

Calendar No. 263

113TH CONGRESS }
1st Session }

SENATE

{ REPORT
113-127

INTERNATIONAL FISHERIES STEWARDSHIP
AND ENFORCEMENT ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 269



DECEMBER 17, 2013.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-010

WASHINGTON : 2013

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 269]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 269) to establish uniform administrative and enforcement authorities for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 269, the International Fisheries Stewardship and Enforcement Act, is to harmonize and strengthen the enforcement provisions of Federal statutes that implement international fishery agreements to which the United States is a party.

BACKGROUND AND NEEDS

Many fish stocks around the world have become depleted in the last several decades as a result of fleet overcapacity, overfishing, and ineffective fisheries law enforcement regimes. Coastal fishing nations are responsible for managing the fish stocks that fall within their domestic waters, which extend 200 nautical miles from their coastline, also known as their exclusive economic zone (EEZ). Unfortunately, many coastal nations do not manage fish stocks sustainably, enforce their fishery conservation and management measures effectively, or coordinate management of shared fish stocks with other fishing nations.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), enacted in 1976 as the Fishery Conservation and Management Act of 1976, provides the primary architecture for the conservation and management of fisheries in United States Federal waters.¹ Under the MSA, the United States Government exercises sovereign rights and exclusive management authority over fish and Continental Shelf fishery resources within the United States EEZ. The MSA vests the Secretary of Commerce (Secretary) with overall authority for the management of these resources. The Secretary generally carries out these responsibilities through the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS). The MSA calls for Regional Fishery Management Councils established by the Act (and the Secretary in certain cases) to develop fishery management plans, subject to the Secretary's approval, that follow the Act's requirements, including rebuilding overfished stocks and setting sustainable harvest levels using catch limits based on the best available science. The requirements of the MSA and the fishery management plans promulgated thereunder are enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating.

Coordinated management of fish stocks harvested on the high seas (i.e., waters beyond the jurisdiction of any nation) is accomplished by nations participating in Regional Fisheries Management Organizations (RFMOs) or through international agreements created to guide and coordinate the fishery management activities of multiple nations that target common stocks in specific regions. Each nation that chooses to participate in an RFMO or an international fishery agreement retains its sovereignty, yet is expected to develop domestic fisheries laws and regulations consistent with each agreement. The United States follows this practice and seeks to enact implementing legislation and promulgate regulations where necessary in order to meet its commitments in RFMOs and under international fisheries agreements. Short of such an agreement or implementing legislation, U.S. fisheries managers seek discussions with foreign counterparts to address concerns on inter-jurisdictional stock management.

U.S. international fishery enforcement activities are conducted by the Coast Guard and the NMFS under a longstanding inter-agency agreement. The Coast Guard, whose 11 statutory missions include fisheries law enforcement,² is responsible for conducting international (as well as domestic) fishery patrols and all other at-sea enforcement, while the NMFS is responsible for dockside and landside enforcement. The Coast Guard conducts its international enforcement operations in close coordination with the State Department, as required by Presidential Directive 27.³ The NMFS and the Coast Guard also provide input to the State Department for the negotiation of international fishery agreements and the review and approval of foreign fishing vessel permit applications.

¹ Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801-1884 (2012) (first enacted as the Fishery Conservation and Management Act of 1976, Pub. L. 94-265, 90 Stat. 331 (1976)).

² 6 U.S.C. § 468(a)(1)(D) (2012).

³ See generally Presidential Directive 27, Jan. 19, 1978 (establishing uniform procedures within the United States Government for dealing with non-military incidents which could have an adverse impact upon the conduct of U.S. foreign relations).

Foreign Illegal, Unreported, and Unregulated (IUU) Fishing

The term “IUU fishing” describes a range of fishing activities, including: the failure to report, or the misreporting of, catches; fishing without the permission of a coastal country; the reflagging of vessels to countries that are unable or unwilling to adequately control their fishing activity; and noncompliance with fishing gear and area rules. The extent to which IUU fishing occurs is not fully known, but some have estimated that it accounts for as much as a fourth of the world’s fish catch and, as such, represents one of the greatest challenges to sustainable global fishery conservation and management. It has been estimated in recent years that worldwide IUU fish harvests are worth between \$10 billion and \$23.5 billion annually, and represent between 11 million and 26 million tons.⁴ Annual IUU harvests at these levels likely create significant ecological impacts.

Worldwide, the amount of IUU fishing appears to be increasing as IUU fishermen attempt to avoid stricter fishing rules created to address declining fish stocks. Preventing IUU fishing on the high seas is difficult due to the vast areas of ocean to monitor, enforcement resource limitations, and a high volume of operating fishing vessels. Current international efforts to eliminate IUU fishing are mainly led through the United Nations (UN) Food and Agriculture Organization (FAO), and are primarily focused on persuading individual nations to better control and manage their fishing fleets. RFMOs generally strive to follow guidelines established by the UN to combat IUU fishing. The UN also plays an important role in addressing labor abuses on fishing vessels.

IUU Challenges for Developing Countries

In an effort to generate revenue, the governments of many developing coastal countries have negotiated agreements that allow developed countries, including European countries, China, and Russia, to harvest their fishery resources. In many instances, officials from developing countries have oversold fishing rights, thereby increasing potential total catches of their fish stocks well beyond sustainable levels. Fishing under these circumstances inevitably leads to overexploitation of fishery resources, and this problem is exacerbated by the fact that many developing coastal countries lack the capacity to conduct fish stock assessments, define sustainable harvest levels, and monitor compliance with and enforce fishery conservation and management measures. Taken together, these factors can result in rapid declines in abundance of local fish stocks which, in turn, threaten the livelihoods of local fishermen. Such circumstances have also led to illegal trafficking, exploitation, and physical abuse of what are often migrant workers on fishing vessels operating in the waters of developing nations.

In some cases, these circumstances have even caused fishermen to turn to piracy. A prime example is the coastal country of Somalia. It has been widely reported that there are direct connections between the significant increase in piratical activity off the Horn of Africa in the past decade and reduced fishing opportunities

⁴ David J. Agnew et al., *Estimating the Worldwide Extent of Illegal Fishing*, PLoS ONE, Feb. 2009, at 4.

among Somali fishermen during the same time period.⁵ The increased pirate attacks seem to have originated as a response to foreign IUU fishing and dumping of toxic waste in Somali waters, both of which had a negative impact on fishing for Somali fishermen, and subsequently expanded into a ransom-driven, hostage-taking enterprise. More recently, it has been reported that the relationship between Somali piracy and IUU fishing has come full circle. In July 2013, the UN Security Council published a special report on Somalia which indicates that Somali pirates are now turning from hijacking ships to providing “private security” for vessels illegally fishing in Somali waters.⁶ Specifically, the report states that in northern Somalia a number of these individuals are reverting to prior, familiar patterns of illicit behavior, including armed protection of fishing activities and illegal fishing, arms trafficking, human trafficking, and transshipment of narcotics.⁷ The UN report also notes that illegal fishing has been reported to facilitate other forms of contraband, including weapons smuggling.⁸ The situation in Somalia makes clear that foreign IUU fishing has broader implications beyond international fishery conservation and management.

In recent years, marine policy experts have recommended a number of measures to combat IUU fishing, particularly along the coasts of developing countries. These recommendations have included ending the system of flags of convenience, improving port inspections and strengthening port state controls, and reducing the fishing pressure caused by large fishing fleets from industrialized nations. These measures require resources, including funding, staff, technology, and expertise, that remain largely unavailable in many developing countries.

Many foreign aid organizations, such as the World Bank, attempt to direct foreign financial and technical assistance to improve the sustainability of coastal nations’ fisheries, but the United States has undertaken only limited efforts to assist developing countries in targeting IUU fishing.

The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), Pub. L. No. 109-479, 120 Stat. 3575, which was passed by the 109th Congress and signed into law in January 2007, made significant improvements in the area of international fisheries conservation. The overarching theme of these improvements was the enhancement and expansion of the authority of the Secretary to work through various multilateral organizations, such as RFMOs, to address IUU fishing and bycatch of protected living marine resources (PLMR).

Specifically, title IV of the MSRA amended the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protec-

⁵ See, e.g., Jeffrey Gettleman, *Pirates Tell Their Side: They Want Only Money*, N.Y. TIMES, Oct. 1, 2008, at A6; Paul Salopek, *Somali Pirates Say It’s All about Payback, Exacting Tax for Years of Fish Poaching, They Say Waters Became Dumping Ground*, SEATTLE TIMES, Oct. 15, 2008, at A9; Todd Pittman, *Somali Pirates a Far Cry from Buccaneers of Old*, ASSOCIATED PRESS ONLINE, Apr. 11, 2009; Jason Straziuso, *Fishermen See Benefits to Pirates, the Trawlers That Used to Scoop up All the Fish, Kenyan Fishermen Say, Have Been Scared Away*, L.A. TIMES, Mar. 7, 2010, at 11; and Abdigani Hassan, *A Pirate’s Life of Luxury Comes with Risk, Scorn, Ex-fisherman Lured to Sea by Huge Ransom Payouts*, CHI. TRIB., Mar. 13, 2011, at 30.

⁶ U.N. Security Council, Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2060 (2012): Somalia*, 42, U.N. Doc. S/2013/413 (Jul. 12, 2013).

⁷ *Id.* ¶ 41.

⁸ *Id.* ¶ 43.

tion Act), 16 U.S.C. §§ 1826d–1826k (2012), to require the Secretary to produce a biennial report to Congress which includes: the state of knowledge on the status of international living marine resources that are shared by the United States or are subject to a treaty or agreement 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 international or other authorities charged with management or conservation of living marine resources; a list of nations the United States has identified as having vessels engaged in IUU fishing, bycatch of PLMR, or both; a description of efforts taken by listed nations to take appropriate corrective action; progress in strengthening the efforts of international fishery management organizations to end IUU fishing; and the steps taken by the Secretary at the international level to adopt measures comparable to those of the United States to reduce the impacts of fishing and other practices on PLMR.

The MSRA also amended the Moratorium Protection Act to, among other things: require the Secretary to pursue specific improvements to strengthen international fishery management organizations through the adoption of IUU vessel lists, stronger port state controls, and market-related measures; require the Secretary to promote improved monitoring and surveillance of international fisheries; authorize the Secretary to promulgate implementing rules relating to certification for listed nations; and provide authority to prohibit the importation into the United States of fish and fish products from listed nations that fail to address deficiencies in preventing IUU fishing and PLMR bycatch.

The Need for Legislation to Strengthen U.S. International Fisheries Enforcement

As discussed above, the United States Coast Guard conducts international fisheries enforcement patrols and other at-sea enforcement activities, and the NMFS Office of Law Enforcement conducts land-based enforcement activities, with the State Department providing diplomatic and legal support where necessary. The Coast Guard and the NMFS enforce the provisions of a number of Federal statutes that implement the terms of international fisheries treaties and agreements to which the United States is a party. As these statutes were developed and enacted over several decades, they often took divergent approaches in the enforcement tools they provided, the fines and penalties they imposed, and the authorities they provided to carry out investigations of suspected violations. As a result, U.S. international fisheries enforcement efforts are carried out under a patchwork of different standards and authorities. Harmonizing these standards and authorities across various fisheries statutes would streamline, clarify, and strengthen the overall approach for targeting foreign IUU fishing. Furthermore, increasing fines and penalties would more effectively deter IUU fishing. These fines and penalties should amount to more than just the cost of doing business for those engaging in IUU fishing, as they do now.

Harmonizing and clarifying international fisheries standards and requirements would also likely increase the ease and improve the efficiency with which the Coast Guard executes its at-sea fisheries enforcement activities. This is not an unimportant consideration as

the Coast Guard seeks to fulfill its mission requirements in the face of an increasingly unpredictable and resource-constrained budgetary and appropriations process.

The United States can take additional steps to promote inter-agency cooperation and reduce the bureaucratic barriers that can limit the effectiveness of fishery patrols, investigations, and any subsequent litigation. The Coast Guard and the NMFS undertake international fisheries enforcement patrols and other activities to the extent that funding and dockside enforcement resources allow, and as such have had limited effectiveness in reducing IUU fishing and preventing all IUU fish product from entering the United States. The United States could improve its law enforcement efforts by enabling agencies to better share enforcement authorities, information, intelligence (subject to appropriate protections), and other resources; enter into memoranda of understanding and other agreements with fisheries officers in U.S. States and other nations; and otherwise better utilize available intergovernmental tools and resources.

Internationally, the United States has actively worked to strengthen existing RFMOs through renegotiation of their underlying agreements or the negotiation of new protocols. With substantial U.S. involvement, international fishery management organizations have adopted and shared IUU vessel lists; used observers and technologies to monitor compliance; promoted and used centralized vessel monitoring systems (VMS); established trade tracking and documentation schemes; prevented trade in or importation of IUU-caught fish or other living marine resources; and protected vulnerable marine ecosystems. Under the auspices of the FAO, the United States led the development of and signed an instrument on port state measures to prevent, deter, and eliminate IUU fishing. Ultimately, this convention, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, will deny port entry to IUU fishing vessels and other vessels that support IUU fishing. The United States has not yet ratified this agreement. Additionally, the United States has yet to fully ratify and accede to the Antigua Convention, which was negotiated to strengthen and replace the 1949 Convention establishing the first RFMO, the Inter-American Tropical Tuna Commission. The Senate gave its advice and consent to enter into the Antigua Convention in 2005 and the Convention entered into force in 2010, but the United States must conform its domestic implementing statute, the Tuna Conventions Act of 1950, to the provisions of the Convention before it deposits its instrument of ratification and accedes to the Convention.

