Tab A, No. 7(b)

Improving International Fisheries Management

2019 Report to Congress

NOAA FISHERIES

REPORT TO CONGRESS

IMPROVING INTERNATIONAL FISHERIES MANAGEMENT
September 2019

Developed pursuant to Section 403(a) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006

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THE REPORT TO CONGRESS (IMPROVING INTERNATIONAL FISHERIES MANAGEMENT) ACCOMPANYING THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT REAUTHORIZATION ACT, 2006 (PUBLIC LAW 16 U.S.C. §§ 1826h-k) INCLUDED THE FOLLOWING LANGUAGE

The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and every 2 years thereafter, a report that includes—

(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

(2) a list of nations whose vessels have been identified under section 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

THIS REPORT RESPONDS TO THE CONGRESS REQUEST.

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I. Executive Summary

In the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), Congress acknowledged the need for international cooperation to address fishing activities that have a deleterious effect on sustainable fisheries worldwide. MSRA amended the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act) by directing the Executive Branch to strengthen its leadership in international fisheries management and enforcement, particularly with regard to illegal, unreported, and unregulated (IUU) fishing and unsustainable fishing practices such as bycatch of protected living marine resources (PLMRs). The Shark Conservation Act of 2010 (SCA) further amended the Moratorium Protection Act to add a third focus: directed and incidental catch of sharks, especially the practice of finning, in areas beyond national jurisdiction.

The Illegal, Unreported, and Unregulated Fisheries Enforcement Act of 2015 (IUU Fisheries Enforcement Act) harmonized enforcement provisions amongst international implementing legislation and implemented two new important treaties. It further amended the Moratorium Protection Act with improvements and technical corrections to the identification and certification process. The Ensuring Access to Pacific Fisheries Act, which was enacted in 2016, made additional amendments to the Moratorium Protection Act.

Under the Moratorium Protection Act, Congress requires the Secretary of Commerce to submit a biennial report to Congress on improving international fisheries management that includes, among other things, a list of nations identified for IUU fishing or certain other activities. Under the Act, the Secretary is required to identify countries that were engaged in IUU fishing or certain other activities, and to consult with those countries on improving their fisheries management and enforcement practices. Two years after an identification, the Secretary is to certify whether actions by the identified countries have adequately addressed the activities of concern. These responsibilities were first delegated to the Administrator of the National Oceanic and Atmospheric Administration (NOAA), and then to the head of the National Marine Fisheries Service (NMFS).

In its 2017 Report to Congress, NMFS identified two countries, Ecuador and the Russian Federation, as having been engaged in IUU fishing based on reported violations of international conservation and management measures during 2014, 2015, or 2016. NMFS identified two countries, Mexico and the Russian Federation, as having vessels that fished without authorization in waters of the United States. NMFS also identified Mexico for overfishing of stocks shared with the United States. As required by the Moratorium Protection Act, Part IV of this report contains NMFS' certification decisions for those countries; each country received a positive certification.

In Part IV of this report, NMFS identifies Ecuador for undermining the effectiveness of conservation and management measures required by a regional fisheries management organization (RFMO) by failing to comply with its measures. The Republic of Korea is being

identified for failing to apply sufficient sanctions to deter its vessels from engaging in fishing activities that violate conservation and management measures adopted by an international fishery management organization. NMFS, once again, identifies Mexico for the continuing unauthorized activities of its fishing vessels in U.S. waters in the Gulf of Mexico.

This report also updates domestic, regional, and global efforts to combat IUU fishing, minimize bycatch of protected species, and conserve sharks. Among the most important developments during the past several years are the following:

- In March 2018, NMFS published its final List of Foreign Fisheries, a comprehensive review of marine mammal bycatch in foreign fisheries exporting to the United States. Publishing this list is the first step in implementing the import provisions of the Marine Mammal Protection Act (MMPA). To continue to export fish and fish products to the United States after December 31, 2021, harvesting nations must have a regulatory program for reducing marine mammal bycatch in each "export" fishery that is comparable in effectiveness to measures applicable to U.S. commercial fisheries. See Part X.C.3.

- The United States became a member of two RFMOs on February 18, 2017, as a result of passage of the Ensuring Access to Pacific Fisheries Act the previous December. They are the South Pacific Regional Fisheries Management Organization (SPRFMO) and the North Pacific Fisheries Commission (NPFC).

- On October 3, 2018, delegates from Canada, Denmark, the European Union (EU), Iceland, Japan, Norway, the People's Republic of China, the Republic of Korea, the Russian Federation, and the United States signed the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean. The agreement is significant because it incorporates a precautionary approach to the management of high seas fish stocks before any fishing begins. It was undertaken in response to developments in the Arctic due to the changing climate. The agreement, which will require all ten parties to ratify to come into force, will establish a joint program of scientific research. The parties agreed they will authorize their vessels to conduct commercial fishing in the central Arctic Ocean only after international mechanisms are in place to manage any such fishing.

- Under the Eliminate, Neutralize, and Disrupt Wildlife Trafficking Act of 2016 (END Wildlife Trafficking Act), the Department of State (DOS) issued reports in 2017 and 2018, identifying two categories of States for wildlife trafficking concerns. The first is "focus countries," those nations that are major sources, transit points, or consumers of wildlife trafficking products. The second category is "countries of concern," those focus countries whose governments are actively engaged in or knowingly profited from the trafficking of endangered or threatened species. See Part II.D.

- NMFS is preparing a proposed rule under the authorities of the IUU Fisheries Enforcement Act and the Ensuring Access to Pacific Fisheries Act. The rule would implement the Agreement on Port State Measures to Prevent, Deter, and Eliminate

Illegal, Unreported and Unregulated Fishing (PSMA), among other provisions. See Part II.D.

List of Acronyms

Acronym	Full Name
ACAP	Agreement on the Conservation of Albatrosses and Petrels
AIDCP	Agreement on the International Dolphin Conservation Program
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
CDS	Catch documentation scheme
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMM	Conservation and management measure
CMS	Convention on the Conservation of Migratory Species of Wild Animals
COFI	Committee on Fisheries of the FAO
CPCs	Contracting parties and cooperating non-contracting parties, entities, or fishing entities (IATTC, ICCAT, and IOTC)
DOS	United States Department of State
EEZ	Exclusive Economic Zone
ESA	Endangered Species Act
EU	European Union
FAO	United Nations Food and Agriculture Organization
FWS	United States Fish and Wildlife Service (an agency of the Department of the Interior)
HSFCA	High Seas Fishing Compliance Act
IAC	Inter-American Convention for the Protection and Conservation of Sea Turtles
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
ILO	International Labor Organization
IMO	International Maritime Organization
IOTC	Indian Ocean Tuna Commission
ITDS	International Trade Data System
IUU	Illegal, unreported, and unregulated (fishing)
IWC	International Whaling Commission

LOFF	List of Foreign Fisheries
MCS	Monitoring, control, and surveillance
MMPA	Marine Mammal Protection Act
MOU	Memorandum of Understanding
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSRA	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006
NAFO	Northwest Atlantic Fisheries Organization
NASCO	North Atlantic Salmon Conservation Organization
NEAFC	North East Atlantic Fisheries Commission
NCP	Non-contracting party
NGO	Non-governmental organization
NMFS	National Marine Fisheries Service (a NOAA line office)
NOAA	National Oceanic and Atmospheric Administration (an agency of the Department of Commerce)
NPAFC	North Pacific Anadromous Fish Commission
NPFC	North Pacific Fisheries Commission
OSPESCA	Organization for Fisheries and Aquaculture of Central America
PLMRs	Protected living marine resources
PSMA	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
RFMO	Regional fisheries management organization/arrangement
SCA	Shark Conservation Act of 2010
SCRS	Standing Committee on Research and Statistics (ICCAT)
SEAFO	South East Atlantic Fisheries Organization
SPRFMO	South Pacific Regional Fisheries Management Organization
TED	Turtle excluder device
UNFSA	United Nations Fish Stocks Agreement
UNGA	United Nations General Assembly
USAID	United States Agency for International Development
USCG	United States Coast Guard
USMCA	United States-Mexico-Canada Agreement
VME	Vulnerable marine ecosystem
VMS	Vessel monitoring system
WCPFC	Western and Central Pacific Fisheries Commission

WECAFC	Western Central Atlantic Fisheries Commission

II. Introduction and Background

Every two years the Secretary of Commerce submits a biennial report to Congress, as required by Section 609 of the Moratorium Protection Act. The first biennial report was sent to Congress in January 2009, with subsequent reports submitted in January 2011, January 2013, February 2015, and January 2017. Central to the statutory scheme is the requirement that the Secretary, in these biennial reports, identify nations whose fishing vessels are engaged in IUU fishing as defined by the Act, or in certain bycatch or shark fishing practices; describe U.S. consultations with the identified countries to urge appropriate actions; and certify whether such actions subsequent to identification have adequately addressed the activities of concern. The Secretary of Commerce has delegated the authority to identify and certify countries under the Moratorium Protection Act to the NOAA Assistant Administrator for Fisheries (the Director of NMFS).

The Moratorium Protection Act also directs the Secretary of Commerce, in consultation with the Secretary of State and in cooperation with regional fishery management councils and any relevant advisory committees, to take certain actions to improve the effectiveness of international fishery management organizations in conserving and managing stocks under their jurisdiction. These actions include urging those organizations of which the United States is a member to:

- Incorporate multilateral market-related measures against member or non-member governments whose vessels engage in IUU fishing.
- Seek adoption of lists identifying fishing vessels and vessel owners engaged in IUU fishing.
- Seek adoption of a centralized vessel monitoring system (VMS).
- Increase use of observers and technologies to monitor compliance with conservation and management measures (CMMs).
- Seek adoption of stronger port State controls in all nations.
- Adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discard of the carcass of the shark at sea.
- Adopt and expand the use of market-related measures to combat IUU fishing, including import prohibitions, landing restrictions, and catch documentation schemes (CDSs).

The Secretary of Commerce is also to encourage other nations to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in IUU fishing from being traded or imported into their nations or territories. The Moratorium Protection Act calls on the Secretary of Commerce, to the greatest extent possible based on availability of funds, to provide assistance to nations identified for certain activities, so they may qualify for positive certifications.

Enacted on November 15, 2015, the IUU Fisheries Enforcement Act amended the Moratorium Protection Act to increase to three years the allowable time period for consideration of activities for identification of nations for IUU fishing or bycatch of PLMRs. Another amendment made it possible to identify nations for their own actions with regard to IUU fishing. In December 2016, the Ensuring Access to Pacific Fisheries Act further amended the Moratorium Protection Act to bring the period for identification of a country for certain shark fishing activities into line with the three-year periods for IUU fishing and certain bycatch activities. The new Act also changed

the deadline for submission of the biennial report to Congress, from January 12 to June 1 of the reporting year.

As with past reports, the current one surveys efforts by the United States to strengthen its leadership toward improving international fisheries management and enforcement, particularly with regard to IUU fishing, bycatch of PLMRs, and certain shark fishing practices. These reports also describe progress in the international arena to deal with these issues. They address the status of international living marine resources and contain information on actions taken to assist other countries in achieving sustainable fisheries and minimizing bycatch and discards.

Since the Moratorium Protection Act emphasizes the importance of addressing IUU fishing, PLMR bycatch, and certain shark fishing practices, the sections below provide background information on those activities, as well as a brief discussion of other U.S. statutes and regulations that are useful in managing U.S. fisheries responsibly and in addressing unsustainable practices in international fisheries.

A. Illegal, Unreported, and Unregulated (IUU) Fishing

The international community uses the term "IUU fishing" to describe fishing and related activities that do not comply with national, regional, or global fisheries conservation and management obligations, wherever such fishing occurs. Unregulated fishing relates to the activities of stateless vessels or non-RFMO party vessels. It also may occur where no management authority or regulation is in place.[1]

IUU fishing activity affects fisheries of all types – from small-scale to industrial. Shipment, processing, landing, sale, and distribution of IUU fish and fish products perpetuate the financial reward from illegal harvests. IUU fishing undermines efforts of nations and RFMOs to manage fisheries in a responsible manner. It also affects the ability of governments to support sustainable livelihoods of fishermen and, more broadly, to achieve food security.

Because IUU fishing activities are generally carried out covertly, monitoring and detection are challenging. The inherent nature of such fishing makes it difficult to accurately quantify the full global economic impacts resulting from these activities, but there is little disagreement that it is in the billions or even tens of billions of dollars each year. Various studies over the years have

[1] The use of the term in U.S. legislation is more circumscribed and complicated; see Part III.A for details of the definition. Section 402 of the MSRA, codified at 16 U.S.C. 1801(a)(12), contains a finding that international cooperation is necessary to address "illegal, unreported, **and** unregulated fishing" (emphasis added). On the other hand, Section 609 of the Moratorium Protection Act, which establishes the standards for identification and certification of nations that engage in IUU fishing, uses a disjunctive formulation of the term, referring to nations that are engaged in "illegal, unreported, **or** unregulated fishing" (emphasis added). The FAO and other international bodies generally employ the conjunctive formulation of the term in publications, plans of action, and related materials. In this report, we use the phrase "IUU fishing" without indicating whether the conjunctive or disjunctive formulation is intended, but with the understanding that where identification and certification determinations are at issue under the Moratorium Protection Act, the term is to be understood and employed in the disjunctive. We do not intend any particular legal meaning or consequence to flow from the use of the term in this report.

assessed regional levels of IUU fishing and estimated global losses, but such estimates are based on data that are now many years old. The United Nations Food and Agriculture Organization (FAO) is currently developing regional IUU fishing estimate methodologies that can be regularly updated. Implementing the UN's action plan recommendations will help gauge the actual level of IUU fishing activities and their impacts so that they may be appropriately addressed.

Despite the imprecision of available data, the FAO considers IUU fishing a serious threat to high-value fisheries that are already overfished; to marine habitats, including vulnerable marine ecosystems (VMEs); and to food security and the economies of developing countries. IUU fishing activities have widespread economic and social consequences, including depriving legitimate fishermen of harvesting opportunities. IUU fishing also deprives fisheries managers of information critical to accurate stock assessments. It exacerbates the problem of discards and bycatch, because vessels engaged in illegal activities are likely to engage in unsustainable fishing practices and use non-selective gear.

IUU fishing activities tend to be dynamic, adaptable, highly mobile, and increasingly sophisticated as illegal fishermen attempt to find and exploit weak links in the international fisheries regulatory system. The use of flags of convenience, as well as ports of convenience, facilitates the wide scope and extent of IUU fishing activities.

Because IUU fishing activities are complex, a broad range of governments and entities must be involved to combat them. These include flag States, coastal States, port States, market States, international and intergovernmental organizations, the fishing, processing, distribution, and retail industries, non-governmental organizations (NGOs), financial institutions, insurers, and consumers. The United States is a member of or has substantial interests in numerous international fisheries and related agreements and organizations (see Annex 1 for a list of those most relevant to this report). U.S. involvement in international efforts to combat IUU fishing supports the development and strengthening of tools such as IUU vessel lists; port State controls; at-sea monitoring, control, and surveillance (MCS); market-related measures to help ensure compliance; and capacity-building assistance.

B. Bycatch of Protected Living Marine Resources (PLMRs)

The bycatch of PLMRs, such as incidentally caught or entangled sea turtles, sharks, dolphins, and other marine mammals, is also a serious issue in the management of international fisheries. Insufficiently regulated and managed bycatch of PLMRs undermines the ability of the United States and other nations to conserve these resources. Fisheries bycatch can lead to injury or mortality of protected species and can also have significant negative consequences for marine ecosystems and biodiversity.

In enacting MSRA, Congress recognized the importance of U.S. leadership in establishing international measures to end or reduce the bycatch of PLMRs. The United States is party to a number of international agreements related to the protection of living marine resources, as well as many global, regional, and bilateral fisheries agreements (see Annex 1). This report, in Part X, describes recent actions the United States has taken in these forums to pursue strengthened bycatch reduction measures comparable to those of the United States.

Conservation of seabirds, a matter of global concern, is an issue in which NMFS has been actively involved internationally due to the adverse effects of fishing activity on this resource. Section 316 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) emphasizes the need for the Secretary of Commerce to work cooperatively with the Secretary of the Interior and industry, and within international organizations, to seek ways to mitigate seabird bycatch. Annex 3 to this report highlights recent efforts to protect this living marine resource.

The statutory definition of PLMRs does not currently include seabirds,[2] but that could change. H.R. 1305, the Albatross and Petrel Conservation Act, cleared the U.S. House of Representatives Committee on Natural Resources on June 19, 2019. If the bill becomes law, seabirds would be added to the definition of PLMR in Section 610(e) of the Moratorium Protection Act.

C. Shark Conservation and Protection

Sharks are an ancient and highly diverse group of fish presenting an array of issues and challenges for fisheries conservation and management due to their biological and ecological characteristics and the lack of reliable species-specific catch data. Many shark species are characterized by relatively slow growth, late maturity, and low reproductive rates, which can make them particularly vulnerable to overexploitation and slow to recover once stocks are depleted. Concern has grown regarding the status of many international shark stocks and the sustainability of their exploitation in world fisheries.

The United States continues to be a leader in promoting shark conservation and management globally through ongoing consultations regarding the development of international agreements consistent with the Shark Finning Prohibition Act of 2000, the SCA, and the Moratorium Protection Act. The United States is committed to working bilaterally and multilaterally to promote shark conservation and management and to prevent shark finning, so that legal and sustainable fisheries are not disadvantaged. For example, within the RFMO context, the United States has focused on efforts to improve data collection for sharks, develop species-specific CMMs, promote fins-attached policies globally, and review compliance with agreed measures.

D. Other Ways of Addressing IUU Fishing, PLMR Bycatch, and Shark Conservation

In addition to the Moratorium Protection Act, the United States has numerous legal and policy tools to address IUU fishing, shark conservation, and PLMR bycatch, both domestically and internationally. These include the MSA, Lacey Act, Pelly Amendment to the Fishermen's Protective Act of 1967, IUU Fisheries Enforcement Act, END Wildlife Trafficking Act, the MMPA, Endangered Species Act (ESA), and the International Dolphin Conservation Program Act.

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[2] Bycatch of seabirds may not serve as the basis for identification of a nation under the PLMR provisions of the Moratorium Protection Act, but violations of seabird measures adopted by RFMOs of which the United States is a member could serve as the basis for identification under the Act's IUU fishing provisions.

Through the MSA, the United States has issued comprehensive regulations governing all of the major fisheries in the U.S. Exclusive Economic Zone (EEZ). These regulations are based on fishery management plans developed by the eight Regional Fishery Management Councils. In the Atlantic EEZ, however, NMFS directly manages sharks and other highly migratory species, except for spiny dogfish (which are jointly managed by the Mid-Atlantic and New England Fishery Management Councils). The MSA also requires the Secretaries of State and Commerce to seek to secure international agreements with standards and measures for bycatch reduction comparable to those applicable to U.S. fishermen.

The MSA, as amended by the SCA, prohibits any person subject to U.S. jurisdiction from removing any of the fins from a shark (including the tail) at sea, having custody of a shark fin not naturally attached to the carcass while at sea, or transferring or landing any such fin, with the exception noted below.[3] In addition, it prohibits landing a shark carcass without its fins naturally attached.

U.S. law and policy establish a number of domestic requirements designed to reduce bycatch and other harmful effects of fishing activities on PLMRs by vessels subject to U.S. jurisdiction. U.S. fishermen must comply with requirements concerning the taking of marine mammals under the MMPA, and with rules governing fishing and related actions that affect species listed as endangered or threatened under the ESA. In addition, the MMPA requires the Secretary of Commerce, working through the Secretary of State, to develop bilateral or multilateral agreements with other nations to protect and conserve marine mammals. Section 101(a)(2) of the MMPA requires the banning of imports of fish caught with commercial fishing technology that results in the incidental kill or serious injury of ocean mammals in excess of U.S. standards.[4]

Under the International Dolphin Conservation Program Act, an affirmative finding by the NOAA Assistant Administrator for Fisheries allows a nation to export to the United States yellowfin tuna harvested with purse seine nets in the Eastern Tropical Pacific.[5] Columbia, Ecuador, El Salvador, Guatemala, Mexico, Peru, and Spain currently have affirmative findings. The affirmative finding process is explained in the Report to Congress required under Section 305 of the MMPA.

The Pelly Amendment to the Fishermen's Protective Act provides for the possibility of trade-restrictive measures when the Secretary of Commerce certifies to the President that nationals of a foreign country are, directly or indirectly, conducting fishing operations in a manner or under

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[3] The prohibition does not apply to individuals engaged in commercial fishing for smooth dogfish, under certain conditions and circumstances (see 50 CFR Part 635). Under the rule implementing the exception, fishermen may remove the fins of smooth dogfish if they meet certain criteria regarding the percentage of smooth dogfish on board, having a state commercial fishing license for smooth dogfish, distance from shore, and fin-to-carcass ratio. Fishermen who do not meet these criteria can still harvest smooth dogfish, but must maintain all fins naturally attached to the carcass through offloading.

[4] NMFS issued the final rule implementing this provision on August 15, 2016 (see Part X.C).

[5] See regulations at 50 CFR 216.24(f)(8) for specific requirements related to an affirmative finding.

circumstances that diminish the effectiveness of an international fishery conservation program, or when the Secretary of Commerce or the Secretary of the Interior certifies that nationals of a foreign country are engaging in trade or taking that diminishes the effectiveness of any international program for endangered or threatened species. The President has discretion whether to direct the Secretary of the Treasury to prohibit the importation of products from the certified country.

An important enforcement tool is the Lacey Act, which prohibits interstate and foreign trafficking in fish or wildlife taken in violation of domestic or foreign law. It also prohibits the import, export, transport, sale, possession, or purchase of any fish or wildlife taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law. The Lacey Act provides for both civil and criminal sanctions.

Regulations under other statutes, such as the Antarctic Living Marine Resources Convention Act and the Western and Central Pacific Fisheries Convention Implementation Act, ensure that U.S. fishermen are subject to the conservation measures adopted under international agreements to which the United States is a party. For example, a final rule published on January 19, 2017, set forth changes to the regulations implementing conservation measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). This final rule streamlined and clarified the regulations for Antarctic marine living resources, shifted deadlines for advance notice of intended fishing activities, distinguished between first receivers and dealers of Antarctic marine living resources, reduced the time for advance notice of imports of toothfish, and added transshipment notification requirements.

NMFS is preparing a proposed rule under the authority of the IUU Fisheries Enforcement Act, mentioned in the Introduction to Part II. The rule would make conforming amendments to regulations implementing those statutes amended by the Act, and would also implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), which requires the collection of certain information from foreign-flagged fishing vessels requesting permission to use U.S. ports. The rule would include procedures to designate and publicize the ports to which foreign-flagged fishing vessels may seek entry, as well as procedures for conducting inspections of those foreign-flagged vessels accessing U.S. ports. Furthermore, the rule would address notifications of denial of port entry or port services for a foreign-flagged vessel; withdrawal of the denial of port services, if applicable; enforcement action taken with respect to a foreign-flagged vessel; and communication of the results of any inspection of a foreign-flagged vessel to the flag nation of the vessel and other competent authorities, as appropriate. NMFS has worked closely with relevant interagency partners to develop this rulemaking and further interagency review is needed before the proposed rule is published.

The END Wildlife Trafficking Act builds upon the efforts of the Presidential Task Force for Wildlife Trafficking for a whole-of-government approach to address this insidious issue. (The Task Force is described in the 2017 Report to Congress.) The Act requires DOS to submit to Congress an annual report identifying two tiers of States for wildlife trafficking concerns: “focus countries,” those nations that are major sources, transit points, or consumers of wildlife trafficking products; and “countries of concern,” those focus countries whose governments are

actively engaged in or knowingly profited from the trafficking of endangered or threatened species. The first END Wildlife Trafficking Report to Congress was released on November 16, 2017; the second, on October 10, 2018, is available online at https://www.state.gov/remarks-and-releases-bureau-of-oceans-and-international-environmental-and-scientific-affairs/2018-end-wildlife-trafficking-report.

See Annex 2 for further information on these and other U.S. statutes.

III. Identification and Certification Provisions

In 2011, NMFS published a final rule establishing procedures to implement the identification and certification provisions of the Moratorium Protection Act for IUU fishing, and for bycatch of protected species and shark catch on the high seas without regulatory programs comparable in effectiveness to those of the United States. NMFS amended those procedures, primarily to revise the definition of IUU fishing and to implement the identification and certification provisions of the SCA amendments, through a final rule published January 16, 2013.

The IUU Fisheries Enforcement Act amended the Moratorium Protection Act by prescribing that three years of data be used as the basis for determining identifications under the IUU fishing and bycatch provisions. That Act also instructed the Secretary of Commerce to identify a nation if its own actions, not just those of its vessels, violate certain CMMs, or if it is failing to effectively address or regulate IUU fishing in certain areas.

