

**Statement of Michael Gravitz, Director of Policy and Legislation
Marine Conservation Institute**

To

**Senate Committee on Commerce, Science and Transportation
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard**

**Hearing on Pacific Regional Perspectives on
Magnuson - Stevens Act Reauthorization**

January 30, 2014

“No Water; No Life and No Blue; No Green”

-Sylvia Earle, Board member Marine Conservation Institute

Introduction

On behalf of Marine Conservation Institute, I appreciate the opportunity to provide testimony on aspects of the Magnuson-Stevens Fishery Conservation and Management Act (MSA or Magnuson-Stevens) in the Pacific and Western Pacific and highlight improvements that would make the law even more effective than it has been since its last reauthorization in 2007.

Since 1996, Marine Conservation Institute has defined and shaped the science and practice of marine biodiversity conservation, a field that examines man's impacts on our oceans –for good and for bad. As Sylvia Earle has noted so crisply –“No water; No Life and No Blue; No Green”. Healthy oceans are essential to human survival and prosperity, but they are in deep trouble worldwide. There are many threats to ocean health: ocean warming, ocean acidification, ocean and coastal habitat destruction, too many nutrients, as well as the over fishing, pirate fishing, and the scourge of destructive fishing that Marine Conservation Institute focuses on. Unfortunately, the list goes on and on.

While each threat has its own set of potential solutions, there are some unifying themes and ONE overarching imperative for protecting marine life. Most marine scientists agree that protecting marine life in their ecosystems is the best way to maintain the oceans' biological diversity, abundance and resilience. Rather than protecting species one by one, protecting whole ecosystems is the most cost-effective and quickest way to help keep our oceans healthy.

Understanding the importance of protecting key places in the ocean led us to help persuade President George W. Bush to strongly protect three very large places in the tropical Pacific: Papahānaumokuākea in the Northwestern Hawaiian Islands in 2006; and the Pacific Remote Islands and Rose Atoll marine national monuments in 2009. These successes set off a worldwide movement to protect much larger areas of the sea.

To accelerate efforts to recover the diversity and abundance of marine life, Marine Conservation Institute recently initiated the Global Ocean Refuge System (GLORES, pronounced glôr-ees), a strategic, science-based approach to safeguard marine ecosystems on a global scale. GLORES is designed to catalyze strong protection for at least 20% of the ecosystems in each marine biogeographic region by 2030, enough to avert mass extinction that could come as the oceans warm and acidify.

As Marine Conservation Institute's Director of Policy and Legislation, I oversee our congressional and executive branch advocacy on protecting ocean habitat especially in

the Pacific. This work includes protecting deep sea corals from destructive fishing, reducing illegal, unregulated and unreported (also known as pirate fishing), financing marine conservation programs, stemming the flow of marine debris, and restoring healthy populations of the Hawaiian monk seal. Before joining Marine Conservation Institute, I was the Ocean Lobbyist for Environment America for five years, where I advocated for passage of the revised MSA in 2005-2006, worked on implementing regulations for annual catch limits after the bill was signed into law, and advocated for improvements to the National Marine Sanctuary Act.

Summary Assessment of Progress under MSA

Based on the experience of the last seven years, we believe that Magnuson-Stevens fundamentally is working well and needs only small changes to serve our conservation needs. Likening it to a seven-year-old car, MSA needs a tune-up and some touch up paint here and there. It does not need to be swapped for a new car, and it does not need to have any major systems taken out and replaced with something “better”.

For the most part, the flexibility that some desire to add to the law today was what prevented the pre-2007 versions of the law from producing sustainable fisheries and protected habitats. In the real world on the regional fishery management councils, it often turned out that flexibility was an excuse for inaction, half measures, or ignoring scientific advice. We should not go back to that era of timid and ineffectual fishery and habitat management.

The 2007 revisions have driven a sea of change in the behavior of regional fishery management councils, fishermen, and NOAA by: (1) setting firm annual catch limits and accountability measures based on the best, unbiased science available; (2) beginning to recognize the importance of habitat for healthy oceans and fish populations; (3) taking bycatch reduction seriously; and (4) improving domestic and international enforcement of fishery laws.

