



# MARINE MAMMAL COMMISSION

January 16 2015

Ms. Carrie Selberg, Chief of Staff  
Office of the Assistant Administrator  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Dear Ms. Selberg:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's (NMFS) 18 December 2014 notice requesting comments for consideration by the Presidential Task Force on Combating Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud (Task Force; 79 Fed. Reg. 75536). The Commission's primary focus and duties are the protection and conservation of marine mammals but also encompass maintaining the health and stability of the marine ecosystem more generally. Based on its review of the *Federal Register* notice, the Commission offers these comments and recommendations to promote fishing practices that are sustainable not just for the target species, but for the marine ecosystems that support them. The Commission also wishes to underscore the responsibility of the United States, as one of the major global markets for seafood, to consider the impact of its seafood imports on the health of global marine ecosystems—including target fish stocks, protected species, and habitats.

## Background

As noted in the Commission's 2 September 2014 letter<sup>1</sup> that provided initial comments to the Task Force, a direct and substantiated link exists between IUU fishing and marine mammal bycatch (Reeves et al. 2013, Pramod et al. 2014). In many cases, the fishing practices associated with bycatch of marine mammals fall under IUU fishing activities. A prime example is the bycatch of the endangered vaquita in the illegal fishery targeting totoaba, itself an endangered fish species (Pramod et al. 2014) in the northern Gulf of California, Mexico. Marine mammal bycatch often goes unreported, such as when observer coverage and compliance with self-reporting requirements are lacking or when the fisheries are not adequately regulated to minimize bycatch (e.g., measures are not in place to mitigate or monitor marine mammal bycatch; Reeves et al. 2013).

The Commission continues to believe that prompt action by NMFS to implement the requirements of section 101(a)(2) of the Marine Mammal Protection Act (the MMPA) is critical, particularly the requirement that countries exporting fish or fish products to the United States provide reasonable proof that the technology used to catch such products has not resulted in the incidental death or serious injury of marine mammals in excess of U.S. standards. Implementing this requirement would provide a strong incentive for other countries to monitor and reduce marine mammal bycatch and help level the playing field for U.S. fishermen and their products. The

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<sup>1</sup> [http://www.mmc.gov/letters/pdf/2014/NMFS\\_TaskForce\\_090214.pdf](http://www.mmc.gov/letters/pdf/2014/NMFS_TaskForce_090214.pdf)

Commission is pleased to learn that NMFS has entered into an agreement to publish a proposed rule under section 101(a)(2) of the MMPA by 1 June 2015 and a final rule by 1 August 2016.

### **Recommendations and responses to the Task Force's questions**

The Commission notes that the background section of the *Federal Register* notice fails to acknowledge the link between IUU fishing and marine mammal bycatch that was raised in the Commission's 2 September 2014 letter and in comments made at the Task Force's public hearing. The Commission also notes that illegal fishing can have severe habitat impacts (e.g., fishing with dynamite or poison, bottom trawling in sensitive areas), which not only can have adverse impacts on marine mammals and other protected species but also adversely affect the target species and ultimately the sustainability of marine ecosystems. The background section of the notice also identifies the challenges associated with addressing falsification of product or country of origin information in the seafood marketing chain. To the extent that trade measures are used to combat IUU fishing, lack of reliable information on the origin of seafood products undermines the effectiveness of those measures if they can be circumvented through the use of false labeling.

The Commission agrees with the recommendations of the Task Force for bolstering international efforts to combat IUU fishing and seafood fraud, particularly working with Congress to pass implementing legislation for the Port State Measures Agreement (section II.1 of the *Federal Register* notice). With regard to regional fishery management organizations (RFMOs; section II.2 of the notice) the Commission recommends that the Task Force direct the U.S. delegation to RFMOs to push for the adoption of multilateral trade measures in cases of non-compliance by flag states. Even though such trade measures may not be implemented very often, they would provide a strong incentive for flag states to monitor and take action against illegal activities by their fleets and the activities of vessels owned by their nationals but operating under foreign flags. In addition, the Commission recommends that the Task Force direct U.S. delegation to RFMOs to support mandatory observer programs at coverage levels that ensure reasonably precise estimates of marine mammal and other protected species bycatch; observer programs should also monitor fish catches and other aspects of fishery operations. In response to question #2 under section II.3 of the notice, the Commission recommends that the Task Force focus on regions and fisheries that are under the greatest threat from IUU fishing, particularly the Indian Ocean (i.e., the tuna fishery) and West Africa.