The Ensuring Access to Pacific Fisheries Act changed the period for which data may be used to identify a nation for catching sharks on the high seas, from one year to three. The statute also moved the date for submission of this biennial report from January to June. Another revision allows identification of a nation based on a violation by only one of its vessels, rather than two or more.

At the beginning of each identification process, NMFS gathers information from many sources relevant to determining whether a nation or its vessels have been engaged in activity that could lead to it being identified. One data source NMFS uses is public input in response to a request published in the Federal Register. For this report, NMFS published a request for information on IUU fishing, PLMR bycatch activities, and shark fishing on May 22, 2018. Following data collection and analysis of those data, NMFS contacts nations with activities that may qualify for identification under the Moratorium Protection Act. NMFS seeks corroboration or refutation from each nation of those activities. In deciding whether to identify a nation, NMFS considers a number of factors, as outlined in the regulations at 50 CFR Part 300, Subpart N.

The regulation details the post-identification notification and consultation process, after which NMFS provides a preliminary certification to a nation identified for having engaged in IUU fishing, PLMR bycatch activities, or certain shark fishing activities. An identified nation has the opportunity to respond before the final certification is issued. The regulation lists factors NMFS considers in making a final certification decision, including the effectiveness of any corrective actions taken by the identified nation.

If an identified nation takes appropriate actions, it receives a positive certification. If it receives a negative certification, the High Seas Driftnet Fisheries Enforcement Act prescribes denial of port privileges for fishing vessels of that nation. The Act authorizes other measures, under specified circumstances, including prohibitions on importation of certain fish and fish products from that nation into the United States. The regulation describes how NMFS's recommendations on import restrictions are made and any sanctions implemented, in the event a nation receives a negative certification.

A. IUU Fishing

Section 609(a) of the Moratorium Protection Act, as amended by the IUU Fisheries Enforcement Act and the Access to Pacific Fisheries Act, requires the Secretary of Commerce to identify a nation with one or more vessels that are engaged, or have been engaged in the preceding three years, in IUU fishing that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether the relevant international organization has failed to implement effective measures to end IUU fishing, or where no international fishery management organization with a mandate to regulate the fishing activity exists. The Secretary is also required to identify a nation if it is violating, or has violated at any point during the preceding three years, CMMs required under an international fishery management agreement to which the United States is a party, and the violations undermine the effectiveness of such measures; or if a nation is failing, or has failed in the preceding three-year period, to effectively address or regulate IUU fishing in areas where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

Before the amendments to the Moratorium Protection Act, activities that were not discovered or reported before the end of the year preceding submission of the report to Congress could not form the basis for an identification. Now, with expansion of the time periods for identification to three years, undiscovered activities during the final year preceding submission may provide a basis for a subsequent identification. For example, an activity occurring in the fall of 2016 but undiscovered until after the 2017 Report was submitted could be the basis for identification in this report.

Section 609(e)(3) of the Moratorium Protection Act requires the Secretary of Commerce to publish a regulatory definition of "illegal, unreported, or unregulated fishing" that includes, at a minimum, certain elements. NMFS broadened and clarified its 2011 regulatory definition through the January 2013 final rule (50 CFR 300.200-209). The elements set out below are those defined IUU fishing.

Fishing in Violation of International Measures. The first prong of the IUU fishing definition covers activities violating measures required of a party under an international fishery management agreement to which the United States is also a party. NMFS's analytical team gathers information on incidents where RFMO compliance measures may have been violated. The team begins with a search of available RFMO materials, including annual reports, compliance committee meeting summaries, and IUU vessel lists. The team also searches reports from the United States Coast Guard (USCG), foreign governments, the media, and NGOs, and considers information submitted in response to the Federal Register notice request.

The team then organizes these data by: current flag, flag at listing, vessel name (current and previous), specific RFMO infractions and dates, additional infractions, and comments. Once these data are entered into a compendium, the team identifies information gaps. For example, the RFMO report might not have included the International Maritime Organization (IMO) number for a specific vessel or may not have identified the specific RFMO measure violated.

To fill these gaps, and where possible to verify existing information, the team reviews applicable measures and identifies any specific violations that occurred. The team draws together the reporting and knowledge of IUU fishing activities from numerous organizations; however, some information gaps still may exist.

In a case where action taken by a nation is pending against a vessel, but no resolution has been reached to exonerate or sanction the vessel, NMFS considers the activities of the vessel to be a basis for identification. NMFS also considers the activities of a vessel as a basis for identification when it is unable to ascertain why a case against the vessel suspected of IUU fishing has been closed.

In response to NMFS' solicitation for information on nations catching sharks on the high seas through a Federal Register notice, we received information on two alleged instances of shark bycatch that might be considered as violations of international measures. In one case, however, the information could not be verified through independent sources. The other case involves a criminal prosecution that is pending in the U.S. District Court on Hawaii. As we are prosecuting this case through the U.S. court system, we will not be addressing it through the Moratorium Protection Act.

NMFS also received a comment that reports to RFMOs of landings of certain sharks, as well as failures to report such catches, indicated non-compliance with applicable CMMs, which necessarily undermines the effectiveness of the measures. NMFS does not agree that these reports alone support identification under the statute and bases identification on verifiable information. See Part II.B and II.C which provides further information.

Undermining RFMO Conservation by Parties. Under the Moratorium Protection Act, as amended by the IUU Fisheries Enforcement Act, a nation may also be identified for violating CMMs required by an RMFO through the nation's own actions or failures to act, such as neglecting to submit required information on its fishing vessels to the RFMO. With this change, NMFS was able to focus on the failures of countries to control their fishing vessels. NMFS is identifying two countries for failing to comply with CMMs required by RFMOs and undermining the effectiveness of those measures. Details of these identifications appear in Part IV.

Undermining RFMO Conservation by Non-Parties. Under this aspect of the IUU fishing definition, a nation may be identified for fishing activities that undermine the conservation of resources under an international fishery management agreement to which the United States is a party, despite the fact that the nation is not a party to the agreement. NMFS is not identifying any country for this type of IUU fishing.

Overfishing of Shared Stocks. This element of the definition of IUU fishing includes overfishing of stocks shared by the United States in areas without international measures or management organizations. As of 2017, NMFS has made the following determinations with respect to highly migratory stocks shared by U.S. and foreign fleets: Atlantic blue marlin – overfished and subject to overfishing; Atlantic white marlin, Pacific bluefin tuna, and central western Pacific striped marlin – overfished and overfishing is occurring. A stock assessment

conducted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) Standing Committee on Research and Statistics (SCRS) in July 2018 found Atlantic bigeye tuna to be overfished and subject to overfishing. Atlantic marlins and Atlantic bigeye tuna are subject to ICCAT management measures. The Western and Central Pacific Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Commission (IATTC) have adopted specific management measures for Pacific bluefin tuna. The WCPFC has management measures for central western Pacific striped marlin, but the IATTC does not. NMFS is not identifying any country as conducting this type of IUU fishing for these particular stocks in 2016-2018.[6]

Destructive Fishing Practices on VMEs. This part of the definition includes fishing activity having a significant adverse impact on VMEs, including seamounts, hydrothermal vents, and cold-water corals, located in areas beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement. Currently seven RFMOs actively manage bottom fishing. Nations fishing in accordance with the rules of these organizations, by definition, would not meet the criteria for IUU fishing identification under the Moratorium Protection Act. The Southwest Atlantic Ocean and a small portion of the Pacific Ocean[7] are the only areas of the high seas where bottom fishing is not managed under an RFMO. To avoid identification under the Moratorium Protection Act, States with vessels known to be fishing in these areas in 2016-2018 must have had measures in place to prevent significant adverse impacts to known or likely VMEs.

The FAO maintains a list of vessels authorized for bottom fishing on the high seas; States can voluntarily upload information about where and with which gear vessels are authorized to fish. For the 2016-2018 period, no bottom fishing vessels were listed as operating on the high seas outside of RFMOs. The Republic of Korea, the Russian Federation, and Spain have previously reported having vessels authorized to bottom fish on the high seas. Those nations informed the United Nations, and confirmed through previous consultations with NMFS, that all fishing activities were being conducted in accordance with international standards promulgated through RFMOs. NMFS therefore concludes that the bottom fishing activities of these vessels would not qualify as IUU fishing under the VME part of the IUU fishing definition.

As there are no vessels known to be bottom fishing on the high seas outside of RFMO managed activities, NMFS is not identifying any nation under this element of the IUU fishing definition. NMFS will continue to work with international partners to support implementation of existing RFMO management measures that protect and conserve VMEs. NMFS will also continue to support scientific research to identify VMEs on the high seas and gear modifications to reduce the impact of bottom-tending gear on vulnerable habitats. Note that the Western Central Atlantic Fisheries Commission (WECAFC) has initiated a process to evaluate the scope of its mandate, including a possible expansion of its management authority to include bottom fishing in the high seas areas of its Convention.

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[6] Mexico was identified in 2017 for overfishing red snapper, a stock shared with the United States. Red snapper is no longer considered overfished.

[7] The gap between the convention areas of the North Pacific and South Pacific RFMOs.

Foreign Fishing in U.S. Waters. This aspect of the IUU fishing definition allows for identification of a nation when its vessels fish without authorization in U.S. waters. NMFS is identifying one country under this prong of the definition; details are found in Part IV.

In the course of researching illegal fishing activity for this report, NOAA came across numerous reports of alleged incidents of illegal fishing that fell outside the scope of IUU fishing, as defined by NOAA's regulations implementing the Moratorium Protection Act (MPA) (50 C.F.R. § 300.201). Because they fell outside the regulatory definition of IUU fishing, these alleged incidents could not serve as the basis of a formal identification during this review period. However, NOAA has determined that IUU fishing, as used in the MPA (16 U.S.C. § 1826j(e)), is potentially broader than the current definition set out in NOAA's implementing regulations. Therefore, NOAA will undertake a regulatory action to broaden, consistent with the statute, its regulatory definition of IUU fishing for the purposes of identification under the MPA to include situations where there is a clear pattern of vessels flagged to a nation conducting fishing activities in the EEZ of other nations without authorization of the respective coastal state. This will enable us, in future reports to Congress, to identify any nation that meets those criteria.

B. Bycatch of PLMRs

Section 610(a)(1) of the Moratorium Protection Act requires the Secretary of Commerce to identify a nation for bycatch activities if:

- fishing vessels of that nation are engaged, or have been engaged during the preceding three years, in fishing activities or practices in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource, or beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

- the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

- the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

The regulations define "bycatch" to mean "the incidental or discarded catch of protected living marine resources or entanglement of such resources with fishing gear" (50 CFR 300.201). For purposes of the Moratorium Protection Act, the term "PLMR":

- includes non-target fish, sea turtles, or marine mammals protected under U.S. law or international agreement, including the MMPA, ESA, Shark Finning Prohibition Act, and

the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), but

- does not include species, except sharks, managed under the MSA, the Atlantic Tunas Convention Act, or any international fishery management agreement.[8]

Since MSRA was enacted, NMFS has collected significant amounts of information on activities resulting in bycatch from numerous sources, including government and academic studies, relevant international organizations, NGOs, and the media. NMFS' team of subject-matter experts examined the bycatch in question and any relevant regulations or management measures. As explained in the 2017 Report to Congress, extension of the time period for considering PLMR bycatch from one to three years did not eliminate all the challenges in obtaining actionable data. For example, data on bycatch in coastal fisheries are often not collected. When data *are* collected, they are not always publicly available, or are only made public in academic literature five or more years after the relevant fishing activity occurred. In RFMOs, there can be disparities both within and across bycatch data collection and analysis. For example, some RFMOs have mandatory bycatch reporting requirements, while others do not. In addition, some RFMOs treat bycatch reporting inconsistently, with mandatory reporting requirements for one or two taxa but not others.

In response to our request for public information, NMFS received information about marine mammal bycatch in certain fisheries. The commenter argued that some species of sharks, due to their status under CITES or the ESA, must be classified as PLMRs, and that as a result, bycatch of those sharks should then be the basis for an identification under Section 610 as proving the ineffectiveness of the RFMO and the nation reporting the bycatch. NMFS believes, however, the effectiveness of CMMs should be evaluated based on changes in the levels of bycatch and compliance, status of the stock, and other factors, and not solely on the basis of a report of bycatch. Reports of shark bycatch in 2016-2018 are being considered within the regulatory framework of the MMPA fish import provisions with respect to ongoing consultations with nations exporting fish products to the United States. See Part X.C.3 for details of that process.

The same commenter maintains that some species of sharks, due to their status under CITES or the ESA, must be classified as PLMRs and that, as a result, bycatch of those sharks should then be the basis for an identification under the MPA Section 610 (a) (1). There are several criteria stipulated in the MPA as conditions for identification of nations for bycatch of PLMR. The fact that bycatch occurs is not independently sufficient for identification. Further, a report of bycatch does not in and of itself establish the ineffectiveness of the RFMO. NMFS maintains that the effectiveness of RFMO CMMs should be evaluated based on changes in the levels of bycatch and compliance with bycatch reporting, status of the stock, and other factors, and not solely on a report of bycatch.

NMFS has determined that there was not sufficient documentary evidence to identify any country for bycatch of PLMRs for this 2019 Report to Congress. However, NMFS remains concerned with bycatch in global fisheries, and more importantly, progress to date to adopt and implement binding management measures to end or reduce that bycatch. Since the 2017 report,

[8] NMFS has developed a list of PLMRs which can be found at https://www.fisheries.noaa.gov/international-affairs/identification-iuu-fishing-activities.

NMFS has made concerted efforts within RFMOs to adopt and strengthen bycatch measures. Over the past three years, NMFS has advocated for and seen improvements in the way RFMOs collect bycatch data, as well as how they develop and implement management responses. A more detailed overview of this progress can be found in the reports for each RFMO in Part X.B. Working with our international partners, NMFS will continue to strengthen RFMO bycatch governance across three main objectives: data collection and analysis, mitigation measures, and compliance efforts.

As part of that process, NMFS will prioritize addressing bycatch in pelagic longline fisheries in the three tuna RFMOs that the U.S. is a member of: ICCAT, IATTC and WCPFC. Reducing bycatch in pelagic longline fisheries has long been a priority for the United States. The United States has consistently promoted the mandatory use of circle hooks and other related mitigation measures in pelagic longline fisheries managed by the tuna RFMOs to which it is a party, to reduce the bycatch of sea turtles and other protected species. To date, despite strong U.S. leadership, several members of the tuna RFMOs have opposed adoption of binding conservation and management measures mandating the use of circle hooks. While there have been some conservation successes in these organizations, more needs to be done.

To that end, over the next two years NMFS will work with our international partners, both bilaterally and multilaterally, to improve our understanding of their current mitigation practices for pelagic longline fisheries within the three tuna RFMOs, and encourage their adoption of circle hooks and other related bycatch mitigation tools. As noted above, NMFS has been challenged by the limited data availability for bycatch, including within the tuna RFMOs. NMFS will consider alternative data collection methods to address these gaps.

With this additional data, and coupled with any progress, or lack thereof, by our international partners to adopt effective management regimes, NMFS will, consistent with law and regulation, identify those nations that do not meet the criteria set forth in Section 610 (a)(1) of the MPA in the 2021 Report to Congress.

C. Shark Conservation and Protection

The SCA amended the guidelines for defining IUU fishing to specify that violation of shark conservation measures is included in the definition (Section 609(e)(3)(A)). Sharks that are shared PLMRs and are caught as bycatch in another nation's EEZ would be considered as a basis for identification under Section 610(a)(1).

The SCA separately required the Secretary of Commerce to identify nations whose vessels are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices on the high seas that target or incidentally catch sharks, and where the nation has not adopted a regulatory program for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions (Section 610(a)(2)).

Thus there are three different ways a nation could be identified for shark catches – for violation of an RFMO measure for conserving sharks, for shark catches on the high seas if the nation has not adopted a regulatory program comparable to that of the United States, and for bycatch in the EEZ of a nation of those sharks that are on the PLMR list and are shared with the United States.

The Moratorium Protection Act was further amended in December 2016 by the Ensuring Access to Pacific Fisheries Act (see 16 U.S.C. 1826k) to expand the scope of information that can be used for identification under the third provision from one year to the three calendar years preceding submission of the biennial report to Congress. Thus for the 2019 report, any identification could be based on activities that occurred during 2016, 2017, and 2018.

In response to the NMFS solicitation for information on shark bycatch, we received a comment that inferred that some of the shark catches reported to various RFMOs likely occurred on the high seas and contended that identifications for some nations were warranted under Section 610 of the MPA. NMFS conducted an analysis of nations reporting shark catches to RFMOs and followed its process to address this information, as set forth below.

In making an identification, NMFS considers relevant matters, including but not limited to the history, nature, circumstances, and gravity of fishing activities that targeted or incidentally caught sharks in areas beyond any national jurisdiction. The agency takes into account whether the nation has adopted a regulatory program for management of sharks in its domestic waters that could have a bearing on shark conservation on the high seas. NMFS also takes into account any actions taken by the nation relevant to conservation and management of sharks on the high seas, including:

- Whether the nation has adopted a regulatory program for shark conservation;
- Participation in cooperative research activities designed to mitigate the impacts of fishing activities resulting in the incidental catch of sharks;
- Programs for data collection and sharing, including programs to assess the abundance and status of sharks as well as observer programs; and
- Adoption and use of strategies, techniques, and equipment to reduce and mitigate shark bycatch.

If any relevant international organization or RFMO has adopted measures for shark conservation and sustainable management, NMFS considers whether the nation is a party or cooperating non-party to the organization and whether the nation has implemented such measures.

To address shark catches on the high seas under Section 610(a)(3), NMFS analyzed nations' reported catch data from the following RFMOs: ICCAT, IATTC, WCPFC, North Atlantic Fisheries Organization (NAFO), NPFC, SPRFMO, and CCAMLR. Forty-four nations and the EU reported shark catches to these RFMOs.

Even with the expanded time period, NMFS determined that the data on high seas shark catch from RFMO and third-party sources are insufficiently robust to make identifications. The data reported were inconsistent and weak. In particular, a large portion of the reported catch data provided no information on the location of the catch. With this ambiguity about whether the

shark catches occurred on the high seas, NMFS is not identifying any nation under the high seas shark catch provision.

NMFS has developed a two-pronged approach to improve the global conservation and management of sharks on the high seas and to address its mandates under Section 608 of the Moratorium Protection Act.

The first part of the approach addresses the requirement that the United States urge international fishery management organizations of which it is a member to adopt measures for the conservation of sharks, including measures to prohibit removal of any fins of the shark and discard of the carcass, comparable to measures of the United States. The United States promotes the global conservation and sustainable management of sharks through ongoing consultations regarding the development of international agreements consistent with the Shark Finning Prohibition Act. Discussions have focused on possible bilateral, multilateral, and regional work with other nations.

In implementing Section 608, the United States emphasizes, in its bilateral discussions with a number of States and entities, the collection and exchange of information, including shark fin landings, transshipping activities, catch and trade data, stock assessments, and life history data. The United States also continues to encourage other countries to implement FAO's International Plan of Action for the Conservation and Management of Sharks by finalizing, implementing, and periodically updating their own national plans of action, and to adopt policies that require all sharks to be landed with their fins naturally attached.

The U.S. Government continues to prioritize shark conservation and sustainable management globally and to work within RFMOs to facilitate shark research, data collection, monitoring, and management activities, as appropriate. In recent years, the United States has successfully led efforts to implement measures within a number of such organizations. See Part XI.B for details.

NMFS will build upon the efforts the United States has already initiated at RFMOs to strengthen these organizations, with the specific aim of improving data reporting on shark catches. More complete data would allow a determination to be made whether the catch occurred on the high seas.

Secondly, NMFS has requested domestic regulatory information from those nations that reported having shark catches. NMFS will analyze and consider all such information in determining whether a nation's regulatory program is comparable to that of the United States. NMFS will work with these nations bilaterally over the next two years. The goal is for these nations, in implementing RFMO measures for sharks, to adopt regulatory programs that are comparable to the U.S. program.

IV. Identifications under Section 609

A. Ecuador

NMFS is identifying Ecuador for failing to comply with IATTC Resolution C-11-07 (Resolution on the Process for Improved Compliance of Resolutions Adopted by the Commission). Resolution C-11-07 requires IATTC Members to investigate possible cases of non-compliance with IATTC resolutions involving fishing vessels flagged to them and report the results of their investigations to the IATTC Director. Records from IATTC and correspondence between NMFS and Ecuador indicate that in 2016 and 2017, Ecuador failed to fully investigate numerous alleged violations of IATTC resolutions by fishing vessels flagged to Ecuador.[9]

Specifically, Ecuador failed to fully investigate possible violations of IATTC Resolutions C-04-05, C-13-01 and C-17-02 by its flagged fishing vessels.

Possible violations of IATTC Resolution C-04-05: NMFS' correspondence with Ecuador reveals that on numerous occasions in 2016, Ecuador did not conduct effective investigations in response to allegations of possible non-compliance with requirements for releasing sea turtles contained in Resolution C-04-05. Specifically, it appears that Ecuador's actions were limited to review of observer documents related to the allegation. If the observer forms in question were left blank, Ecuador apparently concluded there was no violation. If the forms indicated that a turtle was eventually released unharmed, despite an alleged lack of effort to prevent entanglement in the net, Ecuador concluded there was no violation, despite the requirement under C-04-05 to prevent entanglement in the net. In these cases, Ecuador did not attempt to seek further information from the observer, the vessel operator, or the IATTC Secretariat in order to investigate the alleged violations.

Possible violations of IATTC Resolution C-13-01: With respect to allegations in 2016 of tuna discards in violation of Resolution C-13-01, Ecuador's actions also appeared to be limited to a review of observer documents related to the allegation. If the forms in question were left blank, Ecuador concluded there was no violation. Ecuador did not attempt to seek further information from the observer, the vessel operator, or the IATTC Secretariat in order to investigate the alleged violations.

Possible violation of C-17-02: Ecuador also failed to investigate an allegation that a vessel flagged to Ecuador carried out search activities for two consecutive days in the Corralito (closure) area in 2016. In correspondence with NMFS, Ecuador indicated that its actions in response to the allegation were limited to reviewing a form associated with the trip number in question, which was left blank. Because this form was left blank, Ecuador did not open an investigation. Ecuador also did not attempt to seek further information from the observer, the vessel operator, VMS records, or the IATTC Secretariat.

[9] Document COR-09-01, Compliance with IATTC Resolutions in 2017, IATTC Committee for the Review of Implementation of Measures Adopted by the Commission, 9th Meeting, August 21-22, 2018. Letter from Ecuador's Ministerio de Producción, Comercio Exterior, Inversiones y Pesca dated May 1, 2019.

The United States is particularly concerned with Ecuador's failure to fully investigate allegations of noncompliance with IATTC resolutions by Ecuador's purse-seine fleet. Ecuador's purse-seine fleet comprises approximately 40% of the total number of purse-seine vessels currently authorized to fish for tunas in the eastern Pacific Ocean. The United States is also concerned by the recurrent vessel-specific issues, which have been the basis for Ecuador's repeated identifications for IUU fishing in these Biennial Reports to Congress (2011, 2013, 2015, 2017, and 2019).

B. Mexico

NMFS is again identifying Mexico for having vessels fishing illegally in U.S. waters in the Gulf of Mexico. Mexico was previously identified for this same issue in 2015 and 2017. These vessels are known to have deleterious effects on finfish stocks, including red snapper, as well as bycatch of protected sea turtles. NOAA, the National Parks Service, and the Texas Parks and Wildlife Department have reported significant strandings of turtles on beaches in Texas, likely the result of bycatch by Mexican vessels illegally fishing in U.S. waters. In 2016, the USCG apprehended 35 open-hulled vessels (known locally as *lanchas*) with indications of fishing activity in the U.S. EEZ. In 2017, there were 33 such cases. The gear type used by these lanchas is longline (monofilament with no wire leaders); the catch is predominantly red snapper. NMFS is still analyzing the 51 case packages compiled by the USCG detailing the lanchas apprehended during 2018. The USCG reports having apprehended a large number of Mexican nationals who are repeat offenders, some having been interdicted more than 20 times since 2014. Prosecution results shared by Mexico show certain Mexican nationals are amassing numerous fines for repeatedly fishing in U.S. waters.

