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HEARING ON THE "ILLEGAL, UNREPORTED, AND UNREGULATED FISHING ENFORCEMENT ACT OF 2009"

SUBCOMMITTEE ON INSULAR AFFAIRS, OCEANS AND WILDLIFE
COMMITTEE ON NATURAL RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES

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Madam Chair and distinguished members of the Subcommittee:

Thank you for the opportunity to be here today to discuss United States' efforts to combat illegal, unreported and unregulated fishing and, in particular, to comment on H.R. 1080, the "Illegal, Unreported and Unregulated Fishing Enforcement Act of 2009." The Act would provide a number of amendments to various pieces of existing legislation dealing with international fisheries enforcement and related issues. I am William Gibbons-Fly, Director of the Office of Marine Conservation, in the Bureau of Oceans, Environment and Science at the Department of State. I am pleased to be here today to represent a very dedicated and skilled team of professionals at the Department whose collective efforts, working in close cooperation with the other agencies represented here, are making a significant contribution to combating IUU fishing in many parts of the world.

In their testimony, my colleagues from the Coast Guard and from NOAA have provided an extensive overview of ongoing activities and initiatives aimed at combating IUU fishing both at home and at the international level. As they have outlined, the United States is actively engaged and pursuing these activities at the global level, through, for example, the United Nations General Assembly and the UN Food and Agriculture Organization; at the regional level, primarily through adoption and implementation of measures under various regional fisheries management organizations (RFMOs); and at the bilateral level with many countries in all parts of the world.

I will not repeat the comprehensive list of activities they have described. I would stress, however, that the three agencies work closely on virtually every aspect of these issues. From a State Department perspective, when negotiating a new international instrument or agreement, we are closely advised by NOAA and the Coast Guard to ensure that the operational aspects of any agreement can be effectively implemented and enforced. Likewise, in carrying out their respective mandates, both agencies consult closely with the State Department to ensure that U.S. actions at the international level are consistent with our broader international policies and priorities.

Working together, we have made considerable progress in addressing the problem of IUU fishing in many parts of the world. Before commenting on the specific proposed legislation that is the subject of this hearing, please allow me to highlight briefly some specific examples.

One area covered in the testimony from the Coast Guard that I would also like to emphasize is the progress in the Pacific Ocean. The negotiation of the boarding and inspection regime under the Western and Central Pacific Fisheries Commission (WCPFC) was truly a groundbreaking achievement. This regime is the first, and to date the only, such arrangement adopted to implement the boarding and inspection provisions of the UN Fish Stocks Agreement through a regional fisheries management organization. In negotiating these procedures under the WCPFC, we successfully established unprecedented authority for the U.S. Coast Guard to board and inspect fishing vessels on the high seas flying the flag of WCPFC members (and cooperating non-members) throughout millions of square miles of the Pacific Ocean, without the need to request and receive prior approval and authorization from the flag State. In effect, adherence to the procedures themselves constitutes advance authorization from the flag State, in a manner fully consistent with the sovereignty exercised by flag States over their vessels operating on the high seas.

Since the arrangement became operational early in 2008, Coast Guard has conducted a number of inspections throughout the Convention Area on vessels of various flags. I am pleased to note that the reports received from the flag State authorities of the vessels in question have been uniformly positive; reaffirming that, in each case, these inspections have been conducted in an efficient and respectful manner, in full accordance with the established procedures and relevant provisions of international law.

While the WCPFC measures apply on the high seas, the Department and the Coast Guard have also worked together to support the efforts of several Pacific Island States to defend their own EEZs from incursions by foreign vessels engaged in IUU fishing. The United States has developed a strong cooperative relationship in the fisheries sector, dating to 1988 under the Multilateral Treaty on Fisheries between the United States and the nations of the Pacific Forum Fisheries Agency (FFA). In recent years, Coast Guard has actively sought to build on and expand this relationship in the fisheries enforcement arena by negotiating “shiprider” agreements with a number of Pacific Island States. Currently there are five shiprider agreements in the Western Pacific region, with Kiribati, the Cook Islands, the Marshall Islands, the Federated States of Micronesia, and Palau. Our goal is to conclude similar agreements with all nations with EEZs bordering U.S. waters in the region, and, in fact, the best testimony to the success of this program is that we currently have requests from a number of other countries to do just that.

In addition to the Pacific initiatives described above, the Department (working, as always, in close cooperation with NOAA, Coast Guard and USTR) is currently engaged in various activities to strengthen efforts to combat IUU fishing and to close gaps that allow such fishing to continue undetected. In this regard, the Department is leading the U.S. negotiating effort for a global agreement on port state measures as a way to prevent the product of IUU fishing from finding its way into international commerce. Likewise, we are exploring further international initiatives to strengthen actions by flag States, to develop and implement trade tracking and catch documentation schemes, to develop a global record of fishing vessels that would include a

"unique vessel identifier," and a range of other issues. Within RFMOs we are working to develop, implement and expand programs to require observers on fishing vessels, satellite-based vessel monitoring systems (VMS), boarding and inspection regimes and other monitoring, control and surveillance (MCS) measures to detect, deter and combat IUU fishing.

