

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

**LEGISLATIVE HEARING ON
H.R. 69, “ILLEGAL, UNREPORTED, AND UNREGULATED FISHING
ENFORCEMENT ACT OF 2013”
H.R. 2646, “REVITALIZING THE ECONOMY OF FISHERIES IN THE PACIFIC ACT”
AND
H.R. __, “PIRATE FISHING AND ELIMINATION ACT”**

**BEFORE THE
SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES**

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Introduction

Good morning Mr. Chairman and Members of the Committee. I am Russell Smith, Deputy Assistant Secretary for International Fisheries at the National Oceanic and Atmospheric Administration (NOAA), within the Department of Commerce. Thank you very much for the opportunity to come before you today to discuss several pieces of legislation pending before the Committee.

Before I address the bills being considered by the Committee, I wish to provide some context about the importance of marine fish and fisheries to the United States’ economy and culture. Marine fish and fisheries, such as salmon in the Pacific Northwest and cod in New England, have been vital to the prosperity and cultural identity of coastal communities in the United States. U.S. fisheries play an enormous role in the U.S. economy. Commercial fishing supports fishers and fishing communities, and provides Americans with a sustainable, healthy food source. The seafood industry in the U.S.—harvesters, seafood processors and dealers, seafood wholesalers and seafood retailers, taking into account imports and multiplier effects—generated \$129 billion in sales impacts and \$37 billion in income impacts, and supported 1.2 million jobs in 2011.¹ Recreational fishing also makes significant contributions to employment and the economy in the United States. Recreational fishing generated an estimated \$56 billion in sales impacts, \$18 billion in income impacts, and supported 364,000 jobs in 2011.² Subsistence fishing provides an essential food source and is culturally significant for indigenous peoples.

¹ See Fisheries Economics of the U.S. 2011. NMFS Office of Science & Technology, available at: http://www.st.nmfs.noaa.gov/economics/publications/feus/fisheries_economics_2011.

² Sabrina J. Lovell, Scott Steinback, and James Hilger. 2013. The Economic Contribution of Marine Angler Expenditures in the United States, 2011. U.S. Dep. Commerce, NOAA Tech. Memo. NMFS-F/SPO-134, 188 p.

To ensure the long-term availability of these resources for the American people, NOAA relies on clear, science-based rules, fair, effective and consistent enforcement, and a shared commitment to sustainable management. Much of this work occurs under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which sets forth standards for the conservation, management and sustainable use of our Nation's fisheries resources. The application of these standards has resulted in a federal fishery management system that has made very significant progress in ending overfishing and rebuilding our Nation's fisheries.

The United States is now the world's largest importer of seafood.³ In 2011, seafood imports contributed 176,000 jobs, \$48.4 billion in sales impacts, and \$14.8 billion in value added impacts.⁴ As such, the United States is in a unique position to support sustainable fisheries around the world while providing a level playing field for our domestic fishermen. To achieve this, it is imperative that the United States take steps to eliminate the economic incentives for engaging in illegal, unreported, or unregulated (IUU) fishing by closing our market to products from those IUU fisheries. Working in collaboration with the Department of State and the U.S. Coast Guard, NOAA engages in international fisheries fora, such as Regional Fisheries Management Organizations (RFMOs), to ensure that shared fish stocks are sustainably managed, including by ensuring that management is based on the best available science. As the United States is a leader in sustainably managing fisheries, we regularly draw from our domestic experience and convince RFMOs to apply, in the waters under their jurisdiction, management measures comparable to those applied in U.S. waters.