Despite the increasing number of prosecutions by Mexico and the imposition of fines on Mexican nationals found guilty of fishing in U.S. waters, the United States is concerned that these actions have not yet had a material effect on the number of incursions. In addition, the United States imported 4,796,693 kilograms of fresh and frozen snapper (*lutjanidae* spp.) from Mexico in 2018 (with a declared value of $33,036,108 USD), raising concerns that these imports may include fish harvested illegally in U.S. waters. Based on consultations with Mexico on this issue, it appears that while control of, and compliance by, the licensed fleet may have improved, there continues to be an unlicensed fleet that operates without meaningful monitoring or control by Mexico.

The United States, particularly the USCG, consistently expends considerable resources and assumes significant operational risk to locate, deter and interdict these vessels. During the next consultation period leading up to a certification decision related to Mexico in the 2021 Biennial Report to Congress, the United States will be looking to see not just continued prosecutions in response to continued lancha incursions, but increased monitoring and control of lanchas by Mexico and well as improved compliance. During the upcoming consultation period, we will be focusing close attention on seeing significant changes both in the number of incursions and the number of repeated offenders found fishing illegally in U.S. waters.

The United States intends to closely monitor progress on, and the effectiveness of, the following:

- Mexico's cooperation in facilitating the safe and expedient transfer of Mexican nationals apprehended by the USCG for fishing illegally in U.S. waters to the appropriate Mexican authorities, including at-sea transfers where appropriate.
- Increased Mexican law enforcement presence in the shoreside areas used by lancha camps from which illegal fishing activity originates.
- Mexico's efforts to improve monitoring and control of the entire small-scale fleet, including through enforcement of its domestic vessel registry laws.
- Increased information sharing to support USCG interdiction of lanchas operating in the U.S. EEZ (e.g., notification of northbound lanchas, vessel positional data, such as from AIS or VMS sources, etc.).
- Increased patrols, at least monthly patrols, by Mexican law enforcement authorities along the maritime boundary in the Gulf of Mexico to deter northbound lanchas.
- Mexico's participation in regular planning meetings with the USCG and NOAA OLE to coordinate the operational actions and information sharing to deter and detect northbound lanchas.
- Mexico's efforts to ensure the snapper (*lutjanidae* spp.) it exports was legally harvested by the authorized fleet of small-scale fishermen, as well as to support NMFS' efforts to identify and prevent the importation of illegally harvested fish.
- Mexico's continued efforts to prosecute and fine the Mexican nationals found guilty of fishing in U.S. waters, as well as efforts to improve the efficacy of such enforcement actions in preventing recidivism.

We will be looking to see a measurable change in the volume of Mexican lancha incursions into U.S. waters, as well as in the number of repeat offenders, as a result of the efforts described above, and any other efforts needed to demonstrate that Mexico is taking the necessary steps to curtail the illegal fishing activities of its vessels.

C. Republic of Korea

The Republic of Korea is being identified for failing to apply sufficient sanctions to deter its vessels from engaging in fishing activities that violate conservation and management measures adopted by an international fishery management organization.[10]

[10] The sources of information on Korean fishing activities and responses by the Korean Government include conversations between the delegations of the United States and the Republic of Korea at the CCAMLR meeting in the fall of 2018 and during a bilateral consultation on April 26, 2019, in Silver Spring, Maryland, and the following CCAMLR Commission Circulars: COMM CIRC 17/105 (fishing gear deployed within 24 hours of a fishery closure, information submitted by the Republic of Korea); COMM CIRC 18/08 (additional information regarding the vessels *Hong Jin No. 701* and *Southern Ocean*, submitted by the Republic of Korea); and COMM CIRC 19/21 (additional information regarding the vessels *Hong Jin No. 701* and *Southern Ocean*, submitted by the Republic of Korea). In addition, the Republic of Korea provided written information on April 22, 2019, and again during the April 26, 2019, consultation, and then again in correspondence dated June 25, 2019. These issues are also addressed in the report of CCAMLR XXXVII (Annex 6, paragraphs 76-81).

Records from CCAMLR, as well as information provided to CCAMLR and the United States by the Republic of Korea, indicate that two vessels flagged to Korea violated CCAMLR conservation and management measures in 2017 and that Korea did not take effective actions to address the violations. According to CCAMLR records and information provided by the Republic of Korea, in December 2017, the Korean fishing vessels *Southern Ocean* and *Hong Jin No. 701* set longline gear within 24 hours of a notified fishery closure, in violation of CCAMLR Conservation Measure CM 31-02. While the Republic of Korea did take some actions to address these violations, including directing the vessels to return to port and suspending the Distant Water Fisheries License and Seafarers Certification of one of the vessels for 60 days at the end of the season, it did not assess any monetary or other sanctions against the vessel owners or operators, nor was the illegal catch confiscated.

The Republic of Korea has explained, to the United States and to CCAMLR, that, while the Distant Water Fisheries Development Act (DWFDA) includes robust criminal penalties, it does not include any administrative or other civil remedies. Therefore, when the prosecutor declines prosecution due to insufficient evidence that the violation was intentional (*Hong Jin No. 701*), or suspends the indictment (*Southern Ocean*), there are no other mechanisms available for addressing violations or depriving the violators of the economic benefit of their illegal activity. Further, under Korean law, seizure and forfeiture of property is only available post-conviction. At the 2018 CCAMLR annual meeting, and again in February 2019 via a CCAMLR Commission Circular, the Republic of Korea committed to amending its domestic law to ensure that appropriate mechanisms exist for taking appropriate corrective actions in future cases.

During consultations with the United States, Korea again recognized the need for administrative enforcement authority to address cases involving vessels that have engaged in IUU fishing but that are inappropriate for criminal prosecution, as well as for enabling the government to deprive the violators of the economic benefit of their violations even when the catch cannot be confiscated. The Government of Korea further indicated that it is currently undertaking amendments to the DWFDA to provide these tools. Korean officials expect the amendments to the DWFDA to be enacted during the latter half of 2019.

In addition, information previously provided by the Republic of Korea indicated that it had not fully implemented the CCAMLR catch documentation scheme for toothfish (CM 10-05). As a result, the illegally harvested fish from the *Southern Ocean* and *Hong Jin No. 701* was able to enter international trade.

To address these deficiencies, Korea established a new Ministerial Directive to implement the CCAMLR catch documentation scheme for toothfish. This new Directive went into effect on July 1, 2019. Based on our review of the new Directive, we have determined that it does implement CM 10-05. We look continuing the productive consultations with the Republic of Korea on this matter.

V. Certifications under Section 609

NMFS identified three countries in the 2017 Report to Congress as having vessels engaged in IUU fishing activity. Many of the incidents of IUU fishing for two of the countries (Ecuador and the Russian Federation) involved a violation of the rules of an international fishery management organization in 2014, 2015, or 2016. NMFS identified two nations (Mexico and the Russian Federation) for fishing illegally in the U.S. EEZ. NMFS also identified Mexico for overfishing of stocks shared with the United States. Under Section 609 of the Moratorium Protection Act, the Secretary of Commerce must certify biennially in the report to Congress whether an identified nation has taken appropriate corrective action to address the activities for which it was identified.

After notifying the three countries of their identifications early in 2017, the U.S. Government consulted extensively with those governments, through face-to-face meetings, teleconferences, and correspondence, through the first part of 2019. The three governments provided information that falls into two categories:

- For each of the acknowledged violations, the governments took punitive action against the vessels or persons (captains or vessel owners) involved, or adequately explained why such action was not taken. The sanctions included fines and actions against licenses.

- Governments took other steps to improve compliance with existing laws and regulations.

The remainder of this section sets out in detail the information supplied by the identified nations about corrective actions taken – including penalties, withdrawal of fishing authorizations, and new fisheries management laws adopted – and NMFS' certification decisions for each nation. This process, as in past cycles of identifications and certifications, continues to operate as Congress intended: it is promoting compliance with international fisheries measures.

A. Ecuador

Bases for 2017 Identification. NMFS identified Ecuador for having 25 vessels with violations of IATTC resolutions in 2014, 2015, and 2016.[11] Several of these vessels are repeat offenders from the identification in 2015 and from prior rounds of identification.

In 2014 and 2015, 14 vessels (two in 2014 and 12 in 2015) discarded tuna, in violation of IATTC resolution C-13-01, which requires all purse-seine vessels to first retain on board and then land all bigeye, skipjack, and yellowfin tuna caught, except fish considered unfit for human consumption or during the final set of the trip when there is insufficient well space to accommodate all the tuna caught in that set. Three vessels discarded tuna and plastic in 2015, in

[11] The sources of information on Ecuador's fishing activities are: IATTC Document COR-06-03, Compliance with IATTC Resolutions in 2014; IATTC Document COR-06-03, Compliance with IATTC Resolutions in 2015; Compendium of possible non-compliance cases of IATTC resolutions in 2014; Compendium of possible non-compliance cases of IATTC resolutions in 2015; and communications from NOAA's National Data Buoy Center.

violation of IATTC resolutions C-13-01 governing tuna discards, and C-04-05 concerning bycatch, which requires contracting parties to prohibit their vessels targeting species covered by the Convention from disposing of salt bags or any other type of plastic trash at sea, to prevent sea turtle mortality. Three fishing vessels improperly rescued turtles in 2015, in violation of IATTC resolution C-04-05. Three fishing vessels discarded plastic in 2015, in violation of the same resolution. One vessel made a purse-seine set on tuna associated with a live whale shark, when the animal was observed before the start of the set, in violation of IATTC resolution C-15-03. One vessel transited without a waiver to allow it not to carry an observer in 2015, in violation of IATTC resolution C-13-01. One vessel moored to a data buoy, in violation of IATTC resolution C-11-03, which prohibits fishing vessels from interacting with data buoys in the Antigua Convention Area.

Notification and Consultation. Ecuador was notified through a diplomatic note from DOS and a letter from the Assistant Administrator for Fisheries, both dated January 18, 2017, regarding its identification as a nation whose vessels engaged in IUU fishing activity. The Embassy of Ecuador in Washington, D.C., and the Ministry of Agriculture, Livestock, Aquaculture, and Fisheries were the primary entities involved in the consultation.

The following lists the key communications between Ecuador and the United States during the consultation:

- On July 17, 2017, Ecuadorian officials provided documents to U.S. officials on the sidelines of the IATTC annual meeting in Mexico City. The documents describe actions taken in response to the activities for which Ecuador was identified.
- On November 28, 2017, Ecuador sent additional documentation regarding actions taken to address some of the outstanding cases.
- On January 17, 2018, NMFS representatives met with the Vice Minister of Aquaculture and Fisheries. Ecuador indicated that cases were moving through its legal system, but did not provide any further documentation.
- On February 7, 2018, the Government of Ecuador provided a status update on pending cases as well as corroborating documentation indicating resolution and sanctions.
- On July 23, 2018, Ecuadorian officials provided updates to the pending cases and submitted additional documentation regarding actions taken to address some of the outstanding cases.
- On August 22, 2018, Ecuadorian officials and NMFS met on the margins of the IATTC annual meeting and discussed pending cases.
- On September 3 and 17, 2018, the Government of Ecuador provided status updates on pending cases, as well as corroborating documentation indicating resolution and sanctions.
- On December 10, 2018, the Government of Ecuador again provided supporting documentation on actions taken.

Corrective Actions. Ecuador opened administrative investigations for all the cases that formed the bases for its identification. The Government of Ecuador concluded that all but one case warranted punitive actions. Ecuador imposed monetary sanctions in those cases that warranted punitive action and provided the United States with documentation of these sanctions. Thirteen

cases reached final resolution with sanctions imposed, corroborated with documentation. For the case that did not warrant punitive action, Ecuador determined, following an investigation, that the vessel did not commit an infraction of the conservation and management measure.

At the time of the 2017 Report to Congress, Ecuador reported a number of violations as "resolved," although no details were provided to the United States as to whether the vessels had been sanctioned. Since then, Ecuador has provided documentary evidence that these cases were investigated and went through an administrative process that concluded with sanctions.

Certification. On the basis of the information provided, NMFS has determined that the Government of Ecuador has taken appropriate corrective action to address the IUU fishing activities for which it was identified in the 2017 Report. Based on this finding, NMFS has made a positive certification determination for Ecuador.

B. Mexico

Bases for 2017 Identification. NMFS identified Mexico for having vessels fishing without authorization in U.S. waters, and for overfishing of a stock (red snapper) shared by the United States in areas without applicable international measures or management organizations, which has adverse impacts on such stocks. USCG records indicate that a number of Mexico's fishing vessels fished illegally in the U.S. EEZ in the Gulf of Mexico in 2014 and 2015. The catches documented aboard the apprehended vessels included red snapper, which the United States determined to be an overfished stock as of September 30, 2016.

In 2014, the USCG apprehended 26 open-hulled vessels (known locally as *lanchas*) in the U.S. EEZ. A total of 100 Mexican nationals were apprehended aboard these vessels and repatriated. In 2015, the USCG apprehended 25 lanchas in the U.S. EEZ. A total of 98 Mexican nationals were apprehended aboard these vessels and repatriated.

Notification and Consultation. Mexico was notified through a diplomatic note from DOS and a letter from the Assistant Administrator for Fisheries, both dated January 18, 2017, regarding its identification as a nation whose vessels engaged in IUU fishing activity. The Embassy of Mexico in Washington, D.C., and the Comisión Nacional de Acuacultura y Pesca were the primary entities involved in the consultation. The following lists the key communications between Mexico and the United States during the consultation:

- On March 16, 2017, a U.S. delegation met with officials of the Mexican Embassy in Washington, D.C. Mexico updated the United States on the status of case prosecutions and increased efforts in monitoring and surveillance.
- On May 19, 2017, Mexico sent a letter to NMFS that included details of the prosecutions it had carried out, including the names of individuals charged and monetary fines imposed in each case.
- On July 12, 2017, NMFS sent a letter to Mexico with questions to clarify Mexico's process for prosecutions and appeals.
- On September 19, 2017, NMFS met with Mexican officials to discuss the status of Mexico's prosecutions related to the lancha incursions and to inquire again about a response to the July 12 letter.

- On October 19, 2017, Mexico delivered a letter to NMFS that answered the questions in NMFS' July 2017 letter.
- On February 6-8, 2018, NMFS met with Mexican officials in Washington, D.C., during the United States-Mexico Fisheries Bilateral to discuss the status of the lancha incursions and focusing discussions on identifying alternative ways to address lancha incursions.
- On July 12, 2018, NMFS sent the Government of Mexico a letter requesting a status update on the cases for which they were identified.
- On August 22-23, 2018, NMFS met with Mexican officials on the margins of the IATTC meeting in San Diego in regard to a status update on actions taken by Mexico and to ask again about a response to the July 12, 2018, letter.
- On November 28, 2018, NMFS met with the Government of Mexico in Mexico City to discuss the status of the 2017 identification.
- On November 29, 2018, the Government of Mexico submitted a letter to NMFS in response to the July 12, 2018, letter. The Mexican letter provided documentary evidence of actions Mexico had taken in regard to the identification.
- On January 23, 2019, the Government of Mexico submitted updated information.
- In May 2019, the Government of Mexico submitted updated documentation on administrative enforcement actions on cases as identified in the July 12, 2018, letter by NMFS.

Vessel-Specific Actions. Mexico continues to bring charges against lancha vessel crews and owners, including fishing cooperatives, under its General Law of Sustainable Fishing and Aquaculture, which states that it is an infraction to conduct fishing on the high seas and in waters under foreign jurisdiction without a permit. Mexico noted that, for the 51 cases for which it was identified in 2017 (26 cases in 2014 and 25 cases in 2015), it opened 316 administrative cases. Mexico then proceeded to track and verify the individuals identified as having potentially committed infractions, and notified them of the alleged infractions and case proceedings. Mexico was not able to serve a number of individuals because they could not be located. In total, Mexico opened cases against crewmembers related to 13 of the 26 lancha incursion cases (50 percent) from 2014; and 24 of the 25 lancha incursion cases from 2015 (96 percent) for which it was identified in the 2017 Biennial Report. A monetary fine was assessed for each violation.

Additional Actions Taken by Mexico. Mexico reported it installed satellite monitoring devices on vessels sailing out of the ports of Bagdad Beach, Matamoros, and Tamaulipas beginning in 2017. Since then, and in an effort to strengthen enforcement, Mexican officials report that they have installed microchips that capture radio frequency to better track small vessels, specifically to locate where these vessels are landing, and to better distinguish between the registered fishing fleet and those conducting illegal activities. They indicate that in 2018 they conducted preventive and corrective maintenance on the satellite monitoring system as a means to optimize transmission. They have identified base ports and set up a registry for vessels and crew. Mexico continues to cancel engine and gas subsidies to fishermen and cooperatives associated with lancha incursions. No subsidies were given to these groups in 2016, 2017, and 2018, resulting in a loss to them of approximately $477,777 USD annually, according to Mexican officials.

Mexico also reported that its fishery agency continues to coordinate surveillance activities with the Mexican navy. In 2018 Mexico conducted 223 terrestrial inspections, inspections of 260

fishing vessels registered in Bagdad Beach, and seven boardings to verify compliance with fishing and marine laws.

They also reported that two federal fisheries officers are permanently located at the Bagdad Beach Naval Station. Equipped with a vehicle and a small vessel, they carry out surveillance activities.

Mexico manages red snapper under their domestic regulation NOM-065-SAG/PESC-2014. The regulation identifies a number of management measures, including size limits, prohibitions on fileting onboard, prohibited fishing areas, prohibited gear, and limited gear and vessel type. In addition, in 2018 NMFS conducted a stock assessment and determined the stock was no longer overfished.

Certification. On the basis of the consultation and the information provided by Mexico, there is positive progress in initiating and charging enforcement cases against those individuals involved in the lancha operations and overfishing of red snapper, and in increasing surveillance patrols and curtailing engine and gas subsidies. Based on this finding, NMFS has made a positive certification determination for Mexico.

C. Russian Federation

Bases for 2017 Identification. NMFS identified the Russian Federation because CCAMLR records indicate that Russian-flagged vessels violated CCAMLR conservation measures in 2014, 2015, and 2016. In addition, the United States documented a Russian-flagged vessel fishing in U.S. waters without authorization in 2014.

Notification and Consultation. The Russian Federation was notified through a diplomatic note from the U.S. Department of State and a letter from the Assistant Administrator for Fisheries, both dated January 18, 2017, regarding its identification as a nation whose vessels engaged in IUU fishing activity. The Embassy of the Russian Federation in Washington, D.C., and the Federal Agency for Fisheries were the primary entities involved in the consultation. The following lists key communications between the Russian Federation and the United States during the consultations:

- On September 28, 2017, U.S. and Russian officials met in the margins of the 28th Intergovernmental Consultative Committee meeting in La Jolla, to discuss actions the Russian Federation was taking to resolve the cases for which it was identified.
- On December 12, 2017, U.S. officials met with Russian officials to further discuss actions the Russian Federation was taking.
- On December 22, 2017, NMFS sent a letter to the Russian Federation, further clarifying statutory mandates and requesting information on actions taken to resolve the cases.
- On December 24, 2017, the Russian Federation submitted a letter to NMFS providing information and clarifications to corrective actions taken to resolve the cases.
- On February 20, 2018, NMFS sent the Russian Federation an email requesting further documentary evidence on the corrective actions.
- NMFS communicated with the Russian Federation on March 13, 2018, as a follow-up to the communication from February 20, 2018.

- On April 3, 2018, the Russian Federation requested further information stemming from the previous communication. NMFS provided further information on April 27, 2018.
- On July 4, 2018, the Russian Federation sent a letter providing information and documentary evidence of the corrective actions it has taken to address the issues for which it was identified.
- The 29th Intergovernmental Consultative Committee meeting took place August 20-22, 2018. NMFS took this opportunity to further consult with the Russian Federation.
- On September 28, 2018, NMFS representatives met with embassy officials to finalize consultations.

Corrective Actions. The Russian Federation opened administrative investigations into all the cases for which it was identified and provided information on final conclusions and actions taken to resolve them. The Russian Federation concluded that all but one of the CCAMLR violations by *Oladon I* warranted corrective actions, and ultimately suspended the vessel from fishing in the CCAMLR regulatory area, a prohibition that continues in force.

The Russian Federation also addressed the agreed recommendation of CCAMLR for the second fishing vessel, as reflected in CCAMLR Compliance Report 2016, regarding the late retrieval of fishing gear in Subarea 88.2. The Russian Federation conducted training for the crew, as well as for their scientific observation program staff, to further educate them on CCAMLR conservation and management measures.

The Russian Coast Guard conducted an investigation into the alleged activity of a Russian-flagged fishing vessel having fished illegally within U.S. waters. Russian authorities concluded that no IUU fishing took place because the vessel was not fishing in the U.S. EEZ. The Russian Federation provided official documentation of the investigation, including information from the Rosrybolovstvo Center of Fishery Monitoring and Communications, vessel speed information, copies of the vessel's log, fishing log, GPS log, and interview reports from the captain and first mate.

According to their analysis of data from the Russian satellite positioning system, the Russian Federation maintains the fishing vessel did not cross the maritime boundary line in the Bering Sea. The Russian Federation noted the possibility of discrepancies between the coordinates of the maritime boundary line and has instructed its fleet not to conduct fishing operations close to the U.S.-Russian maritime boundary line.

Certification. The Russian Federation investigated the alleged infractions by its two vessels regarding infractions of CCAMLR measures and suspended one vessel from fishing in the CCAMLR regulatory area. The Russian Federation implemented what the CCAMLR compliance process recommended for the second vessel identified.

The third vessel identified in the 2017 Report was investigated by Russian authorities in Rosrybolovstvo, for having allegedly fished illegally in the U.S. EEZ. After investigation, the Russian Federation concluded the vessel was not fishing within the U.S. EEZ and that no IUU fishing took place.

On the basis of information provided, NMFS has determined that the Government of the Russian Federation has taken appropriate corrective action to address the IUU fishing activities for which

it was identified in the 2017 Report. Based on this finding, NMFS has made a positive certification determination for the Russian Federation.

VI. Concerns with China's Fishing Practices

In the course of researching IUU fishing activity for this report, we came across significant public reports of alleged illegal fishing by Chinese-flagged vessels in the EEZs of other nations[12]. In addition, there were reports of numerous instances where China denied responsibility for vessels that had multiple characteristics of being Chinese-flagged vessels that were fishing in violation of a conservation and management measure. There is a geographically widespread nature to these allegations – occurring in almost every region of the world. This indicates a possible pervasive problem from Chinese-flagged fishing vessels. While such activities do not fall within the current definition of IUU fishing under the MPA and NOAA's implementing regulations because they occurred in the EEZ of another nation, and therefore cannot serve as the basis of a formal identification during this review period, NOAA remains concerned about the seriousness and widespread nature of allegations attributed to Chinese-flagged vessels.

In particular, information provided to us indicates at least a number of allegations of illegal fishing activity in the EEZs of another country by Chinese-flagged vessels between 2016 and 2018. Most of these allegations involved multiple Chinese-flagged vessels. A summary of some of these allegations is included below to demonstrate the broad range of claims made against Chinese-flagged vessels:

- There have been at least three reported incidents with Chinese-flagged vessels in Argentina's EEZ. In January 2016, Argentina issued an international arrest warrant for the *Hua Li 8*, which was found fishing 800 meters inside Argentina's EEZ, and then fled from patrol vessels and was later captured in Indonesia in April 2016. In March 2016, the *Lu Yan Yuan Yu 010* was caught fishing inside Argentina's EEZ and was sunk by the Argentine Coast Guard after it tried to collide with and flee from official ships. In March 2018, Argentina issued an international capture order for the *Jing Yuan 626* and four other Chinese-flagged vessels of the state-owned Beijing Fisheries Co., Ltd. The *Jing Yuan 626* was found fishing in Argentina's EEZ, then fled official pursuit with the assistance of the four other boats that threatened to ram an Argentinian Coast Guard vessel.
- In June 2017, Senegalese authorities detained seven Chinese-flagged fishing boats for illegally fishing in its waters.
- In 2017, eight Chinese-flagged vessels were detained for illegal fishing by Guinea, Sierra Leone, and Guinea Bissau. Guinea detained the Chinese-flagged vessels *Lian Run 34* and *47*, which were caught with illegal fishing nets and illegal shark fins.

[12] While several RFMOs to which the United States and China are both contracting parties do have prohibitions on unauthorized fishing in areas under the jurisdiction of another party, the protocols for action largely place responsibility on the aggrieved party to initiate discussion on a bilateral basis, and if unresolved, to bring the matter before the RFMO.

- In the Pacific Islands, joint enforcement operations, such as Operation Rai Balang in 2017, showed illegal fishing by five Chinese-flagged vessels in Vanuatu and one Chinese-flagged vessel in Micronesia.
- On August 13, 2017, the Ecuadorian Coast Guard detained the Chinese-flagged refrigerated carrier vessel the *Fu Yuang Yu Leng 999* in the waters of the Galapagos Islands Marine Reserve and found it contained a cargo of 300 tons of fish, including hammerhead and silky sharks. Further analysis of publicly available vessel tracking data shows the carrier vessel loitered in close proximity to four Chinese-flagged longline vessels prior to entering Ecuador's waters, suggesting unauthorized transshipment may have occurred.
- On October 6, 2018, the Chinese-flagged fishing vessel *Run Da 608* was detained by Peruvian authorities for suspicion of unauthorized fishing in the Peruvian EEZ.

