks now reflect the following concepts:

- First, that where access to natural resources are concerned, WTO rules should discipline subsidies not only when they distort export markets but also when they distort production and access to natural resources themselves;
- Second, that WTO rules can and should be aimed explicitly at encouraging sustainable and equitable patterns of natural resource-based production and trade; and
- Third, that where environmental management has a direct bearing on the terms of production and trade—and where basic norms of environmental management are well-established and broadly accepted—it is proper and even necessary for the WTO to incorporate "sustainability criteria" into elements of its rule system.

In less technical terms, WTO members have agreed in principle that WTO rules should ban some subsidies precisely because they contribute to overfishing, and that fisheries subsidies that are not subject to such a ban should be allowed only where basic requirements of proper fisheries management have been met and will not be abrogated. As a political matter, and particularly in light of the strong North-South dimension to the persistent Doha logjam, it is especially interesting that some of the strongest voices calling for environmental conditionality on certain WTO rights has come not only from the US but also from some leading developing countries.

In short, Mr. Chairman, the fisheries subsidies negotiations have been unique in the way they have changed the substance and tone of trade diplomacy in one important corner of the Doha Round. The issue may thus serve as a useful model for policymakers seeking to shape the next generation of trade relations.

But, of course, the WTO fisheries subsidies negotiations will be little more than a topic for future graduate seminars if we do not ensure that they actually succeed. All along, they have proceeded at a pace independent from the "on-again, off-again" pattern of the overall Doha Round—even if the final outcome is tied to Doha's "single undertaking." Some of the hottest periods in the fisheries subsidies talks have come precisely at low

moments in Doha diplomacy. Even in the last few months, the fisheries subsidies negotiations have been in an especially active and important phase. In May, for example, the United States concluded a vigorous interagency process and tabled its most detailed and forward-looking proposal to date.

The progress achieved at the negotiating table has been real. If the Doha Round can be brought to a successful conclusion, a strong outcome on fisheries subsidies is within reach. Without going into the details of WWF's position, Mr. Chairman, I would just like to briefly lay out the three key elements WWF is seeking in new fisheries subsidies rules.

First, new WTO rules should include a broad prohibition on most forms of fisheries subsidies that directly contribute to fishing capacity and effort.

Second, new WTO rules should ensure that subsidies not covered by the ban are subject to effective limits and conditions that ensure subsidies will not be granted where fleets are already overcapacity, where stocks are already subject to overfishing, or where fisheries management does not meet minimum international norms. These limits and conditions will be particularly important in the case of developing countries, which will likely remain free under "special and differential treatment" to employ many of the subsidies falling under the primary ban.

Third, new WTO rules should put an end to the dangerous lack of transparency that characterizes most subsidy programs today by requiring governments to disclose the details of their fisheries subsidies and by making subsidy reporting obligations enforceable under WTO law.

Mr. Chairman, WWF believes that WTO rules meeting these tests can be achieved. But success will require negotiators to overcome a number of remaining technical and political hurdles—and this will only be possible with continued US leadership.

Accordingly, Mr. Chairman, WWF encourages your subcommittee to work with the administration to maintain strong and active US leadership in the WTO fisheries subsidies talks. In the future, as in the past, it will be especially important for this issue to stay on radar screens at the highest political levels, and for fisheries subsidies to remain visibly on the list of ultimate US demands for the Doha Round.

Ending Trade in Illegal and Unsustainable Fish Products

Mr. Chairman, a second critical factor affecting the international economics of the fisheries sector is trade in products based on pirate fishing. In the fisheries business, we often use the term "IUU" fishing, to stand for "illegal, unreported, or unregulated" fishing activities. This is a term that appears, for example, in various sections of US law that authorize the use of trade and other commercial restrictions to combat IUU fishing. But for our purposes today, I will stick to the term "illegal fishing", partly because it is more familiar, and partly because conservationists and other stakeholders may soon be moving away from the term IUU and towards considering any fishing that is "unregulated" or "unreported" to be illegal *per se*.

However you define it, Mr. Chairman, illegal fishing is a significant problem. Although by its nature it is hard to track and measure, illegal fishing may be responsible for nearly 20% of catches from wild capture marine fisheries. For some major commercial stocks, according to the FAO, the figure may be as high as 30%. Globally, therefore, illegal fishing may have a dollar value that is roughly equivalent in scale to the subsidies governments pour into the fisheries sector each year.

And, as in the case of subsidies, illegal fishing is a problem that good trade policies can help solve. There are at least three angles to this issue, Mr. Chairman, that I think deserve the attention of members of the Subcommittee on Trade:

1. How we close our markets to illegal fishing;
2. How other countries will close their markets to illegal fishing; and
3. How we can help facilitate trade not only in legally caught fish products but particularly in those which are caught through sustainable fishing practices.

