

International Management of Living Marine Resources

19 MR. EHRMANN: Okay. All right, then, let's go
20 to the international management of living marine
21 resources. Let me just say to the commissioners I think
22 we are pretty much on target for our 3:30 break. We

1 will see how long this topic takes, and then we will
2 decide if we take the break then or go on to another
3 one. Go ahead.

4 INTERNATIONAL MANAGEMENT OF LIVING

5 MARINE RESOURCES

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

9 (A PowerPoint slide presentation in process.)

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

16 Ed, that obviates my having to explain some
17 things that we are dealing with. I think it makes our

18 point very clearly, that we need to do a little bit

19 better job in the international arena.

20 It is clear to us that domestic action alone

21 cannot resolve many of the problems we are dealing with,

22 particularly those involving threatened and endangered

1 species such as the sea turtle bycatch, whale ship
2 strikes, marine mammal bycatch, highly migratory
3 species, invasive species, a whole bunch of things of
4 this nature.

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

11 Admiral Watkins has already mentioned this,
12 and it is in our recommendation, Admiral, that we would
13 recommend that this Commission supports this
14 Administration's recent efforts at the World Summit on
15 Sustainable Development and urge the State Department to
16 begin to implement the plans developed at that summit.
17 We will have more details, of course, in the write-up.
18 This is a very specific thing, much like our admonition

19 or recommendation to the Administration to proceed with
20 the conventional law of the sea. This, I think, is a
21 very straightforward thing we could do.

22 Next slide.

1 (A PowerPoint slide presentation in process.)

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

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

18 The next slide, please.

19 (A PowerPoint slide presentation in process.)

20 DR. SANDIFER: The Council should also develop

21 a coordinated federal plan to increase institutional

22 capacity in less developed countries in a sustained

1 manner dealing particularly with scientific and
2 technical expertise, funding for conservation and
3 research activities, and education or training of both
4 U.S. and foreign personnel who are working on these
5 international issues.

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

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

15 Specifically, Executive Order 13141 we feel is
16 a step in the right direction, but it needs to be much
17 more effective. In short, for those of you not familiar
18 with this Executive Order, it requires a certain level

19 of environmental review by federal agencies of bilateral
20 and multilateral agreements that the U.S. is proceeding
21 to or considering entering into. This environmental
22 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 The final one, following up on the threatened
12 resource issues, NOAA at this moment should improve
13 existing domestic programs to develop gear and methods
14 to reduce fisheries bycatch, sea turtles, marine
15 mammals, and other non-target species and do our best to
16 export these gears to other countries' fisheries
17 wherever possible. There are excellent examples both in
18 the literature and in law regarding the required export,

19 shall we say, of turtle-excluded devices in world shrimp
20 fisheries; so, there are some real examples that could
21 be used here.

22 Finally, the U.S. Congress should consider

1 developing and approving legislation similar to the
2 Tropical Forest Conservation Act that could be used to
3 protect coral reef ecosystems. This is a debt
4 forgiveness kind of process, an incentive, to protect
5 biodiverse areas like coral reefs and similar to the
6 Wild Bird Conservation Act to prevent importation of
7 marine ornamental fishes and corals into the
8 United States unless the exported country could
9 demonstrate that the organisms were harvested in a
10 sustainable manner.

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

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

19 Thank you, Mr. Chairman.

20 MR. EHRMANN: Very good.

21 Commissioner Rosenberg?

22 DR. ROSENBERG: Thank you.

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

6 It is the Department of State that should be
7 supporting the efforts to manage through their ability
8 to negotiate international agreements, not the resource
9 agencies supporting State because it is the resource
10 agencies that are coming up with the management
11 proposals as opposed to State. Their expertise is in
12 negotiation and international relations it seems to me.
13 I am just puzzled by the wording of the first bullet on
14 that page.

15 DR. SANDIFER: I think it reflects our belief
16 in the obstinacy of State when it comes to these issues
17 and the relatively low priority that history shows has

18 been placed on those living resource issues in the
19 negotiation process, to be blunt about it.