In addition, NOAA notes the number of stateless vessels on the North Pacific Fisheries Commission IUU vessel list (posted 19 August 2018) that have characteristics of Chinese registration but which China has denied are Chinese-flagged vessels. For example, 20 vessels were observed broadcasting a Maritime Mobile Service Identity (MMSI) with maritime identification digits (MID) that are allocated to China (412 and 413) via their Automatic Identification Systems (AIS). Twenty-four vessels had the name of a Chinese port painted on the hull of their vessel (specifically: Shidao (16 vessels), Fungcheng (3 vessels), Zhoushan (3 vessels), and Wenling (2 vessels)). Three of these vessels had the word "CHINA" painted on the side of the vessel in large lettering. Although outside the time frame for this report, there were similar vessels discussed at this year's North Pacific Fisheries Commission meeting as well.

After careful analysis NOAA has determined these particular allegations do not meet the current definition of IUU fishing for the purposes of identification under the MPA and its implementing regulations. NOAA will engage with China to seek information on its efforts to exercise responsible flag state control over its distant water fishing vessels and to confirm that it is taking the necessary steps to ensure compliance by its fleet. We will also continue to take steps to ensure that the United States is not importing seafood derived from this type of IUU fishing activity.

VII. State of Knowledge on the Status of International Living Marine Resources

Section 607 of the Moratorium Protection Act requires an accounting of the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with their management or conservation.[13] NMFS has updated the list cited in the 2017 Report to Congress, including links to the latest (as of fall

[13] The term "international living marine resources," as described in this sentence, is much more inclusive than the term "protected living marine resources." The latter includes only non-target species protected under U.S. law or international agreement that, except for sharks, are not managed under the MSA, the Atlantic Tunas Convention Act, or any international fishery management agreement.

2018) status reviews of species. For each species, the table shows the status of each stock, the organization(s) that made the assessment, and applicable treaties. The revised list is available online at https://www.fisheries.noaa.gov/international-affairs/identification-iuu-fishing-activities, by clicking on the link to "International Living Marine Resources."

The list includes resources for which an international treaty or agreement, to which the United States is a party, has explicit conservation or management authority, has in place measures designed to control fishing mortality, or has directed the collection of fisheries data, including bycatch, to inform assessments of status. It also includes other resources shared by the United States, including U.S. territories, on which a directed fishery exists or which are taken as bycatch that are significant either in absolute numbers or because of the sensitivity of the international living marine resources, such as seabirds, sea turtles, marine mammals, or sharks, but which are not subject to an international treaty or agreement to which the United States is a party.

VIII. International Actions to Address IUU Fishing

Global international organizations have acted in recent years to create many tools to combat IUU fishing and promote sustainable fisheries. This part updates the descriptions of these activities, and how they are being implemented by RFMOs, from the 2017 Report to Congress.[14]

Food and Agriculture Organization. Established in 1945, FAO has a mandate to raise levels of nutrition and standards of living, improve agricultural productivity, and better the condition of rural populations. Today, FAO is the largest autonomous agency within the UN system, with 194 member countries plus the EU and two associate members (Faroe Islands and Tokelau).

FAO's Committee on Fisheries (COFI), established in 1965, constitutes the only global intergovernmental forum other than the United Nations General Assembly (UNGA) where major international fisheries and aquaculture problems and issues are examined and recommendations addressed to governments, regional fisheries bodies, NGOs, fish workers, and the international community on a worldwide basis. COFI is also a forum in which global instruments, binding and non-binding, are negotiated.

At the 32nd session of COFI in 2015, the United States announced it would fund an expert workshop to review the findings of recent international marine mammal bycatch workshops. FAO convened an expert workshop on the means and methods for reducing marine mammal mortality in fishing and aquaculture operations in March 2018. The workshop made several recommendations to COFI, including the development of technical guidelines, the facilitation of a correspondence group to further develop a decision tree as part of the proposed technical guidelines, and the inclusion of marine mammal bycatch prevention and reduction efforts in FAO's biennial publication, *The State of World Fisheries and Aquaculture*.

At its 33rd meeting in July 2018, COFI welcomed the work of FAO on bycatch, including work on marine mammal bycatch and the recommendations of the expert workshop. COFI encouraged FAO to continue its work, engaging with members, relevant experts, and organizations, such as the International Whaling Commission (IWC) and the North Atlantic Marine Mammal Commission, in development of best practices in the form of technical guidelines. The 33rd session of COFI also supported FAO's continued work to develop technical guidelines for estimating the magnitude and geographic extent of IUU fishing.

United Nations General Assembly. The UNGA 2018 Sustainable Fisheries Resolution urges flag States to strengthen effective jurisdiction and control over vessels flying their flag, and to exercise due diligence, including by developing or amending national rules and regulations, where needed, to ensure such vessels do not engage in IUU fishing. The 2018 Resolution also notes the challenges posed by vessels fishing on the high seas that are determined under international law to be without nationality; by definition, they are engaged in IUU fishing.

[14] While the United States is not a member of IOTC, NEAFC, SEAFO, or CCSBT, it does follow these organizations and reports on some of their activities in this and subsequent parts of the report.

Western Central Atlantic Fisheries Commission. WECAFC is a regional body established in 1973 under Article VI(1) of the FAO Charter. As such, it does not have management authority for fisheries in the region, but helps members to promote effective conservation, management, and development of living marine resources in accordance with the FAO Code of Conduct for Responsible Fisheries. The Commission also addresses common problems of fisheries management and development faced by its members. WECAFC is composed of 33 countries, plus the EU, located in the Wider Caribbean region, or whose vessels fish there.

In 2014, the United States successfully led efforts at WECAFC to create a regional working group on IUU fishing. It is a joint group of WECAFC, the Caribbean Regional Fisheries Mechanism, and the Organization for Fisheries and Aquaculture of Central America (OSPESCA). The working group held its first meeting in March 2017. The 52 participating experts, representing the WECAFC membership and relevant regional organizations, agreed on terms of reference and a work plan through 2018. The group met again in September 2017 and in September 2018. Participants have prepared the basis for the establishment of a regional fishing vessel record, exchanged information and experiences on MCS measures implemented in the region, and established a medium- to long-term regional strategy to combat IUU fishing.

European Union-United States Bilateral Engagement. As two of the three top seafood importers in the world, the EU and the United States recognized their responsibility to protect the oceans' vital food and biodiversity resources in a historic statement signed in 2011 pledging bilateral cooperation to combat IUU fishing. Since then, the United States and the EU have worked together to support adoption of effective management measures in regional and international organizations, promote tools that prevent IUU fishing operators from benefiting economically from their illegal activities, exchange information on IUU fishing activities, and promote the sustainable use of fisheries resources while preserving marine biodiversity. U.S. and EU officials continued cooperation throughout 2017 and 2018, including through regular meetings of an informal working group, to coordinate their joint efforts to combat IUU fishing by identifying specific activities, dates, and points of contact, and through extensive discussion of regional and global fisheries issues. In 2017, the working group adopted updated terms of reference that focus the work of the group on operational enforcement cooperation.

The sections in this part focus on particular approaches (such as port State control measures) and specific tools (such as monitoring, vessel lists, and the global record of fishing vessels) that are being developed and implemented to deter IUU fishing activities.

A. Port State Measures

The reason IUU fishing continues despite decades of effort to curb the problem is the economic incentive that makes such activities cost-effective and financially viable for many fishermen and, indeed, investors. Removing or disrupting the economic drivers of IUU fishing promotes eradication of this global activity. FAO members in 2009 completed negotiation of a global agreement, the Agreement on Port States Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), designed to counter those economic inducements.

On February 26, 2016, the United States ratified the PSMA, which requires parties to take actions to prevent IUU fish and fish products from entering the stream of commerce. In

recognition that all fish must pass through a port to get to market, the PSMA sets minimum standards for conducting port inspections and training inspectors. Parties must restrict port entry and access to port services to vessels that have engaged in IUU fishing, except when entry is allowed for the purpose of inspection, other enforcement actions, or circumstances of *force majeure*. The United States was a primary participant in the negotiation of the PSMA and one of the first countries to sign it.

The PSMA entered into force on June 5, 2016. As of March 2019, 59 States and the EU have deposited instruments to adhere to the agreement, but broader participation and successful implementation will be necessary for the agreement to be effective in combating IUU fishing.

In May 2017, PSMA parties held their initial meeting in Oslo, where they agreed that FAO would assume the role of Secretariat for the meeting. The parties noted the value of drawing lessons from existing relevant initiatives of RFMOs and other international organizations. They agreed that a staged approach should be adopted with regard to data exchange and established an open-ended technical working group to provide guidance on the development of data exchange mechanisms. FAO was tasked with developing templates for reporting of information from national contact points and designated ports, and to publish the information through a dedicated section within the FAO website. The parties called upon the Secretariat to develop a web-based questionnaire for the purpose of monitoring implementation of the agreement, as well as recording challenges faced, which is to be completed every two years initially. The Secretariat was also requested to prepare draft rules of procedure for meetings of the parties and any subsidiary working groups for consideration at the next meeting of the parties. The parties agreed to hold meetings every two years, along with supplementary technical meetings as required.

The first meeting of the Part 6 Working Group on the PSMA's funding mechanisms convened in 2017 to discuss the main requirements and priorities of developing States in implementing the agreement.[15] The working group recognized that assistance should be tailored to accommodate the specific needs of countries and regions, and highlighted the importance of linking individual and institutional capacity building. The important support that existing RFMO mechanisms can provide in delivering assistance to developing States was recognized. The working group agreed on draft terms of reference for the funding mechanisms to be considered by the parties at their next meeting. It agreed that funding mechanisms should include contribution schemes toward an assistance fund, including for projects supporting implementation of the agreement. The second meeting of the Part 6 Working Group, held in Rome in July 2018, continued this important work. The third meeting of the Part 6 Working Group was held in conjunction with the second meeting of the parties on June 7, 2019. The working group agreed on priorities for the use of the Part 6 Assistance Fund and established a panel to review applications on the assistance to be granted under Part 6 of the Assistance Fund.

The first meeting of the PSMA Open-ended Technical Working Group on Information Exchange was held in London in April 2018. The working group is considering the most appropriate

[15] The Part 6 Working Group, established pursuant to Article 21(6) of the PSMA, is mandated with reporting and making recommendations to the parties on the priorities for use of the funding mechanisms as well as identifying donors to contribute to it.

structure for an information exchange system and how such a system would interact with complementary tools. The working group agreed that a global information exchange system was necessary, and that a two-stage approach should prioritize the need to access basic information such as national points of contact and designated ports. It also agreed that the system would include a publicly available information section and a limited-access section for protected information such as port inspection reports, facilitate the near real-time exchange of information, and link with the relevant RFMO and global systems. The second meeting of the working group was held May 15-17, 2019, in Seoul. The working group forwarded recommendations to the meeting of the parties to take a decision on an information exchange system, as well as a draft questionnaire for reviewing and assessing the effectiveness of the agreement.

The second meeting of the parties was held June 3-6, 2019, in Santiago. The parties finalized the rules of procedure, which include key elements to secure transparency and give parties a strong role in overseeing the future work of implementing the agreement. In addition, the parties agreed to the recommended step-wise approach to build the information exchange mechanism. A questionnaire was also adopted by the parties; it will be used to review and assess the effectiveness of the agreement at the third meeting of the parties, which will be hosted by the EU in 2020.

While many RFMOs have adopted port State measures, frequently in conjunction with the measures establishing their IUU vessel lists, the PSMA, as a global, legally binding instrument, has the potential to close some of the gaps that enable illegal fishermen to profit from their activities. As a result, some RFMOs have adopted or amended existing port state measures to be consistent with the minimum standards set forth in the PSMA.

ICCAT first adopted its scheme for minimum standards for inspection in port in 2012. At that time, there was no agreement to incorporate other elements of the PSMA, in particular the requirement to deny port entry to vessels engaged in or supporting IUU fishing or fishing-related activities. At its 2018 annual meeting, however, ICCAT adopted revisions to its port inspection program that made it fully consistent with the PSMA. The recommendation entered into force in June 2019.

ICCAT has established a special fund to provide technical assistance to port inspectors and other relevant enforcement personnel from developing coastal States and also created an experts group to review and prioritize requests for assistance and facilitate capacity-building efforts. A U.S. representative chairs the experts' group, which met in 2017 for the first time and again in 2018. In April 2018, seven contracting parties and cooperating non-contracting parties (CPCs) submitted a pre-assessment to request assistance with implementation of ICCAT's scheme of port inspection. The CPCs making submissions included Côte d'Ivoire, Republic of Guinea, Mauritania, Namibia, Nigeria, São Tomé and Príncipe, and Senegal. These self-assessments were considered at a September 2018 meeting of the experts' group. Recognizing that funds are insufficient to be able to conduct the second in-country phase of the assessments for all seven requesting CPCs at once, the group reviewed the pre-assessments to establish criteria and develop a methodology for prioritizing the provision of those in-country assessments among requesting CPCs, while noting assessments will eventually be conducted in all seven. A

curriculum for an ICCAT-specific port inspection training program will be developed by a third-party expert during the next biennial period.

SPRFMO first adopted a measure for minimum standards for port inspections in 2014. In 2017, SPRFMO reviewed the measure and adopted minor editorial amendments.

In 2017, WCPFC adopted a CMM on minimum standards for port State measures that encourages designation of inspection ports and establishes procedures for port inspections of fishing vessels suspected of engaging in IUU fishing. The measure is not meant to mirror the PSMA, but instead is intended to be the first step in a multi-year process to adopt more robust port State measures in the region.

IATTC has discussed port State measures since 2010. The most recent unsuccessful proposal, introduced at the 2018 annual meeting by the EU and supported by the United States, is modeled on the scheme adopted by ICCAT. It would have taken into account the needs of developing nations and the potential need for capacity building.

B. Market- and Trade-Related Measures

Market- and trade-related measures reduce opportunities for IUU fishing activities in a number of ways: by helping to ensure, in a manner consistent with international law, that only legally harvested or produced seafood is traded; by tracking movements of fish products to identify those involved in harvesting, transshipping, and marketing of IUU catch; by monitoring changes in the pattern of trade to identify flag, port, and market States that can contribute to effective implementation of CMMs; and by improving information on fishing mortality. Successful market measures are often based on information gathered from trade-tracking programs – systems that can help verify the origin, weight, and species composition of catch and indicate whether the catch was taken in accordance with the conservation and management regime in force.

The United States routinely raises the need to prevent trade or import of IUU-caught fish and living marine resources in bilateral consultations and multilateral meetings and negotiations, as discussed throughout this report. In addition, the United States engages in the World Trade Organization and other trade-related bodies to eliminate subsidies contributing to overfishing, overcapacity, or illegal fishing activities.

Convention on International Trade in Endangered Species. CITES is an international treaty with the purpose of ensuring that international trade in wild animals and plants does not threaten their survival. Currently there are 183 parties to CITES – 182 countries, including the United States, and the EU. Species covered by CITES are listed in different appendices according to the level of protection needed. Species listed in Appendix I are threatened with extinction, so international commercial trade is prohibited; non-commercial trade is allowed only in exceptional circumstances. Species listed in Appendix II are not necessarily threatened with extinction, but they may become so if international trade is not regulated. Commercial and non-commercial trade is permitted for Appendix II species if the exporting country is able to make certain determinations. Species are listed on Appendix I or II based on a two-thirds vote of the parties. Any CITES party may add a native species to Appendix III unilaterally, provided the

party has domestic regulations to protect the species. The U.S. Fish and Wildlife Service (FWS) is the lead agency with responsibility for implementing CITES in the United States, under the authority of the ESA. Based on its expertise, NOAA provides guidance on marine issues.

The next meeting of the Conference of the Parties to CITES will take place August 17-28, 2019, in Geneva.

The United States-Mexico-Canada Agreement (USMCA). The United States, Mexico, and Canada concluded negotiations and signed the USMCA on November 30, 2018. If approved by Congress and ratified by all parties, the USMCA would replace the 1994 North American Free Trade Agreement.

According to the Office of the U.S. Trade Representative, the USMCA includes the most comprehensive chapter on the environment of any free trade agreement the United States has negotiated. The environment chapter brings all environmental provisions into the core of the agreement and makes them enforceable and subject to the same dispute settlement provisions as other chapters.

USMCA environment obligations include:

- Prohibitions on some of the most harmful fisheries subsidies, such as those that benefit vessels or operators involved in IUU fishing;
- New protections for marine species such as whales and sea turtles, a prohibition on shark-finning, and a commitment to work together to protect marine habitat;
- Obligations to enhance the effectiveness of customs inspections of shipments containing wild fauna and flora at ports of entry, and to ensure strong enforcement to combat trafficking in wildlife and IUU fishing; and
- Robust and modernized mechanisms for public participation and environmental cooperation.

RFMO Actions. Several RFMOs have implemented catch documentation programs. These programs, together with provisions for trade measures against non-cooperating harvesters, can be used to ensure that only products of authorized fisheries are admitted into the markets of member states and cooperating non-members.

In 2017, the United States submitted a proposal to amend CCAMLR's electronic CDS to better track total catch as well as transshipments and multiple landings from a single fishing trip. No consensus was reached on this proposal. The United States then proposed a compromise, which was accepted, to require the inclusion of several data items that increase transparency when documenting transshipments in the CDS.

The Commission has been comparing different sources of toothfish trade data with the data from the electronic CDS. This work involved a collaborative arrangement between the CCAMLR Secretariat and the FAO project GLOBEFISH. Further analyses of trade data will continue into 2019; these will help to refine and implement an annual process to reconcile trade data with CDS data. This effort will contribute to an evaluation of the effectiveness of the CDS, support the

implementation and possible expansion of the engagement strategy with non-contracting parties (NCPs), as well as provide reports of discrepancies identified between CDS data and trade data to members and NCPs and support these States in following up on issues.

ICCAT annually reviews fishery-related activities in its Convention Area by members and non-members. In accordance with ICCAT's recommendation concerning trade measures, if an ICCAT member or non-member is found to be diminishing the effectiveness of ICCAT, the Commission may "identify" that member or non-member. ICCAT then sends a letter notifying the party of the identification, including the reasons for it, and asking the party to rectify the situation. Failure to rectify the identified activity may result in the imposition of penalties, such as quota reduction or, as a last resort, non-discriminatory trade-restrictive measures. To date, trade-restrictive measures have been applied several times to non-members, and once to an ICCAT member.

In 2017, ICCAT identified one member (Sierra Leone) and one non-member (Dominica) under its trade measures recommendation, due to lack of reporting required data or other information. Sierra Leone and Dominca each received a letter from the Commission explaining the reason for the identification and requesting a written response explaining steps taken to rectify the compliance issues at least 30 days before ICCAT's 2018 annual meeting. ICCAT also sent letters to 35 other ICCAT members and five non-members after its 2017 annual meeting either requesting information on their fisheries and management regimes or expressing concern about certain less serious fishery-related activities that did not rise to the level of identification under ICCAT's trade instrument but, nevertheless, required attention.

In 2018, ICCAT held extra sessions of its Compliance Committee to conduct in-depth compliance reviews. ICCAT agreed to lift the identification of Sierra Leone in recognition of improvements in data submission, but will still send a letter to Sierra Leone seeking improvements in reporting. ICCAT maintained the identification of Dominica, given its lack of response to ICCAT's letters in 2016 and 2017. ICCAT did find a number of areas where implementation of ICCAT's rules was lacking for several CPCs, both member and non-member, but these problems did not rise to the level of identification under the trade measures recommendation. ICCAT will send letters to 51 members and non-members highlighting these concerns and requesting rectifying action prior to the 2019 ICCAT meeting.

WCPFC has discussed adoption of a commission-wide CDS for several years, but with little progress. At its 2012 meeting, the Commission adopted terms of reference for a working group, which met annually between 2013 and 2016. In 2015, the Commission adopted a CDS work plan, which included development of CDS standards and a draft management measure, as well as a trial mass balance reconciliation of available data from 2013. Progress on the development of a WCPFC CDS measure has seemingly stalled, as the CDS working group has not reconvened since 2016. Japan has taken the lead in developing a species-specific CDS for Pacific bluefin, a draft of which might be submitted for consideration at the annual meeting in late 2019.

U.S. Contributions to Trade Monitoring. A 2014 executive order mandated the use of a single electronic system, the International Trade Data System (ITDS), to streamline transactions during the import and export of products regulated by any federal agency. ITDS is a government-wide

initiative under the National Customs Automation Program. All U.S. agencies with a role in monitoring trade and making admissibility decisions are partners in ITDS.

As part of its mission to manage fisheries resources sustainably, NMFS implements international trade monitoring programs initiated by RFMOs and those required by domestic law. With seafood imports currently representing approximately 90 percent of U.S. seafood supplies, these trade monitoring programs are a crucial tool to stop IUU fishery products from reaching U.S. consumers. NMFS helps ensure the legality of imported seafood through trade monitoring programs aimed at specific seafood products. Several fish species at high risk of illegal fishing and seafood fraud have been included in the U.S. seafood import monitoring program.

NMFS has integrated domestic and international trade monitoring programs within the operational capabilities of ITDS. Importers of regulated species and products must obtain an International Fisheries Trade Permit from NMFS and provide a NMFS-specific message set as part of the entry filing process in the automated commercial environment maintained by U.S. Customs and Border Protection. NMFS can view the message set in real time or post-release to determine whether fishery products were lawfully acquired and properly documented. Products with fraudulent or incomplete documentation can be held for inspection or called back to the port. If deemed inadmissible, the entries can be rejected or the importers subjected to enforcement action. Use of the single window for electronic filing of entries enhances NMFS' ability to screen imports and prevent entry of IUU products into U.S. commerce.

C. Monitoring, Control, and Surveillance

1. Information Sharing and Coordination

International information sharing and coordination aimed at deterring IUU fishing takes many forms: cooperation among national authorities to enforce regional and global measures, assistance to developing nations in protecting their own natural resources, and adoption of RFMO procedures to facilitate information sharing on enforcement matters.

Illegal fishermen often take advantage of insufficient cooperation and communication among enforcement authorities, so international collaboration is a priority in the fight against IUU fishing. The NOAA Fisheries Office of Law Enforcement holds leadership roles in several global counter-IUU fishing organizations that enhance global cooperation, coordination, and information sharing to prevent the perpetuation of IUU fishing activities. In 2017-2018, a NOAA officer served as vice-chair of the International Monitoring, Control and Surveillance Network and held a position on the Executive Board of INTERPOL's Fisheries Crime Working Group.

The International Fisheries Observer and Monitoring Conference provides a forum for observers, researchers, managers, and industry to collaborate on fisheries observer and monitoring systems. Topics at the conference held in Vigo, Spain, in June 2018 included the role of electronic monitoring programs and observer safety. More than 280 participants representing more than 39 countries attended. NOAA staff served on the steering committee and participated in several sessions.

NOAA and the USCG work closely with enforcement agencies from Canada, Japan, the People's Republic of China, the Republic of Korea, and the Russian Federation to enforce the North Pacific Anadromous Fish Commission (NPAFC) prohibition on directed fishing for anadromous stocks in the high seas areas of the North Pacific Ocean. Virtual scheduling meetings with enforcement agencies from Japan, the Russian Federation, and Canada facilitated aircraft and surveillance support during the USCG cutter *Douglas Munro's* 2017 patrol in the Convention Area. The United States also worked bilaterally with China to host six Chinese shipriders onboard the *Douglas Munro* during its high seas patrol. The combined enforcement efforts of the United States and partner NPAFC nations in 2017 resulted in 98 ship patrol days and 568.2 aerial patrol hours in the Convention Area, with more than 1,470 vessels sighted, and with no violations of national law detected.

The USCG cutter *Alex Haley* dedicated 262 aircraft hours and 91 cutter days to patrol the Convention Area in 2018. Most significantly, *Alex Haley* intercepted a Chinese fishing vessel, *Run Da*, which was detained and escorted in accordance with the China-U.S. bilateral agreement. *Run Da* had approximately 80 tons of illegally caught salmon and used 8-9 kilometers of illegal driftnet in direct violation of UNGA resolution 46/215, which outlaws high-seas driftnets longer than 2.5 kilometers. *Alex Haley* transferred the Chinese vessel to the Chinese Coast Guard for further investigation and prosecutorial actions.

