



# Marine Conservation Alliance

*promoting sustainable fisheries to feed the world*

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**Senate Committee on Commerce, Science and Transportation**  
**Regarding**  
**International Fisheries Issues**  
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## **Introduction**

Thank you, Mr. Chairman, for this opportunity to testify before you today regarding management of international fisheries, including the problem of illegal, unreported, and unregulated (IUU) fisheries, and the need to improve conservation and management of marine resources on the high seas.

My name is David Benton. I am the Executive Director for the Marine Conservation Alliance, based in Juneau Alaska. The MCA is a coalition of seafood harvesters, processors, coastal communities, Community Development Quota organizations, and others interested in and dependent upon the groundfish and shellfish fisheries off Alaska. Taken together, the membership of the MCA represents about 70% of the harvesting and processing of groundfish and shellfish off Alaska.

Mr. Chairman, Alaska has high stakes in the successful implementation of practical, effective management regimes on the high seas of the North Pacific.

Alaska produces roughly half of the nation's commercial fisheries landings by volume and almost one third of the total value. The value of Alaska's seafood products ranges between \$3-4 billion dollars annually, and the industry employs roughly 50,000 workers. If Alaska were an independent nation, it would rank 9<sup>th</sup> among seafood producing countries.

Most importantly, the majority of our coastal communities are built around a fisheries based economy, and without a stable fishery resource base many of these communities would not exist. It is because of this dependence upon the sea and its resources that Alaskans work hard to ensure that conservation comes first, and that fishery resources are managed for their long term sustainability.

The record speaks for itself. There are no overfished stocks of groundfish in Alaska. Fisheries are managed under hard caps and close when harvest limits are reached. Federal observers and Vessel Monitoring Systems (VMS) monitor the catch to ensure compliance with closures. Ecosystem considerations are taken into account in fishery management plans. For example, fishing on forage fish species is prohibited, and measures are in place to protect marine mammals and seabirds. Close to 500,000 square nautical miles are closed to bottom trawling or other fishing to protect marine habitat. The North Pacific Fishery Management Council is also working on measures to close the US Arctic EEZ to commercial fishing until the effects of climate change are better understood and appropriate fishery management plans are developed. Taken together, the total for existing closures plus the Arctic waters off Alaska would be approximately 650,000 square nautical miles, an area roughly 5 times the size of the entire US National Park system.

It is this record that caused the US Commission on Ocean Policy to cite Alaska as a potential model for the rest of the nation.

But the success of Alaska has not only been a result of how we manage fisheries within our own waters, but has also required diligent action in the international arena to ensure that marine resources are protected throughout the North Pacific. Alaska has no common border with the rest of the United States. Rather, Alaska is bounded on one side by the US Canada international boundary, and on the other side with one of the world's longest contiguous maritime boundaries, the US Russia maritime boundary. However, most of the waters off Alaska are bounded by international waters of the North Pacific and Arctic oceans, and the international waters of the Bering Sea known as the donut hole. Living marine resources do not respect political boundaries, and the fish, marine mammals, seabirds and other resources important to Alaska range across all of these boundaries.

This fact of geography has dictated that Alaska needs to be deeply involved in international fisheries issues to protect its resources and its interests.

### **A Brief Historical Overview**

For Alaska, foreign fleets have long played a major role in the fisheries off our shores. Following the end of WWII and up to 1976, foreign fishing vessels dominated the waters of the North Pacific and Bering Sea. Fleets from Japan, Korea, China, Poland and the Soviet Union came here for salmon, crab, and groundfish. For the most part, the only check on these fleets was the 12 mile limit, and for some countries the International North Pacific Fisheries Convention (INPFC) which attempted to control some of these fisheries.

In 1976 Congress passed the law we now know as the Magnuson Stevens Act (MSA). The MSA was part of a worldwide shift towards coastal state management of fishery resources. A lot has been written about the period immediately following passage of the MSA. It was one of dynamic change, with the elimination of the foreign fleets operating within 200 miles of our coast, and the subsequent development of the US domestic fishing fleet.

