

**Calendar No. 549**

112TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
112-255 }

THE PIRATE FISHING ELIMINATION ACT

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1980



DECEMBER 19, 2012.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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### THE PIRATE FISHING ELIMINATION ACT

DECEMBER 19, 2012.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1980]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1980) to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of S. 1980, the Pirate Fishing Elimination Act is to prevent, deter, and eliminate illegal, unreported, and unregulated (IUU) fishing through the implementation of port access control measures, as outlined under the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted at the Food and Agriculture Organization (FAO) of the United Nations (U.N.) in Rome, Italy, on November 22, 2009.

#### 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 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 of these coastal nations do not manage for stock sustainability, enforce their regulations effectively, or coordinate management of shared stocks with other fishing nations.

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA, 16 U.S.C. 1801 et seq.), the U.S. government exercises sovereign rights and exclusive management authority over fish and Continental Shelf fishery resources within the U.S. EEZ. MSA authorizes the Secretary of Commerce (Secretary), through the National Marine Fisheries Service (NMFS) within the National Oceanic and Atmospheric Administration (NOAA), to be responsible for the management of these resources. MSA calls for Regional Fishery Management Councils, and the Secretary as appropriate, to develop fishery management plans, subject to the Secretary's approval, that follow the MSA's requirements for rebuilding overfished stocks and setting harvest levels according to science-based catch limits.

The coordinated management of shared stocks harvested beyond 200 miles is accomplished by nations participating in Regional Fisheries Management Organizations (RFMOs) or through international fishery agreements created to guide and coordinate the fisheries management activities of multiple nations that target common stocks in specific regions. Each nation that chooses to participate in RFMOs or international fishery agreements 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 implement legislation and regulations to meet its commitments in RFMOs and under international fishery agreements. Short of such an agreement or implementing legislation, U.S. fisheries managers seek discussions with foreign counterparts to address concerns on interjurisdictional stock management.

All U.S. international fishery enforcement activities are coordinated closely between the Coast Guard, NMFS, and the State Department. The Coast Guard and NMFS also provide input for the State Department's negotiations of fishery treaties and agreements and review foreign fishing vessel permit applications. The Coast Guard and NMFS jointly conduct fisheries enforcement patrols and investigations under a wide-ranging memorandum of understanding. Additionally, the Coast Guard and NMFS cooperate closely with individual States and territories, and coordinate MSA enforcement in, and adjacent to, State and territorial waters. Further, the Coast Guard conducts international enforcement operations in close coordination with the State Department, as required by Presidential Directive 27.

#### **Foreign Illegal, Unreported, and Unregulated (IUU) Fishing**

The term "IUU fishing" describes a range of fishing activities, including misreporting or failing to report catches, fishing without the permission of a coastal country, reflagging vessels to countries that are either unwilling or unable to adequately control their fishing activity, and not complying with fishing gear and area rules. IUU fishing often targets fish that traverse the waters of multiple nations and international waters, affecting the ocean ecosystems and fisheries of numerous coastal nations. It is a challenging problem to quantify for a number of reasons. IUU fishing activities generally are covert, making monitoring and detection difficult. Fur-

thermore, they tend to be dynamic, adaptable, highly mobile, and are evolving in terms of their level of sophistication.<sup>1</sup>

It is estimated that IUU fish harvests are worth between \$10 billion and \$23.5 billion annually<sup>2</sup> and, despite a lack of specific data, likely create significant ecological impacts and present unfair market competition to fishermen and nations that follow sustainable fishing practices. 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 fisheries resources. In some cases, officials from developing countries have oversold fishing rights, inflated potential catches, and allowed pirate vessels and locals free rein in breeding grounds. Fishing under these agreements can lead to overexploitation, as many of these developing coastal countries lack the capacity to conduct fish stock assessments, define sustainable harvest levels, and monitor and enforce regulations to guide fishing activity. This results in the rapid decline of local fish stocks which, in turn, threatens the livelihood of local fishermen. 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.