Bilaterally, the United States has re-engaged with Chinese Taipei. Meetings in 2017 and 2018 resulted in a revised workplan and a proposed memorandum of understanding (MOU) for 2018-2023. The partnership with Chinese Taipei is important, given the size of its distant-water fleet; it will encourage participation in, and compliance with rules of, various RFMOs. Likewise, the bilateral with the People's Republic of China, begun in 2016, has continued to demonstrate the value of a forum to share and discuss issues of concern and further areas of cooperation.

Since October 2017, in the western and central Pacific Ocean, the USCG helped conduct 95 boardings (35 from U.S. Navy assets) under bilateral enforcement agreements with Pacific Island nations, with 32 violations documented. Of these, 30 involved CMMs, while two involved national laws applicable within the EEZs of Pacific Island nations. Some of the violations detected resulted in sanctions by the flag State – suspensions of fishing licenses and monetary penalties. During the same timeframe, in Western Africa the USCG conducted 45 boardings under bilateral enforcement agreements with Cameroon, Ghana, and Senegal, with eight violations of domestic law documented.

2. IUU Vessel Lists

Many RFMOs have established IUU vessel lists as a way of publicizing vessels that have engaged in IUU fishing activities. In some organizations, restrictions may be imposed on vessels placed on the lists.

During its 2018 annual meeting, the NPAFC Enforcement Committee discussed amending the terms of reference for integrated information system vessels of interest, to move toward a more conventional IUU vessel list as used by other RFMOs. A study group has been formed to develop the amendments.

IATTC, ICCAT, and the Indian Ocean Tuna Commission (IOTC) review their IUU vessel lists annually to consider the addition or removal of vessels based on available information. In 2018, IOTC amended its IUU vessel list to include cross-listing provisions for the IUU lists of other relevant RFMOs. In ICCAT, there is an intersessional process for adding and removing vessels, including cross-listing vessels on other RFMO IUU vessel lists. ICCAT members and cooperating non-members must take necessary measures not to support listed vessels, including by prohibiting imports, landings, and transshipments of ICCAT species. At its 2018 meeting, ICCAT adopted a revised IUU vessel list recommendation based on a U.S. proposal to streamline the listing and delisting processes and improve the information available on IUU vessels. It also expanded the cross-listing procedures, previously applicable only to tuna-RFMO IUU vessel lists, to include IUU vessel lists of those non-tuna RFMOs that overlap or adjoin the ICCAT Convention area.

CCAMLR agreed in 2017 to remove the vessels *Seabull 22* and *Tchaw* from the NCP-IUU vessel list because both vessels had been scrapped. No new vessels were added to either vessel list in 2017 or 2018. The EU, in 2018, proposed provisions to cross-list vessels from the IUU vessel lists of several other RFMOs onto CCAMLR's vessel lists. The United States and other members supported the proposal, but consensus could not be reached due to some members' concerns that the provisions were outside of CCAMLR's mandate. The EU had also proposed intersessional listing of vessels without nationality on the NCP-IUU vessel list; this too was not agreed due to the objections of some members.

WCPFC first established a list of IUU vessels in 2007 and reviews the list annually. The list has remained unchanged from 2013 to 2018, with three vessels listed.

SPRFMO has established a list of vessels presumed to have carried out IUU fishing activities in its Convention Area. In 2017, the Commission adopted minor amendments to the listing process to broaden the scope of information to be taken into account. In 2018, the IUU list included three vessels.

NPFC adopted an IUU vessel list measure, based on those of WCPFC and SPRFMO. In 2017, NPFC began populating its IUU vessel list, which was reviewed and adopted by all members.

NAFO maintains an IUU vessel list that is reviewed and updated annually. There is direct coordination between NAFO and the North East Atlantic Fisheries Commission (NEAFC), with automatic addition of vessels designated by one RFMO to the other's list and a process for coordinated removal. NAFO also transmits the NAFO IUU vessel list (and any relevant information – including the reasons for listing or de-listing each vessel) to other RFMOs that manage groundfish, including NEAFC, the South East Atlantic Fisheries Organization (SEAFO), and CCAMLR.

3. Global Record of Fishing Vessels

The FAO initiative to compile a Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels is intended to provide a tool to prevent, deter, and eliminate IUU fishing and related activities. A global database, where information from many sources will be

gathered, will make it more difficult and expensive for vessels and companies acting illegally to avoid detection. In 2014, COFI agreed the IMO number should be used as the Global Record's unique vessel identifier system for those vessels 100 gross tons or 100 gross registered tons and over, or 24 meters or more. Eventually, all vessels 10 gross tons or 10 gross registered tons or more, or 12 meters or more, will be included (an estimated 725,600 vessels). During the first phase, around 185,600 of the largest vessels will enter the record. The first working version of the Global Record was launched in 2017, with a general release to the public on July 9, 2018. As of late 2018, data on a third of eligible vessels have been uploaded to the Global Record. The United States has uploaded all phase-one data for U.S.-flagged vessels to the Global Record. The United States also continues to make voluntary contributions to FAO for the implementation of the Global Record.

Requiring that fishing vessels have IMO numbers is a critical step in combating IUU fishing. The seven-digit number, once assigned to a vessel, remains the same, regardless of changes in ownership, flag, or name. Assignment of an IMO number reduces the potential for IUU vessels to evade enforcement and prosecution through transfer to flags of convenience. The IMO, as a result of U.S. leadership, has continued to broaden the scope of fishing vessels eligible to obtain IMO numbers. In 2013, the IMO first allowed non-wooden hulled fishing vessels 100 gross tons and over to get an official IMO number. Subsequently, in 2017, IMO further amended its Ship Identification Numbering Scheme to enable acquisition of a number by fishing vessels over 12 meters in length or longer authorized to operate outside of flag-State jurisdiction. These enhancements allow for greater transparency and control over a significant portion of the high seas fishing fleet.

Since 2013, all tuna RFMOs to which the United States is a party (IATTC, ICCAT, and WCPFC), as well as NAFO, SPRFMO, and CCAMLR, have adopted binding measures requiring all eligible vessels to have an IMO number. In the case of ICCAT, if a vessel included on ICCAT's record of vessels authorized to fish for tuna and tuna-like species in the Convention Area is unable to obtain an IMO number, the flag State must provide an explanation of this situation to ICCAT, unless the vessel is wooden and therefore exempt from ICCAT's IMO number requirement. ICCAT clarified at its 2018 annual meeting that, given the 2017 decision by IMO to reduce the minimum size of vessels eligible to obtain an IMO number to 12 meters, there should be almost no case where a non-wooden vessel on ICCAT's authorized list cannot get an IMO number. In reviewing compliance, ICCAT agreed that any CPC that has placed a vessel on ICCAT's list that does not have an IMO number needs to provide documentation that an effort was made to get an IMO number, as well as an explanation of why that effort was unsuccessful. At its 2015 meeting the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) also adopted a requirement that all eligible vessels obtain an IMO number, effective January 1, 2017.

In 2018, the United States submitted (for the third time) a proposal to address the control and monitoring of at-sea transshipments in the CCAMLR Convention Area; again, it was not adopted. This proposal would have required licensing of carrier vessels of contracting parties and established a record of carrier vessels of NCPs, restricted transshipments to the vessels that were licensed or on that record, and required reporting. Most of the members supported the proposal, noting it was a step in CCAMLR's addressing the significant gaps in monitoring and control of transshipments; however, consensus could not be reached.

The Consolidated List of Authorized Vessels is a program begun through the Kobe Process, which began in 2009. A database of all the authorized vessels under each of the five tuna RFMOs, it has been hosted by the IOTC since 2010. Through a joint project of the FAO and the Global Environment Facility, the database is now online and updated in near real-time rather than annually, making it a much more effective tool against IUU fishing. The United States has been actively working to ensure the list is supported by tuna RFMOs beyond the Global Environment Facility funding, which ends in 2019.

4. Remote Sensing Technology, Observers, and Inspections

At the 2018 IATTC Compliance Committee meeting, various members discussed their difficulties in meeting the requirement for 5-percent observer coverage on longline vessels greater than 20 meters in length overall. As a result of similar discussions in 2016, members decided future compliance reports will show the implementation levels of longline observer coverage.

IOTC adopted a similar measure, requiring 5-percent observer coverage for each gear type on all fleets for vessels over 24 meters, and for vessels under 24 meters fishing outside their own EEZs, effective January 2013. The sampling scheme for artisanal fisheries targets 5-percent coverage. A review of the implementation of the IOTC measure in 2016 indicates the rate of compliance with the required coverage across IOTC members remains low. IOTC is exploring whether electronic observation and observation in port could collect data matching IOTC standards, and how such techniques could be used to increase compliance.

Since 2016, the United States has been pursuing measures in ICCAT aimed at improving the health and safety of observers deployed in ICCAT's regional observer programs, including requirements to supply safety equipment and to implement procedures to be followed in the event an observer is injured, becomes seriously ill, or is lost at sea. In 2018, despite significant support, consensus could not be reached on a U.S. proposal primarily due to the concern of one party, which argued that issues of vessel safety were more appropriately under the competence of the IMO and the International Labor Organization rather than RFMOs.

Given the strong opposition to U.S. efforts to modernize ICCAT's high seas boarding and inspection scheme, the United States has pursued efforts to adopt a voluntary pilot program for the exchange of at-sea inspection personnel to advance understanding and use of the scheme as a monitoring and control tool. The proposal was adopted at the 2018 annual meeting. The United States also proposed a measure to strengthen ICCAT's minimum standards for VMS, which was adopted by ICCAT at the same meeting. The binding measure expanded VMS coverage, increased the frequency of VMS polling to every hour for purse seine vessels and every two hours for longline vessels, and clarified prohibitions on tampering with or disrupting power to VMS units.

In 2007, WCPFC adopted a CMM for a regional observer program, which provided rules for the development of a Commission observer program and established a 5-percent minimum coverage rate for vessels fishing under the jurisdiction of the WCPFC. A few years later, WCPFC adopted

a measure requiring 100-percent observer coverage for purse seine vessels fishing in the Convention Area. Observers collect verified catch data and other scientific data, and monitor implementation of CMMs adopted by the Commission. The United States continues to push for greater overall observer coverage in the Convention Area. In 2017, WCPFC was the first RFMO to adopt a binding observer safety measure that created clear expectations for Members' responses in the event of the death, illness or harassment of an observer. This measure was hard fought and emotionally driven in response to some recent observer deaths on board vessels.

CCAMLR is increasing observer coverage of the krill fisheries over the course of several fishing seasons, based on an agreement reached in 2016. For the 2017-2018 fishing seasons, observer coverage must be at least 50 percent; during the 2018-2019 and 2019-2020 fishing seasons, no less than 75 percent of vessels; and 100-percent coverage in subsequent fishing seasons.

At the 2017 CCAMLR meeting, the United States proposed changes to the scheme of international scientific observation to address a number of recommendations stemming from those of a 2013 review panel, such as a pre-deployment vessel safety checklist and an action plan for emergencies involving a scientific observer. The proposal also would have required observers to be equipped with personal communication devices and locator beacons. While many members noted that observer safety is of utmost importance, several expressed concerns with some of the proposed changes. Specifically, the potential costs and logistics associated with personal communication devices and implementation concerns surrounding a vessel-safety checklist prevented adoption of these particular aspects of the proposal. Consensus was achieved on the emergency action plan and a few of the other proposed changes. In 2018, the United States continued efforts to improve observer safety by providing detailed information on personal communication devices; this effort addressed the questions and concerns raised during the previous meeting. CCAMLR adopted the renewed U.S. proposal, with an implementation date of December 1, 2019.

NAFO took steps in 2016, 2017, and 2018 to improve the accuracy of catch reporting data from all sources and to enhance their utility for both compliance and science. Although NAFO examined the possibility of expanding observers' duties to include scientific functions, there was significant concern among NAFO parties that a dual role for observers could negatively impact the quality of incoming data and might damage the existing observer program. During 2017 and 2018, NAFO made some progress regarding the issue of observer safety and well-being, which is complicated by overlapping RFMO and IMO mandates. NAFO's 2017 performance review resulted in a number of recommendations on this topic, so discussions will continue.

NEAFC requires its parties to implement a VMS for vessels of a certain size that fish, or plan to fish, in its Regulatory Area. The Commission also requires parties to ensure that all their vessels in the area carry scientific observers qualified by the flag State. In the past, NEAFC discussed, but ultimately rejected, the possibility of expanding observer duties to serve a compliance function.

D. Destructive Fishing Practices and Vulnerable Marine Ecosystems

The United States and the international community have taken a number of actions in recent years to mitigate the adverse impacts from fishing on VMEs (see Part III.A for the statutory definition). These actions built on guidance from several UNGA resolutions on sustainable fisheries, specifically Resolutions 61/105, 64/72, and 66/88.

In addition to the work described below in various RFMOs, NOAA is on the steering committee of the Global Environment Facility's Common Oceans Program, specifically the project on sustainable fisheries management and biodiversity conservation of deep-sea living marine resources and ecosystems in areas beyond national jurisdiction. The program strives to assist RFMOs and developing nations in their efforts to implement the relevant UNGA resolutions.

NPFC, in collaboration with the FAO, held a workshop on VME protection in the NPFC Convention Area in Yokohama, Japan, March 12-15, 2018. NPFC approved several recommendations arising from the workshop, including having a subcommittee review data protocols, improve post-encounter reporting, and revisit the process to determine significant adverse impact. In addition, NPFC agreed to 100-percent observer coverage in bottom fisheries operations.

The United States has taken a strong role in NAFO to protect VMEs. In 2017 and 2018, NAFO continued to enhance this protection by closing a number of VME areas within its Regulatory Area to all fishing. In 2017, NAFO agreed to a U.S. proposal to revise the boundaries of NAFO's New England Seamount closure to encompass all peaks in the New England Seamount chain within the NAFO Regulatory Area and to remove parts of the former closure that do not contain seamounts. The revised area closes the previous gap between the NAFO protected area and protected seamounts in the same chain in U.S. waters. In 2018, NAFO fixed a problem within the observer reporting framework to ensure that all VME indicator taxa can be accurately reported.

Similarly, NEAFC has closed a number of areas in an effort to protect VMEs, and has measures in place to mitigate potential effects of exploratory fisheries on these resources. In 2018, NEAFC extended the timeframe for its closures until 2022. Based on scientific advice, NEAFC parties agreed to expand the coverage of its areas closed to fishing in the Rockall-Hatton Bank to include all known VMEs.

CCAMLR continues to require preliminary assessments of the potential for proposed bottom fishing activities to have significant adverse impacts on VMEs, but plans to review this requirement to either improve upon the process or develop other methods to assess risk to VMEs from bottom fishing. In 2018, four sites in the western Antarctic Peninsula and three sites in the South Orkney Islands were added to the CCAMLR VME registry.

Also in 2018, the United States presented a spatial analysis examining whether bottom longline fishing activities had taken place within relevant VMEs and VME Risk Areas in the Convention Area. Several instances of longline fishing gear set inside VME Risk Areas between 2011 and 2017 were found, although some of these instances turned out to be based on inaccurate

reporting of set coordinates. The United States provided a number of recommendations, such as Secretariat monitoring of fishing activity that may occur in VME Risk Areas, a review of VME-related conservation measures more broadly, and review of the accuracy of fishing effort reporting concerning start and end coordinates for setting longline gear.

SPRFMO adopted a measure for the management of new and exploratory fisheries in 2016. SPRFMO also adopted a measure for a Cook Islands exploratory fishery for lobster and crab in 2018. The measure includes specific catch and effort controls, data collection procedures, and bycatch provisions, and will be reviewed by SPRFMO on a yearly basis. The measure expires in September 2021.

IX. Strengthening Fisheries Organizations to End IUU Fishing Activities

The United States aggressively combats IUU fishing through global bodies such as UNGA and FAO, regionally through RFMOs, and through bilateral engagement. The United States is a member of numerous multilateral RFMOs, in addition to many global and bilateral agreements and arrangements. In recent years, the international community has increasingly recognized that successful action against IUU fishing activities and related problems requires strengthening existing regional fisheries institutions. This part highlights the enhancement of RFMOs in ways that induce their members to be more accountable, and influence non-members to be more cooperative, in managing fisheries on a sustainable basis. The United States has pushed for improved governance systems in RFMOs to bring them into closer conformity with the provisions of the United Nations Fish Stocks Agreement (UNSFA). Some RFMOs have been updated through renegotiation of their underlying agreements or negotiation of new protocols. Others are finding ways to improve management and compliance without renegotiating their agreements.

A. Renegotiation or Amendment of Underlying Agreements

ICCAT agreed at its 2012 meeting to launch a process to develop Convention amendments to, *inter alia*, bring the Convention in line with modern fisheries management principles and approaches, streamline decision-making, clarify ICCAT's management authority for sharks and rays, and provide for more direct participation by Chinese Taipei. At its 2018 annual meeting, ICCAT endorsed a package of proposed amendments and agreed on the process for their formal adoption and entry into force.

NAFO in 2005 began a process of modernization and reform that resulted in adoption of comprehensive amendments to the NAFO Convention. These amendments were adopted in 2007, and entered into force in May 2017, following ratification by three-quarters of the NAFO contracting parties. The amended Convention text, among other things, addresses three U.S. priorities: redressing the previously inequitable budget formula, which put a disproportionate funding burden on coastal States; incorporating key developments in international fisheries governance; and ensuring recognition of the real interests of all parties through a meaningful, fair, and transparent catch allocation process and a more equitable decision-making process.

At its last meeting in 2016, WECAFC agreed to launch a process that might enable the organization to impose binding conservation and management measures. The United States has a significant number of shared, transboundary fish stocks in the wider Caribbean. A regional management body with binding authority could help to level the playing field for U.S. fishermen. DOS, in close collaboration with NMFS, will lead U.S. engagement in the WECAFC strategic reorientation process.

B. Performance Reviews

Many RFMOs have undertaken performance reviews to enhance the effectiveness of their organizations. The Review Conference on the Fish Stocks Agreement at its meeting in May 2010 urged all RFMOs that had not undertaken performance reviews, including some element of independent evaluation, to do so no later than 2012. In May 2019, the 14th round of Informal

Consultations of States Parties to the UNFSA focused on performance reviews of regional fisheries management organizations and arrangements with a view to improving understanding, sharing experiences and identifying best practices for the consideration of States Parties.

CCAMLR completed its second performance review in 2017. The review panel built on the first performance review, which was undertaken in 2008, by identifying priority recommendations most relevant to the current work of CCAMLR. The recommendations covered several themes, including: delivering CCAMLR's conservation objective, the role of CCAMLR within the Antarctic Treaty System, science, managing fishing activities, external factors affecting the Convention's objective and engagement with NCPs, organization and business practices of CCAMLR, and Secretariat operations and financing. During the 2018 meeting, the Commission directed the Secretariat to publish on the CCAMLR website an account of the progress on recommendations of the second performance review, in the same manner as was done for the first review.

ICCAT convened a meeting of its working group to follow up on its second performance review in June 2017. This group reviewed the recommendations of the expert panel and advised the Commission on next steps. ICCAT reviewed the working group's report during its 2017 meeting and, consistent with the advice of this group, referred relevant recommendations to the appropriate ICCAT bodies for consideration. ICCAT also agreed on a process and template for tracking progress in addressing the performance review recommendations on an annual basis. In 2018, good progress was made in implementing key recommendations of the independent review panel; updates to reflect that progress were included in the template agreed in 2017.

A report of the IATTC performance review was given at the 2016 annual meeting. Findings and recommendations fell into three categories: governance, management, and science. An action plan was circulated to members for comment. At the 2018 IATTC meeting, members discussed creating a working group to review the recommendations and develop strategies for how the recommendations could be implemented.

IOTC undertook a second performance review of its operations between 2014 and 2016, resulting in recommendations that focus on resolving structural weaknesses impeding the Commission's ability to achieve its conservation and management objectives. The Commission endorsed the recommendations in 2016 and established a program of work to implement them. Some of the recommendations require amendment of the IOTC Agreement. A Technical Committee on Performance Review (TCPR) has begun work in this regard, but there remains significant disagreement on some fundamental aspects of the revision, in particular whether the organization should maintain its status as a subordinate body of the FAO. At the 2019 annual IOTC meeting, the TCPR reported no formal recommendations. There was also no consensus on whether to proceed with drafting a new convention, or modernizing the existing agreement. It was decided to suspend the TCPR process. The issue of modernizing the agreement will be taken up again by the Commission in 2020.

The SPRFMO Convention includes a requirement for a performance review every five years. SPRFMO conducted its first performance review in 2018. The United States participated as one

of the experts on the review panel. The final outcome of this process, including recommendations, was discussed at the 2019 annual meeting.

In 2017, NAFO made the decision to enter into a second review of the organization's performance during the period 2011-2017, with special attention to the follow-up to the 63 recommendations stemming from the first (2011) performance assessment report. NAFO appointed a panel consisting of three external experts (none of whom had participated in the work of NAFO), and three internal experts, nominated by NAFO contracting parties. The results of this second performance review were presented at the 2018 NAFO annual meeting. NAFO is currently in the process of prioritizing and assigning recommendations for review and implementation.

C. Bolstering Responsibilities of Members and Non-Members

CCAMLR has been implementing its compliance evaluation procedure for several years. Initially the procedure applied to a small subset of conservation measures, but in 2017 it was applied to all CCAMLR conservation measures and provisions dealing with the conduct, treatment, and deployment of observers. Given past difficulties with applying the evaluation procedure, the Standing Committee on Implementation and Compliance considered in 2018 a means of addressing how the compliance report might reflect issues on which consensus could not be reached; however, no change to the report was agreed.

In 2017, CCAMLR adopted a U.S. proposal for a new measure to document the details of Commission-approved research fishing plans on an annual basis. This process increases transparency of the research fishing that takes place inside its Convention Area. Previously, CCAMLR was unable to track the full scope of research fishing, which includes activities involving the catch of hundreds of tons of toothfish in areas where fishing is generally prohibited. These activities had also been exempted from certain conservation measures, such as bycatch mitigation and environmental protection measures. Due to the new measure, all relevant conservation measures now apply to research fishing, unless exemptions necessary for the research fishing are specified. The measure also allows for assessment of compliance under the CCAMLR compliance evaluation procedure, to ensure that research fishing adheres to what was approved by the Commission. Documentation of research fishing activities approved by the Commission started with the 2018-2019 fishing season.

The WCPFC Compliance Monitoring Scheme, in place since 2011, continues to improve after eight years of implementation. In 2017, the Commission initiated an in-depth review of the current process by an independent review panel, which released a final report outlining observations and recommendations on potential improvements in March of 2018. Given that the current WCPFC scheme was set to expire in 2018, the Commission established an intersessional working group to facilitate consideration of the report and develop a proposal. In December 2018, the WCPFC adopted a revised measure that outlines an ambitious plan of work over the next few years, including review of the Commission's reporting requirements, development of audit points to clarify obligations to be assessed, and improvements to the WCPFC online case file system. The measure was adopted for 2019 only, but the review at the 2019 meeting is expected to be narrowly focused on the issue of the review of flag state investigations as part of

the Compliance Monitoring Scheme. The United States continues to push for a permanent measure that includes flag state investigation review and more transparent process.

Based on recommendations from its internal and external performance review processes on ways to strengthen the organization, the North Atlantic Salmon Conservation Organization (NASCO) adopted an action plan that includes establishing an annual review of actions taken by parties to implement NASCO agreements and to fulfill their treaty obligations. The objective is to help ensure accountability by the parties and create an incentive for further action where needed. Starting in 2014, the organization has streamlined its work to allow more time for discussion of annual progress reports from each jurisdiction and to hold focused, theme-based special sessions. In 2018, NASCO agreed to further improvements to its annual review process; they will be implemented beginning in 2019 and cover the next five-year period.

In 2018, SPRFMO discussed a proposal by the EU to revise the existing compliance monitoring scheme to develop a more comprehensive list of follow-up actions for non-compliance, but the proposal was not adopted. At its 2019 meeting, SPRFMO set up a working group to make further progress on this matter.

ICCAT adopted a number of new measures at its 2016 annual meeting to improve the efficiency and effectiveness of its compliance review process and to help ensure that recommended decisions are more transparent, fair, and consistent. In 2018, ICCAT agreed on priority areas for compliance review in 2019, including billfish management and observer program implementation. Regarding billfish, ICCAT adopted a checklist that each CPC will complete before the 2019 annual meeting to facilitate the compliance review of marlin and sailfish measures. Similarly, ICCAT revised its shark checklist to facilitate compliance review. It also adopted a proposal to change certain reporting deadlines in an effort to provide more time to compile and review compliance information before the start of the ICCAT annual meeting. In addition, ICCAT agreed to funding requests from the online reporting working group to support development of the integrated online management system.

