

**WRITTEN TESTIMONY OF
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U.S. DEPARTMENT OF COMMERCE**

**HEARING ON
INTERNATIONAL FISHERIES: MANAGEMENT AND ENFORCEMENT**

**BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE**

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Introduction

Good morning, I am Jim Balsiger, the Acting Assistant Administrator for Fisheries within the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. Thank you, Chairman Inouye, and members of the Senate Commerce Committee for the opportunity to discuss the many challenges of international fisheries management. In my years working on fisheries issues in the Alaska region, I have been directly engaged in addressing our international goals for fishery management and the conservation of protected species. As the U.S. Federal Commissioner for the North Pacific Anadromous Fish Commission and other international management bodies, I am pleased to see the increased attention focused on this critical aspect of NOAA's National Marine Fisheries Service's (NMFS) mission.

Thanks to the efforts of this Committee, Congress adopted and the President signed the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Magnuson-Stevens Act) into law in January 2007. This Act contains several new provisions that will significantly shape the focus of fisheries management including reinforcing NOAA's mandate for international activities. Congress has tasked the Department of Commerce, working with our partners at the State Department, Coast Guard, and other agencies, to work multilaterally to address multiple aspects in international stewardship of living marine resources. Fulfilling this mandate has been a high priority for the agency.

My testimony will cover a number of topics, with a particular focus on illegal, unreported and unregulated (IUU) fishing. IUU fishing is estimated to generate some \$4-\$9 billion in landings gross revenues each year. This illegal fishing can undermine our domestic fishery management practices and has implications for sustainable international fisheries management which benefit the world's marine ecosystems, the U.S. fishing industry, and the American seafood consumer. As a major consumer of seafood, the United States has an obligation to avoid the importation of illegal seafood product. With a multi-agency

approach and with new technologies, the United States continues to work with our country partners bilaterally and multilaterally to address the challenges of IUU fishing.

Global IUU-related Activities

In the global context, the United Nations General Assembly has drawn attention to the negative impacts of IUU fishing and called for its elimination in every annual resolution on fisheries since 1998. This created the impetus for the Food and Agriculture Organization of the United Nations (FAO) to begin its program on IUU fishing, starting in 2001 with the development of its International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing. This Plan called on FAO members to develop corresponding national plans of action in the following two years, a task completed by the United States in 2004. FAO is the premiere international organization addressing global fishing issues. While the State Department typically has the lead in these issues, NOAA provides technical expertise for issues addressed by FAO.

The FAO has continued its work on IUU fishing by developing tools to eliminate this destructive fishing practice. Beginning in 2002, the FAO began to develop a voluntary model scheme on Port State measures to combat IUU fishing. This project was completed and adopted in 2004. At the 2007 meeting of the FAO Committee on Fisheries (COFI), there was agreement to organize and negotiate a binding agreement which would set minimum standards for the in-port inspection of fishing vessels, and the denial of certain port services to vessels suspected or confirmed to have engaged in IUU fishing. This is an exciting new development. Up to now, the focus has been on developing rules and applying pressure to flag states to eliminate IUU fishing. This initiative strikes directly at IUU fishing vessels by making it more difficult and costly for them to land their illicit catches. Also launched by COFI in 2007 was the development of a global record of all fishing vessels which includes information on the vessels' past activities and beneficial owners. The development of this database is essential because currently there is no comprehensive fishing vessel database.

The FAO is working with the International Maritime Organization to promote the entry into force of the Torremolinos Protocol of 1993, an instrument that would set international safety standards for fishing vessels. This protocol would address some of the crew safety concerns associated with IUU fishing. NMFS will continue to work to combat IUU fishing in the global forums.

Regional Fishery Management Organization (RFMO) Actions

Many of our target fish stocks and protected species also occupy waters under the jurisdiction of other countries and on the high seas. By their very nature, these resources require an international approach to science and management in order to be effective. In most cases, it is necessary to collaboratively manage these species. This collaboration ranges from a simple bilateral agreement (such as the International Pacific Halibut Commission) to the most complex, multinational Regional Fishery Management Organization (RFMO), such as the three tuna RFMOs of which the United States is a

member. NMFS is taking a leadership role in a number of RFMOs, which are key to combating IUU fishing in the multilateral context. Next I will highlight the type of measures taken by RFMOs.