Combating 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. To address the global problem of IUU fishing, marine policy experts have recommended strengthening international fishery agreements and member state adherence to international standards, removing incentives for flags of convenience, balancing fleet capacity with fisheries resources, and increasing the potential cost of IUU activities to pirate fishermen.<sup>3</sup> However, 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. The United States has initiated limited efforts to assist developing countries in targeting IUU fishing.

#### **The Agreement on Port State Measures**

Coordinated international efforts to curtail IUU fishing are mainly led through the U.N. FAO, and are primarily focused on persuading individual nations to better control and manage their fishing fleets. At the thirty-sixth session of the U.N. Conference of the FAO in 2009, 92 participating nations took a significant step towards curtailing IUU fishing by adopting the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (Agreement on Port State Measures or Agreement). The Agreement on Port State Measures, of which the United States was a primary negotiator and one of its first signatories, is the first global instrument focused specifically on combating IUU fishing. It sets forth minimum standards for the

<sup>1</sup>Dept of Commerce, Implementation of Title IV of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006: Biennial Report to Congress 12 (2011).

<sup>2</sup>David J. Agnew et al., *Estimating the Worldwide Extent of Illegal Fishing*, PLoS ONE, Feb. 2009, at 4.

<sup>3</sup>Bertrand Le Gallic and Anthony Cox, An economic analysis of illegal, unreported and unregulated (IUU) fishing: Key drivers and possible solutions, *Marine Policy*, Volume 30, Issue 6, November 2006, Pages 689-695

conduct of dockside inspections and training of inspectors and, most significantly, would require parties to restrict port entry and port services to foreign vessels known or suspected of having been involved in IUU fishing, particularly those on the IUU vessel list maintained by an RFMO. Since all fish must be brought to port to enter into trade, closing ports to illegal product is an effective way to prevent, deter, and eliminate IUU fishing. The Agreement would also require information sharing, including the sharing of inspection results, with parties and other relevant actors to the Agreement when evidence of IUU fishing is found during the course of an inspection. On November 14, 2011, President Obama transmitted the treaty to the Senate for its advice and consent. Broad ratification and implementation of the Agreement was called for at the U.N. General Assembly in December 2010 (Res. 65/38), at the twenty-ninth meeting of the FAO's Committee on Fisheries in February 2012, and at the Joint Meeting of the Tuna RFMOs in La Jolla, CA in July 2012.

As a result of the reforms that were put in place with the enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (120 Stat. 3575), most notably the science-based annual catch limits and accompanying accountability measures which are now in place for every federally-managed fishery, the United States has taken concrete action to stop overfishing and guarantee the health and abundance of the Nation's fisheries and the communities that depend on them. It is now incumbent upon the United States to promote and encourage comparable sustainable fishing practices among the other nations of the world.

The Agreement on Port State Measures does exactly that. It establishes legally-binding minimum standards for port States to control port access by foreign fishing vessels, as well as by foreign transport and supply ships that support fishing vessels, in order to prevent IUU-caught fish from entering the stream of commerce. It also encourages parties to the Agreement to apply similar measures to their own vessels, as the United States already does through the Coast Guard's Captain of the Port statutory authorities and various Federal fishery conservation and management statutes.

#### SUMMARY OF PROVISIONS

S. 1980 would make the changes to domestic law necessary for the United States to implement the Agreement on Port State Measures. The Secretary would have primary responsibility for promulgating regulations and developing procedures necessary to carry out the purposes and requirements of the Act, with the Coast Guard and NMFS serving as primary enforcement authorities for the requirements of the Act and regulations promulgated thereunder. The Act would authorize the Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, to: (1) designate ports to which foreign-flagged fishing or fishing-related vessels may seek entry, and establish uniform information-gathering and review processes for granting or denying port entry and use of port services to such vessels; (2) conduct inspections of such vessels suspected of IUU fishing or related activities; (3) deny port entry or port services to such vessels that have been

engaged in IUU fishing; and (4) provide notice, acting through the Secretary of State, to relevant flag states, coastal nations, RFMOs, and other nations and international organizations regarding a vessel that is believed to have engaged in IUU fishing or related activities or has been denied port entry or port services.

