

**WRITTEN TESTIMONY OF  
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**HEARING ON  
“MARINE WEALTH: PROMOTING CONSERVATION AND ADVANCING  
AMERICAN EXPORTS”**

**BEFORE THE  
SUBCOMMITTEE ON INTERNATIONAL TRADE,  
CUSTOMS, AND GLOBAL COMPETITIVENESS  
COMMITTEE ON FINANCE  
UNITED STATES SENATE**

**July 14, 2010**

**Introduction**

Mr. Chairman and distinguished members of the Subcommittee:

Good afternoon and thank you for the opportunity to be here today to describe the U.S. system of fisheries management and discuss the National Oceanic and Atmospheric Administration’s (NOAA) role in implementing rights and obligations related to international fish and ocean treaties and opportunities to achieve greater international cooperation. I am Eric C. Schwaab, Assistant Administrator of the National Marine Fisheries Service (NMFS).

As the federal agency with primary responsibility for sustainably managing the Nation’s living marine resources and their habitats, stewardship of these important resources is at the heart of the NOAA and NMFS missions. Our work is complex and incorporates many goals, which include: conducting appropriate science and research to inform decision making; incorporating ecosystem approaches to management; designing controls to achieve sustainable fisheries; protecting threatened and endangered species and marine mammals; managing fishery-induced impacts on marine habitats; enforcing U.S. fishery requirements; and ensuring the seafood produced is safe and wholesome.

Along with our federal partners, we seek similar goals internationally, including: sustainably managed fisheries, conservation of non-target, associated and dependent species and habitats; preventing, deterring, and eliminating illegal, unreported, or unregulated (IUU) fishing; and ensuring the safety of seafood destined for export or import. In this regard, we strive for a level playing field for U.S. fishermen, U.S. seafood exporters, the U.S. market for seafood, and U.S. consumers of seafood.

In my testimony today, I will discuss our domestic fisheries management regime, overcapacity and subsidies, IUU fishing, promotion of seafood exports, seafood safety, and international cooperation and assistance.

## **U.S. Fishery Management System**

U.S. domestic stewardship of marine resources is grounded in a number of legislative mandates. Three of the key mandates are the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA). There are also other mandates for domestic implementation of the conservation and management measures adopted by Regional Fishery Management Organizations (RFMOs), which are the multilateral bodies that manage transboundary fish stocks.

To achieve sustainable fisheries, the MSA includes 10 National Standards for fishery conservation and management that are implemented in the U.S. Exclusive Economic Zone (EEZ). These standards ensure that overfishing is ended and science-based rebuilding plans are implemented in a timely manner to ensure healthy and sustainable commercial and recreational fisheries. MSA also provides extensive guidance on tools to be used for reducing fishing capacity, one of the greatest challenges of domestic and global marine stewardship and fair markets.

To address the issue of overfishing, which adversely affects marine ecosystems and reduces the supply of wild-caught seafood, the 2006 amendments to the MSA added mandates to implement annual catch limits and accountability measures to end current and prevent future overfishing in federally managed fisheries. These measures must be implemented in 2010 in fisheries subject to overfishing and in 2011 in all other fisheries.

The ESA and MMPA provide standards and processes to address the potential impacts of fishing on endangered species, such as sea turtles and marine mammals, particularly bycatch. The MSA, ESA and MMPA, in addition to the National Environmental Policy Act, ensure a transparent and participatory management process in U.S. fisheries.

Furthermore, along with our U.S. Coast Guard partners, we monitor and enforce fleets and processors in the domestic fisheries. While our work is an ongoing challenge, we have made substantial progress in addressing overfishing and ensuring healthy fishing communities, as evidenced by the most recent Report to Congress on the Status of U.S. Fisheries which shows that 85 percent of our stocks are not subject to overfishing.

As one of the three principal markets for seafood (along with the European Union and Japan), over 80 percent of seafood purchased by U.S. consumers is imported product. In 2008, the United States imported 5.2 billion pounds of fish products, valued at \$14.2 billion. This underscores the importance of ensuring that illegally caught fish and fish products do not enter the U.S. market. Another critical consideration regarding international fishing is that many of our target stocks as well as protected species, such as sea turtles, whales, and dolphins, are transboundary or highly migratory species. Even the most stringent measures taken to enable science-based, ecosystem approaches to fisheries management in the United States cannot result

in sustainable fisheries and protection of non-target species if foreign fleets interacting with shared stocks are not managed under the same guiding principles. Finally, it is extremely important that U.S. fishermen are not unfairly disadvantaged by imported product harvested by foreign fishermen who are not subject to equivalent management and bycatch measures.