When Magnuson-Stevens was reauthorized in early 2007, the Pacific and Western Pacific regions had 12 fish populations that were overfished or experiencing overfishing. Today, that number has dropped to 10 fish populations. While the numerical progress seems relatively modest in those intervening years, most of these troubled fish populations were deeply depleted and are very slow growing, and therefore slow to recover (e.g., rockfishes off the west coast); or they are highly migratory species like bluefin or bigeye tunas that are fished by the US, and more significantly international fleets, outside US waters under

the control of international fishery management organizations that are struggling to become more effective.

One way of assessing the overall progress of Magnuson-Stevens is to look across all regions of the US and all the fisheries for which we have adequate status information. There are 230 fish populations that can be tracked closely enough across the time period from 2007 to now. While this index of progress, called the Fish Stock Sustainability, is imperfect, it was at 506 out of a perfect 920 at the end of 2006 and it was 616 at the end of 2012. Clearly there is more work to be done, but the trend line *is* in the right direction.

Another way to assess progress under MSA is to look at the number and type of fish populations rebuilt to sustainable levels under the new management framework. Thirty-four stocks have been rebuilt as of the third quarter of 2013. Some of the better known populations include: some crab species in Alaska, various salmon populations on the west coast, red grouper in the Gulf of Mexico, black sea bass off the south Atlantic, summer flounder off mid-Atlantic, and flounder, haddock and pollock in New England. Unfortunately, many rebuilt stocks are still at low levels compared to historic sizes.

Lest we be too self-congratulatory about progress, it is useful to remember that as of the third quarter of 2013, there were still 40 overfished populations and 26 populations being fished above replacement rate, for a total of 66 fish populations in trouble out of the 230 or so for which NOAA has sufficient information for evaluation. That is nearly 30% of the fish populations that NOAA has enough information to assess.

While progress on establishing sustainable fish populations is important, this is hardly the only or even the most important measure of progress under Magnuson-Stevens. Healthier oceans are not just made up of sustainably fished populations of commercial species. Healthier oceans require less bycatch of non-target species, larger populations of forage fish at the bottom of the food web, less habitat damaged by destructive fishing methods like bottom trawling, and protection of vulnerable marine mammals and other marine wildlife like sea birds and sea turtles from being killed by fishing. On this count, there has been progress but less than we would hope.

One crucial improvement in MSA fishery management that would make for healthier oceans is to remember that oceans are not a collection of single species to be managed separate and apart from each other. No ecosystem works that way. Instead the ocean must be managed as the dynamic and interconnected ecosystem that it is. Management must be based on the entire ecosystem and its participants. Some fish require protected

habitat to reproduce; all species need special places where the eggs and larvae grow into juveniles; fish require abundant prey to grow well, even if that prey is something humans would like to catch and eat too.

When the 2007 version of Magnuson-Stevens is reauthorized, we want Congress to recognize these principles of marine ecosystems and adopt an Ecosystem Based Management approach that recognizes the need to consider the interactions among populations and between populations and their habitat.

Habitat Protection is Key to Healthy Oceans: Essential Fish Habitat

You might ask what habitat protection has to do with sustainable fish populations or healthy oceans, and the answer is simple. Hunters and nature lovers on land know that you can't have healthy, diverse populations of animals in places that have been abused, clear cut, or burnt over; and marine scientists have shown that degraded ocean habitats like seagrass beds that are dying from sedimentation or too many nutrients, ocean bottoms that have been plowed by bottom trawls, or coral gardens that have been cut down by heavy nets, does not support abundant, diverse marine life. Like on land, many fish and invertebrates need complex structures in which to live and grow. Rocks, rubble, and reefs filled with marine plants, sea fans, gorgonians, and anemones provide protection from predators, sources of food, shelter from currents, and places to reproduce.

Therefore, it is critical that Magnuson-Stevens be used to protect these kinds of places from destructive activities of all types, not just fishing related damage. The first attempt to do this was made in the 1996 amendments to MSA when Essential Fish Habitat (EFH) was first defined. For the next ten years the regional councils did not do much with MSA's habitat requirements, so the 2007 amendments created a somewhat better framework for marine habitat protection. Better, but it is still not up to the task of consistently protecting critical habitats for fish and other marine life across different regional councils and across different types of marine habitat.

Current law requires the regional councils to collect new information about EFH every five years and assess whether existing fishery management plans are adequately protecting those places. Councils are not required to take action to designate any EFH. In addition, there is no clear set of standards for deciding where and when to apply management measures for designated EFH areas; EFH can be designated with no management actions for that area. Finally, there no requirements for management

objectives to be set for EFH when it is established. When councils protect EFH they can do so with spatial and temporal closures, restrictions on the type of fishing gear that can be used in an area, and other means. However, most EFH is accompanied by no special protection. The application of EFH by the councils has also been uneven.