20 DR. ROSENBERG: I agree with that in general,
21 and I guess it is a wordsmithing issue that perhaps we
22 just have to look at later because that is not what that

1 statement says to me, it says the opposite, that the
2 resource agencies are not doing enough to help State.

3 DR. SANDIFER: Yes, a good clarification.

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

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

14 Hopefully, the State Department would do
15 better on their own, but they don't have the
16 wherewithal, and so they need the technical support so
17 that they can be the front person, set the priorities
18 that allow you to go off on your own as a resource

19 agency and negotiate. That is what I think was meant

20 here.

21 DR. ROSENBERG: Okay.

22 DR. SANDIFER: Thank you.

1 DR. ROSENBERG: I got that from the second
2 point. Again, it is probably wordsmithing, and I don't
3 disagree with you. I think the point about aquaculture
4 that Frank raised, which I strongly agree with, with
5 regard to trade agreements should be explicitly included
6 on the third slide where you talk about "Executive Order
7 13141." There is nothing in here that talks about
8 efforts to continue to develop management systems for
9 shared resources, particularly with Canada and Mexico of
10 course, but also in other circumstances such as in the
11 Bering Sea.

12 I do think we need to push very hard on doing
13 a better job with shared resources that cross
14 international boundaries. Of course, in the
15 Western Pacific we have been making a big effort there
16 because of the territories. I think it is crucial that
17 we support that because trade agreements and that sort

18 of thing isn't enough. We have to do it through
19 actually developing additional treaty mechanisms.

20 I think that was it. Thank you.

21 DR. SANDIFER: Excellent points.

22 MR. EHRMANN: Commissioner Rasmuson?

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

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

17 There appears to be, at least from reading the

18 Executive Order, very little mechanism for the other
19 agencies to get involved in a formal review of
20 environmental implications of any kind of trade
21 agreement, not just living marine resource issues but
22 any kind of trade agreement, unless the Trade

1 Representative asks for that review. That is the
2 difficulty as we understood it, Ed.

3 MR. RASMUSON: Yes.

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

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

13 DR. SANDIFER: Well, I think Admiral Gaffney
14 put it very well. The Department of State is the lead
15 agency for international negotiation, no doubt about
16 that, but I think there is some frustration in many
17 circles that there has been very little opportunities
18 for input particularly on environmental and resource

19 issues over the years.

20 MR. RASMUSON: I am reminded of the fact that
21 when we were over in Hawaii the fishermen testifying
22 with us on the greenback turtle problem and them saying,

1 "Hey, we're being punished for problems that Peru and
2 Chil are creating with their nets, not with our
3 problems over here in Hawaii." Our recommendation is to
4 tell the State Department to get Chil and Peru to keep
5 up their act or we are going to do something about it,
6 is that what you are basically recommending?

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

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

13 DR. SANDIFER: Yes.

14 MR. RASMUSON: (Laughter) Okay.

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

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

19 luck.

20 (General laughter.)

21 DR. SANDIFER: As I said, Ed, that is the sort

22 of frustration that I have heard a number of places, and

1 I will leave it at that.

2 MR. EHRMANN: Commissioner Hershman?

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

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

14 More importantly, what we are talking about
15 here is very poor people who are living at the lowest
16 level of the economic system who are surviving by using
17 bad practices such as dynamite and cyanide in order to
18 get ornamental fish to ship to the United States.

19 Maybe what we also ought to think about is
20 some sort of way in which we could encourage our USAID
21 programs to try to train or demonstrate projects by
22 which they could either use aquaculture to raise some of

1 these ornamentals that could be imported into the
2 United States, which would be a different way of doing
3 it, or provide other kinds of mechanisms. In other
4 words, be a little more proactive to get at the root of
5 the problem.

6 DR. SANDIFER: Marc, your point is well-taken.
7 Some significant efforts by USAID and others to do some
8 of those things. In the past, some have worked, most
9 have not. However, I think your point that perhaps we
10 should use both a mix of legal means and incentives here
11 might be a better approach than just the legal hammer
12 alone.