First, Mr. Chairman, is the question of how we use our own domestic laws to fight illegal fish trade. Since the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act in 2006, the US has had law on the books mandating certain trade measures against some illegal fish products. The 2006 language, however, has left some gaps and ambiguities in the US approach—gaps that will need to be filled by both regulation and additional legislation. In fact, several members of this subcommittee have already cosponsored bills in both in the 110th Congress and in the present 111th that would continue to refine the US use of trade measures against illegal fishing. I am referring to efforts to pass the “International Fisheries Stewardship and Enforcement Act” through S2907 (from 2008) and the current S2870, both of which were originally sponsored by Senator Inouye and co-sponsored by Senators Cantwell, Kerry, and Snowe, among others.

From a trade perspective, it is important that US trade measures against illegal fishing products be predictable and fair as well as effective. This will require clarifying the scope of the term “IUU” and creating a process that to the greatest extent possible triggers trade measures on the basis of objective facts rather than political decisions. It is also important to have a system that helps create and use a regular flow of good quality information about illegal fishing practices, rather than simply responding to ad hoc developments. Three central ideas in accomplishing this include:

- (i) developing a “living list” of vessels, companies, and individuals known to have engaged in illegal fishing;
- (ii) creating an interagency “Fisheries Enforcement Program” to develop and respond to information about illegal fishing vessels and products seeking entry into the United States; and
- (iii) establishing an “International Cooperation and Assistance Program” to build capacity to prevent and address illegal fishing activities and to promote the development of sustainable fishing regimes.

Having an proactive, reliable, comprehensive, and apolitical process for imposing trade measures on IUU fish products will not only make US law more effective, but will also reduce the likelihood that such measures will become the subjects of international disputes.

We face similar issues with regard to trade measures used by other countries against illegal fishing. The EU is already on the verge of implementing its own system, while a recently adopted FAO treaty—the Port State Measures Agreement—creates a framework for many other countries to do the same. The international community is moving rapidly towards frequent use of trade measures against IUU products and the vessels and companies that purvey them. It will be in the interest of the United States as well as its trading partners to ensure that the procedures and rules for such trade measures are as harmonized—and as effective--as possible. Mr. Chairman, this is one

area that could be a very productive focus for regional trade discussions such as the Trans-Pacific Partnership.

Finally, Mr. Chairman, we can and should do much more to facilitate trade in legitimate fish products and especially in products originating with responsible and sustainable fishing practices. We need to build international systems for documenting how, when, and where fish are caught. We need to create reliable chains of custody, so that both consumers and governments can know with assurance what kinds of fish products are entering our markets. Much of this “mission critical” information flow will need to be generated by the private sector. But governments will also have to play a role. We will need well-coordinated rules for tracking vessels and products as they move across the globe. We need to close loopholes in “country of origin” labeling laws and develop tight traceability requirements. These are matters for customs bureaus as well as coast guards. Our trade negotiators, working in tandem with our fisheries policy officials, can pursue trade facilitation mechanisms to help coordinate national policies, and to promote efficient working relationships between public and private product tracking systems. This again would be an excellent focus for the TPP and similar talks.

The Need for Interdisciplinary Policymaking

Mr. Chairman, before closing I would like to make just a few general remarks about how fisheries and trade policies can and should be productively combined—and here again the TPP provides one concrete focus for thought.

When we are establishing or expanding commercial relations in environmentally sensitive sectors, we must meet the challenge of crafting truly interdisciplinary policies. Just as fisheries managers cannot hope to achieve sustainable fisheries without attention to economic realities, trade officials cannot help grow the economic pie without attention to environmental truths (some of which, by the way, turn out to be convenient). In the early days of the trade and environment debate, there was a tendency to think what was needed was to talk about environment at the same time that we talk about trade, whether in side agreements or in special WTO committees. But it is time to move well beyond this “separate but equal” approach, and enter the age of real integration.

The lesson of the fisheries subsidies debate at the WTO is that this can be done, if the goals are set properly and if trade and fisheries officials are willing to enter into a deep and creative technical dialogue. It is an interesting and hopeful sign that so many members of this Subcommittee on International Trade are also active in the field of fisheries legislation. But we are still in early days, and we must still resist the tendency to work in traditional silos.

I will close by mentioning one tool that can perhaps help in this regard, and that is the process for conducting inter-agency environmental reviews of trade policy initiatives, in accordance with Executive Order 13141. The process for conducting such a review of the TPP has just recently got underway. WWF is aware that formal reviews of this kind are sometimes rote exercises in “checking off the boxes”. But with sufficient attention, they can become real sources of innovation. It might be worth asking this time around whether the TPP environmental review process will have sufficient financial and staff resources—and political attention—to help deliver the kind of forward looking ideas that, by holding these hearings today, your subcommittee has indicated it seeks.

Thank you, Mr. Chairman, and I will be happy to answer questions from the Subcommittee this afternoon or at any other time useful to you.