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U.S. DEPARTMENT OF COMMERCE**

**HEARING ON
FOUR INTERNATIONAL FISHERIES AGREEMENTS**

**BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

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Introduction

Good morning Mr. Chairman and Members of the Committee. I am Russell Smith, Deputy Assistant Secretary for International Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce. Thank you very much for the opportunity to come before you today to discuss four international fisheries agreements intended to improve the conservation and management of specific international fisheries and to combat illegal, unreported, and unregulated (IUU) fishing.

Before I address the four treaties, I wish to provide some context about why they are important to U.S. national interest. 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, including 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.

To ensure the long-term benefits of these resources to the American people, NOAA relies

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.

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 also one of the world's largest importers and consumers of seafood. In 2011, seafood imports contributed 176,000 jobs, \$48.4 billion in sales impacts, and \$14.8 billion in value added impacts.³ 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. 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 global 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, often we seek to draw from our 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 illegal, unreported, or unregulated (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 the global value of economic losses from IUU fishing range between \$10 and \$23.5 billion.⁴ By circumventing conservation and management measures, companies and individuals engaging in IUU fishing cut corners and lower their operating costs. 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.⁵

U.S. accession to the four agreements before you today would greatly strengthen our ability to sustainably manage fisheries resources globally and combat IUU fishing. The agreements are: the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean (or North Pacific Convention); the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (or South Pacific Convention); the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (or NAFO Convention Amendment); and the Agreement on Port State Measures to Prevent, Deter

³ See Fisheries Economics of the U.S. 2011, at 7.

⁴ 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.

⁵ 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

and Eliminate Illegal, Unreported and Unregulated Fishing (or Port States Agreement).

These four treaties will directly benefit U.S. interests. The new RFMOs in the North and South Pacific and the existing RFMO in the Northwest Atlantic (NAFO) will have management authority for target stocks and bycatch species that straddle U.S. waters. By joining these organizations and strengthening their management regimes, the United States can promote the use of our strong fishery management principles internationally so that foreign fishing fleets abide by the same standards as our industry. In joining the new North and South Pacific RFMOs, we are also ensuring future economic opportunities for our domestic fishing interests. Although there is currently no U.S. industry operating within the North or South Pacific RFMOs, our membership will allow for the possibility of future engagement and provide the opportunity for the U.S. to influence the management and compliance monitoring measures adopted by these organizations.

The treaties also support the U.S. seafood industry and consumers by keeping illegal fisheries product out of U.S. and global markets. The North and South Pacific RFMOs and NAFO will implement new and strengthen existing management tools to combat IUU fishing within their areas. Moreover, the Port States Agreement will help to keep IUU fishing products from entering the market, and keep them from competing with U.S. caught, sustainably harvested, legal seafood -. Denying port entry and access to port services, and consequently preventing illegal seafood from entering trade, increases the costs associated with IUU fishing operations and removes the financial incentives for engaging in IUU fishing.

Lastly, these treaties will support international sustainable fisheries management and thereby improve food security globally. Seafood is a significant source of protein for nearly 3 billion people and is the planet's most highly traded food commodity, contributing to the livelihoods of more than 560 million people.⁶ IUU fishing threatens food security and socio-economic stability in many parts of the world by reducing the productivity and profitability of legitimate fisheries, including artisanal fisheries in coastal areas. By improving the management of fisheries through these new or updated RFMOs, coupled with the IUU fishing-combating Port States Agreement, the four treaties address food security in developing coastal states, in the United States and globally; and thereby support the political stability of U.S. interests worldwide.

I now will describe each of the four agreements and the benefits they would provide in more detail.