For example, the Western Pacific Council prohibited bottom trawling and other bottom contact gear such as long lines in their entire region a long time ago to protect reefs and other habitat. The South Atlantic Council has established many bottom fishing closures for endangered species of fish including Warsaw grouper and Speckled hind, as well as corals in places like the Occulina Banks. The council is now reviewing whether the closures are working or need to be re-located to be more effective. This council seems to understand the utility of EFH and is willing to dynamically manage those areas.

The Pacific Council has established some EFH. In 2002, it designated extensive Rockfish Conservation Areas to rebuild populations of this group of species, but only after the populations had been overfished to extremely low levels. The council also has set aside large areas of ocean beyond depths where bottom trawling can be done today. Though much of that area will probably never be fishable, it is another step which will prevent fishing in places before we know much about their sensitivity. But there are many more steps that can, and should be taken.

Part of the problem with the EFH program is that the definition of EFH is very broad. While that allows councils to deal with fishing and nonfishing impacts on marine life, when too much of the ocean gets designated as EFH, there is loss of focus on more important, but smaller areas that might make a bigger difference in ocean health. We recommend that, rather than doing away with EFH, the law be modified to focus councils on fish or other marine populations that are not recovering under MSA and tight annual catch limits because these species' recovery is constrained by damaged habitat. This will focus the councils on habitat issues that could make a difference for healthier oceans.

The program does have a category of ocean area called Habitat Areas of Particular Concern (HAPC), but it is only a regulatory, not statutory distinction. It would be useful to put the HAPC definition and process into Magnuson-Stevens and require that HAPC areas be accompanied by mandatory management measures that protect these habitats.

The ocean is vast and assessing what is on the bottom is an expensive, time consuming process. Unlike on land, much of what is on the ocean's bottom is unknown other than its depth and contours. It would be as if all we knew about Yellowstone National Park was its

topography; and very little about the trees, plants, or animals that lived in the park was known. An example of how little we know about bottom habitat even in places close to our shores is a research trip two years ago co-led by one of Marine Conservation Institute's scientists to the submarine canyons off the Mid-Atlantic coast. Only 100 miles off the mouth of the Chesapeake Bay, Dr. Sandra Brooke and a team sponsored by NOAA discovered whole new underwater worlds on the bottom and sides of the canyons.

In order to overcome lack of visual evidence of important habitats, scientists have developed techniques to predict where important bottom living marine life should exist based on the physical characteristics associated with known habitat of different species. For many areas of ocean, these models are the 'best available science' on the question of what habitat lies beneath the waves. Called Predictive Habitat Modeling, the technique can be used to predict where important species like deep sea corals should be, and armed with these maps, scientists can then narrow their search for important habitats worth protecting. Unfortunately, many councils are unwilling to use these habitat models to establish EFH in the absence of visual evidence gathered by manned or unmanned submersibles, for which there is little funding.

One improvement to MSA would be to require councils to use these models when available to at least protect areas until they can be visually assessed so that they are not damaged in the meantime. Areas with a high likelihood of important habitat would then be protected until scientists could see what was there. Remember that today NOAA has reduced funding and assets available for field exploration to assess habitat compared to just a few years ago. To address this problem, we recommend a three step process: (1) use peer-reviewed Predictive Habitat Models to identify high probability coral habitats; (2) protect areas where justified by the models; and (3) verify model results with submersibles or remotely operated vehicles. We believe this is a sensible precautionary approach designed to deal with the expense and challenges of marine exploration.

Another potential improvement to the EFH program would be a requirement that the councils set aside some percentage—say 20%—of each type of underwater habitat (representative areas) with prohibitions on any kind of bottom contact gear like bottom trawling or bottom long lines as a way of encouraging proactive preservation. The requirement could be phased in over a period of time, for example, five years, to allow time for the councils to develop a thoughtful process based on best available science.

Two other gaps in NOAA's habitat protection program are evident. The scientific basis for how much existing habitat contributes to the recovery of damaged populations and

whether the existing program is really achieving its stated objectives both need additional research. The importance of habitat protection is undeniable, and, frankly common sense, but additional research would allow the program to more carefully tailor set-aside areas for critical stages of marine life. Second, there is no one source of US-wide information on the program available to the public or Congress. We suggest a short, periodic report to Congress to tell the program's story and build support for its achievements.