13 The first one, the incentive that we suggest
14 of debt forgiveness at the national level is really good
15 at the national level. However, it does not do a heck
16 of a lot of good for the poor guy living on the beach
17 trying to make a living for himself and for his family,
18 and we ought to look at some other kinds of incentives.

19 I think we will ask staff at least to include incentives
20 in this package, to take a look at it. It is a very
21 good point.

22 There should be a carrot along with a stick

1 here, most definitely. At the same time, you have to be
2 cognizant that the guy who is starving to death cannot
3 worry about a year from now, but society does have to
4 worry about the ability of the resource to be able to
5 sustain the village after that one guy is gone. That
6 means maintaining the reefs and not having them blown up
7 by dynamite and not having them poisoned so that they
8 can sustain nothing for the future.

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

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

16 DR. SANDIFER: Thank you. Good point.

17 MR. EHRMANN: Admiral Watkins?

18 CHAIRMAN WATKINS: In a follow up to Andy's

19 comment on one of the other slides, if I look at your
20 first slide, and it goes back to Paul's comment, Paul
21 Gaffney's comment, we urge the State Department
22 basically to implement plans. Now, if I read the

1 agreement that was signed by the United States at
2 Johannesburg, they cannot do that. They can certainly
3 take the lead to see that the plans developed at the
4 summit are actually carried out. I would like to see it
5 worded that way, because they don't have the capacity to
6 do that. Therefore, it gets back into the NOC, the
7 National Ocean Council.

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

16 This was a sustainable development conference,
17 which is probably more compatible than some of the other
18 conferences have been. They are very proud of this and

19 we need to take advantage of that and use this as a
20 template. Okay, we have agreed to it. For the first
21 time, let's carry out something that we have agreed to.
22 It is a hell of an idea. This is a good one to use as a

1 demonstration project as a new way of doing business
2 with them. Obviously, the White House was very much
3 involved in with this with the CEQ membership there as
4 well as John Turner from State and other people. I
5 applaud that.

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

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

18 Now, this may have already been touched on, I

19 think it probably has, but I think there is a linkage to
20 the international component that I don't see here of
21 when the United States gets its act together maybe we
22 speak with a better voice than we can speak today.

1 DR. SANDIFER: Mr. Chairman, I could not agree
2 more. I think it is an oversight on our part. We did
3 have previous recommendations dealing with biodiversity,
4 this later point you raised and the national leadership
5 responsibility of the United States.

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

13 With regard to your point on the State
14 Department's role, I could not agree more. This was a
15 result, I believe, of telegraphic writing to get
16 something on the slide here. However, it is exactly the
17 kinds of things I think that the National Ocean Council,
18 the National Ocean Policy Council or whatever we ever

19 end up calling this thing, if created, really should be
20 empowered to do.

21 Therefore, you would then have the imprimatur
22 of the White House and the Congress say to the federal

1 agencies to actually implement this plan that has been
2 agreed to at the World Conference on Sustainable
3 Development. I agree with you entirely, and we can
4 wordsmith this in the final report language to reflect
5 that approach. It is not a matter that the State
6 Department does it, but the State Department takes the
7 leadership to bring this to NOC and then NOC through its
8 implementing agencies sees that something actually
9 happens with measurable results, and State then reports
10 the measurable results at the next time there is such a
11 conference.

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

16 DR. SANDIFER: My only concluding comment is I
17 think you can see an awful lot of commonality between
18 the work of the Stewardship group in this international

19 arena and what REMO is doing, there is a great deal. As
20 we pull together a final report, it will not be
21 necessary to have separate sections here. A lot of this
22 will be pulled in together and one right after the

1 other, the issues dealt with.

2 CHAIRMAN WATKINS: With that, we will take a
3 break for 15 minutes. I would like to start the next
4 session at 3:35 p.m., and that will be on living marine
5 resources enforcement.

6 (Whereupon, there was a pause in the
7 proceedings from 3:20 p.m. to 3:40 p.m.)