But, as these dramatic changes were taking place within the US 200 mile zone, dramatic changes were also taking place on the high seas. Alaska watched with increasing alarm the unregulated

growth of international fleets, and their impact on the conservation of a wide range of living marine resources.

To put this into perspective, we have to look at what was going on in North Pacific on the high seas in the mid 1980s. Despite efforts throughout the 1960s and 1970s to control and eliminate high seas fishing for salmon, Japan still had a fleet of around 300 vessels using large scale driftnets fishing for salmon on the high seas beyond our EEZ as well as within the US 200 mile zone. This fishery was authorized by the INPFC, a treaty between Canada, Japan, and the U.S. At the same time, Japan's high seas salmon fleets were also fishing for salmon in waters adjacent to, and inside the Soviet Union's 200 mile zone under a separate agreement.

Meanwhile, another fleet of high seas driftnet vessels was taking shape, with no international controls whatsoever. Originating from Japan, Korea, and Taiwan these fleets totaled roughly 1500 vessels fishing in the North Pacific between Hawaii and the Aleutians. These vessels fished for squid and other species in the north during our summer, and moved to the southern hemisphere in the winter to fish for tuna. In the North Pacific these vessels were fishing an estimated 30,000 miles of net a night, with attendant high bycatches of non-target fish as well as hundreds of thousands of marine mammals and seabirds, and thousands of sea turtles.

At the same time, a little further north, in the international waters of the Bering Sea, fleets of large factory trawlers from Japan, Poland, China and Korea began fishing hard for pollock. These vessels were hugging the line off both the Soviet Union and the US maritime boundary. The pace of fishing in the so called "donut hole" caused great concern among both US and Soviet scientists, who were predicting that these stocks would be drastically overfished in a short timeframe.

So, Mr. Chairman, while the fisheries inside the US 200 mile zone were undergoing dramatic changes with attendant conservation benefits, fisheries in international waters were growing dramatically and most of them were totally unregulated or governed by the weak rules of the INPFC. The high seas driftnet fisheries were intercepting large numbers of salmon and decimating seabirds and marine mammals. The donut hole fisheries were overfishing Aleutian Basin pollock and posing a major enforcement problem for the US, and the INPFC provided no effective monitoring and enforcement mechanism. By all appearances, there was little or no chance to get control of these fisheries or mitigating the damages they were inflicting on our fisheries or the resources of the North Pacific.

But, through the leadership of this Committee, and especially Senator Stevens of Alaska and yourself Mr. Chairman, we began to make progress.

Through your hard work, Congress passed several important pieces of legislation, including the Driftnet Act, the Anti-Reflagging Act, and legislation establishing the Bering Sea Fisheries Advisory Body (BSFAB) which is charged with providing advice to the Department of State on US/Russian fisheries issues. Establishing the BSFAB proved pivotal. President Gorbachev had come into power in the USSR, and relations began to thaw. The two rivals were searching for common ground, and one thing the two super powers had in common was one of the world's longest continuous maritime boundaries, and important fisheries in the North Pacific and Bering

Sea that were being decimated by foreign fleets that were operating off their shores. The doors were open for effective cooperation. Through the BSFAB and the joint US/Russian fisheries agreement, the United States and Russia initiated several actions to address fishery conservation issues of mutual concern. This joint effort coordinated negotiations at bi-lateral and multi-lateral treaty talks including at the UN.

The result was impressive. Over a period of just a few years several new international treaties were put in place. Through the urging of this Committee the United States engaged in a major initiative to eliminate high seas driftnets. The result was the UN moratorium banning high seas driftnet fishing worldwide, thus prohibiting the most destructive fishing practice employed on the high seas. The INPFC was disbanded, and the new North Pacific Anadromous Fish Convention (NPAFC) was put in place. The NPAFC prohibited fishing for salmon on the high seas of the North Pacific, included provisions to conserve ecologically related species, and established a comprehensive international research program. The NPAFC also charted new ground on international fisheries enforcement. For the first time, major ocean powers moved from strict flag state enforcement to a cooperative enforcement regime. The original parties to the NPAFC are Japan, Canada, Russia, and the US. The cooperative enforcement agreements facilitate joint enforcement actions between the four original parties, and provide an effective shield for marine resource protection. China and the Republic of Korea are now participants as well, further strengthening these enforcement arrangements.