The United States can also build upon existing efforts to provide technical assistance, training, and other support to developing countries struggling with fisheries management and IUU enforcement efforts. By encouraging the development of initiatives aimed at international fisheries conservation and IUU fishing, in cooperation with the NMFS and Coast Guard experts, the United States can expand its reach and effectiveness in targeting this significant marine policy problem facing developing countries.

SUMMARY OF PROVISIONS

The International Fisheries Stewardship and Enforcement Act, S. 269, would harmonize and strengthen U.S. fisheries enforcement authorities and capabilities in order to better combat and deter foreign IUU fishing activities.

Title I would strengthen the authority of the NMFS and the Coast Guard to enforce fisheries laws under international agreements to which the United States is a party, carry out fishery investigations and enforcement activities, and deter and discourage foreign IUU fishing activity through denial of port access to IUU fishing vessels of nations listed under the national certification process set forth in the Moratorium Protection Act.

Title II would authorize the establishment of an interagency task force on international fisheries enforcement and provide the NMFS with new authorities to increase interagency cooperation, share resources and information, and extend authorities to other law enforcement officers. It also would enhance capabilities to provide: assistance for international capacity building efforts; training for monitoring, enforcement, and conservation efforts; and technical expertise, outreach, and education to combat IUU fishing and promote international marine conservation.

Title III would make technical and clarifying amendments to a number of living marine resource conservation and management statutes, including several implementing statutes for international fisheries agreements to which the United States is a party.

Title IV would implement the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica, also known as the Antigua Convention. The Senate agreed to the resolution of advice and consent to this Convention on November 18, 2005.

LEGISLATIVE HISTORY

Senator Rockefeller introduced S. 269, the International Fisheries Stewardship and Enforcement Act, on February 11, 2013. S. 269 is cosponsored by Senators Begich, Blumenthal, Boxer, Cantwell, Hirono, Merkley, Murkowski, Nelson, Schatz, and Wyden. Similar legislation, S. 52, was introduced by Senator Inouye during the 112th Congress and referred to the Committee on Commerce, Science, and Transportation. On July 30, 2013, the Committee met in open executive session and, by a voice vote, ordered S. 269 reported favorably with an amendment in the nature of a substitute.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 269—International Fisheries Stewardship and Enforcement Act

Summary: S. 269 would establish uniform enforcement policies and procedures among federal statutes that govern the regulation of commercial fishing. The bill also would expand the efforts of the National Oceanic and Atmospheric Administration (NOAA) to ad-

dress illegal, unreported, and unregulated (IUU) fishing internationally. Finally, the bill would amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, an international fishing agreement signed by the United States in 2003.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 269 would cost \$31 million over the 2014–2018 period. Enacting the legislation could increase revenues (from civil and criminal penalties) and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effects of those collections and subsequent spending on future budget deficits would be negligible for each year.

CBO has not reviewed title IV of the bill for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that title IV falls within that exclusion. The remaining provisions of S. 269 contain no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 269 is shown in the following table. The costs of this legislation fall within budget function 300 (environment and natural resources).

	By fiscal year, in millions of dollars—					
	2014	2015	2016	2017	2018	2014–2018
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
IUU Fishing Identification Program:						
Estimated Authorization Level	2	3	3	3	3	14
Estimated Outlays	1	3	3	3	3	13
Technical Assistance:						
Estimated Authorization Level	3	4	4	4	4	19
Estimated Outlays	2	4	4	4	4	18
Total Changes:						
Estimated Authorization Level	5	7	7	7	7	33
Estimated Outlays	3	7	7	7	7	31

Note: IUU = illegal, unreported, and unregulated.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted early in 2014 and that the necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar programs.

Title I would expand the scope of a program to identify nations engaged in IUU fishing. The bill would require NOAA to maintain a list of nations that have engaged in certain IUU fishing practices within the preceding three years, including activities that violate international agreements to which the United States is not a party. Under current law, NOAA is required to identify and list nations that engaged in IUU activities during the previous year that violate international agreements to which the United States is a party. Based on information provided by NOAA, CBO estimates that hiring additional staff to help NOAA expand the scope of the IUU identification program would cost about \$3 million a year, assuming appropriation of the necessary amounts.

Title II would authorize NOAA to assist foreign governments in improving international enforcement of fisheries laws. Based on information provided by the agency and assuming appropriation of the necessary amounts, CBO estimates that providing technical assistance to foreign nations would cost about \$4 million a year over the 2014–2018 period.

Title IV would amend the Tuna Conventions Act of 1950 to implement the Antigua Convention and would establish guidelines for the selection, composition, and duties of certain bodies that represent the United States on the Inter-American Tropical Tuna Commission. Because those bodies currently exist and members of those bodies are not compensated by the federal government, CBO estimates that implementing title IV would have no significant impact on the federal budget.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting S. 269 could increase revenues (from civil and criminal penalties) and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that any increase in revenues from penalties would be less than \$500,000 a year and would be offset by similar increases in direct spending from the Crime Victims Fund (for criminal penalties) or by NOAA (for civil penalties).

Intergovernmental and private-sector impact: CBO has not reviewed title IV of the bill for intergovernmental or private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that the provisions of title IV fall within that exclusion because they would implement the Antigua Convention.

The remaining provisions of the bill contain no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 269 would strengthen and harmonize the enforcement provisions of a number of implementing statutes for international fisheries agreements to which the United States is a party, authorize actions regarding foreign vessels engaged in illegal, unregulated, and unreported (IUU) fishing, authorize actions regarding the importation of IUU fish and fish product into the United States, facilitate provision of international fisheries enforcement technical expertise, training, and other assistance to developing countries, and make technical and clarifying changes to international fish-

eries statutes. It would authorize the Secretary to promulgate regulations necessary to carry out the enforcement authorities under section 101 and each act to which that section would apply. Persons subject to enforcement proceedings under these provisions could be subject to new regulations.

ECONOMIC IMPACT

Foreign IUU fish currently have an unfair competitive advantage over U.S.-caught fish, because foreign IUU fish are harvested as cheaply as possible, with no regard for sustainable fishing practices. Cheap, foreign IUU fish undercut the value of fish from U.S. fisheries, which are sustainably caught, putting U.S. commercial fishermen and the commercial fishing and seafood industries at an unfair competitive disadvantage and preventing them from realizing the full value of their fish and fish products. An improved fisheries enforcement regime that curtails foreign IUU fishing and entry of IUU fish into the United States would promote fair marketplace competition, increase the value of sustainably harvested U.S. fish and fish products (as well as seafood imports harvested under equivalent conservation and management measures), and may have an overall positive impact on the U.S. economy.

PRIVACY

The reported bill would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

S. 269 would not impose any new paperwork requirements on private citizens, businesses, or other entities that do not choose to participate in international fisheries activities; those who do participate in this industry may be subject to some changes in the paperwork requirements to meet emerging program needs.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title and Table of Contents

This section would provide that this Act may be cited as the “International Fisheries Stewardship and Enforcement Act,” and would set forth a table of contents for the Act.

TITLE I. ADMINISTRATION AND ENFORCEMENT OF CERTAIN FISHERY AND RELATED STATUTES

Section 101. Authority of the Secretary of Commerce to Enforce Statutes

Subsection (a) of this section would provide that the Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the other Acts to which this section would

apply. The Secretary would be permitted, by agreement, on a reimbursable basis or otherwise, to utilize personnel services, equipment, and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in carrying out this section. This section of the Act would apply to: the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.); the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.); the Dolphin Protection Consumer Information Act (16 U.S.C. 1385); the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.); the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.); the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.); the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.); the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.); the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.); the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.); the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.); the Antigua Convention Implementing Act of 2013; and any other Act of the same subject, as designated by the Secretary after notice and an opportunity for a hearing.

Subsection (b) would direct the Secretary to prevent any person from violating any Act to which this section applies in the same manner, by the same means, and with the same powers, jurisdiction, and duties, as though sections 308 through 311 of the MSA were incorporated into and made a part of each such Act. Except as provided in subsection (c), any person who violated any Act to which this section would apply would be subject to the penalties, and entitled to the privileges and immunities, provided in the MSA in the same manner and by the same means, as though sections 308 through 311 of the MSA were incorporated into and made a part of each such Act.

Subsection (c) of this section establishes uniform authorities regarding enforcement and information collection, maintenance, and use that would apply in the event of a conflict with a corresponding provision of the MSA. Under these authorities, officers authorized to enforce the provisions of any Act to which this section would apply would be empowered to: search or inspect any facility or conveyance used for the storage, processing, transport, or trade of fish or fish products; inspect records pertaining to the storage, processing, transport, or trade of fish or fish products; detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if perishable, sell and retain the proceeds therefrom for a period of up to 14 days; carry firearms and make an arrest for any offense under the laws of the United States committed in the officer's presence, or for the commission of any felony under the laws of the United States if there are reasonable grounds; conduct searches and seizures in accordance with guidelines issued by the Attorney General of the United States; and execute and serve subpoenas, arrest warrants, search warrants issued in accordance with Rule 41 of the Federal Rules of Criminal Procedure, or any other warrant or process issued by an officer or court of competent jurisdiction.

Subsection (c) also would require the Secretary and the head of each department and agency providing personnel for the task force

under section 201 to share all applicable information, intelligence, and data, related to IUU fishing. The Secretary, through the task force, would coordinate the collection, storage, analysis, and dissemination of all applicable materials related to IUU fishing and would ensure the protection and confidentiality required by law for materials related to IUU fishing. The Secretary and the other task force participants would be required to develop data standardization for fisheries-related data for each member-agency of the task force and with international fisheries enforcement databases as appropriate. Upon request of the Secretary, elements of the intelligence community would collect information related to IUU fishing outside the United States about non-U.S. persons and share such information with the Secretary, through the task force, for law enforcement purposes. In addition, this subsection would give the Secretary the authority to share fisheries related data with other Federal or State government agencies, foreign governments, and international organizations, provided such entities have policies and procedures to safeguard the information from unintended or unauthorized disclosure, and the exchange of information is necessary for administrative or enforcement purposes.

Subsection (d) would establish that the district courts of the United States have jurisdiction over any actions arising under this section. American Samoa would be included within the District of Hawaii. Any offenses not committed in any district would be subject to the venue provisions of section 3238 of title 18, United States Code.

Subsection (e) would set forth a uniform set of prohibited acts in order to aid in the administration and enforcement of this section and each Act to which this section would apply.

Subsection (f) would authorize the Secretary to promulgate such regulations, in accordance with the notice and comment requirements of section 553 of title 5, United States Code, as may be necessary to carry out this section or any Act to which this section would apply.

Section 102. Conforming, Minor, and Technical Amendments

This section would make conforming, minor, and technical amendments to provide for administration and enforcement of section 101 of this Act, and of the Acts to which section 101 would apply, to: the High Seas Driftnet Fishing Moratorium Protection Act; the Dolphin Protection Consumer Information Act; the North Pacific Anadromous Stocks Act of 1992; the Pacific Salmon Treaty Act of 1985; the South Pacific Tuna Act of 1988; the Antarctic Marine Living Resources Convention Act of 1984; the Atlantic Tunas Convention Act of 1975; the Northwest Atlantic Fisheries Convention Act of 1995; the Western and Central Pacific Fisheries Convention Implementation Act; and the Northern Pacific Halibut Act of 1982.

Section 103. Illegal, Unreported, or Unregulated Fishing

Subsection (a) of this section would amend the Moratorium Protection Act to: permit the Secretary to maintain and publish a list of vessels and vessel owners engaged in IUU fishing, and to take appropriate action against listed vessels and vessel owners; and re-

quire that any restrictions on port access imposed as a part of such an action apply to all U.S. ports.

Subsection (a) also would amend the statutory guidelines for the definition of IUU fishing in the Moratorium Protection Act to include, to the extent possible: fishing activities conducted by foreign vessels in waters under the jurisdiction of a nation without permission of that nation; and fishing activities conducted by foreign vessels in contravention of a nation's laws or regulations, including activity that has not been reported or has been misreported to a nation in contravention of its laws or regulations. The Committee notes that this language does not refer only to a nation's conservation and management laws or regulations, but to a nation's laws or regulations generally.

Subsection (b) would make conforming amendments to the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a et seq.).

Section 104. Liability

This section would provide that any claims arising from the actions of any officer authorized to enforce the provisions of this Act or any Act to which this Act applies, taken pursuant to any scheme for at-sea boarding and inspection authorized under any international agreement to which the United States is a party, may be pursued under the tort claims procedures of chapter 171 of title 28, United States Code, or such other legal authority as may be pertinent.

TITLE II. LAW ENFORCEMENT AND INTERNATIONAL OPERATIONS

Section 201. International Fisheries Enforcement

This section would authorize the establishment of an international fisheries enforcement task force, provide for its organization, and delineate the powers of authorized officers operating under its purview.