NOAA also works with the Department of Justice to ensure that imported seafood products are accurately labeled and declared as to species, country of origin, and weight. This protects seafood consumers and the domestic industry from fraud and unfair competition, ensures the fair and equitable application of anti-dumping duties, and ensures accurate statistical information regarding harvest, production and trade in various seafood species.

Additional domestic seafood production (through aquaculture) will reduce the nation's dependence on imports. Currently, the United States imports approximately 84 percent of its seafood and half of those imports are products of aquaculture. The United States has a large seafood trade deficit, importing about \$10 billion more than it exports (\$14.2 billion in imports versus \$4.3 billion in exports). Of the seafood imported by the United States, 60 percent comes from Asian countries, led by China and Thailand. U.S. aquaculture (freshwater and marine) supplies about 5 percent of the U.S. seafood supply and U.S. marine aquaculture supplies less than 1.5 percent.

NOAA takes a thorough approach to sustainable aquaculture that will create employment and business opportunities in coastal communities; provide safe, sustainable seafood; and complement the agency's comprehensive strategy for maintaining healthy and productive marine populations, species, and ecosystems and vibrant coastal communities. NOAA is currently developing a new national marine aquaculture policy that reflects recent stakeholder input and builds on previous agency efforts in this area. In addition to exploring future aquaculture technologies, along with a variety of academic and private sector partners through research funding and technology development, NOAA also supports aquaculture activities aimed at rebuilding wild fish stocks and restoring populations and habitats of marine species.

### **Addressing Overcapacity and Subsidies in International Fisheries Management Fora**

NOAA officials work with counterparts in the Office of the U.S. Trade Representative (USTR), the Department of State, the U.S. Coast Guard and other agencies to address the challenges of fishery-sector subsidies that lead to overcapacity and overfishing around the world. The USTR has the lead in the negotiations underway at the World Trade Organization to improve rules on government subsidies to the fisheries sector. NOAA has assisted with these negotiations since their initiation at Doha, Qatar in 2001.

NOAA has also worked with foreign counterparts in the Committee for Fisheries of the Organization for Economic Cooperation and Development (OECD) to explore solutions to key fisheries management challenges through political and economic analyses of the institutions and governance structures affecting fisheries. Studies emanating from the discussions in the OECD Committee for Fisheries provide clear guidance to member States about why and how to transition to sustainable fisheries, including reducing harmful fishing subsidies and overcapacity.

The United States has chaired this Committee for the past four years, and has focused its efforts on developing a work plan that addresses, among other themes, best practice guidelines for decommissioning schemes to deal with fleet overcapacity and the economics of rebuilding fisheries.

The United States is a member country of a number of RFMOs that oversee management of highly migratory and transboundary fish stocks. Examples include membership in three of the world's five tuna RFMOs (covering the Atlantic, Western Pacific, and Eastern Pacific oceans) and the International Pacific Halibut Commission. NOAA representatives have been appointed U.S. Commissioners to several of these RFMOs. U.S. Commissioners to these RFMOs advocate sustainable management principles based upon our domestic fisheries management that include science-based catch limits, improved monitoring, enhanced data collection, and minimization of bycatch and habitat impacts. They also advocate for controls on fishing capacity in cases where overcapacity is leading to overfishing. While progress in the international arena has been slow, preliminary steps have been taken toward implementation of capacity control measures in international fleets, such as capacity limits in the eastern Pacific tuna fisheries and vessel registry systems in most of the RFMOs.

### **Addressing IUU Fishing by Foreign Vessels**

IUU fishing by foreign or flagless vessels is estimated to generate between \$10 and \$23 billion in gross revenue each year. This illegal fishing can undermine our domestic fishery management and negatively impact sustainable international fisheries management, with substantial impacts on 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 products. NOAA and its federal partners continue to work with other countries bilaterally and multilaterally to address the threat of IUU fishing and trade of illegal products.

In the global context, the Food and Agriculture Organization of the United Nations (FAO) developed, in 2001, its International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing. In 2004, the United States, within the context of the International Plan, developed its own National Plan of Action to Prevent, Deter, and Eliminate IUU Fishing. The National Plan establishes a commitment to developing controls on IUU products entering the United States, developing measures to deter IUU fishing by identifying and penalizing IUU vessels and the nations that provide flags to those vessels, and broader measures to strengthen international organizations as well as other nations' abilities to combat IUU fishing. The United States also continues to push for effective action to combat IUU fishing in global bodies and RFMOs, as well as in negotiations to establish new RFMOs. A copy of this National Plan of Action has been submitted for the record for inclusion with my written testimony. Also submitted is the January 2009 Biennial Report to Congress on Implementation of the Title IV of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. This report provides a summary of recent actions by NMFS to address IUU fishing.