Recommendations:

- Require regional councils to use clearer criteria for picking EFH and establishing management measures for them.
- EFH and HAPC should be accompanied by explicit management objectives to enable periodic assessment of effectiveness and change in management, if needed.
- Put a Habitat Areas of Particular Concern (HAPC) definition into MSA to help narrow the focus on habitat that really makes a critical difference for improving ocean health.
- Require that some management measures must accompany HAPC designation,
- Using a precautionary approach, explicitly allow use of predictive models as the 'best available science' to establish EFH until visual inspection of an area allows better decision making.
- Mandate that 20% of each type of representative habitat in a region be protected from destructive fishing methods.

Habitat Protection: Deep Sea Corals Are the New Frontier

Deep sea corals are corals that live on the food that floats down to them from above; they are too deep to use light and photosynthetic algae like their shallow water cousins. Deep sea corals often live in extensive colonies and individual corals can be hundreds or even thousands of years old. They are very fragile and easy to destroy with bottom trawl nets, traps, long lines, etc. It is for that reason that the Senate added a program to Magnuson-Stevens at the behest of the late Senator Frank Lautenberg to identify areas where these corals existed and begin to protect them from damaging activities.

Now that we know much more about the typical members of these deep sea communities from the program's research, it would be good to enlarge the definition of these deep sea communities to include other marine life like sponges that grow at great depths and mesophotic corals that grow at depths beyond scuba access but not quite as far down as deep sea corals.

The Deep Sea Coral Research and Technology Program typically spends three years conducting research in each region to determine the extent and location of the corals. Three years of research just wrapped up in the Pacific region and the Pacific Council is now considering findings from the program. Marine Conservation Institute and others have engaged with the council providing reams of information on vital habitat that is not now protected. We will be watching to see if the council acts on some of the new information. The NOAA deep sea coral research program will start in the Western Pacific region in 2015 where approximately \$2 million is budgeted for research and surveys over the following three years.

Once regional councils are presented with data on their deep sea coral areas, they have discretion as to whether to designate them for special management measures. We believe that the councils should be required to take some measures to protect extensive deep sea coral areas from damaging activities. Currently, the burden of proof is on advocates to show why areas of deep sea corals should be protected. We would like to see the burden of proof shifted to the councils to show why areas of extensive coral concentrations should not be protected once they are identified. Another possibility here is to require councils to protect some percentage, say between 20 – 50%, of any deep sea coral areas discovered within their borders.

Recommendations:

- Expand the definition of deep sea corals to include deep sea sponges and other unique deep sea organisms.
- Narrow the focus of habitat protection to the smaller, more meaningful HAPC areas
- Require regional councils to protect identified concentrations of deep sea corals with HAPC designation and management measures that prohibit bottom contact fishing gear.

International Marine Law Enforcement and Pirate Fishing Is A Weak Link in Achieving Healthy Oceans:

Protecting marine habitat from damaging fishing techniques and other threats with regulations and maps is certainly the first step in achieving sustainable fisheries and healthier oceans. But statutes, regulations, and maps do not enforce themselves. The ocean is a big place with lots of opportunity for unobserved illegal behavior. To stop any of it requires resources to find and arrest lawbreakers and the will to prosecute them. Marine Conservation Institute became interested in this field because we believe that setting aside Marine Protected Areas or other kinds of habitat protections is just the first

step in ocean healing. These places must be well managed and well protected from those who flout protection laws.

Please note that I am NOT going to talk about domestic enforcement of fishery laws. Instead, I want to focus on how NOAA enforces the fishery laws around our Pacific territories, national marine monuments, and around the world so as to reduce Illegal, Unregulated and Unreported or pirate fishing. To begin, the US and other nations enforce fishery laws with a mix of 18th century and 20st century technology that needs to be brought into the 21st century. What do I mean?

While some fishing vessels carry ship to shore self-identification systems like the Vessel Monitoring System (VMS) and ship to ship and ship to satellite systems (Automatic Identification System – AIS), many do not. Some fishing vessels carry an internationally recognized boat identifier, like a vehicle identification number here in the US, but many do not. Some US vessels even carry automatic monitoring equipment that allows compliance personnel to watch or monitor the fishing effort from 1,000's of miles away. This is the 20th century part of the equation. In the final analysis, we believe that most enforcement actions happen because the US Coast Guard boards a suspicious fishing vessel 18th century style and finds or verifies a violation of US or international fishery laws during the inspection.