Subsection (a) would require the Secretary, acting through the NMFS's existing international enforcement program, to establish an international fisheries enforcement task force not later than 12 months after the date of enactment of this Act. The authorized purposes of the task force would be to detect and investigate IUU fishing activity and trafficking in the resulting IUU fish or fish products, and to enforce the provisions of this Act and any Act to which section 101 of this Act would apply. The task force would include permanent representation from the NMFS's international enforcement program, the Coast Guard, Customs and Border Protection, the Food and Drug Administration, and such other Federal agencies as the Secretary considers appropriate and necessary to carry out the purposes of the task force.

Subsection (b) would provide the authorities necessary to: facilitate agency representation to the task force; make staff, equipment, and other resources available to support the task force; and, to the extent possible and consistent with applicable law, extend the relevant statutory authorities of each department or agency participating in the task force to the other departments and agencies participating in the task force. The Secretary and the head of each department or agency providing personnel for the task force would be authorized, at their discretion, to develop interagency plans and

budgets and engage in interagency financing for purposes of this subsection. The Secretary would be required, not later than 180 days after the task force is established, to develop a 5-year strategic plan for guiding interagency and intergovernmental fisheries enforcement efforts to carry out the provisions of this Act, and would be required to update the plan at least once every 5 years.

Subsection (b) also would authorize the Secretary, in coordination with the head of each department and agency providing personnel for the task force, to: conduct joint operations in support of the authorized purposes of the task force; create and participate in committees or other working groups with other Federal, State, or local government entities, and with the governments of other nations, for such purposes; and enter into agreements with other Federal, State, or local government entities, as well as with foreign governments, on a reimbursable basis or otherwise, for such purposes.

Subsection (c) would provide that an authorized officer, while operating under an agreement with the Secretary under section 101 of this Act or conducting a joint operation for the authorized purposes of the task force, shall have the powers and authority provided in section 101.

Section 202. International Cooperation and Assistance

This section would provide the Secretary with authorities to improve international cooperation and assistance in fishery conservation and management.

Subsection (a) would authorize the Secretary to provide international cooperation and assistance for international capacity building efforts.

Subsection (b) would provide that, in carrying out this section, the Secretary may: (1) provide technical expertise to other nations to assist them in addressing IUU fishing activities; (2) provide technical expertise to other nations to assist them in reducing the loss and environmental impacts of derelict fishing gear, reducing the bycatch of living marine resources, and promoting international marine resource conservation; (3) provide technical expertise, and training, in cooperation with the task force established under section 201 of this Act, to other nations to aid them in building capacity for enhanced fisheries management, fisheries monitoring, catch and trade tracking activities, enforcement, and international marine resource conservation; (4) establish partnerships with other Federal agencies, as appropriate, to ensure that fisheries development assistance to other nations is directed toward efforts that promote sustainable fisheries; (5) conduct outreach and education efforts in order to promote public and private sector awareness of international fisheries sustainability issues, including the need to combat IUU fishing activity and to promote international marine resource conservation; (6) use, with their consent, with reimbursement and subject to the limits of available appropriations, the land, services, equipment, personnel, and facilities of any department, agency, or instrumentality of the United States or other government entity or international organization, for purposes related to carrying out the responsibilities of any statute administered by the National Oceanic and Atmospheric Administration; and accept and

expend funds from other Federal agencies or foreign governments to carry out the purposes of this section.

Subsection (c) would authorize the Secretary to establish guidelines as necessary to implement this section.

TITLE III. MISCELLANEOUS AMENDMENTS

Section 301. Atlantic Tunas Convention Act of 1975

This section would amend section 6 of the Atlantic Tunas Convention Act of 1975, to provide the Secretary with authority for expedited implementation of recommendations by the International Commission for the Conservation of Atlantic Tunas concerning trade restrictive measures against a nation or fishing entity under the Convention for the Conservation of Atlantic Tunas.

Section 302. Data Sharing

This section would amend the Moratorium Protection Act and the MSA to authorize the Secretary to share information, as necessary and appropriate, with other government entities and international organizations.

Section 303. Permits Under the High Seas Fishing Compliance Act of 1995

This section would amend the High Seas Fishing Compliance Act of 1995 (16 U.S.C. 5501 et. seq.) to void a permit issued under that Act if: (1) one or more permits required for a vessel to fish, in addition to the permit issued under that Act, expire, are revoked, or are suspended; or (2) the vessel is no longer eligible for U.S. documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

Section 304. Committee on Scientific Cooperation for Pacific Salmon Agreement

This section would amend the Pacific Salmon Treaty Act to allow members of the Committee on Scientific Cooperation who are not State or Federal employees to receive compensation when performing duties for the Commission.

TITLE IV. IMPLEMENTATION OF THE ANTIGUA CONVENTION

Section 401. Short Title; references to the Tuna Convention Act of 1950

This section would provide that this title may be cited as the “Antigua Convention Implementing Act of 2013,” and that, except as otherwise expressly provided, all references in this title to a section or other provision are to a section or other provision of the Tuna Conventions Act of 1950, as amended.

Section 402. Definitions

This section would amend section 2 to define the terms “Antigua Convention,” “Commission,” “Convention,” “import,” “person,” “United States,” “United States Commissioners,” and “United States Section.”

Section 403. Commissioners; Number, Appointment, and Qualifications

This section would amend section 3 to provide that the United States shall be represented on the Inter-American Tropical Tuna Commission by 5 Commissioners, whom the President shall appoint to serve on the Commission at the pleasure of the President. It would require that, in making the appointments, the President select Commissioners from among individuals who are experts on highly migratory fish stocks in the eastern tropical Pacific Ocean, with one Commissioner from each of the Department of Commerce, the Western Pacific Fishery Management Council, and the Pacific Fishery Management Council. It would provide that not more than 2 Commissioners may be appointed who reside in a State whose vessels do not maintain a substantial fishery in the area of the Convention. Section 3 as amended also would allow for an Alternate U.S. Commissioner to be appointed in the case of a Commissioner's absence, and would specify certain details regarding Commissioners' employment status, compensation, and travel expenses.

Section 404. General Advisory Committee and Scientific Advisory Subcommittee

This section would amend section 4 to provide for the appointment of a General Advisory Committee and a Scientific Advisory Subcommittee. It would authorize the Secretary, in consultation with the Secretary of State, to appoint the General Advisory Committee, and require that it consist of no more than 25 individuals representing various groups, including nongovernmental conservation organizations. Members of the Committee would be appointed for three year terms and be eligible for reappointment. The Committee would be invited to attend all non-executive meetings of the United States Section and would provide advice on Commission matters. Section 4 as amended would authorize the Secretary, in consultation with the Secretary of State, to appoint a Scientific Advisory Subcommittee of no less than 5 nor more than 15 qualified scientists, to advise the General Advisory Committee on fishery conservation and management matters. It would also provide certain authorities for both the Committee and the Subcommittee regarding their organization, public participation in meetings, information sharing with the Secretary and the Secretary of State, and administrative matters.

Section 405. Rulemaking

This section would amend section 6 to authorize the Secretary, in consultation with the Secretary of State and, with respect to enforcement measures the Secretary of the department in which the Coast Guard is operating, to promulgate regulations necessary to carry out United States obligations under the Convention and the Tuna Conventions Act of 1950 as amended. These regulations would be applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating.

Section 406. Prohibited Acts

This section would amend section 8 to make it unlawful for any person (1) to violate any provision of this chapter or any regulation

or permit issued under the Tuna Conventions Act of 1950, as amended by the Antigua Convention Implementing Act of 2013; (2) to use any fishing vessel to engage in fishing after the revocation or during the period of suspension of an applicable permit issued pursuant to the Act; (3) to refuse to permit any officer authorized to enforce the provisions of the Act to board a fishing vessel to conduct a search, investigation, or inspection in connection with the enforcement of the Act or any regulation, permit, or the Convention; (4) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any such authorized officer in the conduct of any search, investigations or inspection in connection with the enforcement of the Act or any regulation, permit, or the Convention; (5) to resist a lawful arrest for any act prohibited by the Act; (6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of the Act or any regulation, permit, or agreement referred to in prohibited acts (1) or (2) above; (7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; (8) to knowingly and willfully submit to the Secretary false information regarding any matter that the Secretary is considering in the course of carrying out the Act; (9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, attempt to bribe, or interfere with any observer on a vessel under the Convention, or any data collector employed by the NMFS or under contract to any person to carry out responsibilities under the Act; (10) to engage in fishing in violation of any regulation adopted pursuant to section 6 of the Act; (11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations; (12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to the Act to be made, kept, or furnished; (13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; or (14) to import any fish in any form in violation of any regulation adopted pursuant to section 6 of the Act.

Section 407. Enforcement

This section would amend section 10 to provide that the Tuna Conventions Act of 1950, as amended, shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

Section 408. Reduction of Bycatch

This section would make a technical correction to section 15.

Section 409. Repeal of Eastern Pacific Tuna Licensing Act of 1984

This section would repeal the Eastern Pacific Tuna Licensing Act of 1984.

Section 410. Conforming Amendments to the Marine Mammal Protection Act of 1972

This section would make conforming amendments to sections 101, 108, and 307 of the Marine Mammal Protection Act of 1972

necessary as a result of the amendments that would be made by this title to the Tuna Conventions Act of 1950.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT

[16 U.S.C. 1826d et seq.]

SEC. 606. ENFORCEMENT.

[16 U.S.C. 1826g]

(a) *DETECTING, MONITORING, AND PREVENTING VIOLATIONS.*—The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

(b) *ENFORCEMENT.*—*This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.*

SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

[16 U.S.C. 1826h]

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 *not later than June 1* 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] *that* 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.

SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.

[16 U.S.C. 1826i]

(a) *IN GENERAL.*— The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management [organizations] *organizations, or arrangements made pursuant to an international fishery agreement (as defined in section 3(24) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(24))*), in conserving and managing fish stocks under their jurisdiction. These actions shall include—

(1) urging international fishery management organizations to which the United States is a member—

(A) to incorporate multilateral market-related measures against member or nonmember governments whose vessels engage in illegal, unreported, or unregulated fishing;

(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in areas under an international fishery management organization's jurisdiction;

(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems;

(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish; and

(F) to adopt shark conservation measures, 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;

(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry;

(3) seeking to enter into international agreements that require measures 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 are comparable to those of the United States, taking into account different conditions; **[and]**

(4) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization 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 illegal, unreported, or unregulated fishing from being traded or imported into their nation or **[territories.] territories; and**

(5) *urging other nations, through the regional fishery management organizations of which the United States is a member, bilaterally and otherwise to seek and foster the sharing of accurate, relevant, and timely information—*

(A) to improve the scientific understanding of marine ecosystems;

(B) to improve fisheries management decisions;

(C) to promote the conservation of protected living marine resources;

(D) to combat illegal, unreported, and unregulated fishing; and

(E) to improve compliance with conservation and management measures in international waters.

(b) *INFORMATION SHARING.—In carrying out this section, the Secretary may disclose, as necessary and appropriate, information to the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945, international fishery management organizations, or arrangements made pursuant to an international fishery agreement, if such organizations or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure.*

(c) *VESSELS AND VESSEL OWNERS ENGAGED IN ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—The Secretary may—*

(1) develop, maintain, and make public a list of vessels and vessel owners that are engaged, or have been engaged at any point during the preceding 2 years, in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, whether or not the United States is a party to such organization or arrangement;

(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements; and

(3) provide notification to the public of vessels and vessel owners identified by international fishery management organizations or arrangements made pursuant to an international fishery agreement as having been engaged in illegal, unreported, or unregulated fishing, as well as any measures adopted by such organizations or arrangements to address illegal, unreported, or unregulated fishing.

(d) **RESTRICTIONS ON PORT ACCESS OR USE.**—Action taken by the Secretary under subsection (c)(2) that includes measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

(e) **REGULATIONS.**—The Secretary may promulgate regulations to implement subsections (c) and (d).

SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

[16 U.S.C. 1826j]

[(a) **IDENTIFICATION.**—The Secretary shall identify, and list in the report under section 607, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding 2 years, in illegal, unreported, or unregulated fishing—

[(1) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

[(2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.]

(a) **IDENTIFICATION.**—

(1) **IN GENERAL.**—The Secretary shall identify, and list in the report under section 607, a nation if that nation is engaged, or has been engaged at any time during the preceding 3 years, in illegal, unreported, or unregulated fishing and—

(A) such fishing undermines the effectiveness of measures required under the relevant international fishery management organization;

(B) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation, or the nation is not a party to, or does not maintain cooperating status with, such organization; or

(C) there is no international fishery management organization with a mandate to regulate the fishing activity in question.

(2) **OTHER IDENTIFYING ACTIVITIES.**—The Secretary shall also identify, and list in the report under section 607, a nation if—

(A) it is violating, or has violated at any time during the preceding 3 years, conservation and management measures

required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures, taking into account the factors described in paragraph (1); or

(B) it is failing, or has failed at any time during the preceding 3 years, to effectively address or regulate illegal, unreported, or unregulated fishing.