In addition, the Central Bering Sea “donut hole” was closed and a new treaty adopted by Russia, the US, Japan, Korea, China, and Poland. This treaty mirrors many of the provisions of the NPAFC, including most importantly the enforcement provisions. The UN also adopted the Fish Stocks Agreement to implement certain provisions of the UN Law of the Sea; and the US and Russia adopted several bilateral agreements including an agreement to protect each nation’s salmon within their respective 200 mile zones. To strengthen international cooperation for marine science, PICES was adopted, establishing a major new international science organization devoted to addressing marine science in the North Pacific.

Taken together, the entire international fishery management regime in the North Pacific was re-written during this timeframe. Every treaty now in place, with the exception of the halibut treaty between the US and Canada, was written during this period. This includes the Pacific Salmon Treaty between the US and Canada, the US Russia bilateral agreement on fisheries cooperation, the United Nation’s moratorium on High Seas Driftnets, the UN Fish Stocks Agreement, the Central Bering Sea Pollock Convention (aka the Donut Hole Convention), the PICES convention, and the North Pacific Anadromous Fish Convention (NPAFC).

These successes could not have come about except for the very good working relationship between the seafood industry, the Dept. of State, and the leadership of the Congress. They are the result of forward thinking leaders, applying practical solutions to real world problems. With the exception of rogue vessels fishing illegally, the high seas driftnet fleets are now gone from North Pacific waters. The high seas directed salmon fishery is terminated, and the donut hole trawl fleets are no more. Joint enforcement by the major ocean powers of the region are a model for international cooperation. A new multi-national science program is providing sound scientific advice to fishery managers including important new insights into the challenges facing the

marine environment. These new institutions, and their actions, are in turn providing major conservation benefits for the fish, seabirds, marine mammals and other components of the North Pacific and Bering Sea ecosystems.

Mr. Chairman, this Committee, and especially you and Senator Stevens, should take pride in what has been accomplished. But this is not to say that all is well on the high seas, and that there are no problems facing us in our quest to ensure that North Pacific resources are protected and conserved. We all know that serious challenges exist, and once again we need your help and leadership to chart a course for effective action.

### **The Challenges Ahead**

Mr. Chairman, there is a need to renew our commitment to taking action to address real world problems on the high seas. For example, despite the UN moratorium on high seas driftnets and the multi-lateral enforcement shield that exists in the North Pacific, there is a significant resurgence of high seas driftnet fisheries. These are the ultimate IUU operations. They are outlawed by the UN moratorium, the NPAFC, and the national laws and regulations of most of the major nations around the North Pacific rim. The treaties and laws are already in place prohibiting these operations, but the resources are not there to effectively police such a vast area of the ocean.

Similarly, while the Central Bering Sea is now closed to pollock fishing, maintaining our enforcement presence along the US/Russian maritime boundary is taxing our enforcement capability. The distribution of Bering Sea fishery resources appears to be changing, and our scientific, monitoring, and enforcement programs will all need to adapt to these new realities. The prospect of loss of sea ice due to global climate change is forcing the United States to reassess its Arctic policies and management capabilities in light of emerging new international challenges.

There are also problems with new and emerging fisheries further south. Fisheries on the seamounts north and west of the Hawaiian Islands raise conservation concerns. Application of measures inside our zone to protect sea turtles and seabirds are placing US fishermen at a disadvantage because similar measures are not applied to foreign fisheries operating on the high seas. The growth of the Chinese economy and the economies of Southeast Asia are placing new pressures on North Pacific resources as demand for seafood increases in those regions.