What would a 21st century integrated monitoring and enforcement system look like? Unfortunately, none exists, a problem that ought to be remedied when Magnuson-Stevens is reauthorized. Fortunately, the pieces of such a system do exist; they just have never been put together and used as a system.

Our 21st century system would use a variety of technologies to detect fishing boats in any protected area, starting with high frequency radar to detect vessels up to 50 miles offshore, even those not carrying VMS or AIS or boats with their equipment turned off to avoid detection. There would be an array of moored buoys equipped with hydrophones to listen for approaching boats and to calculate their positions. This information would be communicated up to a satellite then down to earth at a monitoring center. Alternatively, wave gliders (fancy surfboard-like boats that can navigate independently across the ocean) or autonomous sailboats could also carry hydrophones and cameras to detect and take pictures of offending fishing vessels. Finally, having identified a potential offender and its location, an aerial drone could be flown to the vessel's position to take pictures of potentially illegal activity and of the vessel's identifying name and flag. This information would be beamed back to the monitoring center, the offending vessel would be tracked to

its next port of call or interdicted on the high seas by the US Coast Guard, and then boarded by enforcement authorities to look for evidence of illegal activity.

Someday, we believe that elements of this system will be in place to protect some of our most valuable and threatened places like the Pacific marine national monuments and territories. To get there, we need a program at NOAA to do research and development on integrating these new technologies and the money to pilot test them in real life situations. And to be honest, the final element of this picture --boarding the vessel in a foreign port-- requires a degree of international cooperation on fishery law enforcement that is unusual today, though not unheard of. To really encourage the last enforcement step to spread internationally, the US needs to ratify and implement international agreements like the Port States Agreement that allows interception, inspection and seizing of the offending vessel in port or refusing entry to the vessel.

Why the fuss over international and Pacific marine fishery law enforcement? There are two very important reasons:

1. *Significant economic impact on US fishermen and fishing communities.* According to best estimates, the global value of IUU fishing averages between \$10 and \$23 billion per year – meaning nearly one out of every five dollars of fish sold in international commerce is thought to be derived from IUU sources. Although IUU fishing can be prosecuted under several current US laws, additional measures, both national and international, are needed to further reduce this pirate fishing. Although no direct studies of these impacts have yet been made, primarily due to the difficulty of identifying and tracking IUU catch, reasonable assumptions and existing data indicate that the US may be importing in the range of \$1.7 billion worth of pirate seafood each year – accounting for around 18% of US imports of wild caught seafood. Broadly speaking, the possible range of IUU seafood imports to the US is \$1.2 - \$2.9 billion, or 13%-31% of the \$9.4 billion worth of imported wild caught seafood. If this seafood was replaced with domestically caught and processed seafood, an important **assumption**, US fishing and related industries might be able to reclaim as many as 28,300 jobs in coastal areas and provide other benefits to coastal economies. Lost revenues and jobs by state appear below.

Total Landings Revenue, Revenue Lost to IUU Fishing, and Number of Jobs lost to IUU Fishing for the U.S. Seafood Industry for 2011, by state.

| State | Total Landings Revenue (Millions of Dollars) | Total Revenue Lost Due to IUU Fishing (Millions of Dollars) | Number of Jobs Lost Due to IUU Fishing |
|----------------|---|--|--|
| Alaska | 1,911.54 | 612 | 10,190 |
| Massachusetts | 565.238 | 181 | 3,010 |
| Maine | 424.712 | 136 | 2,265 |
| Louisiana | 333.619 | 107 | 1,780 |
| Washington | 331.404 | 106 | 1,765 |
| Texas | 239.082 | 77 | 1,275 |
| Florida | 224.646 | 72 | 1,200 |
| New Jersey | 214.191 | 69 | 1,140 |
| California | 201.269 | 64 | 1,070 |
| Virginia | 191.665 | 61 | 1,020 |
| Oregon | 148.337 | 48 | 790 |
| Hawai'i | 91.513 | 29 | 490 |
| Maryland | 76.722 | 25 | 410 |
| Rhode Island | 75.956 | 24 | 405 |
| North Carolina | 71.177 | 23 | 380 |
| Alabama | 50.941 | 17 | 270 |
| New York | 37.625 | 12 | 200 |
| Mississippi | 30.3 | 10 | 160 |
| New Hampshire | 23.483 | 7 | 125 |
| South Carolina | 23.268 | 7 | 125 |
| Connecticut | 19.668 | 6 | 105 |
| Georgia | 16.295 | 5 | 85 |
| Delaware | 7.091 | 2 | 40 |
| Total | \$5,309.742 | \$1,700 | 28,300 |

Source: Plundering the Seas; The Damage from Pirate Fishing on US Fishermen. October 2013 Draft. Available from Marine Conservation Institute by request.