(3) *TREATMENT OF CERTAIN ENTITIES AS IF THEY WERE NATIONS.—Where the provisions of this Act apply to the act, or failure to act, of a nation, they shall also be applicable, as appropriate, to any other entity that is competent to enter into an international fishery management agreement.*

* * * * *

(d) **IUU CERTIFICATION PROCEDURE.—**

(1) **CERTIFICATION.—**The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining if a nation identified under subsection (a) and listed in the report under section 607 has taken appropriate corrective action with respect to the offending activities **[of its fishing vessels]** identified in the report under section 607. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities **[of its fishing vessels]** identified in the report; or

(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

(2) **ALTERNATIVE PROCEDURE.—**The Secretary may establish a **[procedure for certification,]** *procedure*, on a shipment-by-shipment, shipper-by-shipper, or other **[basis of fish]** *basis*, for allowing importation of fish or fish products from a vessel of a **[harvesting nation not certified under paragraph (1)]** *nation issued a negative certification under paragraph (1)* if the Secretary determines that—

(A) the vessel has not engaged in illegal, unreported, or unregulated fishing **[under an international fishery management agreement to which the United States is a party; or]** ; *and*

(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

(3) **EFFECT OF CERTIFICATION.—**

(A) **IN GENERAL.—**The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))—

(i) shall apply to any nation identified under subsection (a) **that has not been certified by the Secretary under this subsection, or** for which the Secretary has issued a negative certification under this subsection; but

(ii) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(B) EXCEPTIONS.—Subparagraph (A)(i) does not apply—

(i) to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or

(ii) if there is no applicable international fishery agreement, to the extent that such provisions would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing.

(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

(1) IN GENERAL.—In this Act the term “illegal, unreported, or unregulated fishing” has the meaning established under paragraph (2).

(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—**Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006** *Not later than 180 days after the date of enactment of the International Fisheries Stewardship and Enforcement Act*, the Secretary shall publish a definition of the term “illegal, unreported, or unregulated fishing” for purposes of this Act.

(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, bycatch reduction requirements, and shark conservation measures;

(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; **and**

(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located 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.** *agreement; and*

(D) *to the extent possible—*

(i) *fishing activities conducted by foreign vessels in waters under the jurisdiction of a nation without permission of that nation; and*

(ii) *fishing activities conducted by foreign vessels in contravention of a nation’s laws (including regula-*

tions), including fishing activity that has not been reported or that has been misreported to the relevant national authority of a nation in contravention of that nation's laws (including regulations).

* * * * *

SEC. 610. EQUIVALENT CONSERVATION MEASURES.

[16 U.S.C. 1826k]

(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607—

(1) a nation if—

(A) fishing vessels of that nation are engaged, or have been engaged during the preceding [calendar year] 3 years in fishing activities or [practices;] *practices*—

(i) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

(ii) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

(B) 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

(C) 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; and

(2) a nation if—

(A) fishing vessels of that nation are engaged, or have been engaged during the preceding [calendar year] 3 years, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

(B) the nation has not adopted a regulatory program to provide 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.

* * * * *

(c) CONSERVATION CERTIFICATION PROCEDURE.—

(1) DETERMINATION.—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—

(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, in-

cludes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

(2) PROCEDURAL REQUIREMENT.—The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by any such nation.

(3) CERTIFICATION.—The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

(4) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (3) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment [or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing]) shall apply to any nation identified under subsection (a) [that has not been certified by the Secretary under this subsection, or] for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

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DOLPHIN PROTECTION CONSUMER INFORMATION ACT

[16 U.S.C. 1385]

SEC. 901. DOLPHIN PROTECTION.

* * * * *

(d) LABELING STANDARD.—

(1) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter,

distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term “dolphin safe” or any other term or symbol that falsely claims or suggests that the tuna contained in the product were harvested using a method of fishing that is not harmful to dolphins if the product contains tuna harvested—

- (A) on the high seas by a vessel engaged in driftnet fishing;
 - (B) outside the eastern tropical Pacific Ocean by a vessel using purse seine nets—
 - (i) in a fishery in which the Secretary has determined that a regular and significant association occurs between dolphins and tuna (similar to the association between dolphins and tuna in the eastern tropical Pacific Ocean), unless such product is accompanied by a written statement, executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary, certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna were caught and no dolphins were killed or seriously injured in the sets in which the tuna were caught; or
 - (ii) in any other fishery (other than a fishery described in subparagraph (D)) unless the product is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna was harvested;
 - (C) in the eastern tropical Pacific Ocean by a vessel using a purse seine net unless the tuna meet the requirements for being considered dolphin safe under paragraph (2); or
 - (D) by a vessel in a fishery other than one described in subparagraph (A), (B), or (C) that is identified by the Secretary as having a regular and significant mortality or serious injury of dolphins, unless such product is accompanied by a written statement executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught, provided that the Secretary determines that such an observer statement is necessary.
- (2) For purposes of paragraph (1)(C), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets is dolphin safe if—
- (A) the vessel is of a type and size that the Secretary has determined, consistent with the International Dolphin Conservation Program, is not capable of deploying its purse seine nets on or to encircle dolphins; or

(B) (i) the product is accompanied by a written statement executed by the captain providing the certification required under subsection (h);

(ii) the product is accompanied by a written statement executed by—

(I) the Secretary or the Secretary's designee;

(II) a representative of the Inter-American Tropical Tuna Commission; or

(III) an authorized representative of a participating nation whose national program meets the requirements of the International Dolphin Conservation Program, which states that there was an observer approved by the International Dolphin Conservation Program on board the vessel during the entire trip and that such observer provided the certification required under subsection (h); and

(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product; and

(C) the written statements and endorsements referred to in subparagraph (B) comply with regulations promulgated by the Secretary which provide for the verification of tuna products as dolphin safe.

(3) (A) The Secretary of Commerce shall develop an official mark that may be used to label tuna products as dolphin safe in accordance with this Act.

(B) A tuna product that bears the dolphin safe mark developed under subparagraph (A) shall not bear any other label or mark that refers to dolphins, porpoises, or marine mammals.

(C) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to label a tuna product with any label or mark that refers to dolphins, porpoises, or marine mammals other than the mark developed under subparagraph (A) unless—

(i) no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught;

(ii) the label is supported by a tracking and verification program which is comparable in effectiveness to the program established under subsection (f); and

(iii) the label complies with all applicable labeling, marketing, and advertising laws and regulations of the Federal Trade Commission, including any guidelines for environmental labeling.

(D) If the Secretary determines that the use of a label referred to in subparagraph (C) is substantially undermining the conservation goals of the International Dolphin Conservation Program, the Secretary shall report that determination to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committees on Resources

and on Commerce, along with recommendations to correct such problems.

(E) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) willingly and knowingly to use a label referred to in subparagraph (C) in a campaign or effort to mislead or deceive consumers about the level of protection afforded dolphins under the International Dolphin Conservation Program.

(4) It is a violation of section 101 of the International Fisheries Stewardship and Enforcement Act for any person to assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search, investigation or inspection under this Act.

[(e) ENFORCEMENT.—Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) that is false is liable for a civil penalty of not to exceed \$100,000 assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.]

(e) ENFORCEMENT.—This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

* * * * *

NORTH PACIFIC ANADROMOUS STOCKS ACT OF 1992

[16 U.S.C. 5001 et seq.]

SEC. 810. UNLAWFUL ACTIVITIES.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for [purchases] purposes of conducting any [search or inspection] search, investigation, or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any [search or inspection] search, investigation, or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

SEC. 811. PENALTIES.

[(a) CIVIL PENALTIES.—

[(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

[(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

[(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

[(4) a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

[(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

[(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for

the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

[(b) OFFENSES.—

[(1) A person is guilty of an offense if the person commits any act prohibited by section 810 (5), (6), (7), or (8).

[(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places and such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

[(c) FORFEITURE.—

[(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

[(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

[(3) if a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

[(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

[(B) the disposition of such property or the proceeds from the sale thereof; and

[(C) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

[(4) (A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

[(i) stay the execution of such process; or

[(ii) discharge any fish seized pursuant to such process; upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

[(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

[(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.]

SEC. 811. ADMINISTRATION AND ENFORCEMENT.

This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

PACIFIC SALMON TREATY ACT OF 1985

[16 U.S.C. 3631 et seq.]

SEC. 8. PROHIBITED ACTS AND PENALTIES.

[16 U.S.C. 3637]

(a) UNLAWFUL ACTS.—It is unlawful for any person or vessel subject to the jurisdiction of the United States—

(1) to violate any provision of this title, or of any regulation adopted hereunder, or of any Fraser River Panel regulation approved by the United States under the Treaty;

(2) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any [search or inspection] *search, investigation, or inspection* in connection with the enforcement of this title;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any [search or inspection] *search, investigation, or inspection* described in subparagraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this title; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

[(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

[(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) of this section shall be guilty of an offense punishable as provided by section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

[(d) FORFEITURE.—

[(1) Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act which is prohibited under subsection (a) of this section, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act which is prohibited by subsection (a) of this section, shall be subject to forfeiture as provided by section 310 of the Magnuson Act (16 U.S.C. 1860).

[(2) Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulation of the Secretary.

[(e) ENFORCEMENT AUTHORITY.—The Secretary and the Secretary of the Department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority provided by subsections 311 (a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)).

[(f) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

[(1) enter restraining orders or prohibitions;

[(2) issue warrants, process in rem, or other process;

[(3) prescribe and accept satisfactory bonds or other security; and

[(4) take such other actions as are in the interest of justice.]

(b) *ADMINISTRATION AND ENFORCEMENT.*—*This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.*

SEC. 11. ADMINISTRATIVE MATTERS.

[16 U.S.C. 3640]

(a) COMPENSATION OF COMMISSIONERS AND ALTERNATE COMMISSIONERS.—Commissioners and Alternate Commissioners who are not State or Federal employees shall receive compensation at the daily rate of GS-18 of the General Schedule when engaged in the actual performance of duties for the United States Section or for the Commission.

(b) COMPENSATION OF PANEL MEMBERS AND ALTERNATE PANEL MEMBERS.—Panel Members and Alternate Panel Members who are not State or Federal employees shall receive compensation at the daily rate of GS-16 of the General Schedule when engaged in the actual performance of duties for the United States Section or for the Commission.

(c) *COMPENSATION OF COMMITTEE ON SCIENTIFIC COOPERATION MEMBERS.*—Members of the Committee on Scientific Cooperation who are not State or Federal employees shall receive compensation at a rate equivalent to the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, when engaged in actual performance of duties for the Commission.

[(c)] (d) TRAVEL; OTHER EXPENSES.—Travel and other necessary expenses shall be paid for all United States Commissioners, Alternate Commissioners, Panel Members, Alternate Panel Members, members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties for the United States Section or for the Commission.

[(d)] (e) INDIVIDUALS NOT CONSIDERED FEDERAL EMPLOYEES.—Except for officials of the United States Government, such individuals shall not be considered to be Federal employees while engaged in the actual performance of duties for the United States Section or for the Commission, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter [71] 171 of title 28, United States Code.

SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IMPLEMENTATION; ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

[16 U.S.C. 3645]

* * * * *

(d) AUTHORIZATION OF APPROPRIATIONS—

(1) PACIFIC SALMON TREATY.—

(A) For capitalizing the Northern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$75,000,000.

(B) For capitalizing the Southern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$65,000,000.

(C) To provide economic adjustment assistance to fishermen pursuant to the 1999 Pacific Salmon Treaty Agreement, there is authorized to be appropriated in fiscal years 2000, 2001, and 2002 a total of \$30,000,000.

(2) PACIFIC COASTAL SALMON RECOVERY.—

(A) For salmon habitat restoration, salmon stock enhancement, sustainable salmon fisheries, and salmon research, including the construction of salmon research and related facilities, there is authorized to be appropriated for each of fiscal years 2000, 2001, 2002, [and] 2003, 2005, 2006, 2007, 2008, and 2009, \$90,000,000 to the States of Alaska, Washington, Oregon, Idaho, Nevada, and California. Amounts appropriated pursuant to this subparagraph shall be made available as direct payments. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

(B) For salmon habitat restoration, salmon stock enhancement, salmon research, and supplementation activities, there is authorized to be appropriated in each of fiscal years 2000, 2001, 2002, and 2003, \$10,000,000 to be di-

vided between the Pacific Coastal tribes (as defined by the Secretary of Commerce) and the Columbia River tribes (as defined by the Secretary of Commerce).

SOUTH PACIFIC TUNA ACT OF 1988

[16 U.S.C. 973 et seq.]

SEC. 5. PROHIBITED ACTS.

[16 U.S.C. 973c]

(a) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this Act or any regulation or order issued pursuant to this Act;

(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 18 of this Act that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this Act, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this Act or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting **[a search or inspection]** *any search, investigation, or inspection* in connection with the enforcement of this Act or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of **[a search or inspection]** *any search, investigation, or inspection* in connection with the enforcement of this Act or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the Secretary under section 11 of this Act; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

[SEC. 7. CRIMINAL OFFENSES.

[16 U.S.C. 973e]

[(a) PROHIBITED ACTS.—A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a)(8), (10), (11), or (12) of this Act.

[(b) SENTENCE AND FINE.—Any offense described in subsection (a) of this section is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000 or imprisonment for not more than 10 years, or both.

[(c) JURISDICTION.—The district courts of the United States shall have jurisdiction over any offense described in this section.]

[SEC. 8. CIVIL PENALTIES.