NOAA also works in other international fora to deter IUU fishing operations. Many RFMOs identify vessels engaged in IUU fishing and adopt measures to penalize those vessels through

denial of port entry or access to port services. These IUU vessel lists also serve to highlight illegal operations, so the fishing industry (including processors and importers) 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, fueling, or provisioning. NOAA recently proposed regulations to prevent port entry and access to port services for vessels included on an RFMO IUU vessel list. Further, the United States took a leading role in negotiating the FAO Port State Measures Agreement, which sets minimum standards for actions nations must take to strengthen controls on vessels carrying fish into the world's ports, especially IUU vessels. The agreement was approved by the FAO on November 22, 2009, and the United States has signed it along with fifteen other countries. NOAA is currently developing proposed legislation to implement this Agreement which will need to be taken up by Congress.

As called for in the High Seas Driftnet Fishing Moratorium Protection Act, the United States identifies foreign nations whose fishing vessels have been engaged in IUU fishing. This process was mandated in the international provisions of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. Under this process, in 2009, the United States identified six nations for IUU activities of their fishing vessels: France, Italy, Libya, Panama, the People's Republic of China, and Tunisia. Subsequently, NOAA, working through the Department of State, has consulted with relevant officials in each of the identified nations, as called for by the legislation. The United States 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 fishing activity will inform the last step of the process, which is to certify to Congress whether appropriate corrective action has been taken by the identified nations, or whether the relevant RFMO has implemented measures that are effective in ending IUU fishing activity. The failure of an identified nation to take sufficient corrective action 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 May 2010, NOAA produced a progress report, which includes a synopsis of progress made in the consultations. A copy of this report has been submitted for the record for inclusion with my written testimony.

The NMFS Office of Law Enforcement routinely engages in international investigations targeting multi-national business operations that engage in illegal trafficking on a global scale. In recent years, the Office of Law Enforcement has been able to identify a number of multi-million dollar operations engaged in trafficking IUU fish and fish products. These investigations 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. The Office of Law Enforcement also works closely with the U.S. Coast Guard to detect illegal incursions into the U.S. EEZ using sea and air patrols, vessel monitoring systems, and other surveillance tools.

NOAA also works with the U.S. Coast Guard, Customs and Border Protection, the Department of State, other federal agencies and our international partners to prevent IUU fishing products from entering the U.S. marketplace. Many of the fisheries products with the highest value, and

thus most likely to be harvested and traded illegally, such as bluefin tuna, Patagonian toothfish, and bigeye tuna, are controlled via international catch documentation schemes, which NOAA implements and enforces. These catch documentation schemes monitor international trade, identify the origin of imports, and determine if the imports were caught in a manner consistent with relevant international conservation measures. Further, NOAA is working to integrate its trade monitoring programs into the International Trade Data System (ITDS), which 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 integration of fisheries information into the International Trade Data System will significantly enhance the coordination between federal agencies in detecting and responding to potential IUU fish and fish products.

In 2001, the United States joined other countries to establish the International Monitoring, Control and Surveillance 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 this type of cooperative law enforcement across national borders. NOAA has served as the host for the Network since its inception, and funding for the Network has been provided by NOAA and several partners, including Australia, Canada, New Zealand, and the United Kingdom. NOAA continues to work to improve the monitoring, control, and surveillance capabilities in developing countries and is working closely with other Network partners to coordinate the Third International Monitoring, Control, and Surveillance Network workshop in Mozambique in 2010. Successful workshops were held in Malaysia in 2005 and Norway in 2008.

Finally, I would like to note two pieces of legislation that would provide NOAA with additional tools to combat IUU fishing. Senator Inouye championed S.2870, the International Fisheries Stewardship and Enforcement Act which is supported by several Members of this Subcommittee. In March 2010, the Senate Committee on Commerce, Science, and Transportation passed this comprehensive bill which would greatly enhance NOAA's ability to combat IUU fishing and prevent illegal fish product from entering the United States. In September 2009, the House passed a similar bill, H.R.1080, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009. Among other things, these bills make several technical changes to improve current international fisheries statutes, advance NOAA's enforcement capabilities, and authorize a broader capacity building program to help other nations address IUU fishing. The Administration would like to note that S.2870 would authorize two programs that are not included in the FY 2011 Budget.

### **Promoting and Facilitating Seafood Exports**

In addition to NOAA's previously summarized efforts in support of negotiations to rein in global fisheries subsidies and to combat IUU fishing, we work closely with the Department of Commerce's International Trade Administration and the USTR to lower tariff and non-tariff

trade barriers to U.S. exports through bilateral and multilateral trade negotiations. U.S. seafood exports totaled in excess of \$4 billion last year, making the United States one of the five largest exporters of fish and fish products.

Many countries have established import requirements on fish and fish products that can serve as non-tariff trade barriers, such as import quotas, requiring complicated and lengthy “pre-approval” processes for the U.S. exporter, limiting who a U.S. exporter can sell to, and the imposition of import fees in addition to tariffs.

