

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

**HEARING ON
“ILLEGAL, UNREPORTED, AND UNREGULATED FISHING
ENFORCEMENT ACT OF 2009”**

**BEFORE THE
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON INSULAR AFFAIRS, OCEANS AND WILDLIFE
UNITED STATES HOUSE OF REPRESENTATIVES**

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Introduction

Good morning, Madam Chairwoman, and members of the Subcommittee. My name is Dr. Rebecca Lent, and I am the Director of the National Marine Fisheries Service, Office of International Affairs within the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. I also serve as the U.S. Government Commissioner for the International Commission for the Conservation of Atlantic Tunas (ICCAT). Thank you very much for the opportunity to come before you today to discuss illegal, unreported, and unregulated (IUU) fishing, some of the challenges we face in preventing and deterring this activity, and the tools needed to more effectively address this issue.

IUU fishing is of significant concern due to its adverse impacts on marine ecosystems around the world. It can be particularly problematic for vulnerable fish stocks as well as the profitability of the U.S. seafood industry. This activity depletes fish stocks, impacting the economies of nations and the livelihoods of people who depend on sustainable fishing. Annual global economic losses due to IUU fishing are estimated to be about \$9 billion. IUU fishing also undermines domestic fisheries management, hinders efforts to achieve sustainable fisheries management globally, and contributes to problems of bycatch, habitat loss, and habitat degradation. As one of the world's largest consumers of seafood, it is imperative the United States avoid importation of IUU fish and fish products.

I applaud the efforts of this Subcommittee in highlighting the problem of IUU fishing and introducing legislation aimed at providing additional authority that will help the United States continue to be a leader in efforts to prevent, deter, and eliminate this activity.

In my testimony, I will describe the steps NOAA has taken domestically to address IUU fishing activity, actions taken multilaterally through relevant Regional Fishery Management Organizations (RFMOs), and enforcement efforts conducted in conjunction with partner agencies. I will highlight some of the areas where NOAA has made progress and explain some of the inadequacies of our existing authorities to combat IUU fishing.

Domestic Actions and Progress Towards Ending IUU Fishing

Reauthorized Magnuson-Stevens Fishery Conservation and Management Act IUU List

The reauthorized *Magnuson-Stevens Act*, which was enacted in January 2007, provides several tools to help NOAA combat IUU fishing activity. Specifically, the *Magnuson-Stevens Act* amends the *High Seas Driftnet Fishing Moratorium Protection Act* to require the Secretary of Commerce to produce a biennial report to Congress that lists countries the United States has identified as having vessels engaged in IUU fishing or bycatch of protected living marine resources.

NOAA has been actively working to implement the international provisions of the *Magnuson-Stevens Act* to help combat IUU fishing, and in January 2009, NOAA submitted its first biennial report to Congress. A copy of this report has been submitted for the record for inclusion with my written testimony. In this report, NOAA identified six nations as having vessels engaged in IUU fishing during 2007 or 2008 (consistent with the timeframe in the *Magnuson-Stevens Act*). These nations were France, Italy, Libya, Panama, the People's Republic of China, and Tunisia.

Consistent with the *Magnuson-Stevens Act*, the U.S. government consults with and encourages these nations to take appropriate corrective action to address the IUU fishing activity described in the biennial report. Working through the Department of State, NOAA has contacted relevant officials in each of the identified nations to initiate formal consultations. The U.S. government is committed to working cooperatively to address IUU fishing with these nations, including bilaterally and through relevant multilateral fora. Progress made bilaterally and multilaterally in addressing the IUU activity will inform the last step of our domestic process, which is to certify to Congress whether appropriate corrective action has been taken by the identified nations, or whether the relevant international fishery management organization has implemented measures that are effective in ending IUU fishing activity. The failure of an identified nation to take sufficient corrective action, as determined by the Secretary of Commerce, may lead to denial of port privileges for fishing vessels of that nation, prohibitions on the importation of certain fisheries products from that nation into the United States, and other measures.

In response to the outreach conducted by the U.S. government, several identified nations have provided information indicating that positive steps have been taken to address the IUU fishing activity described in the biennial report to Congress. NOAA is hopeful that outreach and cooperative engagement with these nations will lead to further progress.