Despite all these efforts and what is clearly progress in a number of areas, there is more that can and must be done to lessen, and eventually to eliminate, IUU fishing in the world's oceans. In this regard, we appreciate your interest, Madam Chair, and that of the Subcommittee, in exploring ways to support these efforts at the legislative level and welcome the opportunity to come before you to comment on H.R. 1080.

The Act as formulated would provide for a number of specific actions. Of these, the three primary functions of the Act would be to: 1) amend provisions of the High Seas Driftnet Fisheries Moratorium Protection Act related to measures to combat illegal, unreported and unregulated (IUU) fishing; 2) consolidate enforcement authorities of a number of different statutes under a single authority; and 3) provide needed amendments to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Hake Agreement Implementation Act.

Taking these in reverse order, let me comment on each of these specific aspects of the Bill. First, the proposed amendments to the Western and Central Pacific Fisheries Convention Implementation Act and the Pacific Hake Agreement Implementation Act would make clear that Commissioners and Advisors appointed under these statutes are not Federal employees except for very limited and defined purposes. This clarification would conform the status of Commissioners and Advisors under those two agreements with the status of Commissioners and Advisors appointed to serve on other International fisheries management organizations. The Department of State strongly supports the proposed amendments to these two Acts.

On a related note, there is a technical amendment needed in the Pacific Salmon Treaty Act of 1985 (Public Law 99-5). A 1999 agreement under the treaty established a new Committee on Scientific Cooperation to address scientific issues arising within the Pacific Salmon Commission. The members of the Committee are drawn from the scientific communities of the United States and Canada, but the Pacific Salmon Treaty Act does not authorize payment of daily stipends to them while engaged in work related to the Committee. An amendment to the Pacific Salmon Treaty Act through H.R. 1080 would allow such payments to U.S. members of the Committee who are not state or Federal employees, and the Department has provided suggested text to the House Natural Resources Committee staff.

The consolidation of the enforcement authorities and penalty schedules of the various other Acts is not an issue in which the Department of State has a direct equity, as it falls to our interagency colleagues to enforce these statutes and apply sanctions and penalties. We note that the other agencies have cited these proposed amendments as a useful tool to strengthen the authority to address IUU fishing through the application of appropriate and consistent sanctions – and that, by consolidating these provisions into one place, such penalties could in future be adjusted as a whole to provide an effective deterrent against illegal fishing – and on that basis we strongly support their passage into law. Further, we fully support the expansion of prohibited acts in the

Magnuson-Stevens Fishery Conservation and Management Act to include certain actions in violation of any treaty, or of binding conservation and management measures adopted pursuant to an international agreement to which the United States is a party. This is a strong signal that the United States takes very seriously its commitment to comply with RFMO measures it has agreed to and will give the United States an important new tool to act against those that do not.

Finally, we support in general the proposed changes to the identification and certification procedures contained in the High Seas Driftnet Fisheries Moratorium Protection Act, while also noting the challenges the Department of Commerce faced in implementing these provisions for the first time this year. We agree that information indicating that IUU fishing has occurred should be evaluated against the effect of these activities on the conservation and management of the stocks in question, and support the proposed amendments that would make this clear. The Department's primary approach is to work with the Commerce Department in seeking corrective action from identified nations, both through bilateral engagement and through RFMOs, where appropriate.

We note that although unilateral tools such as those in the High Seas Driftnet Fisheries Moratorium Protection Act can be important tools to deter IUU fishing, the most effective approaches are often multilateral. We welcome the proposed amendment that broadens the call for the United States to seek multilateral solutions to these challenges through RFMOs and other international arrangements. Likewise, we note that many RFMOs maintain IUU vessel lists, and there are efforts underway to consolidate such lists at the international level.

H.R. 1080 authorizes, but does not require, the United States to create an IUU vessel list. In implementing this provision, it makes sense, in our view, to draw solely from the IUU vessel lists established by the various RFMOs to which the United States is a Party, and others as appropriate, and to work to consolidate and harmonize those lists to the extent practicable. Drawing from RFMO IUU vessel lists would be consistent with the multilateral approach that we continue to believe is the most effective means of addressing such issues. We see nothing in H.R. 1080 that would preclude this approach, but we are open to working with the Subcommittee should any clarification on this point be warranted.

Thank you very much, Madam Chairwoman and Members of the Subcommittee, for the opportunity to testify today. I would be happy to take your questions.