One of the greatest challenges to our international efforts to ensure the sustainable management of global fisheries is combating IUU fishing. IUU fishing is a global problem that threatens ocean ecosystems and impacts fisheries, food security, and coastal communities around the world. Experts estimate global economic losses from IUU fishing range between \$10 and \$23.5 billion.⁵ By circumventing conservation and management measures, companies and individuals engaging in IUU fishing cut corners and lower their operating costs, impacting not just target species, but also species taken as bycatch, as well as marine habitat. As a result, their illegally caught products provide unfair competition for law-abiding fishermen and seafood industries in the marketplace, and can undercut the sustainability of international and U.S. fisheries.⁶

H.R. 69 - Illegal, Unreported, and Unregulated Fishing Enforcement Act Of 2013

The Administration has not taken a position on H.R. 69, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013. However, NOAA has and will continue to strive to achieve the objectives of the Act, namely strengthening the international conservation and management of fish stocks and combating IUU fishing.

Title I of the bill's provisions would harmonize the enforcement provisions amongst the statutes

³ See February 2014 UN Food and Agriculture Organization FACT SHEET: International fish trade and world fisheries at ftp://ext-ftp.fao.org/FI/Data/cofi_ft/COFI_FT_Factsheet.pdf.

⁴ See Fisheries Economics of the U.S. 2011, at 7.

⁵ Agnew DJ, J. Pearce, G. Pramod, T. Peatman, R. Watson, et al. (2009). Estimating the worldwide extent of illegal fishing. PLoS ONE, 4(2): e4570.

⁶ United Nations Office of Drugs and Crime. *Issue Paper - Transnational Organized Crime in the Fishing Industry* http://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf. 2011

that implement regional fisheries conservation and management and other international fisheries agreements to which the United States is a party. In some cases, the enforcement provisions of these laws have not been updated in several decades. It would incorporate the enforcement provisions of the Magnuson-Stevens Act by reference, providing more consistent enforcement across all of the statutes to which it applies and increase penalties that can be applied proportionally to effectively deter illegal conduct and reflect the damage to the ecosystem from IUU activities. Differences among the various statutes implementing our international fisheries agreements create inconsistencies in how IUU fishing situations can be investigated and prosecuted depending upon which international agreement is involved. NOAA also supports enactment of stronger enforcement provisions to provide a fuller complement of administrative, civil judicial, and criminal enforcement remedies that could be used as appropriate to address IUU violations. Having the ability to seek civil judicial or criminal sanctions, in addition to administrative sanctions, would enable the United States to respond more appropriately to violations of differing levels of severity and would strengthen our enforcement efforts in the international arena.

In addition, the bill authorizes new enforcement tools related to detecting imports of fish and fish products that were harvested or imported illegally. Similarly, it also increases information sharing and coordination among the agencies involved in international fisheries enforcement. The bill would also authorize new enforcement and rulemaking authorities.

Current law only authorizes the identification of a nation for IUU fishing if two or more of its fishing vessels have engaged in IUU fishing within the specified time period. H.R. 69 would expand the time frame that NOAA can consider in our identification process to three years. Expanding the time period to three years would also enhance the agency's ability to identify countries for bycatch of finfish and protected species.

H.R. 69 also provides the authorities to implement legislation for the Convention for the Strengthening of the Inter-American Tropical Tuna Commission (Antigua Convention). The Antigua Convention is an international agreement that provides updates to the mandate and functions of the Inter-American Tropical Tuna Commission (IATTC), which manages tunas and other highly migratory species in the eastern Pacific Ocean. The convention which created the IATTC, and which is being updated by the Antigua Convention, was adopted in 1949. As a result of strong U.S. leadership, the Antigua Convention contains modern principles and reflects the duties and responsibilities of nations to cooperate towards ensuring the sustainable management of shared fisheries resources and to conserve marine ecosystems on which sustainable fisheries depend.

H.R. 69's provisions also authorizes the sharing of fisheries data to combat IUU fishing and improve fisheries management. NOAA is concerned with the sustainability of foreign fisheries that supply our market and support jobs within the U.S. market. Since many fish stocks move within and beyond national jurisdictions, and since such a large proportion of all seafood is traded internationally (nearly 40 percent, per FAO), NOAA must work in cooperation with our international partners to help ensure that these fisheries are sustainable. Our international cooperation and assistance activities have multiple benefits. We work on building relationships with our international partners to support strong management and enforcement regimes that

ultimately support our U.S. seafood interests and more generally bolster our own economic well-being.