While IOTC has a compliance scheme in place, the 2016 Compliance Committee meeting noted low levels of member compliance with CMMs. However, compliance rates have improved slowly but consistently over the past couple of years, particularly for those CPCs that have received support missions from the Secretariat. The overall compliance rate of CPCs with IOTC measures has improved from 25 percent in 2010 to 66 percent in 2017, but is still low compared to other RFMOs. Problems persist, in particular related to data submission, especially shark and nominal catch data, as well as implementation of observer program requirements.

At its annual meeting in 2018, NPFC agreed to develop a compliance evaluation procedure as called for in Article 7 of its Convention. A working group has been convened, with the United States taking the lead to develop a draft proposal for consideration in advance of the 2019 meeting. NPFC will be considering a U.S proposal for a compliance monitoring scheme at its 2019 annual meetings.

D. Steps to Enhance Participation by Non-Members

Consistent with the provision of the UNFSA relating to the duty of non-members to cooperate in

the conservation and management of fish stocks, RFMOs are working toward enhanced participation by non-members in their organizations.

IATTC has five cooperating NCPs: Bolivia, Chile, Honduras, Indonesia, and Liberia. IOTC has two cooperating NCPs, Liberia and Senegal. Bangladesh, previously a cooperating NCP, joined the Commission in 2018. At its 2018 annual meeting, ICCAT renewed the cooperating status of Bolivia, Chinese Taipei, Costa Rica, Guyana, and Suriname. Through the process to amend the ICCAT Convention, ICCAT is considering approaches to enhance the participation of non-members in Commission activities. SPRFMO adopted rules for cooperating NCPs in 2013. SPRFMO in 2018 approved applications to become cooperating NCPs from Colombia, Curacao, Liberia, and Panama.

In 2018, Ecuador was granted status as an NCP cooperating with CCAMLR by participating in the CDS, which allows it to export toothfish harvested in its EEZ to CCAMLR contracting parties, as well as other cooperating NCPs. A conservation measure was revised to make the interim step of limited access to the CDS a permanent status for a market State like Singapore, which prohibits the landing of toothfish not previously landed in the port of a contracting party or NCP cooperating with CCAMLR by participating in the CDS. This was a step toward recognizing NCPs that engage in the trade of toothfish but do not have landings.

The status of NCP cooperating with CCAMLR by participating in the CDS was revoked from the Seychelles in January 2017, after the Seychelles failed to respond to a notice from the Secretariat regarding its obligations. The Seychelles had not actively participated in the CDS since 2006. Nor had it designated a party administrator and CDS contact officers. CCAMLR supported continuation of the Secretariat's NCP engagement strategy, which was first adopted during the 2015 meeting, and reiterated the need to focus on the participation of priority NCPs from Southeast Asia.

In 2018, WCPFC approved the applications for seven cooperating non-members: Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand, and Vietnam. Recently, a number of cooperating non-members have expressed interest in becoming full members of the Commission. This prospect of expanding membership of WCPFC has prompted considerable debate at recent meetings of the Commission. The process for obtaining full membership continues to be unclear, while most Pacific Island members oppose expanding membership. The United States continues to push for broader participation.

X. International Efforts to Reduce Impacts of Fishing on PLMRs

As detailed in the 2017 Report to Congress, the United States has prioritized strengthening bycatch management within RFMOs and other international forums, by promoting measures that will protect and conserve PLMRs from harmful activities such as direct harvest, incidental entanglement, and habitat destruction. U.S. bilateral and multilateral efforts include direct advocacy as well as training and other assistance. To date, U.S. efforts and RFMO actions concerning PLMRs have generally concentrated on the impacts of fishing on sea turtles, sharks (see Part XI), dolphins, and some other marine mammals. This part describes the actions taken by international bodies with regard to these PLMRs, many as a result of U.S. leadership.

A. Global Forums

United Nations General Assembly (UNGA). The 2018 Sustainable Fisheries Resolution calls on States and RFMOs to coordinate in developing and implementing clear and standardized bycatch data collection and reporting protocols for non-target species. It encourages States to ensure proper implementation and enforcement of measures they have taken with regard to bycatch and discards. The 2018 Resolution also calls on States to encourage full utilization of sharks caught in sustainably managed fisheries and notes the continuing practice of fins being removed from sharks while the rest of the carcass is discarded at sea.

International Whaling Commission (IWC). To address bycatch of large whales in fishing gear, the IWC launched a Global Whale Entanglement Response Network in 2011. The immediate aim of the program was to build safe and effective entanglement response capability around the world. A technical adviser leads and coordinates the program, supported by an expert panel drawn from countries already operating national entanglement response teams. Together, this group of experts developed global best practice guidelines and devised a two-day training package. Since its inception in 2011, the Global Whale Entanglement Response Network has delivered the training on five continents, reaching more than 1,000 conservationists, scientists, and government representatives from more than 30 countries. A “train the trainer” apprenticeship program has also been developed and led to the creation of six additional trainers, including native Spanish speakers.

In 2016, the Commission endorsed the establishment of a standing working group on bycatch under the Conservation Committee and the development of a bycatch mitigation initiative. In collaboration with other organizations, national governments, and fishing communities, the initiative aims to develop, assess, and promote effective bycatch prevention and mitigation measures worldwide. It is supported by three inter-related components: a standing working group to manage the initiative, a multi-disciplinary expert panel to provide specialist advice, and a bycatch coordinator who brings technical expertise in the field of bycatch and will lead the work program. At its meeting in September 2018, the Commission endorsed a ten-year strategic plan and a detailed two-year (2018-2020) workplan. The ongoing and future work of the initiative was further codified in a resolution on ghost gear entanglement among cetaceans that was passed by consensus at the 2018 meeting.

At the 2018 Commission meeting, the IWC also endorsed and published an online Whale Watching Handbook, designed to serve as an evolving resource to support managers, regulators, operators, and anyone interested in whale watching. It is a flexible tool incorporating international best practice, educational resources, and a summary of the latest scientific information. To view the handbook, go to https://wwhandbook.iwc.int/en/.

Convention on the Conservation of Migratory Species of Wild Animals (CMS). Also known as the Bonn Convention, this treaty aims to conserve terrestrial, marine, and avian migratory species throughout their range. The United States is not a party to CMS, but attends meetings as a non-party. The 12th Meeting of the Conference of Parties was held October 23-28, 2017.

The Convention has two appendices. Appendix I lists migratory species that have been assessed as being in danger of extinction throughout all or a significant portion of their range. Appendix II covers migratory species that have an unfavorable conservation status and that require international agreements for their conservation and management, as well as those that have a conservation status that would benefit significantly from the international cooperation that could be achieved through an international agreement.

Several new shark species were added to the CMS Appendices: whale shark on Appendix I; dusky shark and blue shark on Appendix II; angelshark on Appendices I and II; common guitarfish on Appendix II and the Mediterranean Sea population on Appendix I; and the white-spotted wedgefish on Appendix II. The Conference also adopted resolutions regarding the live capture of cetaceans from the wild for commercial purposes, recreational in-water interaction with aquatic mammals, the conservation and management of whales and their habitats in the South Atlantic region, bycatch, and sustainable boat-based marine wildlife watching.

B. RFMOs

The WCPFC Convention requires the Commission to adopt measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, and impacts on associated or dependent species. WCPFC has adopted a number of taxa-specific measures to minimize impacts on non-target and associated or dependent species, including sea birds, sea turtles, cetaceans, and sharks, as described in the following sections. The United States will continue to push for improved data collection on interactions with sea turtles and other species of special interest in 2019 and beyond.

During its 2016 meeting, IATTC, following a presentation by the United States on the status of Pacific leatherback sea turtles, agreed to reconvene a bycatch working group in 2017. The working group, which met again in May 2018, is currently co-chaired by the United States. Initial efforts focused on sea turtles, but also included other species such as sharks, seabirds, and mobulid rays.

In 2017, the NAFO working group on bycatch finalized a new action plan to improve bycatch management; it was adopted at the 2018 annual meeting. NAFO agreed to follow up with contracting parties to address data submission non-compliance during 2016 and 2017; encourage them to explore with their respective industry representatives the reasons for discards and

bycatch and report back to the working group at its next meeting; and direct activities associated with the action plan to appropriate NAFO bodies for implementation.

C. Specific Taxa

1. Sea Turtles

The United States has listed all sea turtles as either threatened or endangered under the ESA. FWS and NMFS jointly manage sea turtles domestically and collaborate regularly on international conservation activities. The most up-to-date information on the current listing status and designation of critical habitat is available at https://www.fisheries.noaa.gov/sea-turtles.

Throughout their range, sea turtles are incidentally caught or entangled in fishing gear including pelagic longline, purse seine, trawl, gillnet, pound net, hook and line, and trap/pot fisheries. Sea turtles migrate vast distances over the course of their lives, making them vulnerable to interactions with fishing gear in coastal areas as well as on the high seas.

The United States has several mechanisms to work with countries to mitigate these interactions. For instance, the Shrimp-Turtle Law (Section 609 of P.L. 101-162) requires other nations to take comparable regulatory measures to reduce sea turtle bycatch in their wild-caught shrimp fisheries if they want to import their product to the United States. Over the past two decades, the United States has worked with many governments to establish turtle excluder device (TED) programs that are comparable to the U.S. program. Each year DOS and NMFS experts carry out TED inspections and training across the globe. On May 16, 2018, DOS certified to Congress that the following 13 nations have regulatory programs to reduce sea turtle bycatch comparable to those of the United States: Colombia, Costa Rica, Ecuador, El Salvador, Gabon, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Nigeria, Panama, and Suriname.

Twenty-six nations and one economy have shrimp fishing environments that do not pose a danger to sea turtles. Of these, ten nations and one economy harvest shrimp using manual rather than mechanical means, or use other shrimp fishing methods not harmful to sea turtles. They are the Bahamas, Belize, the Dominican Republic, Fiji, Hong Kong, Jamaica, Oman, the People's Republic of China, Peru, Sri Lanka, and Venezuela. Sixteen other nations have shrimp trawl fisheries in cold waters, where the risk of taking sea turtles is negligible: Argentina, Belgium, Canada, Chile, Denmark, Finland, Germany, Iceland, Ireland, the Netherlands, New Zealand, Norway, the Russian Federation, Sweden, the United Kingdom, and Uruguay. Specific fisheries in Australia, France, Japan, Korea, Malaysia, and Spain have been evaluated by NMFS as eligible to export product to the United States.

In addition to the Shrimp-Turtle Law, NMFS has also taken steps around the world to protect sea turtles. In 2015, NMFS launched the Species in the Spotlight Initiative to highlight eight species, including Pacific leatherbacks, likely to go extinct without significant conservation intervention. Pacific leatherbacks continue to face significant threats from bycatch in both coastal and high seas fisheries. As a result of this bycatch, nesting has declined by 80 percent in the Western Pacific and by 97 percent in the Eastern Pacific. Through multilateral agreements, as well as through RFMOs and fisheries bilateral agreements, the United States is collaborating with other

range States to stop the decline by reducing sea turtle bycatch in fisheries. In addition, the United States has a very strong bilateral program with the government of Indonesia and the provincial government in Papua to protect important Western Pacific leatherback nesting beaches.

Multilateral Sea Turtle Arrangements. With U.S. leadership, two multilateral arrangements are in place to conserve and protect sea turtles. The Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC), as a binding treaty, serves as an important vehicle for countries in the Americas to coordinate their conservation and recovery efforts. Parties are obliged to reduce, to the greatest extent practicable, incidental capture, retention, harm, or mortality of sea turtles in the course of fishing activities. Given the different capacities of parties in the region, the IAC has focused on building national capacities to conserve and recover sea turtle species. The IAC parties have directed their efforts in recent years to improving conservation efforts for loggerhead, Pacific leatherback, and hawksbill sea turtles. Eastern Pacific leatherbacks are at significant risk of extinction. The IAC has formed an Eastern Pacific leatherback task force, which has identified key actions including needed domestic and international bycatch reduction measures. To that end, the IAC Secretariat, with strong support from the United States, has been working closely with IATTC to secure passage of a binding resolution to reduce leatherback bycatch (see below).

The Indian Ocean Southeast Asian Marine Turtle MOU recommends conservation actions such as measures to prevent bycatch of sea turtles, but cannot place binding measures on its signatory States. The 35 signatory States meet every few years to evaluate implementation of the conservation and management plan, as well as to identify new actions for the work program. The meeting in 2014 launched the Network for Sites of Importance to Marine Turtles, with ten sites in nine countries. Before the meeting in 2019 in India, several sub-regional meetings occurred. For instance, the Northern Indian Ocean marine turtle task force, composed of five signatories (Bangladesh, India, Maldives, Pakistan, and Sri Lanka), met in January 2018. NMFS personnel provided technical experts to support this meeting and further sea turtle conservation in the region.

RFMOs. In 2016, WCPFC, funded by the Common Oceans partnership, convened two four-day workshops designed to conduct a joint analysis of the effectiveness of sea turtle mitigation in Pacific longline fisheries. The workshop results were presented to the WCPFC Scientific Committee in 2017. Following advice coming out of the workshops, the United States submitted two proposals in 2018 to strengthen the current WCPFC sea turtle management measure and to improve data collection on sea turtle interactions. As a result, WCPFC adopted revisions to the management measure that expanded application of the measure to all shallow-set longline fisheries. The United States will continue to push for improved data collection on interactions with sea turtles and other species of special interest in 2019 and beyond.

After ten years of inactivity, the IATTC's bycatch working group reconvened in 2017, in large part due to U.S. concerns over Pacific leatherback sea turtles, and sea turtles in general, in the Eastern Pacific Ocean. While IATTC does have a sea turtle bycatch mitigation resolution that includes measures for when a turtle is caught, it lacks measures to prevent or reduce interactions. The United States submitted a sea turtle bycatch mitigation proposal in 2017 and again in 2018,

which received support from some countries. The United States will continue to use the IATTC's bycatch working group to foster discussion of these measures.

ICCAT's SCRS in 2017 recommended a suite of measures to mitigate sea turtle bycatch in the longline fishery. The United States presented a proposal calling for use of large circle hooks, whole finfish bait, or other measures considered effective by the SCRS and approved by the Commission. The proposal emphasized existing bycatch and observer program reporting requirements. Brazil, Guatemala, and Honduras joined as co-sponsors. The proposal was amended with clarifying edits and a defined geographic scope, but no consensus was reached. Reintroduced in 2018, the proposal received substantial support. A small number of delegations could not go along with it, however; they cited a paper presented to the SCRS shark species group that concluded total mortality of shortfin mako sharks would increase with the use of circle hooks. Others noted that the conclusions of this paper were oversimplified: while circle hooks may increase catch rates of some sharks, other literature has shown post-release mortality is lower due to more frequent jaw-hooking. Work to advance this issue will continue.

2. Dolphins

The 2017 Report to Congress describes the history and objectives of the Agreement on the International Dolphin Conservation Program (AIDCP). Nations and entities that have acceded to or ratified the agreement include Belize, Colombia, Costa Rica, Ecuador, El Salvador, the EU, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, the United States, and Venezuela. Bolivia and Vanuatu apply the agreement provisionally. The observed dolphin mortality in the Eastern Pacific Ocean purse seine fishery for 2016 was approximately 702; for 2017, it was approximately 683.

Since 2006, no fishery-independent surveys of dolphin abundance have been conducted. IATTC hosted a workshop in 2016 with the goal of identifying options for developing indices with which to monitor dolphin stock status, and published a report of the meeting. IATTC is still considering survey designs and budgets for a possible dolphin population abundance survey. At the 2018 meetings of the AIDCP, researchers from the University of St. Andrews presented several design options for a new dolphin survey in the Eastern Tropical Pacific. The parties discussed, but did not reach consensus on, a specific design or funding for the survey.

3. Other Marine Mammals

The bycatch of marine mammals in fisheries is a significant factor in long-term conservation of marine mammal stocks worldwide. Hundreds of thousands of these animals are killed each year through entanglement in fishing gear. Marine mammals interact with or are accidentally caught in gillnet, trap, longline, and trawl fisheries. Accurate abundance and bycatch estimates for marine mammals are lacking in areas where marine mammal distribution overlaps with coastal and international fisheries, which makes quantitative analysis of bycatch extremely difficult.

FAO members have expressed great concern about bycatch of marine mammals at recent sessions of COFI. In 2016, the committee welcomed the offer of the United States to fund an expert workshop to review the findings of recent international marine mammal bycatch workshops. In March 2018, FAO convened the workshop on means and methods for reducing

marine mammal mortality in fishing and aquaculture operations in Rome; 27 experts in marine mammal science and bycatch mitigation attended. The workshop reviewed the current state of knowledge on the issue of marine mammal bycatch and evaluated the efficacy of different strategies and measures for mitigating bycatch and their implementation.

The workshop produced some key technical outputs, including an extensive review of techniques across different gear types and species, together with a summary table and a draft decision tree that could be used to support management decision-making processes. The workshop recommended that FAO develop technical guidelines in support of FAO's Code of Conduct for Responsible Fisheries, and as a supplement to the International Guidelines on Bycatch Management and Reduction of Discards. The workshop also recommended that FAO consider establishing a global capacity-development program to support developing States in applying the proposed guidelines. The 2018 COFI meeting welcomed the work of FAO on marine mammal bycatch, including the recommendation of the expert workshop. FAO was encouraged to continue its work, engaging with members, relevant experts, and organizations such as the IWC and the North Atlantic Marine Mammal Commission, in the development of best practices in the form of technical guidelines. This will require further consultations among members.

MMPA Import Rule. In March 2018, NOAA published its List of Foreign Fisheries (LOFF).[16] The list is the most comprehensive review of marine mammal bycatch in foreign fisheries exporting to the United States, the second largest global importer of seafood. Publication of the LOFF is the first step in implementing the MMPA import provisions regulation. The rule entered into effect on January 1, 2017, with a five-year exemption period, expiring in 2022, to facilitate implementation. The LOFF reflects the global scale of commercial fisheries from 138 trading partners exporting fish and fish products to the United States, and includes associated information on marine mammal interactions in the course of commercial fishing operations. Each commercial fishery included in the LOFF is classified into one of two categories, "exempt" or "export," based upon the frequency and likelihood of incidental mortality and serious injury of marine mammals in each fishery. "Exempt" fisheries have no known, or a remote likelihood of, marine mammal bycatch and are exempt from instituting a regulatory program under this regulation. "Export" fisheries have more than a remote likelihood of marine mammal bycatch or insufficient information available on marine mammal interaction. To receive a comparability finding under this regulatory program, each fishery, regardless of exempt or export classification, must prohibit the intentional killing of marine mammals in the conduct of commercial fishing activities.

The MMPA import provisions establish conditions for evaluating a harvesting nation's regulatory programs to address incidental and intentional mortality and serious injury of marine mammals in fisheries. To continue to export fish and fish products to the United States, harvesting nations must have a regulatory program for reducing marine mammal bycatch in each "export" fishery that is comparable in effectiveness to measures taken by U.S. commercial fisheries. The import provisions establish two possible tracks for receiving a comparability finding: one requiring population abundance estimates, bycatch monitoring and estimation, and calculation of a bycatch limit; and the other, requiring measures comparable in effectiveness. Trading partners will apply for comparability findings for their fisheries in 2021. All "export"

[16] 83 Federal Register 11703, March 16, 2018.

fisheries seeking to export to the United States will be required to have received a comparability finding by January 1, 2022. Comparability findings will be granted or denied on a fishery-by-fishery basis, not on a comprehensive basis to an entire nation.

RFMO actions. In August 2018, the Permanent Commission for the South Pacific, with the cooperation of NMFS, convened a workshop to discuss the MMPA import rule and the LOFF. Interested parties from Chile, Colombia, Ecuador, and Peru attended to review their nations' LOFF and discuss marine mammal bycatch challenges in each nation. The goal was to help nations identify marine mammal bycatch in their fisheries, prioritize fisheries with unsustainable marine mammal bycatch, and mitigate such bycatch.

At the 2016 and 2018 meetings of ICCAT, the United States introduced a measure to prohibit vessels from setting purse seines on a school of tuna associated with a cetacean. In addition to prohibiting the intentional encirclement of cetaceans by purse seines, the proposal called for development of best practices concerning safe handling and release of cetaceans in ICCAT fisheries. After some clarifying edits, the proposal received substantial support, but consensus could not be achieved.

XI. Shark Conservation and Protection

The key components of a comprehensive framework for international shark conservation and management have already been established in global agreements and organizations, which have identified or adopted provisions or guidance to assist States and RFMOs in the development of measures to conserve and sustainably manage sharks. Some of these mechanisms have created international legal obligations with regard to shark conservation and management, while others are voluntary.

A. Global Forums

CITES. At the next meeting of the Conference of the Parties to CITES, several shark and ray proposals will be considered. Senegal submitted a proposal to include all species of guitarfish in Appendix II with the support of 26 co-sponsors; Sri Lanka submitted a proposal to include all species of wedgefish in Appendix II with 34 co-sponsors. A proposal to include shortfin mako and longfin mako sharks in Appendix II of CITES was submitted by Mexico and 27 co-sponsors.

Convention on the Conservation of Migratory Species of Wild Animals. The United States is not a party; however, non-parties are able to participate in individual instruments – MOUs and agreements – concluded under the umbrella of the Convention. See Part X.A for actions taken at recent meetings.

The MOU on the Conservation of Migratory Sharks is a non-binding MOU adopted in 2010; it provides an international framework for coordinating sustainable management and conservation efforts for migratory sharks. The Third Meeting of Signatories was held December 10-14, 2018. Several new species were added to Annex 1 of the MOU: dusky shark; common guitarfish; bottlenose wedgefish/whitespotted wedgefish together with two look-alike species, the smoothnose wedgefish and whitespotted wedgefish/giant guitarfish; oceanic whitetip shark; angelshark; and smoothhead hammerhead shark. The signatories also decided on an engagement strategy with RFMOs and on spatial management recommendations.

Specially Protected Areas and Wildlife Protocol (SPAW Protocol). In March 2017, at the 9th SPAW Conference of Parties in Cayenne, French Guiana, NMFS supported the addition of nine species of sharks and rays to the SPAW Annexes, including smalltooth sawfish in Annex II, and the following species in Annex III: manta rays, hammerheads, oceanic whitetip shark, and whale shark. For species listed in Annex II, parties are to ensure their total protection and recovery, including by prohibiting taking, possession, or killing, or commercial trade in such species, their eggs, parts, or products. Parties must also prevent, to the extent possible, disturbing species, particularly during periods of breeding, incubation, estivation, or migration, as well as other periods of biological stress. For Annex III species, parties must adopt appropriate measures to ensure their protection and recovery, and may regulate the use of such species to ensure their populations are maintained at the highest possible levels.

Under Article 11(2) of the SPAW Protocol, each party may adopt exemptions to the prohibitions prescribed for the protection and recovery of the species listed in Annexes I and II for scientific, educational, or management purposes necessary to ensure the survival of the species or to

prevent significant damage to forests or crops. These exemptions may not jeopardize the species and must be reported to the Caribbean Environment Programme Secretariat for the Scientific and Technical Advisory Committee to assess the pertinence of the exemptions granted. At the 9th Conference of Parties of the SPAW Protocol, parties decided on a voluntary reporting format for exemptions under Article 11(2). Parties are expected to begin reporting their exemptions to the Secretariat on an annual or semi-annual basis.

B. RFMOs

WECAFC established a shark conservation and management working group in 2014. The first meeting of the working group, which took place in October 2017, brought together more than 30 shark fisheries experts, conservationists, marine biologists, and fisheries officers from 15 WECAFC members, regional fisheries bodies, fisheries technical advisory institutions, NGOs, and other stakeholders. Experts at the meeting recommended that countries in the region should prohibit the removal of shark fins at sea and require all sharks to have their fins naturally attached through the point of first landing of the sharks. Participants worked on development of a regional plan of action for sharks and rays in the WECAFC area, focused on shark research, data collection and sharing, capacity building, harmonized management and conservation measures, enforcement and monitoring, and public awareness.

Every year since 2009, the United States has introduced a proposal at ICCAT to require that all sharks be landed with their fins naturally attached. At the 2017 and 2018 annual meetings, as in previous years, no consensus could be reached; however, support for the measure continues to increase.

In 2017, the United States proposed a two-phase program to end overfishing of North Atlantic shortfin mako and rebuild the stock, but consensus could not be reached. Instead, ICCAT adopted a compromise measure prohibiting retention of live North Atlantic shortfin mako sharks and requiring vessels to release them in a manner causing the least harm. The measure allows retention of dead sharks if there is an observer or electronic monitoring system on board, if the shark is over a certain size, or in some other limited cases. It also creates reporting and biological sampling requirements to improve the available scientific information. While no total allowable catch was established for North Atlantic shortfin mako, the measure is expected to stop overfishing and begin to rebuild the stock. The SCRS will evaluate the effectiveness of the measure in meeting its goals in 2019, along with new scientific information, at which time the Commission will establish a formal rebuilding program for this stock.