Catch/Trade Documentation Schemes

Catch and trade documentation schemes in the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) and the International Convention for the Conservation of Atlantic Tunas (ICCAT) illustrate multilateral efforts to combat IUU fishing. CCAMLR adopted a Catch Documentation Scheme in 1999 designed to prevent illegal harvests of Patagonian and Antarctic toothfish from entering markets in CCAMLR member countries. The Scheme monitors international trade, identifies the origin of imports, determines if imports caught in the Convention Area are consistent with CCAMLR conservation measures, and provides catch data for stock assessments. NMFS has fully implemented the Catch Documentation Scheme in the United States and recently went a step further by implementing an electronic reporting system that will greatly enhance the integrity of the Scheme. This electronic reporting system serves as a model for other RFMO catch and trade tracking programs.

In the early 1990s, ICCAT adopted a trade tracking program for both fresh and frozen bluefin tuna in response to concerns about the status of the resource and suspected high levels of IUU fishing. Subsequently, statistical document programs were adopted for swordfish (fresh and frozen) and bigeye tuna (frozen). The programs track the trade of product and provide information on the flag state and name of the harvesting vessel, the location of harvest, the point of export, a description of the fish in the shipment and a variety of other identification information. Information from these programs assists with catch data verification for both ICCAT members and non-members and is used as important input into ICCAT's process for evaluating fishery activities under its Trade Measures Recommendation, which can lead to the adoption of restrictive trade measures against countries.

ICCAT also overhauled its bluefin tuna statistical document program in 2007 to create a Bluefin Tuna Catch Documentation Scheme. Like the CCAMLR Catch Documentation Scheme, this program tracks product from the point of capture through its final market. This Scheme, which requires documentation when harvest occurs rather than only at export, will capture the large portion of bluefin tuna product that stays within a country and never enters international trade. The program was specifically developed to provide more direct control of the eastern Atlantic and Mediterranean bluefin tuna fishery given pervasive quota compliance and data reporting problems. A United States proposal to implement ICCAT's catch and trade documentation programs electronically was adopted by ICCAT in 2006, and the United States is working towards electronic implementation with a view to improving the efficiency and effectiveness of these programs.

Compliance Committees/Sanctions

ICCAT was the first RFMO to adopt a trade-related instrument to promote compliance with conservation measures. The organization's Bluefin Tuna Action Plan, agreed upon in 1994, established a multilateral process for evaluating fishing activities and recommending restrictions on trade against countries that diminished the effectiveness of ICCAT's bluefin tuna measures. The approach taken to help reduce IUU fishing and protect overfished bluefin tuna was expanded to address the swordfish fishery and, more generally, all unregulated and unreported catches in the mid- and late 1990s.

By 2003, ICCAT had identified and adopted a comprehensive trade measure instrument which applied equally to all ICCAT fisheries and all parties (both member and non-member). This made the process for the application of trade restrictive measures more transparent, employed comparable standards for evaluating fishery related activities, and allowed for swift re-imposition of trade sanctions. This comprehensive approach has bolstered ICCAT's already significant efforts to eliminate IUU fishing in the Atlantic Ocean. This has led to a number of countries to take action to rectify non-compliant activity. Additionally, this has provided the incentive for countries to join the Commission in order to directly assist in conservation programs.

In addition to trade related approaches, ICCAT has adopted a suite of monitoring, control, surveillance and quota compliance measures. The latter approach requires parties to repay quota overharvests, including a penalty for repeated incidences. With respect to the swordfish and bluefin tuna fisheries, extreme cases of quota non-compliance can lead to trade penalties. Full implementation of ICCAT's quota compliance regime by the organization has been slow and the United States continues to work toward improving this situation.

Another notable example of improved compliance is the Northwest Atlantic Fisheries Organization's (NAFO) adoption in 1997 of its "Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO." The development of this Scheme was led by the United States. In brief, the Scheme presumes that any non-Contracting Party vessel sighted engaging in fishing activities in the NAFO Regulatory Area is undermining NAFO conservation and enforcement measures and, unless this presumption is rebutted, the vessel may not land its catch in the port of any NAFO member. The NAFO Scheme marked a significant achievement in RFMO efforts to deal with non-Contracting party fishing activities and facilitated the adoption of similar programs by other regional fishery conservation and management organizations throughout the world.