[16 U.S.C. 973f]

[(a) DETERMINATION OF LIABILITY; AMOUNT; PARTICIPATION BY SECRETARY OF STATE IN ASSESSMENT PROCEEDING.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States for a civil penalty. Before

issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 5(a) (4), (5), (7), (8), (10), (11), and (12), and section 5(b)(1), (2), (3), and (7) of this Act, the amount of the civil penalty shall not exceed \$250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

[(b) JUDICIAL REVIEW OF ASSESSMENT; PROCEDURES APPLICABLE.—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

[(c) FAILURE TO PAY ASSESSMENT OF CIVIL PENALTY; RECOVERY BY ATTORNEY GENERAL.—Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

[(d) IN REM LIABILITY FOR CIVIL PENALTY; JURISDICTION; MARITIME LIEN ON VESSEL.—Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 of this Act shall be liable in rem for any civil penalty assessed for the violation under section 8 of this Act and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

[(e) COMPROMISE, ETC., OF CIVIL PENALTY.—The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

[(f) CONDUCT OF HEARINGS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case

of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

[(g) WAIVER OF REFERRAL TO ATTORNEY GENERAL.—If a vessel used in a violation of section 5(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 5(b) of this Act for which a civil penalty has been assessed—

[(1) had a valid license under the Treaty at the time of the violation, and

[(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.]

SEC. 7. ADMINISTRATION AND ENFORCEMENT.

This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984

[16 U.S.C. 2431 et seq.]

SEC. 306. UNLAWFUL ACTIVITIES.

[16 U.S.C. 2435]

It is unlawful for any person—

(1) to engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention;

(2) to violate any regulation promulgated under this title;

(3) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any Antarctic marine living resource (or part or product thereof) [which he knows, or reasonably should have known, was] harvested in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention or in violation of any regulation promulgated under this title, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the Antarctic marine living resource (or part or product thereof);

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any [search or inspection] *search, investigation, or inspection* in connection with the enforcement of the Convention, this title, or any regulations promulgated under this title;

(5) to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any [search or inspection] *search, investigation, or inspection* described in paragraph (4);

(6) to resist a lawful arrest or detention for any act prohibited by this section; or

(7) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section.

SEC. 307. REGULATIONS.

[16 U.S.C. 2436]

The Secretary of Commerce, after consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, and the heads of other appropriate departments or agencies of the United States, shall promulgate such regulations as are necessary and appropriate to implement the provisions of this title. *Notwithstanding the provisions of subsections (b) and (c) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final rule to implement conservation measures that are in effect for 12 months or less, adopted by the Commission, and not objected to by the United States within the time period allotted under Article IX of the Convention.*

[SEC. 308. CIVIL PENALTIES.

[16 U.S.C. 2437]

[(a) ASSESSMENT OF PENALTIES.—

[(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 306 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed \$10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this subsection. The amount of any civil penalty shall be assessed by the Secretary of Commerce by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the person committing the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that such information is reasonably available to the Secretary.

[(2) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section, until such time as the matter is referred to the Attorney General under subsection (c) of this section.

[(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary of Commerce may issue subpoenas

for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General of the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

[(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly refer the matter to the Attorney General of the United States, who shall file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.]

[(d) RECOVERY OF CIVIL PENALTIES.—The Attorney General of the United States may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary of Commerce or (2) any final judgment rendered under this section in favor of the United States by an appropriate Court.]

[(e) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law.]

[SEC. 309. CRIMINAL OFFENSES.]

[16 U.S.C. 2438]

[(a) OFFENSES.—A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 306.]

[(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of \$50,000, or imprisonment for not more than ten years, or both.]

[(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law.]

SEC. 310. ENFORCEMENT.

[16 U.S.C. 2439]

(a) **RESPONSIBILITY.**—The provisions of this title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of such duties.

[(b) **POWERS OF AUTHORIZED OFFICERS AND EMPLOYEES.**—Any officer or employee of the United States who is authorized (by the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a)) to enforce the provisions of this title and of any regulation promulgated under this title may, in enforcing such provisions—

[(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States;

[(2) search without warrant any person, place, vehicle or aircraft subject to the jurisdiction of the United States where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306,

[(3) with or without a warrant board and search or inspect any vessel of the United States or vessel subject to the jurisdiction of the United States;

[(4) seize without warrant—

[(A) any evidentiary item where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306,

[(B) any Antarctic marine living resources (or part of product thereof) with respect to which such an act is committed,

[(C) any vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), any vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), and any vehicle, aircraft, or other means of transportation subject to the jurisdiction of the United States used in connection with such an act, and

[(D) any guns, traps, nets, or equipment used in connection with such an act;

[(5) offer and pay rewards for services or information which may lead to the apprehension of persons violating such provisions;

[(6) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

[(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States;

[(8) make an arrest with or without a warrant with respect to any act prohibited by paragraph (4), (5), (6), or (7) of section 306 if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

[(9) exercise enforcement powers conferred on such officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the Secretary of State has agreed to on behalf of the United States pursuant to section 305(b); and

[(10) exercise any other authority which such officer or employee is permitted by law to exercise.

[(c) SEIZURE.—Subject to the succeeding provisions of this subsection, any property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States, who is authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item, or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release such seized property or item to the wild or destroy such property or item, when the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. Such authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying such property or item. Such authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

[(d) FORFEITURE.—

[(1) Any Antarctic marine living resource (or part of product thereof) with respect to which an act prohibited by section 306 is committed, any vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stoves, and cargo), or vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States, which is used in connection with an act prohibited by section 306, and all guns, traps, nets, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

[(2) Upon the forfeiture to the United States of any property or item described in paragraph (1), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Secretary of Commerce, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of this title, as may be prescribed by regulation.

(b) *ADMINISTRATION AND ENFORCEMENT.*—*This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.*

[(e)] (c) APPLICATION OF CUSTOMS LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of property

(including vessels) for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this title, insofar as such provisions of law are applicable and not inconsistent with the provisions of this title; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this title, also be exercised or performed by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as each Secretary may designate.

ATLANTIC TUNAS CONVENTION ACT OF 1975

[16 U.S.C. 971 et seq.]

SEC. 6. ADMINISTRATION.

[16 U.S.C. 971d]

* * * * *

(c) REGULATIONS AND OTHER MEASURES TO CARRY OUT COMMISSION RECOMMENDATIONS.

(1) (A) Upon favorable action by the Secretary of State under section 5(a) of this Act on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2)(A) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through [(A)] (i) submission of written data, views, or arguments, and [(B)] (ii) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in

the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(B) The Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) of this subsection concerning trade restrictive measures against nations or fishing entities without regard to the requirements of subparagraph (A) of this paragraph and subsections (b) and (c) of section 553 of title 5, United States Code.

(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) select for regulation one or more of the species covered by the Convention;

(B) divide the Convention waters into areas;

(C) establish one or more open or closed seasons as to each such area;

(D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;

(E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;

(F) require records of operations to be kept by any master or other person in charge of any fishing vessel;

(G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this Act;

(H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;

(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention; except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality

level to the United States agreed to pursuant to a recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit—

(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(6) IDENTIFICATION AND NOTIFICATION.—

(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

(iii) publish a list of those Nations identified under clause (i).

(B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, moni-

toring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

(7) CONSULTATION.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will—

(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

(C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.

* * * * *

SEC. 7. VIOLATIONS; FINES AND FORFEITURES; RELATED LAWS.

[16 U.S.C. 971e]

(a) IN GENERAL.—It shall be unlawful—

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6 of this Act; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 6 of this Act, without regard to the citizenship of the person or vessel which took the fish.

(b) FAILURE TO FURNISH RETURNS, RECORDS, OR REPORTS.—It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished by such master or person.

(c) REFUSAL OF REQUEST TO BOARD AND INSPECT VESSEL.—It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this Act and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this Act, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

(d) IMPORTATION OF INELIGIBLE SPECIES OR SPECIES UNDER INVESTIGATION.—It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 6(c) or (d) of this Act, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6(c) or (d) of this Act. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 6(c) or (d) of this Act.

[(e) SANCTIONS.—The civil penalty and permit sanctions of section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.

[(f) FORFEITURE.—All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.]

[(g)] (e) APPLICABILITY OF OTHER LAWS.—All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

SEC. 8. ENFORCEMENT.

[16 U.S.C. 971f]

[(a) PARTICULAR POWERS.—Any person authorized in accordance with the provisions of this Act to enforce the provisions of this Act and the regulations issued thereunder may—

[(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this Act or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;

[(2) arrest, with or without a warrant, any person who violates the provisions of this Act or any regulation issued thereunder in his presence or view;

[(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

[(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this Act or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.]

[(b) INTERNATIONAL ENFORCEMENT.—] *This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act. To the extent authorized under the convention or*

by agreements between the United States and any contracting party concluded pursuant to section 5(b) of this Act for international enforcement, the duly authorized officials of such party [shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act] *shall enforce this Act* with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section [shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act] *shall enforce this Act* with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

[(c) BONDS OR STIPULATIONS.—Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.]

NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995

[16 U.S.C. 5601 et seq.]

SEC. 207. PROHIBITED ACTS [AND PENALTIES] AND ENFORCEMENT .

[16 U.S.C. 5606]

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any [search or inspection] *search, investigation, or inspection* in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the con-

duct of any [search or inspection] *search, investigation, or inspection* described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

[(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

[(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

[(d) CIVIL FORFEITURES.—

[(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

[(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

[(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in section 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

[(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

[(1) enter restraining orders or prohibitions;

[(2) issue warrants, process in rem, or other process;

[(3) prescribe and accept satisfactory bonds or other security; and

[(4) take such other actions as are in the interests of justice.]

(b) *ADMINISTRATION AND ENFORCEMENT—This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.*

WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION
IMPLEMENTATION ACT

[16 U.S.C. 6901 et seq.]

SEC. 506. ENFORCEMENT.

[16 U.S.C. 6905]

* * * * *

[(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.]

(c) *ADMINISTRATION AND ENFORCEMENT.—This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.*

* * * * *

SEC. 507. PROHIBITED ACTS.

[16 U.S.C. 6906]

(a) IN GENERAL.—It is unlawful for any person—

(1) to violate any provision of this title or any regulation or permit issued pursuant to this title;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of [suspension, on] *suspension* of an applicable permit issued pursuant to this title;

(3) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this title;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this title or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any chapter prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity

and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this title;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this title, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 506(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this title to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 506(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 506(a) of this title.

(b) ENTRY CERTIFICATION.—In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 506(a) of this title.

NORTHERN PACIFIC HALIBUT ACT OF 1982

[16 U.S.C. 773 et seq.]

SEC. 7. PROHIBITED ACTS.

[16 U.S.C. 773e]

It is unlawful—

[(a)] (1) for any person subject to the jurisdiction of the United States—

[(1)] (A) to violate any provision of the Convention, this Act or any regulation adopted under this Act;

[(2)] (B) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any [search or inspection] *search, investigation, or inspection* in connection with the enforcement of the Convention, this Act or any regulation adopted under this Act;

[(3)] (C) to forcibly assault, resist, oppose, impede, intimidate or interfere with any enforcement officer in the conduct of any [search or inspection described in paragraph (2)] *search, investigation, or inspection described in subparagraph (B)*;

[(4)] (D) to resist a lawful arrest or detention for any act prohibited by this section;

[(5)] (E) to ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any fish taken or retained in violation of the Convention, this Act, or any regulation adopted under this Act; or

[(6)] (F) to interfere with, delay or prevent, by any means, the apprehension, arrest or detention of another person, knowing that such person has committed any act prohibited by this section.

[(b)] (2) for any foreign fishing vessel, and for the owner or operator of any foreign fishing vessel, to engage in fishing for halibut in the fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with the Convention, this Act and regulations adopted under this Act.

SEC. 8. CIVIL PENALTIES.

[16 U.S.C. 773f]

[(a)] LIABILITY; CONTINUING VIOLATIONS; NOTICE; DETERMINATION OF AMOUNT.—Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 7 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$200,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.

[(b)] JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary and the Attorney General. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, in accordance with rules prescribed pursuant to section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

[(c)] RECOVERY OF ASSESSED PENALTIES BY ATTORNEY GENERAL.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

[(d) COMPROMISE, MODIFICATION, AND REMISSION OF PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

[(e) REVOCATION OR SUSPENSION OF PERMIT.—

[(1) IN GENERAL.—The Secretary may take any action described in paragraph (2) in any case in which—

[(A) a vessel has been used in the commission of any act prohibited under section 7;

[(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 7; or

[(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

[(2) PERMIT-RELATED ACTIONS.—Under the circumstances described in paragraph (1) the Secretary may—

[(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

[(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

[(C) deny such permit; or

[(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

[(3) FACTORS TO BE CONSIDERED. IN IMPOSING A SANCTION UNDER THIS SUBSECTION, THE SECRETARY SHALL TAKE INTO ACCOUNT—

[(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

[(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

[(4) TRANSFERS OF OWNERSHIP.—Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, permit, or interest in a permit, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel, permit, or interest at the time of the transfer.

[(5) REINSTATEMENT.—In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty, criminal fine, or any amount in settlement of a civil forfeiture, the Secretary shall reinstate the permit upon payment of the penalty, fine, or settlement amount and interest thereon at the prevailing rate.

[(6) HEARING.—No sanction shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed either in conjunction with a civil penalty proceeding under this section or otherwise.]

[(7) PERMIT DEFINED.—In this subsection, the term “permit” means any license, certificate, approval, registration, charter, membership, exemption, or other form of permission issued by the Commission or the Secretary, and includes any quota share or other transferable quota issued by the Secretary.]

SEC. 9. CRIMES AND CRIMINAL PENALTIES.