North Pacific and South Pacific Fisheries Conventions

The United States has worked for many years with other nations to improve the management of fisheries at the international level and to protect vulnerable marine ecosystems from the impacts of certain fishing practices on the high seas. The North

⁶ United Nations Interagency Framework Team for Preventive Action. *Renewable Resources and Conflict*. http://www.un.org/en/events/environmentconflictday/pdf/GN_Renewable_Consultation.pdf. 2012

Pacific and South Pacific Conventions will advance U.S. interests in the effective management of high seas fisheries. U.S. participation in the Commissions established under the North Pacific and South Pacific Conventions will facilitate development of measures adopted for fisheries on the high seas of the Pacific Ocean that are compatible with measures adopted by the United States with respect to fisheries in adjacent waters under the fisheries jurisdiction of the United States. In addition, U.S. participation will ensure that future U.S. fishing interests subject to the North Pacific and South Pacific Conventions can be factored into allocation decisions. Furthermore, as both the South Pacific Convention area and the North Pacific Convention areas overlap with that of other Pacific RFMOs in which the United States is a party, U.S. participation will help to ensure a consistent approach to conservation and management among these RFMOs and across the Pacific.

North Pacific Convention

The North Pacific Convention establishes a new regional fisheries management organization, the North Pacific Fisheries Commission (NPFC), through which Parties will cooperate to ensure the long-term conservation and sustainable use of fisheries resources in the Convention Area while protecting the marine ecosystems of the North Pacific Ocean in which these resources occur. The North Pacific Convention Area is the high seas area (i.e., outside of 200-mile EEZs) roughly north of 20-degrees North latitude and south of the Aleutians. The specific geographic coordinates of the North Pacific Convention Area are delineated in Article 4 of the Convention. Cooperation under the North Pacific Convention will address fisheries resources not covered under pre-existing international fisheries management instruments and will help to prevent significant adverse impacts on vulnerable marine ecosystems on the high seas that may have impacts on fisheries resources in areas subject to U.S. jurisdiction. One of the general principles of the North Pacific Convention is that conservation and management measures established for straddling fish stocks on the high seas and those adopted for areas under national jurisdiction should be compatible to ensure conservation and management of these fisheries resources in their entirety.

The North Pacific Convention calls for a science-based and precautionary approach to the management of fisheries resources and a strong monitoring, control, and surveillance regime. It also will establish two committees, a Scientific Committee and a Technical and Compliance Committee, to carry out its functions. The North Pacific Convention will also allow for the meaningful participation of Taiwan as a fishing entity in the NPFC.

Of particular concern to the NPFC are bottom fisheries over seamounts that could have significant adverse impacts on vulnerable marine ecosystems. The participants to the negotiations of the North Pacific Convention have already agreed to interim measures to protect vulnerable marine ecosystems and the sustainable management of high seas bottom fisheries in the North Pacific Convention Area. The interim measures include requiring assessments prior to any fishing that demonstrate that contemplated fishing activities would not have significant adverse impacts on vulnerable marine ecosystems

and sustainability of the fishery resources.

While there are presently no U.S. vessels fishing whose activities would be covered by the North Pacific Convention, there have been in the past and may be in the future. The United States is a coastal State with fisheries and marine habitats adjacent to the North Pacific Convention Area. Those fisheries can be impacted by management measures adopted by the North Pacific Commission.

For example, since 1986, NMFS has prohibited fishing in the U.S. EEZ for Pacific armorhead, one of the groundfish species that will be managed in the Convention area. Armorhead are overfished as a result of past over-exploitation by foreign vessels in international waters dating back to the 1970s or earlier. NMFS believes that continued exploitation outside our EEZ by foreign fleets has kept the stock in an overfished condition. The Hancock Seamounts are the only known armorhead habitat within our EEZ. These seamounts lie west of 180° W. and north of 28° N., to the northwest of Kure Atoll in the Northwestern Hawaiian Islands. The Western Pacific Fishery Management Council and NMFS have responded to the overfished condition of armorhead by implementing a moratorium on catching armorhead and related seamount groundfish. The Council and NMFS recognize that, because less than five percent of the armorhead habitat lies within U.S. jurisdiction, rebuilding of the stock must be accomplished through coordinated international management. The North Pacific Convention is an important vehicle to achieve such coordinated international management.