At its 2017 annual meeting, NAFO adopted measures co-sponsored by the United States and the EU to prohibit directed fishing of Greenland sharks and to require contracting parties to report on efforts to minimize incidental catches and mortalities.

WCPFC currently has five measures in place for the conservation and management of sharks, including a prohibition against shark finning, prohibitions on the retention or landing of oceanic whitetip sharks and silky sharks, shark bycatch mitigation measures in longline fisheries, and a prohibition on purse seine sets on whale sharks. Although these measures provide some protection, there is growing concern over the ability to assess compliance with some of the current measures, most notably with a requirement that vessels not retain fins weighing more

than 5 percent of the weight of sharks on board up to the first point of landing. The Commission is currently working to consolidate all five existing measures into one comprehensive shark measure. This may be an opportunity to strengthen certain obligations, including the current 5-percent fins-to-carcass ratio. The United States has continued to support a move toward a measure requiring fins to be naturally attached, consistent with its domestic law.

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In 2017, for the sixth time, the United States led a proposal, co-sponsored by Argentina, Australia, Brazil, Chile, the EU, Norway, South Africa, and Uruguay, to require that any sharks incidentally caught in the CCAMLR Convention Area be kept with all fins naturally attached to the point of first landing. It was again well received by many members, but was not adopted due to strong objections from a few members, who noted that directed fishing on sharks is already prohibited under a current conservation measure and that the bycatch of sharks in the Convention Area has been relatively low during the preceding ten years. Rather than pursue the same proposal in 2018, the United States focused on presenting a summary of shark catch data held by the Secretariat. This summary complemented a paper from the EU suggesting a range of activities to improve the data collected on shark bycatch, including data on the disposition of this catch, and to evaluate methods for reviewing compliance with existing conservation measures.

IATTC has passed several relevant resolutions addressing retention of mobulid rays and management of silky and hammerhead sharks. See the 2017 Report to Congress for details.

In October 2018, the General Fisheries Commission for the Mediterranean adopted a measure that mandates all sharks be landed with their fins naturally attached.

XII. International Cooperation and Assistance

The international community recognizes the importance of providing necessary tools and training to assist developing coastal and fishing States with management and monitoring of their fisheries and fishing vessels. Such assistance helps nations address IUU fishing activities, promotes the adoption of measures to mitigate the adverse impacts of fishing activities on PLMRs, and furthers shark conservation programs. The need for such cooperation and assistance is recognized in global and regional fisheries instruments, including the UNFSA.

A. International Institutional Efforts

ICCAT has several funds created specifically for scientific capacity building; these are used primarily to finance travel of scientists from developing States to participate in intersessional scientific meetings and the annual SCRS meeting. They are also used to support scientists from developing States to attend longer-term training programs. Separate ICCAT funds support the attendance of developing State members at meetings of the Commission and with carrying out their responsibilities under ICCAT's port inspection scheme. The United States has contributed to these funds over the years.

The Republic of Korea contributed the proceeds from the sale of illegally harvested toothfish to a CCAMLR special fund. More than 3 million Australian dollars went to several funds for extra scientific, conservation, and other activities outside the annual budget. New Zealand, the United Kingdom, and the United States made voluntary contributions to CCAMLR's general science capacity-building funds. WCPFC's budget contains a line item, funded by all members, to support the special needs of developing States parties.

In 2011, IATTC created a fund for strengthening the scientific and technical capacity of developing countries, which will facilitate their fully complying with their obligations under the Antigua Convention.

B. Bilateral and Regional Assistance

Through the MSA and other authorities, NMFS engages in international cooperation and assistance, with particular emphasis on efforts to combat IUU fishing, mitigate bycatch of PLMRs, and conserve sharks. The United States shares stocks of living marine resources, including protected resources, with other countries. Many living marine resources cross national maritime boundaries and venture into the high seas during their lives. Conservation activities or the lack thereof in countries other than the United States can either enhance or undermine our own conservation efforts. Management measures in other countries can directly affect the status of fish resources the United States harvests. In addition, lack of conservation efforts can interfere with the recovery of endangered or threatened species wherever they occur.

The United States is a member of many global and regional marine conservation organizations. Decisions on management measures are made either by consensus or require a majority of the countries present to support the measure. By contributing to the capacity of member countries to

manage marine resources sustainably, we increase the number of countries that will adopt and implement management measures to accomplish these goals.

More fundamentally, the dependence of the U.S. market on imports of wild-harvested and farmed seafood, and the growing demands of American consumers for assurance that fish are not the product of illegal or unsustainable practices, require the United States to address the lack of fisheries management and enforcement capacity in many developing countries. NMFS' assistance efforts strengthen international fishery management organizations; build strategic partnerships with other agencies, nations, and donors; level the playing field for U.S. fishermen; and enable other nations to become better stewards.

Capacity-building activities are undertaken within specific program areas, of which the chief ones are conservation of marine mammals, sea turtles, and sharks, particularly those species listed by CITES or under the MMPA. NOAA also supports substantial capacity-building activities to combat IUU fishing more generally. This section sets forth some examples from among the many projects NMFS carried out during 2017 and 2018.

1. Marine Mammals

In 2018, the Anderson Cabot Center for Ocean Life at the New England Aquarium, in collaboration with the Global Bycatch Exchange and NOAA, instituted a grant program to support capacity building in developing countries for reducing marine mammal bycatch. The focus of the fund is building capacity within low- and medium-income nations to mitigate marine mammal bycatch within one or more fisheries. In addition, project support is intended to help achieve compliance with the U.S. seafood import provisions under the MMPA.

2. Sea Turtles

NMFS research has focused on the development and testing of technologies for gillnet and trawl fisheries around the world, to help assess and reduce incidental bycatch of sea turtles as well as other protected species.

Since 2016, colleagues from Spain and Brazil have used satellite telemetry technology to identify mortality due to decompression sickness in turtles caught and released from trawl fisheries in the Southwest Atlantic Ocean. To date, researchers have deployed nearly 20 "survival" tags on loggerhead sea turtles off the coast of Brazil. Preliminary data suggest that about 50 percent of turtles die from a combination of decompression sickness and other injuries incurred through interaction with fishing gear. Research continued through May 2019, when the deployment of all survival tags was complete and data recovered. Similar research will begin in the Adriatic Sea during January 2019, with a completion date by summer 2019. NOAA supports this work, which is informing the regulation of U.S. fleets. As we continue to collect more information about these post-interaction mortality rates with our international partners, we will be able to identify possible ways to address this critical conservation issue.

Working in the Eastern Pacific, NMFS scientists worked with Mexico's Protected Areas Commission, NGOs, and an artisanal fishing community to develop and test sensory-based bycatch reduction technologies. Net illumination with several different wavelengths of light-emitting diodes shows reduction in sea turtle interactions on target catch. More recently, analysis of nets illuminated with short wavelength light shows that shark bycatch could also be significantly reduced. In addition, NMFS has worked with Gettysburg College researchers to test a novel bycatch-reduction strategy using acoustic deterrents for sea turtles.

Testing of net illumination has expanded into gillnet fisheries in Peru and Chile. These fisheries target swordfish and elasmobranch species, but interact with many sea turtle species and marine mammals. Results from research in northern Peru show that using net illumination reduces sea turtle bycatch rates by 64 percent in coastal gillnets, with no change to catch rates of target fish. Most recently, experiments with net illumination in Peru indicates that this technology also reduces seabird bycatch, which suggests that net illumination may be a useful multi-taxa bycatch solution. Net illumination experiments are also being conducted in the drift gillnet fishery operating off the coast of central Peru; this fishery has high bycatch rates of sea turtles, elasmobranchs, and marine mammals. Analysis of the results from these experiments is ongoing. NMFS and our collaborators, including local NGOs and fishermen, have also used this research platform to satellite-tag 13 leatherback turtles and 11 hawksbill turtles (both endangered species). This research will help with understanding post-fisheries interaction behaviors, such as rates of survival and movement patterns.

NMFS' efforts in the Western Pacific have focused on Indonesia, Japan, Malaysia, and the Philippines. Evidence suggests that Western Pacific coastal waters provide important foraging grounds for several sea turtle species important to U.S.-managed areas in the Western Pacific, and to ESA recovery mandates. Key factors in the decline of many sea turtles include continued bycatch and persistent direct harvest of sea turtles. In particular, Pacific leatherback, green, Western Pacific hawksbill, and olive ridley sea turtle populations are affected. Characterizing the extent of this take, understanding the dynamics driving these practices, and developing mitigation strategies are of great interest, especially since recent genetic and telemetry studies indicate connectivity between sea turtles in Indonesian, Japanese, Malaysian, and Philippine waters and sea turtles found in the U.S. EEZ.

Given that Malaysian shrimp trawl fisheries capture sea turtles, NMFS collaborated with local NGOs and the government to introduce TEDs into these fisheries by testing Malaysian-designed devices. NMFS worked with Malaysia to establish a national TED program, initiated conversations with DOS to begin the TED certification process, and provided technical support to Malaysia to establish a national implementation plan.

NMFS is collaborating with Indonesia's Ministry of Marine Affairs and Fisheries and local universities to better understand the effects of the region's small-scale fisheries on protected species such as sea turtles. To date, rapid assessments (interview-based surveys) have been conducted in 34 districts, with more than 1,100 fishermen interviews characterizing fishing vessels, fishing gear, scope of fishing operations, and bycatch rates. These initial surveys are the foundation for further conservation efforts, as they determine where to locate onboard observer programs for quantification of bycatch rates and where best to conduct bycatch mitigation

testing, such as net illumination in gillnet fisheries. For example, an assessment of the gillnet fisheries based in West Kalimantan, from 2013 through 2016, suggested that 750 sea turtles are caught each year in those coastal fisheries. Concurrently, the testing of illuminated gillnets indicated a 61-percent reduction in sea turtle bycatch, paired with a small increase in catch rates of target fish. This collaboration has led to expansion of testing into other geographic regions, as well as to work with their technical division to develop net illumination standards appropriate for future management measures.

In Japan, NMFS worked with the government, NGOs, and fishermen to develop and test escape devices for the coastal midwater pound net fisheries. NMFS worked with a local NGO to test pound net escape devices in a commercial fishery; they were proven effective in maintaining fish catch under experimental conditions. In addition, aerial surveys conducted in southeastern prefectures led to better understanding of the distribution of underwater pound net systems. This can assist in mitigation planning.

NMFS has partnered with the Philippine Bureau of Fisheries and Aquatic Resources, an NGO, and marine researchers to create a standardized toolkit for marine turtle rapid bycatch assessment specific to the Philippines. Through this collaboration, fisheries surveys are underway in Ticao (Masbate Province) and in El Nido (N. Palawan). In addition, NMFS is working to understand the linkages between fisheries bycatch and illegally trafficked sea turtles interdicted in the Philippines. Recent work suggests Southeast Asia is the top global hotspot for illegal trafficking of sea turtles. As many U.S.-managed turtle populations use this region for foraging, migration corridors, and nesting, it is likely that turtles from U.S.-managed populations are represented in this illegal trade. Large seizures of green and hawksbill turtles have occurred in the Philippines (particularly in Palawan). To better understand the impacts of these activities on sea turtle populations, it is important to collect morphometric data, tissue samples, and archive samples from illegally trafficked turtles that have been intercepted by law enforcement officials, and from sea turtles incidentally caught in fisheries. NMFS and its partners have worked to standardize data collection protocols, develop sampling kits, and create the necessary processing and storage logistics so genetic samples from illegally trafficked sea turtles are stored and ultimately analyzed.

From 2016 to 2018, NMFS gear specialists in collaboration with DOS have worked with foreign governments and shrimp fishermen to promote TED technology under the Shrimp-Turtle Law, Section 609 of P.L. 101-162. During the period, NMFS specialists have provided training in TED technology in the following countries: Australia, Colombia, Costa Rica, Cote d'Ivoire, Ecuador, El Salvador, Gabon, Guatemala, Guyana, Malaysia, Mexico, Nicaragua, Nigeria, Pakistan, Panama, Suriname, and Trinidad. Through these efforts, 13 national and three regional shrimp trawl fisheries have been certified as having institutional TED programs, which allow them to export wild-caught shrimp to the United States.

3. Sharks

NMFS provided a grant in 2016 for a regional workshop of the WECAFC/OSPESCA working group on sharks, in which countries examined current knowledge of elasmobranchs in the Wider Caribbean Area, and made recommendations for a regional plan of action to be endorsed by

WECAFC at its next meeting in 2019. This project increased awareness of shark status and management among fisheries-sector stakeholders of the WECAFC member States.

As indicated under section XI.B, WECAFC established a shark conservation and management working group in 2014. NMFS supported the first working group meeting in 2017 to help advance its efforts.

To deter seafood fraud and the illegal international trade of shark products, NMFS funded a project for the MarViva Foundation to improve research, policy, and advocacy in Colombia, Costa Rica, and Panama. The goal of this project – to improve knowledge of the international trade of sharks, skates, and rays originating in these three target supplier countries in the Eastern Tropical Pacific Marine Corridor – was achieved through the creation of infographics showing global trade routes of shark and ray products. These documents will be disseminated among relevant stakeholders in regional and international forums. Under the project, the custom code structure for all seafood products in Colombia, Costa Rica, and Panama was analyzed and revised with an emphasis on sharks, rays, and skates. A custom code manual for fishery products was produced for each country to facilitate the monitoring of shark, skate, and ray products in international trade. Finally, a series of recommendations was presented to authorities of Colombia, Costa Rica, and Panama to strengthen the traceability of international commerce of these species through an amendment of the custom codes for several species of sharks and rays.

In fulfillment of commitments made at the 16th Conference of Parties of CITES, NMFS provided support for several workshops to assist parties with implementation of the shark listings that took effect in September 2014. These workshops brought together CITES and fisheries authorities to promote interagency collaboration and exchange of information.

In November 2016, Senegal organized a regional workshop with the support of NMFS. At the meeting, participants from nine West African countries shared information and received identification training and tools, building on the 2014 action plan that recommends how to address priority needs of the region for implementing and enforcing CITES listings of shark and ray species. Subsequent to this workshop, NMFS awarded a grant to help develop the capacity of customs officers in several West African countries through train-the-trainer workshops. The workshops provide participants with skills needed to train other colleagues and relevant agencies through practical exercises, as well as an opportunity to interact with colleagues from other countries to promote sub-regional collaboration.

4. Queen Conch

International trade in queen conch is regulated under Appendix II of CITES. NMFS, by sponsoring workshops, has encouraged countries such as the Bahamas, Belize, and Colombia to promote coordination between CITES and regional fisheries authorities, and to further cooperation among range States in enforcement of national and CITES requirements. A WECAFC working group consisting of the Caribbean Fishery Management Council, OSPESCA, the Caribbean Regional Fisheries Mechanism, and CITES has been established and makes recommendations for the sustainable and legal management of this species.

With support from the Caribbean Fishery Management Council, NOAA, and the EU, the third meeting of the group was held in Panama City from October 30 to November 1, 2018. The meeting was well attended by WECAFC member countries, regional organizations, and international bodies. In summary, there have been substantial improvements in national management of queen conch among the working group members in partnership with regional organizations, FAO, WECAFC, and NGOs. Group members, however, identified the following challenges and needs: improvement of catch and effort monitoring programs, development of national conversion factors to improve trade reporting, establishment of non-detriment findings as required under CITES for the export of queen conch, and enhanced traceability of queen conch throughout the supply chain. The group endorsed a revision of terms of reference and work plan for 2019–2021 that addresses the challenges and needs identified at the meeting. The working group also endorsed several recommendations for consideration at the meeting of WECAFC in 2019.

5. Enhancing Fisheries Management and Enforcement

NOAA engages in international cooperation and assistance by providing training to our fisheries enforcement partners globally, with particular emphasis on strengthening efforts to combat IUU fishing and trafficking in IUU fish products. Especially important are technical assistance and training for nations exporting fish products to the United States, so they can better detect and interdict IUU products before they enter into global commerce. NOAA, in partnerships with other federal agencies and the FAO, has been engaged in capacity-building initiatives around the globe, including Africa, Southeast Asia, Latin America, and the Caribbean, with a particular focus on implementation of the PSMA and related instruments.

In addition, the United States is committed to revitalizing our engagement in the Pacific Islands. As a Pacific nation itself, the United States views the Pacific Islands as critical because of our shared values, interests, and commitments. In particular, we aim to focus on building capacity and resilience to address maritime issues, including combating IUU fishing. In 2019 and moving forward, we are increasing our efforts to engage in the region to build capacity for at-sea enforcement, shoreside enforcement and investigations, and domestic prosecutions of fisheries violations.

In 2017, NOAA conducted training in conjunction with the U.S. Navy's Africa Partnership Station, the program responsible for capacity-building programs in coastal African partner nations to build greater maritime domain awareness. One focus area for the program is countering IUU fishing. NOAA has developed a pilot program to train members of the Ghanaian Navy and Marine Police to more effectively collect and preserve evidence during at-sea boardings of vessels suspected of IUU fishing. This program aims to promote greater success in prosecuting cases, thus providing a greater deterrent against IUU fishing. NOAA, the U.S. Navy, and DOS are working to broaden this pilot into a regional program.

NOAA continues its partnership with DOS's Bureau of International Narcotics and Law Enforcement Affairs and its International Law Enforcement Academy. This effort brings in experts from coastal nations in West Africa to conduct training and workshops on improving detection, interdiction, and ultimately prosecution of vessels violating fishing regulations. The most recent workshop was held in Accra, Ghana, in 2017. NOAA coordinates its activities and

provides expert technical assistance with other projects sponsored in the region, such as the Security Governance Initiative in Ghana.

This partnership also funded a multi-year project under the FAO Umbrella Program to support implementation of the PSMA and other instruments to combat IUU fishing in the Bahamas, Guyana, Jamaica, the Dominican Republic, and Trinidad and Tobago. NOAA is providing technical assistance to strengthen national legislation and operational MCS capacity.

The United States maintains bilateral shiprider agreements with 11 Pacific Island and five West African nations to assist with enforcement in those countries' EEZs. In addition to conducting regular shiprider fisheries enforcement patrols in the Western and Central Pacific Ocean, the USCG collaborates with the U.S. Navy and the U.S. Indo-Pacific and Africa Commands in programs called the Oceania Maritime Security Initiative and the African Maritime Law Enforcement Partnership. These programs assist Pacific Island and West African nations in exercising sovereignty over their natural resources by merging USCG enforcement capabilities with Department of Defense resources.

Building upon the previous five-year partnership in the Coral Triangle region of Southeast Asia and the Pacific Islands, NOAA and the United States Agency for International Development (USAID) established the NOAA Mission Support Participating Agency Partnership Agreement (2014-2019), which further provides subject matter experts from NOAA to assist the USAID's oceans team in educating governments and society on requirements of the new U.S. Seafood Import Monitoring Program, catch documentation and traceability, approaches to fishery stock assessments, and application of marine spatial planning. NOAA is also providing direct support to Southeast Asian nations, in partnership with the Southeast Asia Fisheries Development Center, and bilaterally with focal countries under the agreement.

NOAA has had a partnership with the Government of Indonesia since 2009. During 2017 and 2018, in partnership with USAID, NOAA provided curriculum development assistance, policy support, and operational law enforcement training to help combat IUU fishing and implement the PSMA. In January 2018, NOAA conducted the second workshop on fisheries inspections of foreign-flagged fishing and fishing-support vessels that enter Indonesia's ports, to help inspectors meet the minimum standards set out in the PSMA.

The FAO/Asia-Pacific Fishery Commission met in May of 2018 in Cebu, Philippines. Of importance to the United States was the focus on combating IUU fishing and dealing with antimicrobial resistance in aquaculture. The Commission will provide additional guidance to the region on sharing fisheries co-management experience in Asia, enhancing information and communication technologies for small-scale fisheries, and focusing on gender issues in fisheries and aquaculture. The United States voted in favor of the workplan and will continue to participate by sharing our expertise on these topics.

NOAA conducted inspector training in 2017 and 2018 for Philippine fisheries and maritime authorities.

XIII. Forced Labor and Human Trafficking in the Fishing Sector

A growing body of evidence documenting severe labor rights abuses and exploitation on board fishing vessels has led to calls for greater international attention to labor and other social welfare concerns in the fishing sector. These reports document that some fishermen, many of them migrant workers, are subjected to labor rights abuses, including forced labor, on board fishing vessels. These issues are beyond the scope of this Report; however, such abuses and exploitation are known to occur in conjunction with IUU fishing activities, and therefore warrant attention here. These issues have garnered widespread domestic and international attention, and NMFS is engaging with our Federal interagency partners on both fronts.

According to the International Labor Organization (ILO), workers in fisheries and aquaculture operations are particularly vulnerable to labor-related misconduct due to isolated workplaces and length of time at sea, which physically restricts workers' abilities to leave or escape abusive situations. Additionally, workers in this industry experience non-physical forms of coercion, such as debt bondage, and many victims are migrant workers who have had their possession of or access to identity documents taken away from them, making it difficult to leave their exploitative workplaces. Severe physical abuse and acts of violence – including murder – perpetrated by ship captains further compel many victims to remain in conditions of servitude. Detection and enforcement of criminal laws prohibiting this form of abuse is complicated by overlapping jurisdictions, language barriers, and inconsistent legal frameworks inherent in transnational fishing operations.

The United Nations has underscored the severity of labor issues in fisheries, and encouraged nations, both individually and collectively, to combat forced labor in the seafood sector. In the United States, 19 U.S.C. § 1307 prohibits the importation of merchandise mined, produced or manufactured wholly or in part, in any foreign country by forced labor. Consequently, any fish or fish products suspected of having been produced by forced labor may be subject to exclusion and/or seizure, and may lead to criminal investigation of the importer(s).

Most regional fisheries management organizations (RFMOs) have adopted or are negotiating measures that focus on observer safety. In addition, in December 2018, WCPFC adopted a non-binding resolution on Labour Standards for Crew on Fishing Vessels.

Further, there may be opportunities to build off RFMO efforts related to IUU fishing, which may occur concurrently with labor violations. Research has shown that extreme forms of exploitation and abuse tend to coincide with work on board fishing vessels operating in areas beyond the jurisdiction of the flag state (distant water fleets). These fleets are also often associated with sub-standard vessels that conduct operations with disregard for protected species and fragile ecosystems and are representative of a number of RFMO-listed IUU vessels. Secondly, at-sea transshipments enable vessels to remain at sea for months or years, increasing isolation and the risk of labor abuses. Extended time at sea decreases the chances of detecting labor abuses. Research has further documented that victims may be moved between vessels to avoid their ability to be identified or to escape. Lastly, RFMO-listed IUU vessels sometimes utilize flags of convenience and change their name and details or create fraudulent registry and license information to disguise their IUU fishing activities and to launder IUU fish and fish products into

global commerce. Vessels engage in these activities to avoid accountability on all fronts, including those in support of IUU fishing activities and labor issues.

The International Maritime Organization's (IMO) and the United Nations' Food and Agriculture Organization's Joint Working Group on IUU Fishing and other related matters is another forum for States to discuss means to cooperate across the IMO and the FAO to address forced labor and other human rights concerns on fishing vessels. The ILO will formally participate in the fourth joint working group meeting, scheduled for October 2019, enabling greater attention on labor-related issues at the meeting, including how RFMOs can more effectively engage. NOAA, along with our interagency partners, will participate in this upcoming meeting.

The welfare and safety of personnel on fishing vessels, both domestically and abroad, is an important concern to NOAA. Domestically, we support the agencies tasked with implementing criminal, labor, and immigration laws in whatever ways we can, including informing the appropriate authorities of any observed violations or concerns regarding those laws. As an example, NOAA participates in an interagency task force led by the Department of Justice (DOJ) to address reports of people being subject to human trafficking "to harvest fish in international waters". Per DOJ, the Task Force's purpose is to examine the relevant legal and jurisdictional issues and produce a report to Congress. Eight departments and numerous agencies, including the Departments of Defense, Labor, State, and Homeland Security, are part of the Task Force, reflecting the broad scope of equities across the U.S. Government on this issue.

NOAA will continue to engage with our interagency partners to work collectively to address these important issues. Addressing labor rights abuses and human trafficking in the fishing sector will require widespread global attention across a number of international organizations, as well as cross-cutting efforts across U.S. domestic agencies.

Annex 1: International Fisheries and Related Agreements and Organizations to which the United States Is a Party or in which the United States Has a Substantial Interest

To provide basic knowledge of the multilateral agreements, RFMOs, and related international organizations concerning living marine resources of which the United States is a member or that are of substantial interest to the United States, a list of many such organizations and agreements, with brief descriptions, is set forth below.