2. *Significant impact on priceless natural resources around the world.* Even when marine habitat is protected with a Marine Protected Area designation of some kind to achieve a conservation objective, unless the area is enforced, the designation often draws IUU fishermen to the location to feast on resources that are frequently richer than in surrounding waters. Protecting habitat without real protection through enforcement is no good. Marine Protected Areas become Marine Poaching Areas.

Recommendations for Improving Marine Law Enforcement under MSA

Congress should improve the Magnuson-Stevens framework for handling nations and vessels that violate US fishery laws, international fishing treaties, or RFMO agreements, especially countries and vessels that are repeat offenders. Getting countries in trouble with a 'blacklist' every two years, working for remediation, and assessing progress has not resulted in a large decline in illegal, unreported or unregulated fishing or easier enforcement. This Committee and NOAA ought to investigate some other means of faster, more transparent, and more effective enforcement. One idea is to involve the flag issuing country more directly in the enforcement action. The principle of "You flag it; you fix it or pay for it" would put some responsibility on the nations that flag fishing vessels to help in enforcing the laws or paying for violations of those vessels they 'rent' their flag to.

Congress might want to consider a requirement for universal AIS or VMS usage and comprehensive fishing vessel ID for all boats catching fish that might be imported into the US. The exporter or producer would have to certify that each shipment was caught by a vessel equipped with AIS/VMS and a vessel ID.

Congress should establish a research, development and pilot program for advanced technologies for marine monitoring, vessel identification, and enforcement. It might first be used in US marine monuments, marine sanctuaries, and possibly elsewhere. This program would push forward new technologies like high frequency radar, acoustics, aerial drones, wave gliders, etc. for more cost effective marine law enforcement than currently available via US Coast Guard cutters and aircraft.

The Senate should streamline existing laws and treaties related to IUU fishing by passing S.269 (International Fisheries Stewardship and Enforcement Act), a bill that the late Senator Inouye repeatedly introduced, preferably in a standalone bill without waiting to do so in MSA reauthorization.

The Senate should ratify the Agreement on Port State Measures to Prevent, Deter and Eliminate illegal, unreported and unregulated fishing and pass the implementing legislation embedded in S. 267 (Pirate Fish Elimination Act) which will be used by the US

and other countries around the world to deny port entry to vessels suspected of trying to unload IUU fish.

Congress should consider asking NOAA, the US Coast Guard, and the Department of Justice for some basic information about what their fishery enforcement effort, case load and case status and disposition is. It is difficult to understand the law enforcement enterprise without some basic data that should be available to the public and law makers.

Finally, a provision in MSA's Enforcement section (Section 3119d)) requires offending vessels in large areas of the Pacific be escorted or towed to Guam rather than the nearest US court available in Samoa, Honolulu, or the Northern Mariana Islands. It would be more efficient to allow the Coast Guard to take the vessel to the nearest or most convenient district court at its own discretion. There are one or two cases where vessels have had to be towed much farther than needed which discourages proactive enforcement by the authorities who have to pay for interdictions and towing.

Recommendations for Marine Law Enforcement and Fighting Illegal, Unreported, and Unregulated (IUU) Fishing

- Equipment for VMS and/or AIS should be carried on board all commercial fishing vessels and turned on at all times in US waters.
- Edible fish imports to the US should be required to be accompanied by verification from the producer or exporter that AIS/VMS was used on board when the fish was caught by a vessel(s) accompanied by a specified vessel ID number. There should be stiff penalties for false information.
- All fishing vessels should be equipped with a unique vessel ID number like a US vehicle VIN.
- NOAA, US Coast Guard, and the Departments of State and Justice should develop an improved framework beyond the biennial Black List for reducing IUU fishing.
- Senate should establish a research, development and pilot program for advanced technologies for marine monitoring, vessel identification, and enforcement.
- Senate should ratify the Ports State Agreement and pass S. 267 to implement this agreement aimed at reducing international IUU fishing by making sales of IUU fish much harder.
- Senate should pass S.269 to streamline existing fishing enforcement laws and provisions.
- Senate should require basic information about fishery enforcement activity and case load to be provided to relevant committees and the public on some periodic basis.

