

Testimony of Mr. Dan Hull, Chairman

North Pacific Fishery Management Council

Before the United States House of Representatives, Committee on Natural Resources

Subcommittee on Water, Power, and Oceans

HR 4576 - "Ensuring Access to Pacific Fisheries Act"

Implementing Legislation for the Convention on the Conservation and Management of High Seas
Resources in the North Pacific Ocean and South Pacific Ocean

Tuesday, March 1, 2016, Washington, D.C.

Introduction

Good afternoon Mr. Chairman and members of the Natural Resources Subcommittee, and thank you for the opportunity to testify regarding implementing legislation for the North Pacific Fisheries Convention. While the draft legislation would also implement the South Pacific Fisheries Convention, my comments are limited to the North Pacific Fisheries Convention, as that is the Convention of direct relevance to the interests of the North Pacific Fishery Management Council. My name is Dan Hull and I am currently the Chairman of the North Pacific Council. The North Pacific Council, one of eight regional fishery management Councils established by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), manages fisheries in the U.S. EEZ off Alaska. Widely recognized as one of the most successfully managed regions in the world, the fisheries off Alaska provide over half of the Nation's annual seafood production, are the largest employer in the State of Alaska, are second only to oil in revenues, and have been sustained between 3 and 5 billion pounds annually for 40 years, since the implementation of the Magnuson-Stevens Act. These fisheries occur within the 1.1 million square nautical mile U.S. Exclusive Economic Zone (EEZ) managed by the North Pacific Council.

As Chairman of the North Pacific Council, I also participate as an invited member of the U.S. delegation to the North Pacific Fisheries Commission (NPFC), established pursuant to the Convention. Additionally, our Council is also party to the multi-lateral Western and Central Pacific Fisheries Commission, and we actively participate in the bilateral U.S./Russia Intergovernmental Consultative Committee (ICC). Three members of the North Pacific Council, including myself, are members of the ICC's Bering Sea Fisheries Advisory Board (BSFAB), and our Executive Director participates as an ex-officio member of the ICC delegation. I was also recently appointed as an alternate Commissioner to the International Pacific Halibut Commission. Regarding the NPFC specifically, we have actively participated in this forum since its inception and are keenly interested in the specific provisions of the proposed implementing legislation. While we currently do not have U.S. vessels actively participating in Convention waters, the provisions of the legislation could be relevant to future fishing activities and related marine resource conservation and management issues. The legislation could also have precedential implications for domestic fishery regulations, as well as general implications for how the

regional fishery management Councils and Advisory Committees are involved in international Commission delegations.

General Comments on the Proposed Legislation

The North Pacific Council has commented extensively on earlier drafts of proposed implementing legislation for the Convention (July 2014 letter to Senator Mark Begich, regarding the proposed ‘North Pacific Fisheries Convention Implementation Act’, and June 2015 letter to Senator Dan Sullivan regarding proposed implementing legislation which passed out of the Senate Commerce Committee). In our 2014 comments to Senator Begich on the draft ‘North Pacific Fisheries Convention Implementation Act’, two primary concerns we raised were (1) the potential application of Commission regulatory decisions beyond Convention waters, into U.S. EEZ waters managed by the Council, and into Alaska State waters; and (2) meaningful participation in the Commission process by the relevant regional fishery management Councils and associated stakeholders.

In our 2015 comments to Senator Sullivan, we recognized that revised implementing legislation as having addressed our primary concerns noted above, as well as numerous additional comments we provided on the earlier legislation. In essence, the implementing legislation now being considered by the House Resources Subcommittee is consistent with the draft legislation which passed the Senate Commerce Committee, and appears to positively address all of our comments on previous legislation. The provisions now contained in this draft legislation appear to provide for meaningful participation by the Councils and affected stakeholders, and appear to do so in a manner that would not negatively impact the Councils’ authorities to manage fisheries within U.S. domestic waters, consistent with the authorities and mandates of the Magnuson-Stevens Act. Additional comments on specific sections of the proposed legislation are provided below.