All of these problems argue for a comprehensive solution. But to be successful, that solution needs to be simple, practical and focused. We believe that this could be accomplished using existing international institutions and arrangements. The US government would need to take the lead on such an initiative, with additional resources to ensure adequate funding for the science, monitoring, and enforcement programs that will be needed to ensure success.

Another option would be a new Regional Fishery Management Organization (RFMO) for the North Pacific. Ongoing talks regarding the northwest Pacific Ocean could provide a valuable opportunity to develop a long term agreement for such an RFMO. But to be successful, the US needs to set out a proposal that is simple in structure, clear in its intent, and cost effective. It

needs to focus on the problems of clearly identifying what constitutes IUU fishing, and will need to seek coordination or integration with existing international institutions.

The US government may wish to pursue such a course of action. If that is the case, then there are certain principles which we believe should guide US policy, and our support for such an approach is conditioned on US application of these principles. If the US adheres to these concepts, then we believe that several US interests, including both the seafood industry and the environmental lobby, could come together in support of a new agreement covering the high seas of the entire North Pacific from Asia to North America.

We believe it important that the new agreement be simple in structure, and not result in creation of yet another international bureaucracy. There are several models for such an agreement, and they have proven cost effective, efficient, and successful at achieving their conservation and management objectives.

The new agreement should provide a mechanism to develop a registry of existing fisheries, fishing vessels and their owners, and the management measures currently in place that govern those fisheries. This would include fisheries under existing international agreements including any interim measures where formal agreements are not yet in place.

The new agreement should then prohibit any new fisheries in the North Pacific unless a management plan has been developed and approved by the parties. New fisheries would be authorized, and placed on the registry, once a management plan is reviewed and approved. Management plans should include provisions for observers, VMS, harvest limits, bycatch controls, or other management measures as appropriate to the fishery.

The new agreement should recognize existing international agreements and management regimes, and minimize disruption to those arrangements. Existing fisheries operating under current agreements would continue to be regulated by such arrangements. Where there are existing international agreements that might authorize a fishery in the future (ie: Central Bering Sea Pollock convention) that treaty would control how such a fishery might occur.

The new agreement should also have clear rules for new entrants into a fishery. In some instances, US vessels have refrained from fishing on the high seas in compliance with US policy while foreign fleets have continued to fish. In such instances, opportunity should be provided for US fishermen to participate in high seas fisheries, with appropriate conservation and management measures in place. This is necessary in order to level the playing field.

Fisheries not on the registry or not governed by an existing international agreement would be defined as IUU. This would greatly simplify enforcement and allow for efficient use of monitoring and enforcement assets for such a wide area. Enforcement regimes under the new agreement should build upon and compliment existing international cooperative enforcement arrangements.

And finally, the new agreement should, as a general matter, encompass management requirements similar to those we would employ in our own waters. The agreement must avoid

the use of ill defined terms, or the over-application of vague principles such as the precautionary principle. It should be clear at the outset about the conservation goals for habitat protection. In our view, the new agreement should mirror the recently revised MSA, and identify the bottom habitats that need protection as seamounts, hydrothermal vents, and unique or rare concentrations of corals. We also believe that the United States needs to make a clear statement that the intent is for an agreement that recognizes the need for sustainable fisheries to meet the growing need for seafood products worldwide.

Many of these principles were outlined last fall by Senator Stevens in a letter dated October 19, 2007 to Secretary Rice, and we wish to go on record in support of the framework he proposed for a new RFMO in the North Pacific.

A related matter centers around the work of the UN Food and Agriculture Organization (FAO) on guidelines for management of deep sea fisheries in the high seas. The draft guidelines are intended identify characteristics of appropriate management tools, reporting requirements, enforcement protocols, and other proposed measures for the management of these fisheries. However, these guidelines spend a lot of time trying to identify what constitutes “vulnerable marine ecosystems” (VMEs) and how to determine “significant adverse impacts” to these VMEs.