#### LEGISLATIVE HISTORY

S. 1980, the Pirate Fishing Elimination Act, was introduced by Senator Inouye on December 12, 2011, with Senators Begich, Rockefeller, and Snowe among its original cosponsors, and was referred to the Committee on Commerce, Science, and Transportation. On July 31, 2012, the Committee met in open Executive Session and ordered S. 1980 reported favorably without amendment.

#### 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. 1980—Pirate Fishing Elimination Act*

S. 1980 would authorize the National Oceanic and Atmospheric Administration (NOAA) to implement an international agreement to reduce illegal, unreported, and unregulated (IUU) fishing. Under the bill, NOAA would be required to identify ports that can be used by foreign vessels, coordinate inspections of those vessels with the U.S. Coast Guard (USCG), deny port entry to vessels that have engaged in IUU fishing, and share information with foreign governments and other entities regarding the results of inspections and any actions taken if IUU fishing is discovered. S. 1980 also would establish civil and criminal penalties for entities that violate provisions in the bill.

Based on information provided by NOAA and the USCG, CBO estimates that implementing the legislation would have no significant impact on the federal budget. Implementing S. 1980 would not significantly affect the workload of NOAA and the USCG because those agencies already carry out the activities required under the bill. 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 such increases would be small and would offset each other in most years.

CBO has not reviewed S. 1980 for intergovernmental and private-sector mandates because section 4 of the Unfunded Mandates Reform Act 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 bill falls within that exclusion.

The CBO staff contacts for this estimate are Jeff LaFave and Sarah Puro. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT STATEMENT

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. 1980 would make refinements to NOAA and the Coast Guard's existing statutory authorities to better enable them to limit and regulate access to U.S. ports and port services in order to curtail IUU fishing activity. It would authorize the Secretary to designate ports to which foreign vessels involved in fishing or fishing-related activity may request entry, and to require such vessels to provide advance notice for such requests. It generally would require the Secretary and the Secretary of the department in which the Coast Guard is operating to deny port entry to those vessels known to have engaged in or supported IUU fishing, as well as to prohibit vessels already in U.S. ports from landing, transshipping, packaging, or processing fish where there is evidence they have engaged in or supported IUU fishing. However, S. 1980 would not alter the United States's obligation, consistent with international law, to allow port access to distressed vessels. The Committee trusts that the Coast Guard and NOAA will work with other nations to ensure U.S. fishermen will be afforded the same access to a foreign port as needed to protect life and property.

The provisions of the bill generally would apply with respect to foreign vessels seeking entry to or in a port subject to the jurisdiction of the United States, vessels of the United States seeking entry to or in a port subject to the jurisdiction of another party to the Agreement, and persons who are subject to the jurisdiction of the United States.

## ECONOMIC IMPACT

The legislation is not expected to have a negative impact on the Nation's economy. IUU-caught fish significantly undercut the value of legally, sustainably caught fish in the United States and elsewhere around the world. Because S. 1980 would substantially curtail the entry of IUU-caught fish into the stream of commerce in the United States, it is expected to have a positive economic impact on the domestic fishing and seafood industries.

## PRIVACY

The bill is not expected to have any adverse impact on the personal privacy of individuals.

## PAPERWORK

S. 1980 would require a vessel covered by the Act to submit to the Coast Guard Captain of the Port certain basic information about the vessel when it is requesting port entry. However, much of the information (such as a vessel's name, type, flag state, dimensions, destination, estimated date and time of arrival, IMO ship identification number, international radio call sign) already is reported and available to the Coast Guard via automated information system transmissions, the Coast Guard's Marine Information Safety and Law Enforcement System, and other sources. Because the

bill would require that the procedure for submitting vessel information utilize existing Coast Guard reporting mechanisms to the maximum extent possible, S. 1980 is not expected to impose any new paperwork requirements on private citizens or businesses.

#### 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; Table of Contents.*

This section would provide that this bill may be cited as the Pirate Fishing Elimination Act, and sets forth the table of contents of the bill.