I would like to share a case I find particularly interesting to help showcase the work we do to combat IUU fishing. In 2011, a number of individuals and companies in the Gulf of Mexico region were sentenced for engaging in a large scale seafood smuggling enterprise. In this scheme, the defendants conspired to illegally import and sell fraudulently labeled Vietnamese catfish as grouper or other more valuable species. They did this to avoid federal import tariffs associated with Vietnamese catfish, which would have been approximately \$9.3 million in this case, and because the market price of grouper is much higher, generally more than double, that of Vietnamese catfish. The defendants illegally imported more than ten million pounds, or \$15.5 million worth of frozen fish fillets. These illegal activities, and those like it, displace legitimate, legally produced domestic fish product and create an uneven playing field in the U.S. market. Our criminal prosecution of the defendants supported the interests of our domestic fishermen and highlights the importance of having access to the enforcement tools necessary to combat IUU fishing..

I applaud the efforts of this Committee in highlighting the problem of IUU fishing. We look forward to working with the Committee to address IUU fishing.

Port States Agreement

The Administration has not taken a position on the Pirate Fishing Elimination Act, which authorizes implementation of the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement). The Port State Measures Agreement is the first binding global instrument focused specifically on combatting IUU fishing. It recognizes that all fish must pass through a port to get to market and that port States can take cost-effective measures to combat IUU fishing. IUU fishing deprives law-abiding fishermen and coastal communities around the world of up to an estimated \$23.5 billion of seafood and seafood products every year⁷, and undermines efforts to monitor and sustainably manage fisheries. It also threatens the food security of some of the poorest countries in the world as well as in the United States and interferes with the livelihood of legitimate fishers around the world. Seafood caught through IUU fishing enters the global marketplace through ports all around the world. Preventing that fish from entering the stream of commerce requires an international solution and the cooperation of countries throughout the world.

The Port States Agreement is recognized within the international community as a landmark in the effort to combat IUU fishing. The United States was a primary participant in its negotiation and was one of the first countries to sign it. We took a leadership role because we recognized how important taking these measures are for nations that want to ensure that product entering their ports has been legally harvested and is safe for consumers. We have had experience with the implementation of most of the substantive measures in the agreement as most are already authorized under U.S. law, albeit in a more limited context.

The Agreement has already had significant impact on efforts to combat IUU fishing, influencing

⁷ Agnew DJ, J. Pearce, G. Pramod, T. Peatman, R. Watson, et al. (2009). Estimating the worldwide extent of illegal fishing. PLoS ONE, 4(2): e4570.

the adoption of similar measures by various RFMOs and providing a model for nations, developing nations in particular, to follow in establishing or strengthening dockside inspection programs. However, the full effect of the Port States Agreement as a tool to combat IUU fishing will not be realized until its entry into force, which requires ratification by 25 nations or regional economic integration organizations. So far, ten have done so. Ratification, and implementation, of the Port States Agreement by the United States will demonstrate strong leadership in the global battle against IUU fishing and will position the United States to encourage ratification and implementation by other countries.

The Agreement sets forth minimum standards for the conduct of dockside inspections and training of inspectors and, most significantly, requires parties to restrict port entry and port services for foreign vessels known or suspected of having been involved in IUU fishing, particularly those on a RFMO IUU fishing vessel list. These minimum standards would increase the risks and costs associated with IUU fishing activities and help to ensure that IUU fish and fish products do not enter into global trade. Implementation of the Port States Agreement will ultimately benefit U.S. fishermen, seafood buyers, and consumers by preventing IUU vessels from entering our ports and diluting the market with illegal product.