Global

United Nations Convention on the Law of the Sea. This treaty sets the jurisdictional framework and rules for the use and management of the oceans, including general requirements concerning marine conservation. The Convention currently has 168 parties; the United States is not yet a party, but operates consistent with many Convention provisions, including those related to fisheries.

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement or UNFSA). This agreement provides more specific rules for the conservation and management of straddling and highly migratory fish stocks, including application of the precautionary approach, ecosystem-based management, a requirement that nations with vessels fishing on the high seas either join the appropriate RFMO or apply the CMMs established by that RFMO to its fishing vessels, and other similar requirements. The 1995 agreement, which entered into force in 2001, now has 90 parties, including the United States.

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement). This agreement requires flag States to exercise control over their vessels on the high seas to ensure they follow applicable conservation and management regulations. The agreement was adopted in 1993 and entered into force in 2003. It has 42 parties, including the United States.

Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). This agreement requires parties to take actions to prevent IUU fish and fish products from entering the stream of commerce. Parties must restrict port entry and access to port services to vessels that have engaged in IUU fishing, with certain exceptions. The PSMA entered into force on June 5, 2016. The EU and 59 States, including the United States, are parties to the agreement.

FAO Code of Conduct for Responsible Fisheries. This non-binding document, prepared in 1995, sets forth principles and international standards of behavior for responsible fisheries practices, to ensure effective conservation, management, and development of living aquatic resources.

International Whaling Commission. The IWC was established under the International Convention for the Regulation of Whaling in 1946. The primary function of the IWC is to

establish and revise measures governing the conduct of whaling throughout the world. The Commission currently has 89 parties, including the United States.

Convention on International Trade in Endangered Species of Wild Fauna and Flora. CITES provides for the protection of certain species of wild fauna and flora, including certain living marine species, against over-exploitation, through regulation of international trade. Under CITES, species are listed in Appendices according to their conservation status: Appendix I (threatened with extinction); Appendix II (may become threatened with extinction unless trade is strictly regulated); and Appendix III (species that any party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and that need the cooperation of other parties in the control of trade). Currently, there are 183 parties to CITES – 182 countries, including the United States, and one regional economic integration organization, the EU.

Agreement on the Conservation of Albatrosses and Petrels. ACAP, a legally binding agreement, was established under the CMS (see Part X.A); it has 13 parties. Its purpose is to enhance the understanding of the conservation status of albatrosses and petrels and their susceptibility to a range of threats, as well as to provide an effective means of mitigating those threats. Although not a party, the United States participates in ACAP meetings as an observer.

Memorandum of Understanding on the Conservation of Migratory Sharks. This non-binding instrument, negotiated under the auspices of the CMS, provides an international framework for coordinating sustainable management and conservation efforts for seven species of migratory sharks. The MOU has 48 signatories, including the United States, and two cooperating partners.

Atlantic

International Commission for the Conservation of Atlantic Tunas. ICCAT provides for international cooperation in conservation and management, including scientific research, for tunas and tuna-like species in the Atlantic. It covers all waters of the Atlantic Ocean, including the adjacent seas. ICCAT has 53 contracting parties, including the United States, plus five cooperating non-members.

North Atlantic Salmon Conservation Organization. NASCO has jurisdiction over salmon stocks migrating beyond areas of coastal State jurisdiction in the Atlantic Ocean north of 36° N throughout their migratory range. It has six parties, including the United States.

North East Atlantic Fisheries Commission. The area covered by the NEAFC Convention stretches from the southern tip of Greenland, east to the Barents Sea, and south to Portugal. NEAFC has five members and six cooperating non-members (including the United States).

Northwest Atlantic Fisheries Organization. NAFO's Convention Area is located within the waters of the Northwest Atlantic Ocean roughly north of 35° N and west of 42° W. The principal species managed are cod, flounders, redfish, American plaice, Greenland halibut (turbot), capelin, shrimp, hake, and squid. NAFO has 14 contracting parties, including the United States.

Southeast Atlantic Fisheries Commission. The SEAFO Convention, which entered into force in 2003, regulates fisheries outside EEZs in the Southeast Atlantic Ocean. Species covered include fish, mollusks, crustaceans, and other sedentary species, except species subject to coastal State jurisdiction and highly migratory species. There are currently seven parties. The United States signed the Convention, but is not a party because no U.S. vessels are actively fishing for SEAFO-managed species in the area.

Pacific

Western and Central Pacific Fisheries Commission. WCPFC manages tuna and other highly migratory species in the western and central Pacific Ocean. The Convention entered into force in 2004. It currently has 26 members, including the United States; seven participating territories; and seven cooperating non-members.

South Pacific Regional Fisheries Management Organization. The Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean entered into force on August 24, 2012. Its objective is to ensure the long-term conservation and sustainable use of fishery resources and to safeguard the marine ecosystems in which these resources occur. The Convention has 15 members, including the United States, which became a party to the Convention on February 18, 2017. Four other nations are cooperating non-members.

North Pacific Fisheries Commission. The goal of NPFC is to ensure the long-term conservation and sustainable use of the fisheries resources in the high seas areas of the North Pacific Ocean, while also protecting the marine ecosystems in which these resources occur. It establishes a management framework for all fisheries not already covered under existing international instruments, with a particular focus on bottom fisheries. The Commission has eight members, including the United States, which became a party to the Convention on February 18, 2017.

South Pacific Tuna Treaty. This agreement provides U.S. tuna purse seine vessels access to fish in the waters of the Pacific Island parties to the treaty. The treaty has 17 parties, including the United States. It is administered by the Forum Fisheries Agency, comprised of the 16 Pacific Island parties. In December 2016, the United States and Pacific Island parties signed a revised treaty that includes the terms of fishing access for the U.S. purse seine fleet to Pacific Island waters through 2022.

Inter-American Tropical Tuna Commission. IATTC manages tunas, tuna-like species, and other species taken by tuna-fishing vessels in the Eastern Pacific Ocean. The Commission has 21 members, including the United States, plus five cooperating non-members.

Agreement on the International Dolphin Conservation Program. This agreement establishes legally binding mechanisms to reduce incidental dolphin mortality in the tuna purse seine fishery in the Eastern Pacific Ocean to levels approaching zero. The agreement has 14 parties, including the United States, plus two nations that apply the agreement provisionally.

North Pacific Anadromous Fish Commission. NPAFC promotes the conservation of anadromous stocks (salmon) and ecologically related species, including marine mammals, seabirds, and non-anadromous fish, on the high seas of the North Pacific, the Bering Sea, and the Sea of Okhotsk, north of 33° N. It has five parties, including the United States.

Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea. This Convention was established to conserve and manage pollock resources in the high seas area of the Bering Sea (the "donut hole"). It has six parties, including the United States.

Pacific Salmon Commission. PSC implements the United States-Canada Pacific Salmon Treaty. Four commissioners and four alternates from each nation represent the interests of commercial and recreational fisheries as well as federal, state, and tribal governments. The PSC provides regulatory advice and recommendations to the two parties with regard to salmon originating in waters of one country that are subject to interception by the other, salmon that affect the management of the other country's salmon, and salmon that biologically affect the stocks of the other country.

International Pacific Halibut Commission. Established by treaty between the United States and Canada, the Commission's mandate covers research on and management of the stocks of Pacific halibut within Convention waters of both countries. The Commission consists of three government-appointed commissioners for each country.

Memorandum of Understanding for the Conservation of Cetaceans and their Habitats in the Pacific Islands Region. Negotiated under the auspices of the CMS, this non-binding MOU provides an international framework for coordinated conservation efforts for cetaceans and their habitats in the Pacific Islands Region. The MOU has 15 signatories, including the United States.

Southern Ocean

Commission for the Conservation of Antarctic Marine Living Resources. With the exceptions of any commercial seal hunt south of 60° S and all whaling activities, CCAMLR conserves and manages all marine living resources between the edge of the Antarctic continent and the Antarctic Polar Front (varying between 45° S and 60° S). There are 25 members of the Commission, including the United States. Another 11 countries have acceded to the Convention. These nations have agreed to be legally bound by its terms, but do not contribute to the budget or participate in decisions.

Convention for the Conservation of Antarctic Seals. The Convention is designed to promote and achieve the protection, scientific study, and rational use of Antarctic seals, and to maintain a satisfactory balance within the ecological system of Antarctica. It prohibits the killing or capture of seals in the area south of 60° S, except as specifically provided for in the Convention. It has 14 parties, including the United States.

Western Hemisphere

Inter-American Convention for the Protection and Conservation of Sea Turtles. IAC is the only binding convention for the protection and conservation of sea turtles in the world. IAC specifically protects six of the seven species of sea turtles: loggerhead, green, leatherback, hawksbill, olive ridley, and Kemp's ridley. This Convention entered into force in 2001 and has 16 parties, including the United States.

Specially Protected Areas and Wildlife Protocol (SPAW Protocol). The United States is a party, along with 24 other countries, to the SPAW Protocol of the Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region, otherwise known as the Cartagena Convention. The Convention and its protocols cover the marine environment of the Gulf of Mexico, Caribbean Sea, and adjacent areas of the Atlantic Ocean. The SPAW Protocol constitutes a legal commitment by contracting parties to protect and manage their common coastal and marine resources, including threatened and endangered species, individually, jointly, and in a sustainable manner.

Indian Ocean

Indian Ocean Tuna Commission. The aim of IOTC is to conserve, and promote optimum utilization of, tuna and tuna-like species in the Indian Ocean and its adjacent seas. While there are general conservation, management, and rebuilding measures, IOTC has yet to adopt any catch limitations. IOTC has 31 parties and two cooperating NPCs. The United States is not a party to the convention, but participates as an observer.

Indian Ocean-South East Asian Marine Turtle Memorandum of Understanding. This MOU operates as a non-binding instrument under the CMS. It provides a framework for the region to work together to conserve and replenish depleted marine turtle populations for which they share responsibility. The MOU has 35 signatories, including the United States.

Mediterranean

General Fisheries Commission for the Mediterranean. This RFMO was established under provisions of the FAO Constitution. Its main objective is to ensure the conservation and sustainable use of living marine resources, as well as the sustainable development of aquaculture, in the Mediterranean and in the Black Sea. It has 24 parties, not including the United States.

Annex 2: United States Laws Addressing IUU Fishing, PLMR Bycatch, and Shark Conservation, including Summaries of Recent Enforcement Cases

Magnuson-Stevens Fishery Conservation and Management Act. Originally enacted in 1976, the MSA, 16 U.S.C. 1801 *et seq*., is the foundational legislation for the conservation and management of fisheries within the U.S. EEZ. Besides establishing the framework for regulating U.S. fisheries, the Act contains specific and extensive prohibitions and enforcement authorities to ensure a high rate of compliance with regulations governing both domestic and foreign fishing within the EEZ.

The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 amended the High Seas Driftnet Fishing Moratorium Protection Act and directed substantial attention to fishing issues outside U.S. waters, particularly IUU fishing and bycatch of PLMRs. The amended Moratorium Protection Act calls on the Secretary of Commerce to urge other nations and RFMOs to address IUU fishing and to put into place regulatory measures to end or reduce bycatch of PLMRs. Title IV also established an identification and certification procedure for nations whose vessels engage in IUU fishing, bycatch of PLMRs, or certain shark fishing practices.

Shark Conservation Act of 2010. Enacted January 4, 2011, the SCA, 16 U.S.C. 1801 note, amended the Moratorium Protection Act to promote adoption by RFMOs of shark conservation measures, including banning removal of any of the fins of a shark and discarding the carcass at sea. The Act amended the Moratorium Protection Act's definition of IUU fishing to add an explicit reference to violation of international shark conservation measures, and to provide for identification of a nation for activities related to shark conservation.

Illegal, Unreported, and Unregulated Fisheries Enforcement Act of 2015. The IUU Fisheries Enforcement Act (P. L. 114-81) strengthened mechanisms to stop IUU fishing, and implemented the PSMA, 16 U.S.C. 7401 *et seq.*, and the Antigua Convention, 16 U.S.C. 951 note.

Ensuring Access to Pacific Fisheries Act. This Act, 16 U.S.C. 7701 *et seq.*, amended the Moratorium Protection Act with technical changes to the identification and certification process, and with provisions allowing for enhanced participation by the United States in several RFMOs.

High Seas Driftnet Fishing Moratorium Protection Act. This Act, 16 U.S.C. 1826d-1826k, prohibits the United States from entering into international agreements that would prevent full implementation of the UN Moratorium on Large-Scale High Seas Driftnets. The MSRA and SCA added specific authorities and responsibilities to assist in reducing or eliminating IUU fishing, bycatch of PLMRs, and certain shark fishing practices.

High Seas Driftnet Fisheries Enforcement Act. This Act, 16 U.S.C. 1826a-1826c, seeks to end the use of large-scale driftnets by foreign fisheries operating beyond the EEZ of any nation. Among other provisions, the Act authorizes identification of nations whose vessels are engaging in high seas fishing with large-scale driftnets; such identification may lead to limitations on port entry and on the importation of certain products from those nations.

High Seas Fishing Compliance Act. This Act, 16 U.S.C. 5501-5509, implements the FAO Compliance Agreement for vessels flagged in the United States. The HSFCA requires all U.S. vessels to obtain a permit before engaging in operations on the high seas; authorizes the Secretary of Commerce to issue such permits subject to conditions and limitations; and mandates sharing of information relating to permitted vessels with the FAO. The HSFCA also prohibits use of high seas fishing vessels in contravention of international CMMs recognized by the United States, or in a manner that would violate any permit condition.

Lacey Act. The Lacey Act, 16 U.S.C. 3371-3378, prohibits the import, export, transport, sale, possession, or purchase in interstate or foreign commerce of any fish or wildlife taken, possessed, transported, or sold in violation of any U.S. state law or regulation or of any foreign law. The two-part prohibition requires evidence of a violation of domestic or foreign law, and also evidence of trafficking. The United States has used the law to prosecute foreign individuals who import fish caught without authorization in another country's EEZ.

Marine Mammal Protection Act. One goal of the MMPA, 16 U.S.C. 1361 *et seq*., is to reduce the incidental killing or serious injury of marine mammals in the course of commercial fishing to insignificant levels, approaching zero. The Act prohibits "taking" (actual or attempted harassment, hunting, capture, or killing) and importation into the United States of marine mammals except where explicitly authorized. The MMPA also bans the importation of fish caught with commercial fishing technology that results in the incidental kill or serious injury of marine mammals in excess of U.S. standards.

Endangered Species Act. This Act, 16 U.S.C. 1531 *et seq.*, provides for the conservation of species in danger of extinction throughout all or a significant portion of their range. The Act lists species as either "threatened" or "endangered." When a species is endangered, it is protected from being "taken" through harassment, harm, injury, pursuit, hunting, killing, capturing, or collection. Similar prohibitions usually extend to threatened species. The Act also provides for U.S. implementation of limitations on trade in species listed under CITES.

International Dolphin Conservation Program Act. This Act, P.L. 105-42, amended the MMPA to provide that nations whose vessels fish for yellowfin tuna with purse seine nets in the Eastern Tropical Pacific are permitted to export such tuna to the United States only if the nation provides documentary evidence that it participates in the International Dolphin Conservation Program and is a member (or applicant member) of the IATTC, is meeting its obligations under the Program and the IATTC, and does not exceed certain dolphin mortality limits.

Shrimp-Turtle Law (Section 609 of P.L. 101-162). This law, 16 U.S.C. 1537, requires the United States to embargo wild-caught shrimp harvested with commercial fishing technology, such as trawl nets, that may adversely affect sea turtles. The import ban does not apply to nations that have adopted sea turtle protection programs comparable to those of the United States. Nations seeking to import shrimp must be certified by DOS as meeting the law's requirements on an annual basis.

Pelly Amendment. The Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. 1978, provides for the possibility of trade-restrictive measures, as described in Part II.D.

Summaries of Recent Enforcement Cases with an International Nexus

This section summarizes recent U.S. enforcement cases with an international nexus such as IUU fishing by a foreign-flagged vessel and U.S. assistance with another nation's investigation of a fisheries violation. NOAA and the USCG are actively engaged in monitoring fishing activity in the U.S. EEZ and in waters beyond our national jurisdiction. NOAA also works with U.S. Customs and Border Protection to monitor imports. These efforts not only help to protect global fish stocks and other marine resources, but also preserve the integrity of the U.S. domestic fish market and the safety of the U.S. food supply. Some of the more significant, or otherwise representative, cases since 2016 are outlined below:

- On January 14, 2017, the Russian Border Guard notified the United States of a Togo-flagged vessel, *Virile*, fishing on the high seas and suspected of IUU transshipment activity. The USCG responded by conducting a flight that located the vessel. Coordinating with the USCG, the Russian Federation detained the fishing vessel, which carried 30 metric tons of crab that were released to the sea (estimated market value of $1.6 million). The parent company, North Cargo Services, was fined $468,000 for its IUU fishing activity. Russian officials noted the increasing use of flags of convenience as a common attribute of IUU transshipment activity within the Russian EEZ.

- NOAA conducted a successful joint investigation with FWS of trafficking in totoaba, a fish listed on CITES Appendix I. The case involved four defendants who organized, funded, or transported totoaba swim bladders from Mexico to Los Angeles. The bladders, with an estimated value of $88,000, originated from endangered fish that are found only in the Gulf of California. Those waters are also the habitat of the critically endangered vaquita porpoise, many of which die after being entangled in illegal totoaba nets. All four defendants received sentences.

- On April 12, 2017, the Russian Border Guard notified the USCG of a transshipment vessel, *Pohah 2*, flying a Panamanian flag, in U.S. waters. USCG, NMFS, and Alaska enforcement officials boarded the vessel in Dutch Harbor and found the vessel in violation of customs law – having undeclared pollock and flatfish product onboard.

- On May 22, 2017, USCG District 17 detected a Tanzania-flagged vessel in the "donut hole" (high seas area of the Bering Sea), suspected of IUU transshipment activity. The USCG intercepted the vessel and conducted a query to determine the nature of the vessel's activity. Due to operational constraints, the USCG could not conduct a boarding at sea; however, information collected from the extensive query was shared with Russian officials. The vessel was found to have 3,000 tons of herring and 7,009 tons of pollock. The Russian Border Guard issued a citation and released the vessel.

- A joint NOAA, FWS, and Homeland Security investigation into the illegal importation of abalone was completed after the suspect entered a guilty plea and agreement to forfeit profits to the U.S. Government in 2017. The investigation revealed that on 43 occasions between February 2012 and July 2015 the defendant knowingly imported 148,500 pounds

of abalone, with a declared value of approximately $3 million, through a San Diego port of entry using false Mexican invoices. The defendant was sentenced to a five-year term of probation and to pay a $15,000 fine.

- On January 14, 2018, the Russian Border Guard notified USCG District 17 of a Sierra Leone-flagged vessel operating within the U.S. EEZ. *Sea Breeze* was suspected of illegally fishing for crab in U.S. and Russian waters. The Russian Federation requested USCG assistance in locating the vessel; a flight from Kodiak found it operating in the donut hole with what appeared to be crab pots onboard. The aircraft attempted to hail and query the vessel, but the vessel did not respond. Information was passed to Russian officials, who reacquired the vessel in the Russian EEZ and conducted an at-sea boarding on February 2, 2018. Russian media reported the vessel was detained for two violations: unauthorized fishing in the Russian EEZ and failure to have a logbook onboard. The vessel carried 30 metric tons of crab, which were released to the sea. Total fines exceeded 6.5 million rubles ($114,000). *Sea Breeze* was the eighth potential illegal transshipment vessel attempting to operate along the U.S.-Russian maritime boundary line in the previous year.

- In July 2018, NOAA participated in a multi-national investigation of the CCAMLR-listed IUU vessel *STS-50*, which had been seized by Indonesian authorities in April. Investigators from several nations as well as INTERPOL examined evidence obtained from the vessel and the vessel's beneficial ownership, as well as investigating other illegal activities.

- NOAA investigated Casey's Seafood for mislabeling Chesapeake blue crab products. In winter months when crabs were unavailable in commercial quantities, the owner resorted to purchasing foreign crab meat and repacking it into his own cups, selling it as "Product of the USA." This practice began as early as 2010 and continued through June 2015. During this time, Casey's Seafood also bought foreign crab meat that had been recalled, returned, or was approaching or beyond the "best when used by" dates on the packaging. This meat was then "re-conditioned" by re-pasteurizing, repackaged, and sold as "Product of the USA" blue crab meat. NOAA worked with the Food and Drug Administration to have crab meat purchases DNA-tested to determine the country of origin; some containers combined meat from two or three different countries. During this time, the company sold approximately 400,000 pounds of mislabeled foreign crab meat with a wholesale value of approximately $4.68 million. In September 2018, the owner pled guilty to leading a conspiracy to violate the Lacey Act. He was sentenced to 3 years and 9 months in prison and fined $15,000 in early 2019.

Annex 3: Seabird Bycatch Issues

Seabirds are considered international living marine resources for purposes of Section 607 of the Moratorium Protection Act, but do not fall within the definition of protected marine living resources. Section 316 of the MSA highlights the need for the Secretary of Commerce to work cooperatively with the Secretary of the Interior, with regional fishery management councils, and within international organizations to seek ways to reduce seabird bycatch. NMFS has pushed hard internationally for action to protect seabirds, particularly measures to mitigate seabird bycatch in fisheries.

The Agreement on the Conservation of Albatrosses and Petrels coordinates international activity to mitigate known threats to albatross and petrel populations. The ACAP treaty was submitted to the Senate in 2008 for its advice and consent to ratification; draft implementing legislation was submitted to Congress in 2009. The United States participates in ACAP meetings as an observer due to its interest in seabird conservation and its status as a range State under ACAP.

Several RFMOs have considered or taken action concerning seabirds in 2017 and 2018:

WCPFC. WCPFC adopted a CMM in 2006 to require seabird bycatch mitigation measures by pelagic longline vessels. The measure requires that vessels fishing south of 30° S or north of 23° N employ one or two mitigation measures (depending on vessel size) from a suite of techniques, including side setting, branch line weighting, night setting, and tori lines. In 2018 New Zealand submitted a proposal to expand the southern boundary of the area based on updated information on the distribution of seabirds vulnerable to bycatch in WCPFC longline fisheries. As a result, WCPFC adopted revisions to the seabird measure that expanded the area of application of the measure from south of 30° S to south of 25° S, excluding the EEZs of small island developing States, and added hook-shielding devices as an alternative to using weighted branch lines and tori lines.

CCAMLR. Observed seabird bycatch in the Convention Area is near zero in the legal fishery outside of the French EEZ. Seabird bycatch within the French EEZ, historically a problem, continues to decline significantly each year due to improved mitigation and management measures. In 2013, CCAMLR began implementing an evaluation procedure to examine compliance by member vessels with requirements, including those related to mitigation of seabird bycatch. This procedure has brought to the Standing Committee on Implementation and Compliance several cases of offal discharge or configurations on vessels that could lead to offal discharge. Offal discharge is prohibited in some fisheries and in areas south of 60° S. In addition to these issues, the Committee is examining whether marking hooks with vessel-specific identifications would be feasible, to trace the provenance of hooks found in seabird colonies.

ICCAT. To reduce incidental bycatch of seabirds, ICCAT requires the use of two of three measures (night setting, branch line weighting, and bird scaring lines) for longline vessels fishing south of 25° S, and recommends voluntary use of the measures in the Mediterranean and other areas as appropriate. In 2018, the SCRS urged members to support collaborative efforts to

assemble and analyze seabird bycatch data, including through the Global Environment Fund/Areas Beyond National Jurisdiction Tuna Project.

IATTC. In 2011, IATTC adopted a measure to mitigate the effect of fishing on seabirds. Since 2014, IATTC scientific staff has recommended revising the measure to be consistent with current advice regarding seabird mitigation techniques. The United States proposed updated seabird mitigation measures at both the 2015 and 2016 meetings, but the proposal has not reached consensus. In 2018, both the bycatch working group and the Scientific Advisory Committee recommended revising the existing resolution with new mitigation options.

CCSBT. Binding measures agreed by the CCSBT include mandatory use of tori poles, required by all members in all longline southern bluefin tuna fisheries below 30° S. CCSBT members must also comply with the seabird measures in the convention areas of other tuna RFMOs when their vessels are fishing in those waters. (CCSBT covers southern bluefin tuna throughout its range, but does not have an agreed convention area.) In an effort to track compliance with seabird mitigation measures in CCSBT fisheries, in 2018 the Commission amended its port inspection forms to collect information on the presence of mitigation equipment on vessels and indications of night-setting in logbook entries.

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