International Management of Living Marine Resources

MR. EHRMANN: Okay. All right, then, let's go to the international management of living marine resources. Let me just say to the commissioners I think we are pretty much on target for our 3:30 break. We
will see how long this topic takes, and then we will
decide if we take the break then or go on to another
one. Go ahead.

INTERNATIONAL MANAGEMENT OF LIVING

MARINE RESOURCES

DR. SANDIFER: Okay. I believe I have four
slides here. I would like to walk through those, and
then we can come back and discuss them.

(A PowerPoint slide presentation in process.)

DR. SANDIFER: This is based in part on stuff
that was done by Commissioner Coleman and REMO from the
research perspective. We are looking at it from the
Stewardship perspective and appreciated Commissioner
Rasumson's very clear comments regarding the State
Department.

Ed, that obviates my having to explain some
things that we are dealing with. I think it makes our
point very clearly, that we need to do a little bit better job in the international arena.

It is clear to us that domestic action alone cannot resolve many of the problems we are dealing with, particularly those involving threatened and endangered
species such as the sea turtle bycatch, whale ship
strikes, marine mammal bycatch, highly migratory
species, invasive species, a whole bunch of things of
this nature.

These can only be addressed through
coordinated international action. We believe that the
United States has a responsibility to lead in these
arenas, not to lead with a hammer, but to show examples
of leadership and convince other countries to get behind
the same kinds of programs.

Admiral Watkins has already mentioned this,
and it is in our recommendation, Admiral, that we would
recommend that this Commission supports this
Administration's recent efforts at the World Summit on
Sustainable Development and urge the State Department to
begin to implement the plans developed at that summit.
We will have more details, of course, in the write-up.
This is a very specific thing, much like our admonition
or recommendation to the Administration to proceed with
the conventional law of the sea. This, I think, is a
very straightforward thing we could do.

Next slide.
(A PowerPoint slide presentation in process.)

DR. SANDIFER: We have a couple of other short-term recommendations. Working through the auspices of the National Ocean Council -- remember, the National Ocean Council will be at the White House level -- the resource agencies such as NOAA, the U.S. Fish and Wildlife Service, EPA, and perhaps others should support State Department efforts to better manage living marine resources.

In this particular venue, the National Ocean Council should arrange for the technical agencies to support the DOS in its role as lead U.S. agency in international matters, and to arrange to support DOS in review of international agreements for scientific accuracy and for ecosystem considerations. I will come back to why we say that the National Ocean Council should arrange for this in a moment.

The next slide, please.
DR. SANDIFER: The Council should also develop a coordinated federal plan to increase institutional capacity in less developed countries in a sustained
manner dealing particularly with scientific and
technical expertise, funding for conservation and
research activities, and education or training of both
U.S. and foreign personnel who are working on these
international issues.

This area perhaps, Frank, is an area we could
put some of these issues related to aquaculture and
fisheries management, perhaps.

We point out that sustaining these efforts
over the long term is critical to the success of the
programs. This has been a major problem with U.S.
overseeing aid efforts in the past. That is the long-term
commitment to capacity building and ensuring that the
goals, the conservation goals, are clear.

Specifically, Executive Order 13141 we feel is
a step in the right direction, but it needs to be much
more effective. In short, for those of you not familiar
with this Executive Order, it requires a certain level
of environmental review by federal agencies of bilateral
and multilateral agreements that the U.S. is proceeding
to or considering entering into. This environmental
review is solely upon the request of the U.S. Trade
1 Representative.

2 We suggest that there needs to be mechanisms
3 for independent review of the trade agreements to
4 address the international living marine resource issues.
5 That independent review need not depend on a request
6 from the U.S. Trade Representative, but should be done
7 under the auspices of the National Ocean Council, not
8 necessarily by the Council but under the auspices of the
9 Council, and then that information should be provided to
10 the Department of State for its consideration.
11
12 The final one, following up on the threatened
13 resource issues, NOAA at this moment should improve
14 existing domestic programs to develop gear and methods
15 to reduce fisheries bycatch, sea turtles, marine
16 mammals, and other non-target species and do our best to
17 export these gears to other countries' fisheries
18 wherever possible. There are excellent examples both in
19 the literature and in law regarding the required export,
shall we say, of turtle-excluded devices in world shrimp

fisheries; so, there are some real examples that could

be used here.