NOAA Enforcement Activity and Challenges in Combating IUU Fishing

The NOAA Office of Law Enforcement (OLE) is routinely engaged in international investigations targeting unscrupulous multi-national business operations that engage in illegal trafficking on a world wide scale. Such business operations are often clandestine and commonly involve the subversion of otherwise legitimate business entities. In recent years, NOAA OLE has been able to identify a number of multi-million dollar operations engaged in the trafficking of IUU fish and fish products through investigations that resulted in successful interdiction, prosecution and, ultimately, the termination of these operations. Such cases have eliminated many activities that were causing egregious harm to marine resources throughout the world.

NOAA OLE's staff, including 159 sworn federal agents and officers, works closely with international, federal, and state law enforcement partners to detect, apprehend, and prosecute those involved in the illegal importation of IUU product into the United States and its territories. In particular, NOAA OLE works with Customs and Border Protection to detect illegal imports and NOAA is in the process of improving this effort by integrating its trade monitoring programs into the International Trade Data System (ITDS). ITDS is a government-wide system, maintained by Customs and Border Protection, for the electronic collection, use, and dissemination of trade data necessary for Federal agencies to perform their missions. NOAA's implementation of ITDS will significantly enhance the coordination between Federal agencies in detecting and responding to potential IUU fish and fish products.

NOAA OLE works closely with the United States Coast Guard to detect illegal incursions into the U.S. Exclusive Economic Zone using sea and air patrols, vessel monitoring systems, and other surveillance tools. For example, the United States Coast Guard and NOAA recently investigated and charged three foreign-flagged vessels for fishing illegally in the U.S. Exclusive Economic Zone around the Commonwealth of the Northern Mariana Islands.

The increased globalization of IUU fishing activity, as well as the sophistication of many of those engaged in the illegal trafficking of fisheries products, has created a need for enhanced enforcement tools to combat these illegal practices. To meet this need, OLE has begun to enhance its capacity to access, evaluate, and analyze fisheries-related intelligence and create intelligence-driven products to focus limited enforcement resources.

Multilateral Efforts to Address IUU Fishing

Actions of Regional Fishery Management Organizations

Most RFMOs have adopted procedures to identify and list vessels that have engaged in IUU fishing in areas and for stocks under their jurisdiction. The procedures require parties to the RFMO to apply a range of sanctions to listed vessels. Sanctions range from restricting access to port services to outright denial of port entry. These IUU vessel lists

also serve to highlight illegal operations, so the fishing industry (including processors and importers who were previously unaware that such activities were taking place) is aware of vessels that have been engaged in such activities. With a few key exceptions, the United States already prohibits foreign flagged fishing vessels from landing, transshipping, or processing fish at U.S. ports, but such vessels are not barred from port entry for other purposes, such as maintenance, provisioning, or even loading of fish or fish products. NOAA is developing regulations to address these issues of port entry and access to port services for vessels included on an RFMO IUU vessel list.

International Cooperation and Assistance

Given the highly migratory nature of U.S. fish stocks and protected living marine resources, it is crucial for the United States to work cooperatively with its international partners to implement fishery management programs, improve data collection and monitoring, and utilize fishing gear and practices that reduce bycatch and adverse impacts of fishing. One of the most effective ways to promote these sound practices is to provide other nations with tools, training, and resources to increase their capacity for sustainable fisheries management and enforcement.

Under the reauthorized *Magnuson-Stevens Act*, NOAA is authorized to provide this type of capacity building assistance. Consistent with this authority, NOAA has been involved in various international assistance efforts through agreements and bodies, such as the United Nations Fish Stocks Agreement, United Nations General Assembly and various RFMOs. In cooperation with its federal partners, NOAA has hosted workshops on how to reduce bycatch of turtles and other protected species; conducted cooperative research to understand species statistics and improve harvesting practices; and provided training to strengthen enforcement of IUU fishing and improve fisheries observer programs in other countries. In addition to improving the capabilities of other nations, these activities have the potential to increase our collaboration with non-traditional partners and make work at RFMO meetings more productive.

Based on need and mutual interest, NOAA is currently focusing on three regions for international cooperation and assistance: West Africa, Caribbean, and Southeast Asia. Despite the progress made to date, the demand for international assistance continues to grow. NOAA has received an increasing number of requests for assistance from other nations to address IUU fishing or bycatch of protected living marine resources.