##### *Section 2. Purpose.*

This section states that the purpose of this legislation is to implement the Agreement on Port State Measures, done at the FAO of the U.N. in Rome, Italy, on November 22, 2009.

##### *Section 3. Definitions.*

This section would define 23 terms used throughout the bill, of which the following are worth noting in particular:

*Fish.*—The term “fish” includes all species of living marine resources, whether processed or not.

*Fishing.*—The term “fishing” means searching for, attracting, locating, catching, taking, or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking, or harvesting of fish.

*Fishing-related activity.*—The term “fishing-related activity” means any operation in support of, or in preparation for, fishing, including: the landing, packaging, processing, transshipping, or transporting of fish that have not been previously landed at a port or place; and the provision of personnel, fuel, gear, and other supplies at sea.

*Illegal, unreported, and unregulated fishing or IUU fishing.*—The term “illegal, unreported, and unregulated fishing” or “IUU fishing” means any activity conducted: (1) by a national or foreign vessel in waters under the jurisdiction of a nation without the permission of that nation, or in contravention of its laws and regulations, including an activity that has not been reported or has been misreported to the relevant national authority of that nation in contravention of its laws and regulations; (2) by a vessel flying the flag of a nation that is a member of an RFMO in contravention of the conservation and management measures adopted by the RFMO and by which that nation is bound, including an activity that has not been reported or has been misreported in contravention of the reporting requirements of that RFMO; (3) by a vessel flying the flag of a nation that is a cooperating non-member of

an RFMO that is inconsistent with the commitments undertaken by that nation as a cooperating non-member of that RFMO, including an activity that has not been reported or has been misreported in a manner that is inconsistent with those commitments; or (4) in the area of application of an RFMO by a vessel without nationality, or by a vessel flying the flag of a nation that is not a member or a cooperating non-member of that RFMO and that undermines the effectiveness of the conservation and management measures of that RFMO.

*Vessel.*—The term “vessel” means any vessel, ship, or boat used, equipped, or intended for fishing or a fishing-related activity.

#### *Section 4. Application.*

This section would provide that the bill shall apply to: (1) each foreign vessel seeking entry to or in a port subject to the jurisdiction of the United States; (2) each vessel of the United States seeking entry to or in a port subject to the jurisdiction of another party to the Agreement; and (3) each person subject to the jurisdiction of the United States. The bill would not apply to a container vessel that is not carrying fish, or to a container vessel that is carrying only fish that have been previously landed and which the Secretary has no clear grounds to suspect has been engaged in IUU fishing or fishing-related activities in support of IUU fishing.

#### *Section 5. Duties of the Secretary.*

This section would authorize the Secretary to promulgate regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the bill. It would require the Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating and the Secretary of State, to develop procedures for making determinations and notifications as may be necessary to carry out the purposes of the bill. It would authorize the Secretary to designate and publicize each port to which a vessel to which the bill would apply may seek entry. The Secretary would only be allowed to designate a port under this section if the port is designated as a port of entry for customs reporting purposes under the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), and would be required to provide a list of designated ports to the FAO. In order to implement obligations under the Agreement regarding electronic exchange of information, this section would authorize the Secretary to designate a point of contact and notify the FAO of that designation, and to cooperate in efforts to establish an information-sharing mechanism and facilitate the exchange of information with existing databases relevant to the Agreement. Finally, this section would require the Secretary to maintain information regarding legal remedies available to persons affected by an action under the bill, to make such information publicly accessible, and, upon written request, provide the information the owner, operator, master, or representative of a vessel.