Finally, the U.S. Congress should consider
developing and approving legislation similar to the Tropical Forest Conservation Act that could be used to protect coral reef ecosystems. This is a debt forgiveness kind of process, an incentive, to protect biodiverse areas like coral reefs and similar to the Wild Bird Conservation Act to prevent importation of marine ornamental fishes and corals into the United States unless the exported country could demonstrate that the organisms were harvested in a sustainable manner.

These are not the only examples, but very, very good operating examples of how we could deal with some of the issues, Frank, I think that you and others have raised to us.

In a nutshell, that is where we are with the international management of living marine resources, and we would add aquaculture and I think there were a couple of other issues to this list.
Thank you, Mr. Chairman.

Very good.

Commissioner Rosenberg?

DR. ROSENBERG: Thank you.
A couple of brief comments. On the second slide, I think it is, I understand the bullet about "NOC should arrange for technical agencies to support DOS in its role as lead U.S. Agency," but the first bullet seems to me to be backwards.

It is the Department of State that should be supporting the efforts to manage through their ability to negotiate international agreements, not the resource agencies supporting State because it is the resource agencies that are coming up with the management proposals as opposed to State. Their expertise is in negotiation and international relations it seems to me.

I am just puzzled by the wording of the first bullet on that page.

DR. SANDIFER: I think it reflects our belief in the obstinacy of State when it comes to these issues and the relatively low priority that history shows has
been placed on those living resource issues in the negotiation process, to be blunt about it.

DR. ROSENBERG: I agree with that in general, and I guess it is a wordsmithing issue that perhaps we just have to look at later because that is not what that
statement says to me, it says the opposite, that the
resource agencies are not doing enough to help State.

DR. SANDIFER: Yes, a good clarification.

ADMIRAL GAFFNEY: Let me see if I can -- I had
some hand in this backward statement, Andy. I suffer
from the belief that the State Department, as one of the
first ever departments of this country, has sole
responsibility as the lead agency on international
matters.

While it may have failed, it is the leader,
and the others should support it. If they don't have
their own organic talent, the other agencies that do
have their own organic talent need to support them.

Hopefully, the State Department would do
better on their own, but they don't have the
wherewithal, and so they need the technical support so
that they can be the front person, set the priorities
that allow you to go off on your own as a resource
agency and negotiate. That is what I think was meant here.

DR. ROSENBERG: Okay.

DR. SANDIFER: Thank you.
DR. ROSENBERG: I got that from the second point. Again, it is probably wordsmithing, and I don't disagree with you. I think the point about aquaculture that Frank raised, which I strongly agree with, with regard to trade agreements should be explicitly included on the third slide where you talk about "Executive Order 13141." There is nothing in here that talks about efforts to continue to develop management systems for shared resources, particularly with Canada and Mexico of course, but also in other circumstances such as in the Bering Sea.

I do think we need to push very hard on doing a better job with shared resources that cross international boundaries. Of course, in the Western Pacific we have been making a big effort there because of the territories. I think it is crucial that we support that because trade agreements and that sort
of thing isn't enough. We have to do it through actually developing additional treaty mechanisms.

I think that was it. Thank you.

DR. SANDIFER: Excellent points.

MR. EHRMANN: Commissioner Rasmuson?
MR. RASMUSON: I would like to understand a little bit more on the Executive Order 13141. As I understand it, our effort to put pressure on various foreign countries to comply with our thoughts on living marine management resources. In other words, we are trying to say that really this is the way we ought to manage our living marine resources, therefore if we don't go along with it, we are going to try to have some sort of trade embargo?

