



MARINE MAMMAL COMMISSION

2 September 2014

Ms. Laurel Bryant, Chief for External Affairs
Office of Communications
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Bryant:

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 notice requesting comments regarding the Presidential Task Force on Combating Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud (79 Fed. Reg. 44404). The Commission's primary focus and duties are the protection and conservation of marine mammals. Based on its review of the *Federal Register* notice, as well as the associated 17 June 2014 Presidential Memorandum, the Commission offers these comments and recommendations with a view of supporting sustainable fishing practices globally — but particularly for those fisheries whose products are sold in the United States.

Background

There is a direct and substantiated link between IUU fishing and marine mammal bycatch (Pramod et al. 2014, Reeves et al. 2013). Bycatch in domestic and foreign fisheries is a major source of injury and mortality for marine mammals, in some cases threatening entire populations or species. Globally, at least 650,000 fishery-caused deaths of marine mammals occur each year (Read et al. 2006). While average annual mortality of marine mammals from bycatch in U.S. fisheries declined after implementation of take reduction measures under the Marine Mammal Protection Act (MMPA), bycatch continues to threaten many marine mammals worldwide, with gillnets likely entangling the greatest number of marine mammals (Read 2008). For example, the vaquita—a small porpoise endemic to the northern Gulf of California—is critically endangered and at risk of imminent extinction due to bycatch, both in legal gillnet fisheries that target shrimp and finfish, and in an illegal fishery that targets totoaba, itself an endangered fish species (Pramod et al. 2014). Much of the shrimp product is sold on the U.S. market, while the totoaba products are exported illegally to Asian markets. Reliable information is lacking regarding the magnitude of bycatch that occurs in most countries and on the high seas, the species that are taken, and what, if any, mitigation measures are in use. In many cases, the fishing practices associated with bycatch of marine mammals are illegal, unreported, or unregulated — or IUU. Illegal practices include the Peruvian longline fisheries, in which both bycaught and harpooned dolphins are used as bait (Mangel et al. 2010), and the practice of setting on whales in purse seine fisheries in the Western and Central Pacific (NMFS 2013). In many cases, marine mammal bycatch goes unreported, such as when there is no observer coverage or there is lack of compliance with self-reporting requirements, or the fisheries are completely unregulated, e.g., there are no measures in place to mitigate marine mammal bycatch (Reeves et al. 2013).

Recommendations and responses to questions

The Commission wishes to highlight a few of the questions raised in the *Federal Register* notice and offers the following recommendations. Regarding existing authorities and tools that should be enhanced to combat IUU fishing and seafood fraud (Question #2), the Commission reiterates recommendations made in its 30 August 2010 letter to NMFS regarding an Advanced Notice of Proposed Rulemaking on fish imports to the United States under the MMPA. When it enacted the MMPA in 1972, Congress recognized the importance of promoting marine mammal conservation and protection beyond U.S. waters. Section 101(a)(2) of the Act (16 U.S.C. § 1371(a)(2)) directed the Secretary of the Treasury to “ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of U.S. standards.” That provision further direct the Secretary of Commerce to “insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States.” Although those requirements have been included in the MMPA since its original enactment, they have largely been ignored; implementing regulations are outdated and rather perfunctory, and specifically apply to very few fish species. Given the link between IUU fishing and marine mammal bycatch, the Commission recommends that NMFS proceed promptly with rulemaking to implement this provision of the MMPA. Furthermore, because regulations can be expected to lead to heightened scrutiny of imports of at least some seafood products, the Presidential Task Force should explore options for designing and implementing a U.S.-based seafood tracking system for all seafood products – domestic and imported. Such a system should be implemented to ensure that only those fish products associated with marine mammal bycatch in excess of U.S. standards (as identified under the MMPA regulations of Section 101(a)(2)) are affected.

Regarding opportunities to raise these issues through regional fishery management organizations (RFMOs) and bilateral efforts (Question #3), the Commission recommends that U.S. delegations to the RFMOs and bilateral fisheries meetings routinely and consistently take the position that a fishery cannot be considered to be sustainable if it has bycatch of marine mammals in excess of U.S. standards. Measures to monitor, report, and then mitigate marine mammal bycatch are most effective when implemented on a multilateral basis, with observer requirements and enforcement mechanisms sufficient to achieve compliance. As appropriate, technical support and capacity building should be included. 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 U.S. delegation to FAO COFI seek development and implementation of similar measures to address bycatch of marine mammals in fishing activities.

Finally, the Commission notes that the Presidential Memorandum identifies a number of U.S. agencies to be included in the Task Force charged with developing the Comprehensive Framework to Combat IUU Fishing and Seafood Fraud, including “such agencies and offices as the co-Chairs may, from time to time, designate.” The Commission recommends that the Task Force co-Chairs designate the Marine Mammal Commission as one of the agencies on the Task Force in

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order to address the link between IUU fishing and the greatest direct threat to marine mammals today, namely unsustainable marine mammal bycatch.

We trust that these comments will be helpful as the Task Force continues its work over the next six months. 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 J. Lent, Ph.D.
Executive Director

References

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