[16 U.S.C. 773g]

(a) OFFENSES.—A person is guilty of any offense if he commits an act prohibited by [section 7(a)(2), (3), (4), or (6); or section 7(b) section 7(1)(B), (C), (D), or (F) or section 7(2).]

(b) FINES; IMPRISONMENT.—Any offense described in subsection (a) is punishable by a fine of not more than \$200,000 or imprisonment for not more than 6 months or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury the offense is punishable by a fine of not more than \$400,000, or imprisonment for not more than 10 years or both.

(c) FEDERAL JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

[SEC. 10. FORFEITURES.

[16 U.S.C. 773h]

[(a) CIVIL FORFEITURE PROCEEDING.—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 7 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.]

[(b) UNITED STATES DISTRICT COURT JURISDICTION.—Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).]

[(c) SEIZURE OF FORFEITED PROPERTY.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

- [(1) the disposition of forfeited property;
- [(2) the proceeds from the sale of forfeited property;
- [(3) the remission or mitigation of forfeitures; and
- [(4) the compromise of claims;

[shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provi-

sions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

[(d) BOND OR OTHER SECURITY; DISPOSAL OF SEIZED FISH.—

[(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 11(d) shall—

[(A) stay the execution of such process; or

[(B) discharge any fish seized pursuant to such process; upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

[(2) Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations of the Secretary or the Secretary of the department in which the Coast Guard is operating.

[(e) PRESUMPTION OF VIOLATION.—For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 7 were taken or retained in violation of the Convention and this Act.

SEC. 11. ADMINISTRATION AND ENFORCEMENT.

[16 U.S.C. 773i]

(a) SECRETARY OF COMMERCE AND SECRETARY OF DEPARTMENT IN WHICH COAST GUARD IS OPERATING.—The Convention, this Act, and any regulation adopted under this Act, shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

[(b) ARREST, SEARCH AND INSPECTION, SEIZURE; EXECUTION OF WARRANTS AND OTHER PROCESS.—Any officer who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) to enforce the Convention, this Act or any regulation adopted under this Act may—

[(1) with or without a warrant or other process—

[(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 7;

[(B) board, and search or inspect, any fishing vessel which is subject to this Act;

[(C) at reasonable times enter, search or inspect, shore-side facilities in which fish taken subject to this Act are processed, packed or held;

[(D) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, an act prohibited by section 7;

[(E) seize any fish (wherever found) taken or retained in the course of an act prohibited by section 7, or the proceeds of the sale of such fish; and

[(F) seize any other evidence related to an act prohibited by section 7;

[(2) execute any warrant or other process issued by any court of competent jurisdiction; and

[(3) exercise any other lawful authority.

[(c) CITATION OF OWNER OR OPERATOR OF OFFENDING VESSEL.—If any officer authorized to enforce this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in the commission of an act prohibited by section 7, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

[(d) UNITED STATES DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this Act. Any such court may, at any time—

[(1) enter restraining orders or prohibitions;

[(2) issue warrants, process in rem or other process;

[(3) prescribe and accept satisfactory bonds or other security;

and

[(4) take such other actions as are in the interest of justice.]

[(b) ADMINISTRATION AND ENFORCEMENT.—*This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.*

[(e) (c) WITNESSES; RECORDS AND FILES.—When requested by the appropriate authorities of Canada, officers or employees of the Coast Guard, the National Oceanic and Atmospheric Administration or any other agency of the United States may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary for the prosecution in Canada of any violation of the Convention or any Canadian law relating to the enforcement thereof.

[(f) (d) INVESTIGATIONS BY SECRETARY OF COMMERCE; POWERS; PROCESS.—

(1) In cooperation with such other agencies as may be appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations as are deemed necessary to carry out the purposes of this Act.

(2) For the purpose of all investigations which, in the opinion of the Secretary, are necessary and proper for the enforcement of this Act, the Secretary or any officer designated by him is empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place or hearing.

(3) Process of the Secretary may be served by anyone duly authorized by him either—

(A) by delivering a copy thereof to the individual to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or the agent designated for service of process;

(B) by leaving a copy thereof at the residence or the principal office or place of business of such individual, partnership, or corporation; or

(C) by mailing a copy thereof by registered or certified mail addressed to such individual, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the individual so serving such complaint, order, or other process setting forth the manner of service shall be proof of same, and the returned post office receipt for such complaint, order, or other process mailed by registered or certified mail shall be proof of the service of the same.

NATIONAL SEA GRANT COLLEGE PROGRAM
REAUTHORIZATION ACT OF 1998

[112 Stat. 21]

SEC. 10. ADMINISTRATIVE LAW JUDGES.

[16 U.S.C. 1541]

Notwithstanding section 559 of title 5, United States Code, with respect to any marine resource conservation law or regulation administered by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration, all adjudicatory functions which are required by chapter 5 of title 5 of such Code to be performed by an Administrative Law Judge may be performed by **the United States Coast Guard** *another Federal agency* on a reimbursable basis. Should **the United States Coast Guard** *another Federal agency* require the detail of an Administrative Law Judge to perform any of these functions, it may request such temporary or occasional assistance from the Office of Personnel Management pursuant to section 3344 of title 5, United States Code.

HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

[106 Stat. 4900]

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

[16 U.S.C. 1826a]

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

[(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

[(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

[(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.]

(2) DENIAL OF PORT PRIVILEGES.—*The Secretary of the Treasury shall, to the extent consistent with international law—*

(A) *withhold or revoke the clearance required by section 60105 of title 46, United States Code, for—*

(i) any large-scale driftnet fishing vessel that is documented under the law of the United States or of a nation included on a list published under paragraph (1); or

(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) or 1826k(c)); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing or illegal, unreported, or unregulated fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

[(A) PROHIBITION.—The President—

[(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

[(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within ninety days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.]

(A) PROHIBITION.—*The President shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from a nation—*

(i) upon receipt of notification of the identification of the nation under paragraph (1)(A);

(ii) if the consultations with the government of the nation under paragraph (2) are not satisfactorily concluded within ninety days; or

(iii) upon receipt of notification of a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) and 1826k(c)(1)).

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is forty-five days after

the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than six months after the date the Secretary of Commerce identifies a nation under paragraph (1), or after issuing a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) and 1826k(c)(1)), the Secretary shall determine whether—

[(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing or illegal, unreported, or unregulated fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or]

(i) any prohibition established under paragraph (3) is insufficient to cause that nation—

(I) to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation;

(II) to address illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

(III) to address bycatch of a protected living marine resource or shark catch on the high seas for which a nation has been identified under section 610 of such Act (16 U.S.C. 1826k); or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

[16 U.S.C. 1826b]

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that [such nation has terminated large-scale driftnet fishing or illegal, unreported, or unregulated fishing by its nationals and vessels beyond the exclusive economic zone of any nation.] *such nation—*

(1) has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation;

(2) *has addressed illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or*

(3) *has addressed bycatch of a protected living marine resource or shark catch on the high seas for which a nation has been identified under section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k).*

MAGNUSON-STEVENSON FISHERY CONSERVATION AND
MANAGEMENT ACT

[16 U.S.C. 1801 et seq.]

SEC. 402. INFORMATION COLLECTION.

[16 U.S.C. 1881a]

* * * * *

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; **[or]**

(H) to the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945, international fishery management organizations, or arrangements made pursuant to an international fishery agreement as provided under section 608(b) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i(b));

(I) to any other Federal or State government agency, foreign government, the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945, or the sec-

retariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, as provided under section 101(c)(9) of the International Fisheries Stewardship and Enforcement Act; or

[(H)] (J) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

* * * * *

HIGH SEAS FISHING COMPLIANCE ACT OF 1995

[16 U.S.C. 5501 et seq.]

SEC. 104. PERMITTING.

[16 U.S.C. 5503]

* * * * *

[(f) DURATION.—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.]

(f) VALIDITY.—*A permit issued under this section is void if—*

(1) *1 or more permits or authorizations required for a vessel to fish, in addition to a permit issued under this section, expire, are revoked, or are suspended; or*

(2) *the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.*

TUNA CONVENTION ACT OF 2013

[16 U.S.C. 951 et seq.]

SEC. 2. DEFINITIONS.

[16 U.S.C. 951]

[As used in this Act, the term—

[(a) “convention” includes (1) the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, signed at Mexico City January 25, 1949, by the United States of America and the United Mexican States, (2) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington May 31, 1949, by the United States of America and the Republic of Costa Rica, or both such conventions, as the context requires;

[(b) “commission” includes (1) the International Commission for the Scientific Investigation of Tuna, (2) the Inter-American Tropical Tuna Commission provided for by the conventions referred to in subsection (a) of this section, or both such commissions, as the context requires;

[(c) “United States Commissioners” means the members of the commissions referred to in subsection (b) of this section representing the United States of America and appointed pursuant to the terms of the pertinent convention and section 952 of this title;

[(d) “person” means every individual, partnership, corporation, and association subject to the jurisdiction of the United States; and

[(e) “United States” shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.]

SEC. 2. DEFINITIONS.

In this Act:

(1) ANTIGUA CONVENTION.—*The term “Antigua Convention” means the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, signed at Washington, November 14, 2003.*

(2) COMMISSION.—*The term “Commission” means the Inter-American Tropical Tuna Commission provided for by the Convention.*

(3) CONVENTION.—*The term “Convention” means—*

(A) *the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Wash-*

ington, May 31, 1949, by the United States of America and the Republic of Costa Rica;

(B) the Antigua Convention, upon its entry into force for the United States, and any amendments thereto that are in force for the United States; or

(C) both subparagraphs (A) and (B), as the context requires.

(4) *IMPORT*.—The term “import” means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(5) *PERSON*.—The term “person” means an individual, partnership, corporation, or association subject to the jurisdiction of the United States.

(6) *UNITED STATES*.—The term “United States” includes all areas under the sovereignty of the United States.

(7) *UNITED STATES COMMISSIONERS*.—The term “United States Commissioners” means the individuals appointed under section 3(a).

(8) *UNITED STATES SECTION*.—The term “United States Section” means the United States Commissioners to the Commission and a designee of the Secretary of State.

[SEC. 3. COMMISSIONERS; NUMBER, APPOINTMENT, AND QUALIFICATION.]

[16 U.S.C. 952]

【The United States shall be represented on the two commissions by a total of not more than four United States Commissioners, who shall be appointed by the President, serve as such during his pleasure, and receive no compensation for their services as such Commissioners. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code. Of such Commissioners—

【(a) not more than one shall be a person residing elsewhere than in a State whose vessels maintain a substantial fishery in the areas of the conventions;

【(b) at least one of the Commissioners who are such legal residents shall be a person chosen from the public at large, and who is not a salaried employee of a State or of the Federal Government;

【(c) at least one shall be either the Administrator, or an appropriate officer, of the National Marine Fisheries Service; and

【(d) at least one shall be chosen from a nongovernmental conservation organization.】

SEC. 3. COMMISSIONERS.

(a) *COMMISSIONERS*.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, 1 of which shall be an officer or

employee of the Department of Commerce, 1 of which shall be the chairman or a member of the Western Pacific Fishery Management Council, and 1 of which shall be the chairman or a member of the Pacific Fishery Management Council. Not more than 2 Commissioners may be appointed who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.

(b) *ALTERNATE UNITED STATES COMMISSIONERS.*—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise, at any meeting of the Commission or of the General Advisory Committee or Scientific Advisory Subcommittee established pursuant to section 4(b), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) *ADMINISTRATIVE MATTERS.*—

(1) *EMPLOYMENT STATUS.*—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(2) *COMPENSATION.*—The United States Commissioners or Alternate United States Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such United States Commissioners or Alternate United States Commissioners.

(3) *TRAVEL EXPENSES.*—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners to meetings of the Commission and other meetings the Secretary deems necessary to fulfill their duties, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

[16 U.S.C. 953]

[(a) **APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.**—The Secretary, in consultation with the United States Commissioners, shall—

[(1) appoint a General Advisory Committee which shall be composed of not less than 5 nor more than 15 persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from non-governmental conservation organizations;

【(2) appoint a Scientific Advisory Subcommittee which shall be composed of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations;

【(3) establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data; and

【(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members.

(a) *GENERAL ADVISORY COMMITTEE.*—

(1) *APPOINTMENTS; PUBLIC PARTICIPATION.*—

(A) *APPOINTMENTS.*—*The Secretary, in consultation with the Secretary of State, shall appoint a General Advisory Committee which shall consist of not more than 25 individuals who shall be representative of the various groups concerned with the fisheries covered by the Convention, including nongovernmental conservation organizations, providing to the maximum extent practicable an equitable balance among such groups. Members of the General Advisory Committee will be eligible to participate as members of the U.S. delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow.*

(B) *ADDITIONAL MEMBERS.*—*The chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council's Advisory Committee shall be members of the General Advisory Committee by virtue of their positions in those Councils.*

(C) *TERMS.*—*Each member of the General Advisory Committee appointed under subparagraph (A) shall serve for a term of 3 years and shall be eligible for reappointment.*

(D) *NON-EXECUTIVE MEETINGS OF THE UNITED STATES SECTION.*—*The General Advisory Committee shall be invited to attend all non-executive meetings of the United States Section and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.*

(E) *PUBLIC PARTICIPATION.*—*The General Advisory Committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The General Advisory Committee shall publish and make available to the public a statement of its organization, practices and procedures. Meetings of the General Advisory Committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in timely fashion.*

(2) *INFORMATION SHARING.*—*The Secretary and the Secretary of State shall furnish the General Advisory Committee with rel-*

evant information concerning fisheries and international fishery agreements.