DR. SANDIFER: No. The Executive Order 13141, November 16, 1999, provides a mechanism for environmental review of any trade agreement upon the request of the Trade Representative. The problem, as we saw it in the working group, is that it is significantly limits the environmental review. It is only if the Trade Representative asks for it.

There appears to be, at least from reading the
Executive Order, very little mechanism for the other agencies to get involved in a formal review of environmental implications of any kind of trade agreement, not just living marine resource issues but any kind of trade agreement, unless the Trade
Representative asks for that review. That is the difficulty as we understood it, Ed.

MR. RASMUSON: Yes.

DR. SANDIFER: We do have a copy, it is about one page, of that Executive Order, if you would like to read it.

MR. RASMUSON: Yes, I would like to read it, but I could just see the State Department saying, "You don't quite understand the overall situation. Who cares about your problem? This is the problem we have politically." That is what is all going to boil down to.

DR. SANDIFER: Well, I think Admiral Gaffney put it very well. The Department of State is the lead agency for international negotiation, no doubt about that, but I think there is some frustration in many circles that there has been very little opportunities for input particularly on environmental and resource
MR. RASMUSON: I am reminded of the fact that when we were over in Hawaii the fishermen testifying with us on the greenback turtle problem and them saying,
"Hey, we're being punished for problems that Peru and Chil are creating with their nets, not with our problems over here in Hawaii." Our recommendation is to tell the State Department to get Chil and Peru to keep up their act or we are going to do something about it, is that what you are basically recommending?

DR. SANDIFER: That is one of those kinds of recommendations that I think Frank has put forward in more general language, but basically it says that --

MR. RASMUSON: At the time, we are going to need a lot of friends, if we are going to tell them this, huh?

DR. SANDIFER: Yes.

MR. RASMUSON: (Laughter) Okay.

DR. SANDIFER: "If you are going to export to this country, you are going to have to play by the same rules as our producers do."

MR. RASMUSON: (Laughter) Yes, well, good
luck.

(General laughter.)

DR. SANDIFER: As I said, Ed, that is the sort of frustration that I have heard a number of places, and
I will leave it at that.

MR. EHRMANN: Commissioner Hershman?

DR. HERSHMAN: Paul, on the last point on the last slide in which we would prohibit imports of marine ornamental fish and corals unless produced or harvested in a sustainable manner, I guess that is sort of a hands-off kind of approach using a legal tool.

A first caution would be that WTO watches these kinds of measures very closely and the imposition of a standard as an environmental tool which then prevents an import could be seen as against WTO, so I think we have to be cautious about those kinds of standards.

More importantly, what we are talking about here is very poor people who are living at the lowest level of the economic system who are surviving by using bad practices such as dynamite and cyanide in order to get ornamental fish to ship to the United States.
Maybe what we also ought to think about is some sort of way in which we could encourage our USAID programs to try to train or demonstrate projects by which they could either use aquaculture to raise some of
these ornamentals that could be imported into the
United States, which would be a different way of doing
it, or provide other kinds of mechanisms. In other
words, be a little more proactive to get at the root of
the problem.

DR. SANDIFER: Marc, your point is well-taken.

Some significant efforts by USAID and others to do some
of those things. In the past, some have worked, most
have not. However, I think your point that perhaps we
should use both a mix of legal means and incentives here
might be a better approach than just the legal hammer
alone.

The first one, the incentive that we suggest
of debt forgiveness at the national level is really good
at the national level. However, it does not do a heck
of a lot of good for the poor guy living on the beach
trying to make a living for himself and for his family,
and we ought to look at some other kinds of incentives.
I think we will ask staff at least to include incentives in this package, to take a look at it. It is a very good point. There should be a carrot along with a stick.
here, most definitely. At the same time, you have to be
cognizant that the guy who is starving to death cannot
worry about a year from now, but society does have to
worry about the ability of the resource to be able to
sustain the village after that one guy is gone. That
means maintaining the reefs and not having them blown up
by dynamite and not having them poisoned so that they
can sustain nothing for the future.