At the global level, the Commission notes that the Food and Agriculture Organization's Committee on Fisheries (FAO COFI) held a series of technical meetings to produce guidelines for addressing sea turtle bycatch in global fisheries (FAO 2009). Those guidelines in turn inspired a number of RFMOs to implement sea turtle bycatch mitigation and monitoring measures. The Commission recommends that the Task Force direct the U.S. delegation to FAO COFI seek to develop similar guidelines to address marine mammal bycatch. The FAO COFI process allows extensive engagement by all fishing nations, including developing coastal states, and provides a fair and open process that can be a foundation for action in RFMOs, bilateral agreements, and national stewardship programs.

The Commission agrees with the Task Force's observation that increased capacity is needed to strengthen sustainable fishery management and combat IUU fishing in developing nations (section II.6 of the *Federal Register* notice) and believes it is particularly important to do so for

fisheries whose products are exported to the U.S. market. Therefore, the Commission recommends that the Task Force address the dire need for a central clearinghouse to track efforts to build capacity for sustainable fisheries management globally to ensure those efforts are coordinated and consistent.

The World Bank Group, through its Global Program on Fisheries (PROFISH) and other initiatives, is directly supporting fishery stewardship in developing coastal states in order to ensure that the fishery sector yields benefits to coastal communities through income-generating activities and improved nutrition. For example, the World Bank's West Africa Regional Fisheries Program includes, as one of its key components, the reduction of illegal fishing by domestic and foreign-flagged fleets in five West African countries. The World Bank Group also oversees fisheries projects in the western Pacific, Oman, and several tuna RFMOs and is tracking capacity building efforts underway by other donor countries, which would facilitate effective U.S. intervention. The Commission recommends that the Task Force direct U.S. government agencies to continue to work closely with the World Bank Group on fishery sustainability initiatives.

With respect to section II.9 of the *Federal Register* notice on leveraging broader enforcement tools, the Commission recommends that NMFS continue to work closely with Interpol as a partner in addressing IUU fishing, particularly tracking trade in illegal fishery products and protected species through "Purple Notices" and other international efforts. The Commission further recommends that the Task Force develop a process requiring that imported farmed seafood products include clear documentation to ensure that illegally harvested products are not commingled with farmed products. About half of U.S. seafood imports are farmed, so import of fraudulently labeled farmed products could be a significant source of IUU products in the United States.

Sections II.10 and II.14 of the *Federal Register* notice address which seafood products would yield the greatest benefit from careful monitoring and what information should be collected about them. Bycatch and entanglement in fishing gear are considered the greatest sources of human-caused marine mammal mortality worldwide. The Commission therefore recommends that fisheries associated with or suspected of having high marine mammal bycatch be top priority for monitoring, particularly given the requirements of section 101(a)(2) of the MMPA and the heightened need to track those seafood products under the anticipated implementing regulation. Such fisheries would include those that employ gillnets, driftnets, and longlines—especially for tunas (Anderson, R.C. 2014, Nawaz et al. 2014). Data to be collected should include the region in which the fishery occurred, the gear type used, and the date the product was obtained.

Question (a) under section II.15 of the *Federal Register* notice asks which species are currently at highest risk of IUU fishing and seafood fraud. The Commission recommends that the Task Force consider species not covered by RFMOs and/or species for which the RFMO measures are weak or poorly enforced. While there is considerable focus by this Task Force on seafood products that are imported into the United States, capacity building efforts should include the management of fisheries whose products are consumed locally as well. In many cases, small-scale coastal gillnet fisheries whose products are consumed locally are the major threat to marine mammals. Question (e) under section II.15 of the notice addresses appropriate roles for government and private sector participants. The Commission recommends that the Task Force consider structuring seafood traceability programs to be at least partially funded by the private sector, much like the current

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seafood inspection program in the United States, which is entirely funded by the industry through a “user fee” system.

The Commission trusts that these comments will be helpful as the Task Force implements its work plan. The Commission stands ready to contribute to this critical effort in any way it can.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is fluid and cursive, with the first name being the most prominent.

Rebecca Lent  
Executive Director

## References

- Anderson, R. C. 2014. Cetaceans and Tuna Fisheries in the Western and Central Indian Ocean. IPNLF Technical Report 2, International Pole and Line Foundation, London, England, 133 pages.
- FAO Fisheries and Agriculture Department. 2009. Guidelines to reduce sea turtle mortality in fishing operations. Rome, Italy, 128 pages.
- Nawaz, R., and M. Moazzam. 2014. An Assessment of Cetacean Mortality in the Tuna Fisheries of Pakistan. Australian Marine Mammal Centre, Kingston Tasmania, Australia, 89 pages.
- Pramod, G., K. Nakamura, T.J. Pitcher, and L. Delagran. 2014. Estimate of illegal and unreported fish in seafood imports of the USA. *Marine Policy* 48:102–113.
- Reeves, R.R., K. McClellan, and T.B. Werner. 2013. Marine mammal bycatch in gillnet and other entangling net fisheries. *Endangered Species Research* (20):71–97.