Monitoring, Control, and Surveillance (MCS) Network

In 2001, the United States joined other countries to establish the International Monitoring, Control and Surveillance Network (MCS Network), which works multilaterally to exchange fisheries and enforcement information, including information related to IUU fishing. The MCS 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 this type of cooperative law enforcement across national borders.

In its final report in 2006, the ministerially-led High Seas Task Force on IUU fishing included the enhancement of the MCS Network as one of nine initiatives necessary to expose IUU fishing activities, and improve enforcement against those responsible. NOAA serves as Chair of the MCS Network and has led an enhancement project meant to respond to this recommendation. The enhancement project provides funds for three full time staff members who provide analytical support, technical training support and coordination for all member nations to meet the Network objectives. These objectives include efficient information exchange and communications between members, preparation of analyses and studies related to IUU fishing activity, and seeking common solutions to IUU fishing. Funding for the MCS Network enhancement has been provided by several partners, including Australia, Canada, New Zealand, and the United Kingdom.

The United States is working to improve the MCS capabilities in developing countries and is working closely with other MCS Network partners to coordinate the Third International MCS Network workshop in Mozambique in 2010. Successful workshops were held in Malaysia in 2005 and Norway in 2008.

H.R. 1080, Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009

NOAA supports the intent of H.R. 1080 to provide additional tools to combat IUU fishing. Among other things, the legislation makes several technical changes to improve current international fisheries statutes, advances NOAA's enforcement capabilities, and authorizes a broader capacity building program to help other nations address IUU fishing.

NOAA has experienced several challenges in implementing the international provisions of the reauthorized *Magnuson-Stevens Act* which this legislation would help to overcome. First, under the current statutory language, non-vessel specific IUU activities (such as a nation not reporting catch data in violation of conservation and management measures adopted by RFMOs) could not form the basis of IUU identifications. NOAA has knowledge that nations have failed to implement programs required under RFMO measures, such as tracking systems, observer coverage, and vessel monitoring systems yet under the current statute, these nations could not be identified in NOAA's biennial report to Congress solely on the basis of this information. H.R. 1080 may help address this problem, but we look forward to working with the committee further to ensure the authority is clear.

Second, timing of the alleged IUU fishing activities and bycatch was a key issue. Much of the information available to NOAA in developing the list of IUU nations, particularly on bycatch, did not fall within the timeframes required in the *Magnuson-Stevens Act*. NOAA is only authorized to identify nations based on bycatch activity dating back to the calendar year preceding publication of the biennial report. However, information on bycatch is rarely available for the previous year. H.R. 1080 would extend that time period to 3 years.

Third, NOAA believes it is important to link the IUU fishing and bycatch activities of a particular nation to an evaluation of the impact of these activities on the effectiveness of the relevant conservation and management measures. This approach is used at the RFMOs and other international fora for gauging the degree of severity of such activities. H.R. 1080 would provide this authority.

H.R. 1080 authorizes, but does not require, the United States to create an IUU vessel list. In implementing this provision, it makes sense, in our view, to draw solely from the IUU vessel lists established by the various RFMOs to which the United States is a Party, and others as appropriate, and to work to consolidate and harmonize those lists to the extent practicable. Drawing from RFMO IUU vessel lists would be consistent with the multilateral approach that we continue to believe is the most effective means of addressing such issues. We see nothing in HR 1080 that would preclude this approach, but we are open to working with the subcommittee should any clarification on this point be warranted.

The provisions in H.R. 1080 that clarify and strengthen our enforcement authority and harmonize various statutory provisions on international fisheries management obligations are also helpful. These tools would improve the ability of law enforcement officials and prosecutors to address IUU activity with sanctions more proportional to the significant profits made through IUU fishing and trade in the resulting product.

Finally, H.R. 1080 improves the ability for law enforcement agencies to share fisheries data with other appropriate agencies and officials, both domestically and internationally — an important tool to combat the global IUU problem.

The Administration may have additional suggestions with regard to H.R.1080, and we welcome the opportunity to work with the Committee as the bill moves forward.

Conclusion

In closing, I would like to reaffirm my gratitude, Chairwoman Bordallo and members of the Subcommittee, for the opportunity to discuss activities underway at NOAA to address IUU fishing, highlight some of the obstacles we face in this effort, and explain how the enhanced authority provided in H.R. 1080 could further our progress in combating this activity. We look forward to working cooperatively with you on this legislation as it moves forward. I will be happy to answer any questions.