IUU Vessel Lists

As a tool to combat IUU fishing activities, an increasing number of RFMOs have adopted procedures for listing vessels that have engaged in IUU fishing. These lists have been created to attach certain penalties to vessels, including restriction on port access, unloading prohibitions, and product marketing. The United States has played a leading role in ensuring that such lists are compiled in a transparent manner and provide due process to listed vessels. NMFS is designing a system that will implement U.S.

obligations to apply these RFMO decisions in our ports to vessels that have been included on IUU vessel lists. The United States is also developing a robust outreach program to enhance IUU awareness among the public and private sectors. NMFS has posted links on its webpage to RFMO IUU vessel lists in order to provide the public with a single source where IUU lists can be found. NMFS intends to further enhance our IUU outreach activities to create further economic disincentives for IUU fishing, including limits on access of IUU product into the significant United States market.

Bycatch Reduction

The United States plays a leadership role in the adoption of RFMO measures designed to reduce bycatch of seabirds, sea turtles, and sharks.

Seabirds: The United States has taken a leadership role in addressing seabird bycatch in a number of RFMOs by promoting the development of individual National Plans of Action by RFMO members and by stressing the need for RFMOs to scientifically assess seabird/fisheries interactions and take appropriate steps to mitigate them. Due in part to United States leadership, seabird bycatch mitigation measures have been adopted in ICCAT, CCAMLR and the Western and Central Pacific Fisheries Commission (WCPFC). Additional efforts are currently underway to address seabird bycatch in the Inter-American Tropical Tuna Commission (IATTC). Many of the measures adopted by these RFMOs are comparable to those already required in U.S. fisheries. Additionally, the United States is promoting international seabird conservation by participating in the activities of the Agreement on the Conservation of Albatrosses and Petrels (ACAP). ACAP entered into force in 2004, and its objective is to achieve and maintain a favorable conservation status for albatrosses and petrels. The Administration is currently reviewing ACAP for possible submission to the Senate.

Sea turtles: The United States led negotiations resulting in the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations in 2005. The United States has subsequently led successful efforts to adopt the FAO Guidelines in the IATTC, WCPFC, and NAFO. Additionally, the United States took a leadership role in negotiating the Inter-American Convention for the Protection and Conservation of Sea Turtles (the only binding international sea turtle treaty) and participates in Indian Ocean-Southeast Asia Marine Turtle Memorandum of Understanding, and the Memorandum of Understanding Concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa. All three measures have provisions requiring or urging participant countries to use bycatch reduction devices such as Turtle Excluder Devices and circle hooks. The United States continues to work bilaterally and multilaterally to urge countries to implement measures comparable to the United States to reduce sea turtle bycatch and injury. The United States has also worked successfully with nations that export shrimp to the United States to help them develop Turtle Excluder Device programs comparable to the United States program. Finally, the United States has hosted one international workshop on circle hooks for the longline fisheries, and will host another in 2008. The workshops, when coupled with a coordinated strategy among the U.S. delegations to RFMOs, have

increased U.S. effectiveness in pushing for binding RFMO measures to reduce sea turtle bycatch and mortality.

Sharks: The United States has been a leader in calling on the international community to improve the conservation and management and reduce bycatch of shark populations. The Shark Finning Prohibition Act was enacted in 2000 with the intent of drastically reducing the number of sharks finned and carcasses discarded at sea. The Shark Finning Prohibition Act directed the United States to seek agreement on international bans on shark finning and other fishing practices adversely affecting these species through the United Nations, FAO and RFMOs. The adoption of shark finning bans and five percent fin to carcass ratio requirements by many of the world's RFMOs is due in part to U.S. leadership internationally, pursuant to Congressional direction in the Shark Finning Prohibition Act. The Shark Finning Prohibition Act also directs the United States to urge other governments to prepare and submit National Plan of Actions for sharks under the FAO's International Plan of Action for the Conservation and Management of Sharks. The United States worked to ensure that the December 2007 United Nations General Assembly Fisheries Resolution contains a strong mandate for improved global efforts relating to shark conservation and management.

NOAA Activities and Initiatives

Fisheries Enforcement Activities

NOAA's Office of Law Enforcement includes 148 sworn federal agents. The officers work closely with international, federal and state law enforcement partners in an effort to detect, apprehend and prosecute those involved in the illegal importation of IUU products into the United States and its territories and to stop the global trade of IUU fisheries products. These efforts include NOAA's coordination with the U.S. Coast Guard sea and air patrols in the North Pacific Ocean to detect illegal large-scale high seas driftnet fishing. The Office of Law Enforcement also works closely with Customs and Border Protection to detect illegal fisheries products being imported into the United States.