The Port States Agreement has four primary sets of obligations that Parties are required to apply vis-a-vis foreign flagged fishing vessels (including support vessels) seeking entry to a Party's port and these are reflected in the legislation that was transmitted to Congress:

- Parties are required to designate ports to which foreign flagged vessels may seek entry, to require that certain information be collected and considered, and to establish a process for granting or denying port entry and/or the use of port services to foreign flagged fishing vessels;
- Parties must maintain the capacity to conduct dockside vessel inspections in the designated ports and adhere to minimum standards for the conduct of inspections and the training of inspectors. A sufficient number of inspections must be conducted to satisfy the objective of the Agreement;
- Subject to certain limited exceptions, Parties must deny port entry and the use of port services to vessels that have been engaged in IUU fishing, including as indicated by inclusion of the vessel on an RFMO IUU Vessel list. Importantly, the limited exceptions include allowing port entry exclusively for enforcement purposes or in the event of force majeure; and,
- Parties are required to share information, including inspection results, with the flag States and, as appropriate, other relevant Parties and entities, as well as to take follow-up actions as requested by the flag State when evidence of IUU fishing is found during the course of an inspection.

NOAA would be the lead agency for U.S. implementation of the Port States Agreement. Primary responsibility to carry out its obligations, particularly those related to vessel inspections, will fall on NOAA's National Marine Fisheries Service (NMFS), Office of Law Enforcement, in

collaboration with the U.S. Coast Guard, which has Captain of the Port authority for the United States. Importantly, the minimum standards set by the Port States Agreement track closely to what the United States already does. Under the Port States Agreement, these best practices would become common practice around the world, thereby effectively closing the so-called ports of convenience that IUU fishing operators use to land their fish and support their activities. As a global leader in sustainable fishing practices, and the third largest importer of seafood in the world, the United States has a responsibility to ensure the fish we import is caught legally. The United States also has a responsibility to protect our domestic fishermen from unfair competition and ensure consumer confidence in the seafood supply by keeping illegal product out of the market. The Port State Measures Agreement marks a significant step forward on both of these counts.

The United States, with our strong legal frameworks, experience in effective port management and robust fisheries law enforcement, has been assisting developing nations in their preparations for implementation of the Agreement. NOAA has most recently assisted Indonesia in its development of training curriculum for fisheries inspectors who will carry out inspections under the Agreement. Additionally, the United States has strongly promoted the adoption of measures in RFMOs that strengthen port related measures, in accordance with the Agreement. These efforts promote the success of the Agreement and thereby reduce the amount of IUU product entering our domestic markets.

H.R. 2646, Revitalizing the Economy of Fisheries in the Pacific Act

The Administration also has not taken a position on H.R. 2646. If enacted, I understand that this legislation would direct the Secretary of Commerce to issue a fishing capacity reduction loan to refinance the existing loan funding the Pacific Coast groundfish fishing capacity reduction program. The Administration is still reviewing the bill for policy impacts and consistency with Federal credit reform requirements.

In January of 2011, the West Coast groundfish fishery transitioned from a derby fishery, with fleet-wide quotas and trip limits, to a catch share program with individual quotas that promote individual flexibility and accountability. This catch share program has been largely successful from a conservation perspective, with fishermen staying within annual catch limits and reducing bycatch of overfished species. Results from 2012 indicate a substantial reduction in the amount of bycatch and catch of unwanted species; it remains lower than the two prior years structured under trip-limit management. At the same time, results show that the groundfish fleet was able to catch a greater percentage – 29 percent – of their non-whiting target species, which is up from 24 percent in 2011. This result highlights the increased diversity of the landings and the fishermen’s ability to target new areas and markets. NMFS is pleased with the conservation results seen in this fishery, and we are also sensitive to the concerns of fishermen about the impacts of the new program with regard to their costs to participate.

NMFS is supportive of the underlying rationale contained in the purpose of the bill, which is to “conserve the West Coast groundfish fishery and the coastal economies in California, Oregon, and Washington that rely on it.” NMFS would be glad to work with the Committee on ways to best achieve this.

Conclusion

We look forward to working cooperatively with the subcommittee on how best to address the issues and achieve the goals that are being discussed here today. I will be happy to answer any questions.