Comments on Specific Provisions

Section 101 – Definitions: The term ‘straddling stock’ (a stock of fisheries resources that migrates between, or occurs in, the EEZ of one or more parties to the Convention and the Convention Area) is important as it relates to a later section of the proposed legislation. Specifically, it relates to Section 104, ‘Authority of the Secretary of Commerce’, which requires Council approval of any regulatory measures promulgated by the Secretary which would govern such a straddling stock, in domestic waters. It is imperative that any regulatory measures adopted by the Commission which govern straddling stocks in the Convention area be limited to only the Convention area, and that any domestic regulations governing those stocks in U.S. EEZ waters be implemented only through the existing authorities and processes under the Magnuson-Stevens Act. As we understand the current language in HR 4576, it accomplishes this intent; i.e., it does not diminish the Secretary’s authority to implement Commission recommendations in Convention waters, but it does restrict application of such measures in domestic waters to the existing Council process under the Magnuson-Stevens Act.

Section 102 – U.S. Participation in the North Pacific Fisheries Convention: As we have expressed in previous comments, it is critical to the interests and authorities of the regional fishery management Councils that each Council with waters bordering the Convention area be meaningfully represented on the Commission. The proposed legislation accomplishes this by granting Commissioner status to the Chairs

(or designees) of each of the relevant Councils – the Pacific, Western Pacific, and North Pacific Councils. It also provides for funding of travel expenses for attendance, which is necessary to our ability to participate in meetings of the Commission, particularly given the remote locations in which the Commission typically meets.

The draft legislation also provides for establishment of an 11-member permanent Advisory Committee to the Commission, including a commercial fishing representative from each of the potentially affected regions, an indigenous representative from each of the same potentially affected regions, and an ‘at-large’ representative from each of the same three regions. While this creates an unusually large delegation overall, it has been our experience that it is important to include such a range of advisors in any bi-lateral or multi-lateral delegation, in order for any U.S. positions to be developed with full knowledge of the potential impacts to various stakeholders. For example, the Bering Sea Fisheries Advisory Body to the U.S./Russia ICC forum consists of 12 members – six from the State of Washington and six from the State of Alaska – which represent a wide range of expertise from the fishing industry and environmental organizations.

While all members of the BSFAB do not typically attend every meeting of the ICC (in part due to lack of government funding support), the opportunity to do so is important, and the information they provide to inform the U.S. positions on various issues is of utmost importance. Funding for travel for the Advisors is necessary in order to ensure their ability to actually participate in the process in a meaningful manner. In the case of the ICC for example, full participation of the BSFAB (advisors) has been curtailed in recent years due to the absence of State Department funding to support their travel. A similar situation has occurred in recent years with the North Pacific Anadromous Fisheries Commission (NPAFC). Funding for advisors in any of these Commission forums is necessary for meaningful participation.

Section 104 – Authority of the Secretary of Commerce: As mentioned above, it is critical to the interests and authorities of the regional fishery management Councils that measures adopted by the Commission apply to Convention waters only, and could only be applied in domestic waters through the Council process under the processes of the Magnuson-Stevens Act. The language in the proposed legislation appears to accomplish this, by allowing the Secretary the authority, in consultation with the Secretary of State, to promulgate such regulations relative to Convention waters as may be necessary to carry out U.S. international obligations pursuant to Commission decisions, but specifying that any management or regulatory measures relative to straddling stocks in domestic waters be approved by the relevant Council through the Magnuson-Stevens Act.

In summary Mr. Chairman, these are our primary comments on this proposed legislation. Other Sections of the proposed legislation not mentioned in our comments (judicial review, enforcement, etc) appear to be logically necessary provisions and do not appear to conflict or negatively affect Council interests in any way. Overall, the legislation as drafted appears to provide for appropriate participation by the regional fishery management Councils, and provides for the appropriate separation of authorities between Convention and domestic waters. Thank you once again for the opportunity to provide comment on this important implementing legislation.