*Section 6. Advance Notice of Vessel Arrival, Authorization, or Denial of Port Entry.*

This section would require each vessel to which the bill would apply to submit to the Secretary of the department in which the Coast Guard is operating information required under the Agreement in advance of the vessel's arrival in a port. It would direct the Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating and the Secretary of State, to establish a procedure that would require each foreign vessel seeking entry into a U.S. port to submit, at a minimum, the information required under the Agreement in advance of the vessel's arrival in a port. This procedure would be required to utilize, to the maximum extent possible, existing reporting mechanisms maintained and operated by the department in which the Coast Guard is operating. The Secretary would be required to decide whether to authorize or deny port entry, and would be required to communicate the decision to the vessel or its representative in accordance with established procedure. The Secretary would be authorized to deny entry to: any listed IUU vessel; any vessel that the Secretary has reasonable grounds to believe has engaged in IUU fishing or fishing-related activities in support of IUU fishing; or any vessel that the Secretary has reasonable grounds to believe has violated the provisions of the bill. The Secretary, however, would have authority to allow a vessel entry into port: for the purpose of rendering assistance to a vessel or person in danger or distress; for the scrapping of the vessel, as appropriate; or for inspection or other enforcement action. When a vessel is denied port entry under this section, the Secretary would be required to provide notice of the decision to the flag nation of the vessel and, as appropriate, to each relevant coastal nation, RFMO, and other international organization.

*Section 7. Denial of Port Services.*

This section would provide that a vessel that has been granted authorization to enter port under section 6 or that is otherwise in a port subject to the jurisdiction of the United States shall be denied by the Secretary the use of the port for landing, transshipment, packaging and processing of fish, refueling, resupplying, maintenance, and drydocking, if: (1) the vessel entered port without authorization under section 6; (2) the vessel is a listed IUU vessel; (3) the Secretary has reasonable grounds to believe that the vessel lacks valid authorizations to engage in fishing or fishing-related activities as required by its flag nation or the relevant coastal nation; (4) the Secretary has reasonable grounds to believe that the fish on board the vessel were taken in violation of foreign law or in contravention of any conservation and management measures; (5) the Secretary requested confirmation from the flag nation that the fish on board were taken in accordance with applicable conservation and management measures, and the flag nation failed to provide confirmation in accordance with regulations promulgated under this Act; or (6) the Secretary has reasonable grounds to believe that the vessel has engaged in IUU fishing or fishing-related activities in support of IUU fishing, including in support of a listed IUU vessel (unless the vessel can establish that it was acting in a manner consistent with applicable conservation and management

measures or, in the case of the provision of personnel, fuel, gear, and other supplies at sea, the vessel was not, at the time of provisioning, a listed IUU vessel). Notwithstanding these requirements, the Secretary would be authorized to allow the use of port services if the services are essential to the safety or health of the crew or safety of the vessel; for the scrapping of the vessel, as appropriate; or for inspection or other enforcement action. If use of port services is denied under this section, the Secretary, acting through the Secretary of State, would be required to provide notice of the decision to the flag nation of the vessel and, as appropriate, to each relevant coastal nation, RFMO, and other international organization. The Secretary would be required to withdraw a denial of services under this section if the grounds of the denial were inadequate, erroneous, or no longer applicable. The Secretary would be required to provide prompt notification of such a withdrawal to relevant persons.

#### *Section 8. Inspections.*

This section would require the Secretary and the Secretary of the department in which the Coast Guard is operating to conduct vessel inspections for the purposes of the Agreement and the legislation. The Secretary would be required to prioritize these inspections based on: (1) whether a vessel has been denied entry or use of the port in accordance with the Agreement; (2) a request from another relevant party to the Agreement, State, or RFMO that a certain vessel be inspected; and (3) whether there are clear grounds to suspect the vessel has engaged in IUU fishing or related activities. The Secretary would be required to transmit the results of an inspection to the flag nation of the inspected vessel, and, as appropriate, to each relevant party to the Agreement and nation, including a relevant coastal nation and the nation of which the vessel's master is a national, each relevant RFMO, the FAO, and any other relevant international organization. If, following an inspection, the Secretary has reasonable grounds to believe that a foreign vessel has engaged in IUU fishing or fishing-related activities in support of IUU fishing, the Secretary would be authorized to take enforcement action under the provisions of the bill or other applicable law. The Secretary would be required, acting through the Secretary of State, to promptly notify the flag nation of the vessel and, as appropriate, each relevant coastal nation, RFMO, other international organization, and the nation of which the vessel's master is a national. The Secretary would be required to deny such a vessel the use of port services, in accordance with the provisions of the legislation.