U.S. exporters are also at a competitive disadvantage for exports to both developing and developed countries due to foreign tariff rate structures; the European Union, for example, imposes an average tariff of 12 percent for fisheries products coming from most countries, and some developing countries have average tariff rates in excess of 25 percent, compared to the U.S. average tariff level of 2.4 percent for fisheries products. Preferential agreements between other countries which exclude the United States can provide easier market access for our competitors; Canada, for instance, is able to sell shrimp species that compete with Oregon shrimp into the EU at rates far below those applied to similar products from the United States. Seafood safety and sanitary requirements in some instances have required meeting standards that are not consistent with those used by the United States; for example, the European Union requires that bivalve mollusks be certified based on the safety of the meats while the United States deems this as unsatisfactory and bases its safety determinations on the safety of the growing waters. The EU currently has a ban on the importation of bivalve mollusks from the U.S. waters.

In some cases, the high quality of our domestic science and management gives the United States the platform and credibility with which to compete in the export market. For example, in January 2010, the European Union implemented a measure that required all imports of seafood products to be officially designated “non-IUU” in order to enter their market. In the course of a year-long negotiation, the United States successfully demonstrated to the European Union that the U.S. fisheries management and enforcement system effectively controls IUU fishing. As a result, U.S. seafood exports valued at approximately \$1 billion per year continue to have access to the European market with no disruption after the implementation of the European Commission Regulation.

Within the U.S. Government, NOAA advocates for and advances the interests of U.S. seafood businesses and consumers on issues affecting worldwide trade, market access, consumer health and safety. NOAA staff in the United States and two contract employees in the European Union and Japan also provide direct assistance to the U.S. fishing industry with respect to informing them of new international regulations and standards, interceding with foreign governments on behalf of industry over certification disputes, identifying market opportunities, and generally facilitating the free flow of trade between U.S. seafood business and our trading partners.

### **Ensuring the Safety of Seafood Imports and Exports**

The NOAA Seafood Inspection Program operates on a fee-for-service basis under the authority of the Agricultural Marketing Act of 1946 to provide inspection services for fish, shellfish, and

fishery products to the seafood industry. Inspectors provide a wide variety of services and work to verify the safety and quality and to deter fraud and mislabeling of the products.

The NOAA Seafood Inspection Program inspected and or certified approximately 2.1 billion pounds of domestic and foreign produced seafood in 2008 at a cost to the seafood industry of less than one penny per pound. The major drivers for inspection today include consumer pressure on industry to provide safe seafood, industry demand for access to foreign markets, and assurance the product meets industry specifications, particularly of large retail establishments such as Costco, Walmart, and Safeway.

NOAA's program helps to ensure high-quality seafood products reach U.S consumers and the export market by offering services in three major categories — (1) inspection of processes, products and product grading domestically and overseas; (2) export certification; and (3) training — which give assurance that the products are safe, wholesome, and meet the expectations of buyers and suppliers in the seafood industry.

### **Opportunities for Increased International Cooperation**

One of the most important ways that NOAA can help enhance international cooperation towards achieving sustainable fisheries is through international assistance activities. Recently, NOAA established the International Cooperation and Assistance Program focused on, among other things, improving the ability of foreign nations and international organizations to combat IUU fishing. NOAA has invested more than two million dollars since the program began in 2007. 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 fisheries enforcement and improve fisheries observer programs in other countries. 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. NOAA's assistance programs improve the management and science capabilities of other nations, allowing them to meet standards similar to those required of the U.S. fishing industry, thereby helping to level the playing field for the U.S. fishing industry. Moreover, these activities have the potential to open communication with non-traditional partners which can make RFMO meetings more productive towards achieving U.S. objectives.

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 and/or bycatch of protected living marine resources. Based on need and mutual interest, NOAA is currently focusing on three regions for international cooperation and assistance: West Africa, the Caribbean, and Southeast Asia.

### **Conclusion**

In summary, NOAA sets forth a model approach to fisheries management and promotes international cooperation to achieve sustainability of fish stocks and non-target species through its implementation of international treaties and fishery management agreements. By combating

IUU fishing, addressing overcapacity, ensuring seafood safety, and providing training and technical assistance to developing nations, NOAA plays a key role in promoting ocean conservation and achieving sustainable fisheries worldwide. NOAA undertakes these efforts in recognition of the need to remove distortions in global seafood markets and ensure fair market access for U.S. fishermen. NOAA is an essential partner in promoting U.S. seafood exports and achieving sustainable trade policies.

Thank you, Mr. Chairman, for the opportunity to provide testimony on these important topics, I would be happy to answer any questions that you or the Subcommittee may have.