To date, the United States has focused most of its efforts on the question of defining VMEs and criteria for determining significant adverse impacts, and less time on the other fundamentals necessary for management of these high seas fisheries. Unfortunately, the draft guidelines stray far from some of the principles identified above, employing vague references to the need to protect biodiversity, or the overly broad application of the precautionary principle. The guidelines also go far beyond the guidance found in the MSA that identifies seamounts, hydrothermal vents and concentrations of cold water corals as the bottom habitats to be protected. We believe that these guidelines will serve a more practical and useful purpose if the language is focused more on managing deep sea fisheries on the high seas, and less on the use of vague principles that are subject to wildly differing interpretations.

Effective management of these deep sea fisheries is a critical issue that needs careful attention. Much work remains to tighten these guidelines, to make them practical and concise, and thereby produce a useful product. As such, we recommend that the United States support provisions in these guidelines that mirror language in the MSA, and work to craft practical and effective guidelines for managing these fisheries. The United States should also ensure that the guidelines do not include any provisions that suggest that these measures should be enforced or applied with the 200 mile zone. Language still remains in the draft that cause concerns in this regard.

An additional area of interest to Alaska is the fate of the high Arctic, and how to address and adapt to the rapidly changing conditions there due to climate impacts.

In recognition of the challenges posed by the projected loss of sea ice in the waters north of Bering Strait, the North Pacific Fishery Management Council, at the urging of the seafood industry, began a process to close US federal waters to commercial fishing. The closure would be in place until we better understand the effects of climate change on the marine environment of the Arctic, and appropriate fishery management plans have been developed. We believe that such

action is warranted in order to protect the marine resources of our Arctic waters as well as the way of life of the small villages and communities along Alaska's Arctic shores.

Last year, Senate Joint Resolution 17 was introduced, calling for the United States to seek international agreements mirroring the action being taken in the Arctic by the North Pacific Fishery Management Council. MCA supports the action you have taken with the resolution, and hopes that the US government will actively pursue such agreements with our Arctic neighbors. Marine resources in the Arctic, as in the waters of the North Pacific, do not respect political boundaries. Effective conservation and management needs to be coordinated throughout the Arctic basin. To this end, we urge the Committee to continue in your efforts to get the US government to take a lead in such an initiative.

As a final matter, Mr. Chairman, I would like to enter a note of caution as we pursue initiatives to address international fisheries issues, recognizing that sometimes the law of unintended consequences comes into play. For example, the United States is involved in work at the World Trade Organization to use WTO authorities to prohibit certain fishery subsidies to control IUU fishing and to reduce the unsustainable level of fishing capacity in worldwide fleets. There should be no question that such subsidies are causing significant problems in many parts of the world, and action needs to be taken to address these problems. However, while these are laudable goals, some provisions in the current draft proposals could be interpreted to prohibit US investment in ports and harbors upgrades, or improvements in fish landing or processing facilities, or the reconstruction or new construction to replace aging vessels in the US fleet. None of these have anything to do with either IUU fishing or overcapitalization of international fisheries, and the US should exercise careful judgment when negotiating such provisions to ensure that the measures are specific to the problem to be addressed.

Application of port state measures to address IUU fisheries, including service vessels, can also have unintended consequences for the US seafood industry. Use of service vessels to transport seafood products legally caught in US waters can have dire economic consequences if, unbeknownst to the US companies who employ these vessels, the vessels are blacklisted by other nations for being associated with IUU fishing. Shipments of legal product can be seized while in transit, costing time and money if not the loss of the product itself. Similarly, the European Union is developing port state measures that may raise "equal treatment" questions under world trade rules as well as resulting in a cumbersome and expensive chain of custody process. This could negatively affect US trade with the EU, and we need to work closely with our trading partners to ensure that such unintended consequences are avoided. We appreciate that NOAA and the Dept. of State are working to resolve these issues, but meanwhile US seafood companies are in a state of limbo regarding the rules and how they may be enforced.

Again, Mr. Chairman, thank you for this opportunity to testify before you today. I will be happy to answer any questions.