- Senate should modify MSA to enable the US Coast Guard flexibility in where it takes offending vessels in the Pacific.

Financing Conservation and Enforcement Efforts

NOAA's budget for marine enforcement, especially remote Pacific and international enforcement efforts is tightly constrained. The Office of Law Enforcement in the National Marine Fisheries Service which collects evidence for cases, the Office of General Counsel for NOAA which issues violations and summary settlements, and the Justice Department's Environment and Natural Resources Division which prosecutes cases all have limited staff and resources for fisheries and habitat enforcement.

In an effort to reduce backlogs and create a more robust enforcement effort, we recommend that the Senate consider providing additional dollars for these activities from the Saltonstall-Kennedy program that receives 30 percent of US tariffs on imported fish and fish products. The Senate could direct NOAA to take some of this existing money and put it into enforcement. Or, we believe it would be reasonable to modestly increase the tariffs on imported fish and fish products to support better international enforcement. Since up to 20% of imported fish is very likely to be caught by international pirate fishing, doesn't it make sense to raise the tariff on fishery imports to try to reduce the amount of pirate fishing worldwide?

The Congress (taxes and tariffs have to start in House Ways and Means) might consider raising the tariffs (or asking the relevant authority to do so) on imported fish and fish products which today average about 1.4% of the value of the imports. This works out to a current average tariff of \$0.04 per pound. Increasing the average tariff by a penny a pound would raise approximately \$50 million per year for: (1) research and development and a pilot program for 21st century fishery monitoring and enforcement and for (2) fishery enforcement efforts aimed at reducing IUU fishing. With average tariff rates of \$0.04 per pound, it is difficult to imagine any trade distortion if the average tariff goes up by one cent per pound, or any substantial impact on prices at the consumer level. In addition, the tariff increase would not be seen as subsidizing the US fishing industry, an important WTO criterion, as we understand it.

Hawaii and the Endangered Hawaiian Monk Seal

Although the MSA is the focus of this hearing, I also want to point out the critical importance of the National Marine Fisheries Service's (NMFS) other major statutory

authorities—running an effective protected species program that conserves and rebuilds population of marine mammals and other listed marine species. Let's not forget that conservation of legally protected species is hugely important to the preservation of marine biodiversity and healthy ecosystems. Preservation of marine biodiversity and healthy oceans should in fact be a co-equal objective of NOAA's along with sustainably managing fisheries.

MCI conducts a field program in Hawaii whose purpose is to build support among fishermen and local communities for the protection of the Hawaiian monk seal, one of the four rarest seals on Earth. The seal's entire population of approximately 1,000 lives entirely in Hawaiian waters. Marine Conservation Institute started this program because it was our conclusion that NMFS lacked the capability to reach out to local fisherman and communities on a regular basis to explain its program for the monk seal and to build understanding and trust by listening, really listening to these groups.

We are now trying to fill this role as an 'unofficial' partner of the agency. We regularly fill the communication gap between NMFS and fishermen and average citizens in Hawaii. We do this with regular conversations in town meetings, docks, fishermen hangouts and beaches. We run focus groups on seal conservation, distribute materials on how to avoid human – seal interactions, and work with volunteer groups doing seal conservation work.

Based on our two years of experience at this work, we are preparing a report on what is needed to improve the management of human-monk seal interactions in Hawaii by both NMFS and the state Department of Land and Natural Resources. The report will be released later this year.

One lesson to be learned from our experience in Hawaii with the monk seals that is relevant to MSA reauthorization is this. NOAA's ability to communicate with affected local communities about fishery or protected species issues needs to improve and can improve. While it is a science and regulatory agency at its core, NOAA needs to communicate with the public and affected parties like fishermen even when those messages are hard ones. And finally, there may be a useful role for organizations like ours –small nonprofits— to get involved in other situations laden with conflicts and mediate between NOAA and other stakeholders.

Thank you very much for your time and attention to improving the Magnuson-Stevens Act. MSA and its implementation by NMFS and NOAA has helped make the US an admired leader in marine conservation and sustainable fisheries around the world. We want to see the Senate build on that good progress and make MSA programs even better.

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