Someplace in there you have to use some legal
tools to control the marketing side of it, and the
incentive side gives the community or the individual
something else to do to make a living.

DR. HERSHMAN: All right. I think a little
more balance in the strategies expressed in our report
would be beneficial.

DR. SANDIFER: Thank you. Good point.

MR. EHRMANN: Admiral Watkins?

CHAIRMAN WATKINS: In a follow up to Andy's
comment on one of the other slides, if I look at your
first slide, and it goes back to Paul's comment, Paul
Gaffney's comment, we urge the State Department
b�ically to implement plans. Now, if I read the
agreement that was signed by the United States at
Johannesburg, they cannot do that. They can certainly
take the lead to see that the plans developed at the
summit are actually carried out. I would like to see it
worded that way, because they don't have the capacity to
do that. Therefore, it gets back into the NOC, the
National Ocean Council.

I sit here to take the lead to see that the
plans at the summit are actually supported by the
National Ocean Council and carried out. I think that is
the way they have to start working. I believe this is
such an important item because the administration is
very proud of their taking leadership at Johannesburg,
which they have been criticized for not taking at other
major conferences.

This was a sustainable development conference,
which is probably more compatible than some of the other
conferences have been. They are very proud of this and
we need to take advantage of that and use this as a template. Okay, we have agreed to it. For the first time, let's carry out something that we have agreed to.

It is a hell of an idea. This is a good one to use as a
demonstration project as a new way of doing business with them. Obviously, the White House was very much involved in with this with the CEQ membership there as well as John Turner from State and other people. I applaud that.

Another thing, a question, in my own mind that I don't know that even belongs here, probably it belongs in a prior discussion, but the United States is not going to have a credible leadership capability unless they get their own act together in living marine resources.

I would say if there is a program under the National Ocean Research Leadership Council like the census of marine life, if it is a good program, let's say that it is a good program. The United States needs to move out aggressively and get its own act together in living marine resources.

Now, this may have already been touched on, I
think it probably has, but I think there is a linkage to
the international component that I don't see here of
when the United States gets its act together maybe we
speak with a better voice than we can speak today.
DR. SANDIFER: Mr. Chairman, I could not agree more. I think it is an oversight on our part. We did have previous recommendations dealing with biodiversity, this later point you raised and the national leadership responsibility of the United States.

I believe we even mentioned census of marine life, but clearly it needs to be picked up here and reemphasized both in the general term of biodiversity and biocomplexity, as well as Pacific Programs that represent an international commitment to conservation of biotic resources and the role that the United States should play.

With regard to your point on the State Department's role, I could not agree more. This was a result, I believe, of telegraphic writing to get something on the slide here. However, it is exactly the kinds of things I think that the National Ocean Council, the National Ocean Policy Council or whatever we ever
end up calling this thing, if created, really should be empowered to do.

Therefore, you would then have the imprimatur of the White House and the Congress say to the federal
agencies to actually implement this plan that has been agreed to at the World Conference on Sustainable Development. I agree with you entirely, and we can wordsmith this in the final report language to reflect that approach. It is not a matter that the State Department does it, but the State Department takes the leadership to bring this to NOC and then NOC through its implementing agencies sees that something actually happens with measurable results, and State then reports the measurable results at the next time there is such a conference.

MR. EHRMANN: Let me just see, Commissioner Sandifer or staff, any additional questions or clarifications you need from the commissioners on this topic?

DR. SANDIFER: My only concluding comment is I think you can see an awful lot of commonality between the work of the Stewardship group in this international
arena and what REMO is doing, there is a great deal. As
we pull together a final report, it will not be
necessary to have separate sections here. A lot of this
will be pulled in together and one right after the
other, the issues dealt with.

CHAIRMAN WATKINS: With that, we will take a

break for 15 minutes. I would like to start the next

session at 3:35 p.m., and that will be on living marine

resources enforcement.

(Whereupon, there was a pause in the

proceedings from 3:20 p.m. to 3:40 p.m.)