NOAA's Office of Law Enforcement is routinely engaged in international investigations that involve efforts to terminate unscrupulous business operations that are multi-national in scope. Such efforts typically involve the application of the Lacey Act and have resulted in blocking importation of illegally harvested and processed marine products trafficked on a world wide scale. In recent years the Office of Law Enforcement has been able to identify a number of multi-million dollar IUU operations engaged in the trafficking of IUU fish and fish products through investigative operations that have resulted in successful prosecution and ultimately the termination of these operations. Such cases have resulted in the elimination of activities that have caused or that are causing harm to marine resources throughout the world.

The Office of Law Enforcement has also initiated an effort to enhance our ability to investigate and respond to IUU fishing activity as well as other growing international responsibilities. Creation of an intelligence analysis capability within the Office of Law

Enforcement is one critical need being addressed which will require further expansion in the future. Developing a capability to access, evaluate, and analyze fisheries-related intelligence and then to create intelligence-driven products to assist in focusing limited enforcement resources is critical to meet our obligations to respond to IUU fishing issues and to the flow of IUU product around the globe and into the United States.

Leadership of the International Monitoring, Control and Surveillance Network

In 2001, the United States joined other countries to establish the International Monitoring, Control and Surveillance Network (Network), which works multilaterally to exchange fisheries and enforcement information, including information related to IUU fishing. The Network was established to provide a mechanism for fisheries law enforcement professionals to share information and experiences as they monitor the increasingly complex harvesting and marketing of fish around the world. The rise in illegal activities that has accompanied globalization underscores the need for cooperative law enforcement across national borders.

In 2006, the High Seas Task Force project on global IUU fishing recommended enhancement of the Network as a key initiative to combat IUU fishing. NOAA has taken the lead to improve the Network through implementation of an enhancement project and by serving as Chair of the Network. Funding for the enhancement has been provided by several partners, including Australia, Canada, New Zealand, and the United Kingdom.

International Trade Data System Project

One important development that will improve NOAA's ability to detect IUU fish being imported into the United States is the International Trade Data System currently under development by the Department of Homeland Security. International Trade Data System is an integrated, government-wide system for the electronic collection, use, and dissemination of trade data. The Safe Ports Act of 2006 made International Trade Data System mandatory for all federal agencies that have a role in determining the admissibility of imports to the United States market and NMFS has taken steps to become a participating government agency in this system. International Trade Data System will significantly improve the capability of NMFS to enforce trade measures and documentation requirements of these programs. Currently, the Office of Law Enforcement is informed of permitting, documentation and reporting violations long after they occur, which makes investigation and forfeiture of product difficult or impossible. This system will allow screening and targeting of inbound shipments, potentially on a pre-arrival basis. Such capability will place NOAA staff in a position to approve entries or to place holds on shipments when permits/documentation are missing. Close interagency coordination will ensure effective and consistent application of import regulations as well as detection of potential IUU shipments of fish and fish products.

Newly Reauthorized Magnuson-Stevens Act

The newly reauthorized Magnuson-Stevens Act contains several new provisions that will significantly shape the focus of fisheries management in the coming years. Importantly, the Magnuson-Stevens Act pays an unprecedented level of attention to international fisheries, and the overarching approach of this legislation is a call for the Secretary of Commerce to work multilaterally, through RFMOs and other forums, to combat IUU fishing.

The Magnuson-Stevens Act amends the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act) to require the Secretary of Commerce to produce a biennial report to Congress that lists countries which the United States has identified as having vessels engaged in IUU fishing or bycatch of protected living marine resources. Under the Act, the United States is directed to consult with and encourage identified nations to take appropriate corrective action to address the IUU fishing and bycatch activity outlined in the biennial report.

The Magnuson-Stevens Act also requires the Secretary of Commerce to develop rulemaking to implement certification procedures for nations that have been identified in the biennial report. If these nations do not take steps to address the problems of IUU fishing or bycatch, the United States is authorized to prohibit the importation of certain fish and fish products from such nations into the United States and take other measures.

NMFS has been actively working to implement the international provisions of the Magnuson-Stevens Act to help combat IUU fishing. In January of this year, NMFS produced a report on the status of progress towards implementation of the international provisions of the Magnuson-Stevens Act, which highlights the work that has been undertaken to date. I will briefly describe for the Committee where we are with respect to implementation and outreach on the international provisions of the Magnuson-Stevens Act.