(3) ADMINISTRATIVE MATTERS.—

(A) *IN GENERAL.*—The Secretary shall provide to the General Advisory Committee in a timely manner such administrative and technical support services as are necessary for its effective functioning.

(B) *COMPENSATION.*—An individual appointed to serve as a member of the General Advisory Committee—

(i) shall serve without pay, but while away from home or regular place of business to attend meetings of the General Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall not be considered a Federal employee except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

[(b) FUNCTIONS.—

[(1) *GENERAL ADVISORY COMMITTEE.*—The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions.]

(b) *SCIENTIFIC ADVISORY SUBCOMMITTEE.*—

(1) *IN GENERAL.*—The Secretary, in consultation with the Secretary of State, shall appoint a Scientific Advisory Subcommittee of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations.

(A) *PUBLIC PARTICIPATION.*—The Scientific Advisory Subcommittee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The Scientific Advisory Subcommittee shall publish and make available to the public a statement of its organization, practices, and procedures. Meetings of the Scientific Advisory Subcommittee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

(B) *INFORMATION SHARING.*—The Secretary and the Secretary of State shall furnish the Scientific Advisory Subcommittee with relevant information concerning fisheries and international fishery agreements.

(C) *ADMINISTRATIVE MATTERS.*—

(i) *IN GENERAL.*—The Secretary shall provide to the Scientific Advisory Subcommittee in a timely manner

such administrative and technical support services as are necessary for its effective functioning.

(ii) *COMPENSATION.—An individual appointed to serve as a member of the Scientific Advisory Subcommittee—*

(I) shall serve without pay, but while away from home or regular place of business to attend meetings of the Scientific Advisory Subcommittee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code; and

(II) shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 18, United States Code.

[(2) SCIENTIFIC ADVISORY SUBCOMMITTEE.—] (2) FUNCTIONS AND ASSISTANCE.—

(A) **ADVICE.—**The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including—

- (i) the conservation of ecosystems;
- (ii) the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and
- (iii) the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

(B) **OTHER FUNCTIONS AND ASSISTANCE.—**The Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the United States Commissioners, or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include—

- (i) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission;
- (ii) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research;
- (iii) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments;
- (iv) consulting with other experts as needed; and
- (v) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or its equivalent).

(3) ATTENDANCE AT MEETINGS.—The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the **[General Advisory Subcommittee]** *General Advisory Committee* and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission.

[SEC. 6. SECRETARY OF STATE TO ACT FOR UNITED STATES.] SEC. 6.
RULEMAKING.

[16 U.S.C. 955]

[(a) APPROVAL OF COMMISSION BYLAWS AND RULES; ACTION ON REPORTS, REQUESTS, AND RECOMMENDATIONS.]—The Secretary of State is authorized to approve or disapprove, on behalf of the United States Government, bylaws and rules, or amendments thereof, adopted by each commission and submitted for approval of the United States Government in accordance with the provisions of the conventions, and, with the concurrence of the Secretary of Commerce, to approve or disapprove the general annual programs of the commissions. The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, recommendations, and other communications of the commissions, and to take appropriate action thereon either directly or by reference to the appropriate authority.

[(b) REGULATIONS.]—Regulations recommended by each commission pursuant to the convention requiring the submission to the commission of records of operations by boat captains or other persons who participate in the fisheries covered by the convention, upon the concurrent approval of the Secretary of State and the Secretary of Commerce, shall be promulgated by the latter and upon publication in the Federal Register, shall be applicable to all vessels and persons subject to the jurisdiction of the United States.]

(a) REGULATIONS.—The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the Convention and this Act, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) JURISDICTION.—The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

(c) [RULEMAKING PROCEDURES; PROHIBITIONS.—] (c) ADDITIONAL AUTHORITY.—[Regulations required to carry out recommendations

of the commission made pursuant to paragraph 5 of article II of the Convention for the Establishment of an Inter-American Tropical Tuna Commission shall be promulgated as hereinafter provided by the Secretary of Commerce upon approval of such recommendations by the Secretary of State and the Secretary of Commerce. The Secretary of Commerce shall cause to be published in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (1) submission of written data, views, or arguments, and (2) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations. After publication in the Federal Register such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of Commerce shall prescribe, but in no event prior to an agreed date for the application by all countries whose vessels engage in fishing for species covered by the convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the commission's recommendation applicable to all vessels and persons subject to their respective jurisdictions.] The Secretary of Commerce shall suspend at any time the [application of any such regulations] *application of regulations promulgated to carry out the recommendations of the Commission* when, after consultation with the Secretary of State and the United States Commissioners, [he] *the Secretary of Commerce* determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the commission's recommendations. [The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this Act; and such other measures incidental thereto as the Secretary of Commerce may deem necessary to implement the recommendations of the commission: Provided, That upon the promulgation of any such regulations the Secretary of Commerce shall promulgate additional regulations, with the concurrence of the Secretary of State, which shall become effective simultaneously with the application of the regulations hereinbefore referred to (1) to prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area; and (2) to prohibit entry into the United States, from any country, of fish in

any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission. In the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the commission's recommendations, the Secretary of Commerce, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such country of such other species of tuna, in any form, as may be under investigation by the commission and which were taken in the regulatory area. The aforesaid prohibitions shall continue until the Secretary of Commerce is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.】

【SEC. 8. VIOLATIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS.

[16 U.S.C. 957]

【(a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6(c) of this Act, or for any person knowingly to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

【(b) It shall be unlawful for the master or any person in charge of any fishing vessel of the United States or any person on board such vessel to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished; or to fail to stop upon being hailed by a duly authorized official of the United States; or to refuse to permit the duly authorized officials of the United States or authorized officials of the commissions to board such vessel or inspect its catch, equipment, books, documents, records, or other articles or question the persons on board in accordance with the provisions of this Act, or the convention, as the case may be.

【(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 6(c) of this Act, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the commission, or any tuna in any form not under regulation, but under investigation by the commission, during the period such fish have been denied entry in accordance with the provisions of section 6(c) of this Act. In the case of any fish as described in this subsection offered for entry into the United States, the Secretary of the Interior shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 6(c) of this Act.

【(d) Any person violating any provision of subsection (a) of this section shall be fined not more than \$25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than \$50,000.

【(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent

violation of any provision of subsection (b) shall be fined not more than \$5,000.

[(f) Any person violating any provision of subsection (c) of this section shall be fined not more than \$100,000.

[(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

[(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.]

SEC. 8. PROHIBITED ACTS.

It is unlawful for any person—

(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this Act;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(3) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 10) to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any such authorized officer in the conduct of any search, investigations or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this Act;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information regarding any matter that the Secretary is considering in the course of carrying out this Act;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, attempt to bribe, or interfere with any observer on a vessel under the Convention, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 6 of this Act;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; or

(14) to import any fish in any form in violation of any regulation adopted pursuant to section 6 of this Act.

[SEC. 10. ENFORCEMENT OF CHAPTER.

[16 U.S.C. 959]

[(a) ISSUANCE OF PROCESS.—The judges of the United States district courts and United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued pursuant thereto.

[(b) FEDERAL LAW ENFORCEMENT AGENTS.—Enforcement of the provisions of this Act and the regulations issued pursuant thereto shall be the joint responsibility of the United States Coast Guard, the United States Department of the Interior, and the United States Bureau of Customs. In addition, the Secretary of the Interior may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

[(c) EXECUTION OF PROCESS.—Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

[(d) ARRESTS.—Such person so authorized shall have the power—

[(1) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this Act or the regulations issued thereunder;

[(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of the provisions of this Act or the regulations issued thereunder, then to arrest such person.

[(e) SEIZURES AND DISPOSITION OF FISH.—Such person so authorized may seize, whenever and wherever lawfully found, all fish taken or retained in violation of the provisions of this Act or the regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of the Interior.

[(f) SECURITY.—Notwithstanding the provisions of section 2464 of title 28 of the United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value

of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.】

SEC. 10. ENFORCEMENT.

This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.

SEC. 15. REDUCTION OF BYCATCH IN THE EASTERN TROPICAL PACIFIC OCEAN.

[16 U.S.C. 962]

The Secretary of State, in consultation with the Secretary of Commerce and acting through the United States Commissioners, shall seek, in cooperation with other nations whose 【vessel】 *vessels* fish for tuna in the eastern tropical Pacific Ocean, to establish standards and measures for a bycatch reduction program for vessels fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The bycatch reduction program shall include measures—

- (1) to require, to the maximum extent practicable, that sea turtles and other threatened species and endangered species are released alive;
- (2) to reduce, to the maximum extent practicable, the harvest of nontarget species;
- (3) to reduce, to the maximum extent practicable, the mortality of nontarget species; and
- (4) to reduce, to the maximum extent practicable, the mortality of juveniles of the target species.

【EASTERN PACIFIC TUNA LICENSING ACT OF 1984

[16 U.S.C. 972 et seq.]

【SEC. 2. DEFINITIONS.

[16 U.S.C. 972]

【As used in this Act—

【(1) The term “Agreement” means the Eastern Pacific Ocean Tuna Fishing Agreement, signed in San Jose, Costa Rica, March 15, 1983.

【(2) The term “Agreement Area” means the area within a perimeter determined as follows: From the point on the mainland where the parallel of 40 degrees north latitude intersects the coast westward along the parallel of 40 degrees north latitude to 40 degrees north latitude by 125 degrees west longitude, thence southerly along the meridian of 125 degrees west longitude to 20 degrees north latitude by 125 degrees west longitude, thence easterly along the parallel of 20 degrees north latitude to 20 degrees north latitude by 120 degrees west longitude, thence southerly along the meridian of 120 degrees

west longitude to 5 degrees north latitude by 120 degrees west longitude, thence easterly along the parallel of 5 degrees north latitude to 5 degrees north latitude by 110 degrees west longitude, thence southerly along the meridian of 110 degrees west longitude to 10 degrees south latitude by 110 degrees west longitude, thence easterly along the parallel of 10 degrees south latitude to 10 degrees south latitude by 90 degrees west longitude, thence southerly along the meridian of 90 degrees west longitude to 30 degrees south latitude by 90 degrees west longitude, thence easterly along the parallel of 30 degrees south latitude to the point on the mainland where the parallel intersects the coast; but the Agreement Area does not include the zones within twelve nautical miles of the baseline from which the breadth of territorial sea is measured and the zones within two hundred nautical miles of the baselines of Coastal States not signatories to the Agreement, measured from the same baseline.

[(3) The term "designated species of tuna" means yellowfin tuna, *Thunnus albacares* (Bonnaterre, 1788); bigeye tuna, *Thunnus obesus* (Lowe, 1839); albacore tuna, *thunnus alalunga* (Bonnaterre, 1788); northern bluefin tuna, *Thunnus thynnus* (Linnaeus, 1758); southern bluefin tuna, *Thunnus maccoyil* (Castelnau, 1872); skipjack tuna, *Katsuwonus pelamis* (Linnaeus 1578); black skipjack, *Euthynnus Lineatus* (Kishinouye 1920); kawakawa, *Euthynnus affinis* (Cantor, 1849); bullet tuna, *Auxis rochei* (Risso, 1810), frigate tuna, *Ausix thazard* (Lacepede, 1800); eastern Pacific bonito, *Sarda chiliensis* (Cuvier in Cuvier and Valenciennes, 1831); and Indo-Pacific bonito, *Sarda orientalis* (Temminck and Schlegel, 1844).

[(4) The term "Council" means the body consisting of the representatives from each Contracting Party to the Agreement which is a Coastal State of the eastern Pacific Ocean or a member of the Inter-American Tropical Tuna Commission at the time of entry into force of the Agreement.]

[SEC. 3. UNITED STATES REPRESENTATION ON THE COUNCIL.

[16 U.S.C. 972a]

[(a) APPOINTMENT BY SECRETARY OF STATE.—The Secretary of State—

[(1) shall appoint a United States representative to the Council; and

[(2) may appoint not more than three alternate United States representatives to the Council.

[(b) QUALIFICATION.—An individual is not eligible for appointment as, or to serve as, the United States representative under subsection (a)(1) unless the individual is an officer or employee of the United States Government.

[(c) COMPENSATION.—An individual is not entitled to compensation for serving as the United States representative or an alternate United States representative.

[(d) TRAVEL EXPENSES.—While away from home or a regular place of business in the performance of service as the United States representative or an alternate United States representative, an individual is entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as individuals employed inter-

mittenly in Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.】

【SEC. 4. SECRETARY OF STATE TO ACT FOR THE UNITED STATES.

[16 U.S.C. 972b]

【The Secretary of State shall receive, on behalf of the United States Government, reports, requests, recommendations and other communications of the Council, and, in consultation with the Secretary of Commerce, shall act directly thereon or by reference to the appropriate authorities.】

【SEC. 5. APPLICATION TO OTHER LAWS.

[16 U.S.C. 972c]

【(a) Notwithstanding section 4 of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1874), such Act applies with respect to a seizure by a Contracting Party to the Agreement of a vessel of the United States within the Agreement Area for violation of the Agreement if the Secretary of State determines that the violation is not of such seriousness as to diminish the effectiveness of the Agreement.