The United States also has fleets operating in the North Pacific Convention Area that are fishing for tunas, swordfish and other species that are subject to the jurisdiction of other RFMOs which could cooperate with the NPFC.

South Pacific Convention

The South Pacific Convention establishes a new regional fisheries management organization, the South Pacific Regional Fisheries Management Organization (SPRFMO) through which Parties will cooperate in the conservation and sustainable use of the high seas fishery resources in the South Pacific Ocean and safeguard the marine ecosystems in which these resources occur.

The South Pacific Convention applies to areas of the South Pacific outside national jurisdiction from Australia to South America. Some of these areas abut the U.S. EEZ. The initial objectives of the negotiators were to develop a management framework to control bottom fishing in the western Pacific, primarily by New Zealand, Australia, and Taiwan, and the jack mackerel fishery in the eastern Pacific, primarily by Chile, Peru, and the European Union. The United States was a primary participant in the negotiation of the South Pacific Convention. SPRFMO will address fisheries resources not currently under management by pre-existing agreements, such as new pelagic fisheries or expanded fisheries for stocks that straddle one or more exclusive economic zones and high seas areas beyond them.

The South Pacific Convention requires Parties to apply specific conservation and management principles and approaches in giving effect to the objective of the South Pacific Convention. These principles and approaches are enshrined in existing international instruments to which the United States is a party, such as the 1995 Fish Stocks Agreement. These standards highlight the importance of using the best-available science and applying an ecosystem approach to fisheries management. In addition, the South Pacific Convention requires that Parties design and adopt specific conservation and management measures such as limitations on catch or effort, time or area closures, and gear restrictions.

While there are presently no U.S. vessels fishing in the high seas areas of the South Pacific whose activities would be covered by the South Pacific Convention, U.S. membership within the Commission would allow for the potential participation of future fishing interests and enable the U.S. to influence the development of new and amended conservation and management measures.

NAFO Convention Amendment

The Northwest Atlantic Fisheries Organization (NAFO) is charged with coordinating scientific study and cooperative management of the fisheries resources of the Northwest Atlantic Ocean, excluding salmon, tuna, and sedentary species of the Continental Shelf. It was established in 1979 by the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (the “Convention”). The United States acceded to the Convention in 1995 and has participated actively in NAFO since that time, often assuming leadership positions and working to advance key principles of sustainable fisheries management.

In 2005, NAFO launched a reform effort designed to streamline the Organization and bring it more in line with the principles of modern fisheries management. In 2007, NAFO members adopted the NAFO Convention Amendment, which is comprehensive, touching on every element of the Convention. It addresses specific U.S. concerns and incorporates key international fisheries governance approaches, as found in the 1995 Fish Stocks Agreement, the 1993 Food and Agriculture Organization of the United Nations (FAO) Compliance Agreement, and more recent regional fisheries management agreements. The NAFO Convention Amendment vastly improves the ability of NAFO and its membership to effectively manage the resources under its purview and the ecosystems associated with those resources.

Key elements of the NAFO Convention Amendment include provisions that detail NAFO’s objectives, including long-term conservation and sustainable use of fishery resources and safeguarding of marine ecosystems in the convention area. The agreement also outlines general principles that include (among many others) promoting optimum use and long-term sustainability of fishery resources, adopting management measures based on the best scientific advice available, applying the precautionary approach when there is scientific uncertainty, taking into account the effect of fishing on the marine

ecosystem, and highlighting the need to preserve biodiversity. This language reflects a modernized approach to fisheries management.

Furthermore, the Amendment simplifies the structure of NAFO, which will now consist of a Commission, a Scientific Council, and a Secretariat. This new structure combines the current General Council and Fisheries Commission into a single Commission and reorganizes a number of the sub-bodies. These changes will streamline NAFO considerably and result in increased efficiency, more effective conservation and management, and reduced costs. The NAFO Convention Amendment enables the Commission to take action, including non-discriminatory trade-related measures, against any State or fishing entity whose fishing vessels undermine the effectiveness of NAFO measures. It also requires the Scientific Council to advise the Commission on the impacts of fishing on the marine ecosystem as a whole within the Convention Area. Finally, the Amendment describes the formulation of the Organization's budget and the calculation of the contributions due by each Contracting Party. One important result of changes to the Amendment is that U.S. costs associated with membership in NAFO will be considerably reduced.