Magnuson-Stevens Act Implementation and Outreach

The first step that NMFS took to implement the international requirements in the newly reauthorized Magnuson-Stevens Act was to promulgate a final rule to define IUU fishing. This definition mirrors the definition of IUU fishing that was included in the reauthorized Magnuson-Stevens Act.

In fulfillment of its obligations under Magnuson-Stevens Act, the United States is seeking to strengthen international fishery management agreements to address IUU fishing through negotiation of their underlying agreements or negotiation of new protocols. With substantial United States involvement, international fishery management organizations have taken action towards the adoption and sharing of IUU vessel lists, use of observers and technologies to monitor compliance, and promotion and use of centralized vessel monitoring systems. As previously noted, the United States has also worked with these organizations to adopt trade tracking and documentation schemes, prevent trade or import of IUU-caught fish, and protect vulnerable marine ecosystems.

Most RFMOs operate on the basis of catch data that are far less complete than necessary. Systems that would improve data shortcomings and serve as a basis for improved management, such as observer programs and vessel monitoring systems, are not universal. There are clear cases of RFMO members who are capable of providing complete data but fail to do so. Some developing country RFMO members lack the capability and resources to collect and share this information, and the world has been slow to realize that assistance to these countries for the purpose of improving international fisheries management is in everyone's interest.

This Committee and the Congress as a whole have recognized this gap and provided authorization through the Magnuson-Stevens Act and initial funding to allow us to reach out and assist other countries to improve their contributions to international fisheries management. We are enthusiastic about this new authority and the prospects that, with it, we can help improve the situation in ways that were not available to us previously. In cooperation with its federal partners, NMFS has assisted other nations in addressing IUU fishing and bycatch of protected resources. We have hosted and supported workshops on techniques and tools to strengthen enforcement; methods to prevent and mitigate the incidental take of marine turtles, mammals, seabirds, and other resources; and response to marine mammal strandings. NMFS has also provided technical and other assistance to developing countries to improve their monitoring, control, and surveillance capabilities and has sought to promote the development of effective fisheries observer programs in other countries.

Although not funded with Magnuson-Stevens Act funding, a similar initiative called the Coral Triangle Initiative is going forward with support from NOAA and the Department of State. The Initiative is bringing together Indonesia, Malaysia, Philippines, Papua New Guinea, Solomon Islands, and Timor-Leste, who are cooperating in a wide range of marine projects, including sustainable fisheries, IUU fishing, fishing overcapacity, and destructive fishing practices.

In addition, NMFS is developing a proposed rule to establish procedures for the identification and certification of nations whose vessels are engaged in IUU fishing or bycatch of protected living marine resources. In preparation for development of these procedures, NMFS held three public meetings to solicit comments from the public on an advance notice of proposed rulemaking.

Finally, in preparation for the first biennial report, which is due to Congress in January 2009, NMFS is soliciting information from the public, including other nations, as well as from appropriate federal agencies that can be used in the identification of nations whose vessels are engaged in IUU fishing or bycatch of protected living marine resources. NMFS has also developed an internal process for the compilation, review, and analysis of all appropriate information and NMFS will be collaborating with our federal partners, such as the Coast Guard and the State Department, in the verification of such information. The United States plans to conduct consultations with nations that have been identified as having vessels engaged in IUU fishing activity to promote corrective

action. NMFS will keep the Committee apprised of progress implementing the international portions of the Magnuson-Stevens Act.

Conclusion

While the United States takes pride in what has been accomplished through RFMOs and other fora, much work remains to be done. NMFS is actively working to implement the international provisions of the Magnuson-Stevens Act and is vigorously engaged through various RFMOs to combat IUU Fishing. We strive to work in a cooperative and transparent manner towards achieving these goals. With the tools and support this Committee has supplied to this complex endeavor, NOAA will create the incentives for sustainable international fisheries management to benefit the world's marine ecosystems, the U.S. fishing industry, and the American seafood consumer.

As a matter of outstanding business, the Inter-American Tropical Tuna Commission adopted a new treaty, known as the Antigua Convention, to provide it with a comprehensive mandate that incorporates modern standards for international fisheries management. Let me state our agreement with Ambassador Balton's urging quick Congressional action on implementing legislation for the Antigua Convention.

Chairman Inouye and members of the Committee, that concludes my statement. The Department of Commerce and NOAA look forward to working with you, the public, the fishing industry, and our international counterparts on these important fisheries issues. I will be happy to answer any questions.