【(b) The seizure by a Contracting Party to the Agreement of a vessel of the United States shall not be considered to be a seizure described in section 205(a)(4)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) if the seizure is consistent with the Agreement.】

【SEC. 6. DISPOSITION OF FEES.

[16 U.S.C. 972d]

【All fees accruing to the United States under Article III of the Agreement shall be deposited into the Treasury of the United States.】

【SEC. 7. REGULATIONS.

[16 U.S.C. 972e]

【The Secretary of Commerce, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall issue such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this Act. Regulations may be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located. Regulations concerning the conservation of a designated species of tuna may be issued only to implement conservation recommendations made by the Council under Article 3(D) of the Agreement.】

【SEC. 8. PROHIBITED ACTS.

[16 U.S.C. 972f]

【(a) UNLAWFUL ACTS.—It is unlawful for any person subject to the jurisdiction of the United States—

【(1) to engage in fishing for a designated species of tuna within the Agreement Area unless issued a license under the Agreement authorizing such fishing;

【(2) to engage in fishing for a designated species of tuna within the Agreement area in contravention of regulations promulgated by the Secretary of Commerce under the Agreement;

【(3) knowingly to ship, transport, purchase, sell, offer for sale, export, or have in custody, possession, or control any designated species of tuna taken or retained in violation of regulations issued under section 7;

[(4) to fail to make, keep, or furnish any catch return, statistical record, or other report required by regulations issued under section 7;

[(5) being a person in charge of a vessel of the United States, to fail to stop upon being hailed by an authorized official of the United States, or to refuse to permit officials of the United States to board the vessel or inspect its catch, equipment, books, documents, records, or other articles, or to question individuals on board; or

[(6) to import from any country, in violation of any regulation issued under section 7, any designated species of tuna.

[(b) PENALTIES.—Any person who is convicted of violating—

[(1) subsection (a)(1), (a)(2), or (a)(3) shall be fined or assessed a civil penalty not more than \$25,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$50,000;

[(2) subsection (a)(4) or (a)(5) shall be fined or assessed a civil penalty not more than \$5,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$5,000; or

[(3) subsection (a)(6) shall be fined or assessed a civil penalty not more than \$100,000.

[(c) FORFEITURE.—All designated species of tuna taken or retained in violation of subsection (a)(1), (2), (3), or (6), or the monetary value thereof, is subject to forfeiture.

[(d) APPLICATION OF LAWS RELATING TO SEIZURES AND FORFEITURES.—All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as such provisions of law are applicable and not inconsistent with the provision of this Act.]

[SEC. 9. ENFORCEMENT.

[16 U.S.C. 972g]

[(a) WARRANTS.—The judges of the United States district courts and United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued under section 7.

[(b) JOINT RESPONSIBILITY FOR ENFORCEMENT.—The enforcement of this Act and the regulations issued under section 7 shall be the joint responsibility of the department in which the Coast Guard is operating, the Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities under this section. When so designated, such officers and employees may function as Federal law enforcement agents for these purposes.

[(c) EXECUTION OF WARRANTS AND PROCESS.—An individual authorized to carry out enforcement activities under this section has power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

[(d) ARREST; SEARCH.—An individual so authorized to carry out enforcement activities under this section has power—

[(1) with or without a warrant or other process, to arrest any person subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this Act or the regulations issued under section 7;

[(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if, as a result of the search he has reasonable cause to believe that such vessel or any individual on board is engaging in operations in violation of this Act or any regulation issued thereunder to arrest such person.]

[(e) SEIZURE.—An individual authorized to enforce this Act may seize, whenever or wherever lawfully found, all species of designated tuna taken or retained in violation of this Act or the regulations issued under section 7. Any species so seized may be disposed of pursuant to the order of a court of competent jurisdiction, under subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

[(f) BOND OR STIPULATION FOR VALUE OF THE PROPERTY.—Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any species of designated tuna seized if the process has been levied, on receiving from the claimant of the species a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the species seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the species may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.]

[SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

[16 U.S.C. 972h]

[(There are authorized to be appropriated for fiscal years after fiscal year 1984 such sums as may be necessary to carry out this Act.)]

THE MARINE MAMMAL PROTECTION ACT OF 1972

[16 U.S.C. 1361 et seq.]

SEC. 101. MORATORIUM ON TAKING AND IMPORTING MARINE MAMMALS AND MARINE MAMMAL PRODUCTS

[16 U.S.C. 1371]

(a) IMPOSITION; EXCEPTIONS.—There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this Act, during which time no permit may be issued for the taking of any marine

mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.

(2) Marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor under section 104 subject to regulations prescribed by the Secretary in accordance with section 103, or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103. Such authorizations may be granted under title III with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate. The Secretary of the Treasury shall 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 United States standards. For purposes of applying the preceding sentence, the Secretary—

(A) shall 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;

(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

(i) (I) the tuna or products therefrom were not banned from importation under this paragraph before

the effective date of section 4 of the International Dolphin Conservation Program Act; or

(II) the tuna or products therefrom were harvested after the effective date of section 4 of the International Dolphin Conservation Program Act by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with [article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission] *Article XXX of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission (also known as the Antigua Convention)*, to become a member of that organization;

(ii) such nation is meeting the obligations of the International Dolphin Conservation Program and the obligations of membership in the Inter-American Tropical Tuna Commission, including all financial obligations; and

(iii) the total dolphin mortality limits, and per-stock per-year dolphin mortality limits permitted for that nation's vessels under the International Dolphin Conservation Program do not exceed the limits determined for 1997, or for any year thereafter, consistent with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and the goal of eliminating dolphin mortality, and requirements of the International Dolphin Conservation Program;

(C) shall not accept such documentary evidence if—

(i) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna Commission to release complete and accurate information to the Secretary in a timely manner—

(I) to allow determination of compliance with the International Dolphin Conservation Program; and

(II) for the purposes of tracking and verifying compliance with the minimum requirements established by the Secretary in regulations promulgated under subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)); or

(ii) after taking into consideration such information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, finds that the harvesting nation is

not in compliance with the International Dolphin Conservation Program.

(D) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);

(E) shall, six months after importation of yellowfin tuna or tuna products has been banned under this section, certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)) for as long as such ban is in effect; and

(F) (i) except as provided in clause (ii), in the case of fish or products containing fish harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a large-scale driftnet in the South Pacific Ocean after July 1, 1991, or in any other water of the high seas after January 1, 1993, and

(ii) in the case of tuna or a product containing tuna harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the tuna or tuna product was not harvested with a large-scale driftnet anywhere on the high seas after July 1, 1991.

For purposes of subparagraph (F), the term "driftnet" has the meaning given such term in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note), except that, until January 1, 1994, the term "driftnet" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3)

(A) The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed, from time to time, having due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals, to determine when, to what extent, if at all, and by what means, it is compatible with this Act to waive the requirements of this section so as to allow taking, or importing of any marine mammal, or any marine mammal product, and to adopt suitable regulations, issue permits, and make determinations in accordance with sections 102, 103, 104, and 111 of this title permitting and governing such taking and importing, in accordance with such determinations: Provided, however, That the Secretary, in making such determinations, must

be assured that the taking of such marine mammal is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of this Act: Provided further, however, That no marine mammal or no marine mammal product may be imported into the United States unless the Secretary certifies that the program for taking marine mammals in the country of origin is consistent with the provisions and policies of this Act. Products of nations not so certified may not be imported into the United States for any purpose, including processing for exportation.

(B) Except for scientific research purposes, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock as provided for in paragraph (1) of this subsection, or as provided for under paragraph (5) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which has been designated by the Secretary as depleted, and no importation may be made of any such mammal.

(4) (A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

(iii) by any person, to deter a marine mammal from endangering personal safety; or

(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.

(5) (A) (i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specified geographical region, the Secretary shall allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking by citizens while engaging in that activity within that region of small numbers of marine mammals of a species or population stock if the Secretary, after notice (in the Federal Register and in newspapers of general circulation, and through appropriate electronic media, in the coastal areas that may be affected by such activity) and opportunity for public comment—

(I) finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.), pursuant to section 112(c); and

(II) prescribes regulations setting forth—

(aa) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses; and

(bb) requirements pertaining to the monitoring and reporting of such taking.

(ii) For a military readiness activity (as defined in section 315(f) of Public Law 107-314; 16 U.S.C. 703 note), a determination of “least practicable adverse impact on such species or stock” under clause (i)(II)(aa) shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Before making the required determination, the Secretary shall consult with the Department of Defense regarding personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

(iii) Notwithstanding clause (i), for any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107-314; 16 U.S.C. 703 note), the Secretary shall publish the notice required by such clause only in the Federal Register.

(B) The Secretary shall withdraw, or suspend for a time certain (either on an individual or class basis, as appropriate) the permission to take marine mammals under subparagraph (A) pursuant to a specified activity within a specified geographical region if the Secretary finds, after notice and opportunity for public comment (as required

under subparagraph (A) unless subparagraph (C)(i) applies), that—

(i) the regulations prescribed under subparagraph (A) regarding methods of taking, monitoring, or reporting are not being substantially complied with by a person engaging in such activity; or

(ii) the taking allowed under subparagraph (A) pursuant to one or more activities within one or more regions is having, or may have, more than a negligible impact on the species or stock concerned.

(C) (i) The requirement for notice and opportunity for public comment in subparagraph (B) shall not apply in the case of a suspension of permission to take if the Secretary determines that an emergency exists which poses a significant risk to the well-being of the species or stock concerned.

(ii) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this paragraph.

(D)

(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

(I) will have a negligible impact on such species or stock, and

(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

(ii) The authorization for such activity shall prescribe, where applicable—

(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to sub-

section (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

(vi) For a military readiness activity (as defined in section 315(f) of Public Law 107-314; 16 U.S.C. 703 note), a determination of "least practicable adverse impact on such species or stock" under clause (i)(I) shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Before making the required determination, the Secretary shall consult with the Department of Defense regarding personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

(vii) Notwithstanding clause (iii), for any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107-314; 16 U.S.C. 703 note), the Secretary shall publish the notice required by such clause only in the Federal Register.

(E)

(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824(b)),

while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and a take reduction plan has been developed or is being developed for such species or stock.

(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

(vi) This subparagraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

(F) Notwithstanding the provisions of this subsection, any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107-314; 16 U.S.C. 703 note) shall not be subject to the following requirements:

(i) In subparagraph (A), “within a specified geographical region” and “within that region of small numbers”.

(ii) In subparagraph (B), “within a specified geographical region” and “within one or more regions”.

(iii) In subparagraph (D), “within a specific geographic region”, “of small numbers”, and “within that region”.

(6)

(A) A marine mammal product may be imported into the United States if the product—

(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

(B) For the purposes of this paragraph, the term—

(i) “Native inhabitant of Russia, Canada, or Greenland” means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

(ii) “cultural exchange” means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.

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SEC. 108. INTERNATIONAL PROGRAM.

[16 U.S.C. 1378]

(a) DUTIES OF SECRETARY.—The Secretary, through the Secretary of State, shall—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of all marine mammals covered by this Act;

(2) initiate—

(A) negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species or population stock of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals, with the Secretary of State to prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums;

(B) discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean, for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna, which should include provisions for (i) cooperative research into alternative methods of locating and catching yellowfin tuna which do not involve the taking of marine mammals, (ii) cooperative research on the status of affected marine mammal population stocks, (iii) reliable monitoring of the number, rate, and species of marine mammals taken by vessels of harvesting nations, (iv) limitations on incidental take levels based upon the best scientific information available, and (v) the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable to reduce the incidental kill and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate; *and*

[(C) negotiations to revise the Convention for the Establishment of an Inter-American Tropical Tuna Commission (1 U.S.T. 230; TIAS 2044) which will incorporate—

[(i) the conservation and management provisions agreed to by the nations which have signed the Declaration of Panama and in the Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement, as opened for signature on December 4, 1995; and

[(ii) a revised schedule of annual contributions to the expenses of the Inter-American Tropical Tuna Commission that is equitable to participating nations; and]

[(D)] (C) discussions with those countries participating, or likely to participate, in the International Dolphin Conservation Program, for the purpose of identifying sources

- of funds needed for research and other measures promoting effective protection of dolphins, other marine species, and the marine ecosystem;
- (3) encourage such other agreements to promote the purposes of this Act with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of marine mammals;
- (4) initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this Act;
- (5) seek the convening of an international ministerial meeting on marine mammals before July 1, 1973, for the purposes of (A) the negotiation of a binding international convention for the protection and conservation of all marine mammals, and (B) the implementation of paragraph (3) of this section; and
- (6) provide to the Congress by not later than one year after the date of the enactment of this Act a full report on the results of his efforts under this section.

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SEC. 307. PROHIBITIONS.

[16 U.S.C. 1417]

(a) IN GENERAL.—It is unlawful—

- (1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is a member of the Inter-American Tropical Tuna Commission or has initiated and within 6 months thereafter completed all steps required of applicant nations in accordance with [Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission] *Article XXX of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission (also known as the Antigua Convention)*, to become a member of that organization;
- (2) except as provided for in subsection 101(d), for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this title and regulations issued pursuant to this title; and
- (3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101(a)(2);
- (4) for any person to violate any regulation promulgated under this title;
- (5) for any person to refuse to permit any duly authorized officer to board a vessel subject to that person's control for purposes of conducting any search or inspection in connection with the enforcement of this title; and

(6) for any person to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in paragraph (5).

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