The NAFO Convention Amendment also describes Contracting Party duties, flag State duties, and port State duties, respectively. These provisions are noteworthy because they draw on international fisheries governance approaches found in the most important and innovative international agreements on fisheries management including the 1995 Fish Stocks Agreement, the 1993 FAO Compliance Agreement, and more recent regional fisheries management agreements. The language primarily focuses on effective implementation of measures adopted by NAFO, reporting requirements, inspections, and compliance and enforcement obligations.

The NAFO Convention Amendment rewrites the old provisions for decision making, implementation, and settlement of disputes. It modifies the current general rule for decision-making within the Commission from a simple majority to consensus and outlines voting rules to be applied, namely a two-thirds majority, if consensus is not possible. The process for implementation of Commission decisions is also substantially modified, and the NAFO Convention Amendment details how and when decisions become binding and introduces changes to the existing objection procedure. The revised objection procedure is an improvement as it, among other things, requires a detailed explanation from the objecting Contracting Party and a declaration of the actions (including alternative measures) to be taken. Objecting Parties or the Commission may also now submit matters to an ad hoc panel and/or invoke the new dispute settlement procedures, which provide the choice of a number of fora in which to seek resolutions through peaceful means. The process also requires Contracting Parties to submit disputes to compulsory proceedings pursuant to the 1995 Fish Stocks Agreement.

The NAFO Convention Amendment addresses cooperation with non-Contracting Parties and with other organizations. These new provisions are designed to ensure that non-Contracting flag State vessels abide by NAFO measures when fishing in the NAFO Regulatory Area. They call for exchange of information on fishing activities of non-

Contracting Parties and measures to deter activities (such as IUU fishing) that may undermine the measures adopted by the Commission. The new text further calls on NAFO to cooperate with the FAO and other relevant organizations, including RFMOs. This is particularly important with respect to the success of regional and global efforts relating to IUU fishing, trade tracking, and even for implementing the ecosystem management of fisheries.

Other Amendment provisions are administrative in nature (e.g., establishing procedures for review and amendment of the Convention and its Annexes). Annex I to the Convention, “Scientific and Statistical Subareas, Divisions and Subdivisions,” provides the coordinates of the scientific and statistical subareas, divisions and subdivisions of the Convention Area. Annex II to the Convention, “Rules Concerning the Ad Hoc Panel Procedure pursuant to Article XV,” is a new Annex describing the procedure for the ad hoc panels, one method available to settle disputes between Contracting Parties.

Port States Agreement

The Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing is the first binding global instrument focused specifically to combat 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 in 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 global market 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 is 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 of these measures are already contained in U.S. law.

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

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.

ratification by 25 nations or regional economic integration organizations. So far, nine have done so. Ratification 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 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. Senate advice and consent to ratification 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:

- 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.

Conclusion

Mr. Chairman and Members of the Committee, the Department of State, the Department of Commerce, the U.S. Coast Guard, and U.S. stakeholders strongly support these four international fisheries agreements. All of these agreements will contribute to the sustainable management of internationally shared fisheries resources and directly impact U.S. interests. The four agreements promote U.S. interests by (1) leveling the playing field for U.S. fishing industry by bringing foreign fishers up to the standards applied to U.S. fishers, (2) keeping illegal product from entering the U.S. and global markets and thereby supporting legal, sustainably harvested U.S. seafood products, and (3) promoting sustainable fisheries internationally which supports food security and political stability globally. U.S. accession will allow us to be at the table to further those interests.

Thank you very much for giving me the opportunity to testify on these important agreements. I would be happy to answer any questions.