#### *Section 9. Prohibited Acts.*

This section would make it unlawful for any person to: (1) violate any provision of the legislation or any regulation promulgated thereunder; (2) refuse to permit an authorized officer to board, search, or inspect any vessel, conveyance, or shoreside facility that is subject to the person's control, for the purpose of conducting any search, investigation, or inspection in connection with the enforcement of the legislation or any regulation promulgated thereunder; (3) forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search, investiga-

tion, or inspection under the legislation; (4) resist a lawful arrest for any act prohibited by the legislation; (5) 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; (6) submit any false information pursuant to any requirement under the legislation or any regulation promulgated under the legislation; (7) forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer or any data collector employed or under contract to carry out responsibilities under the legislation or any Act administered by the Secretary; (8) import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product taken, possessed, transported, or sold in violation of any foreign law or treaty addressing the conservation or management of living marine resources, or any conservation and management measures as that term is defined in the legislation; or (9) make or submit any incomplete, invalid, or false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the date or location where harvested) that has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce except where such making or submission is prohibited by section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(I)).

*Section 10. Enforcement.*

Subsection (a) of this section would require the Secretary and the Secretary of the department in which the Coast Guard is operating to enforce the provisions of the bill and to authorize officers to enforce the provisions of the bill.

Subsection (b) of this section would provide authorized officers with a number of powers necessary to enforce the prohibitions and requirements of the bill, as well as authorize an officer to 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 on the basis of probable cause.

Subsection (c) of this section would empower authorized officers to issue citations to owners and operators of vessels for violations of the provisions of the bill. The Secretary would be required to maintain a record of all citations issued under this subsection.

Subsection (d) of this section would authorize the Secretary to administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production of relevant documents.

Subsection (e) of this section generally would provide that the several district courts of the United States shall have jurisdiction over any actions arising under this section. For Hawaii or any possession of the United States in the Pacific Ocean, it would provide that the appropriate court is the United States District Court for the District of Hawaii, except that in the case of Guam and Wake Island, the appropriate court is the United States District Court for the District of Guam, and in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands.

Subsection (f) of this section would establish civil administrative penalties and civil judicial penalties for violations, establish vessel liability in rem for such penalties, and authorize the Attorney General to recover unpaid penalties in Federal district court.

Subsection (g) of this section would provide for criminal and civil forfeiture of real and personal property of a person convicted of an offense in violation of the provisions of the bill.

Subsection (h) of this section would establish criminal penalties the violation of acts prohibited by the bill.

Subsection (i) of this section would provide that any person who is assessed a civil penalty for, or convicted of, a violation under the legislation, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred in the storage and care of property seized in connection with the violation.

#### *Section 11. International Cooperation and Assistance.*

This section would require the Secretary to provide appropriate assistance to the greatest extent possible, consistent with existing authority and the availability of funds, to developing nations and international organizations of which such nations are members, to assist those nations in meeting their obligations under the Agreement. In carrying out this requirement, the Secretary would be permitted to utilize the personnel, services, equipment, and facilities of any individual, corporation, partnership, association, or other entity, and any Federal, State, local, or foreign government or any entity of any such government, by agreement, on a reimbursable or non-reimbursable basis. The Secretary also would have the authority to transfer available funds, for purposes related to carrying out international assistance under this section.

#### *Section 12. Relationship to other Laws.*

This section would provide that nothing in this legislation shall be construed to displace any requirements imposed by the customs laws of the United States or any other laws or regulations enforced or administered by the Secretary of Homeland Security. It would provide that, where more stringent requirements regarding port entry or access to port services exist under other Federal law, the more stringent requirements shall apply, and that nothing in the bill shall affect a vessel's entry into port, in accordance with international law, for reasons of force majeure or distress. Further, it would provide that this legislation shall be interpreted and applied in accordance with United States obligations under international law.

#### *Section 13. Authorization of Appropriations.*

This section would authorize to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2012 through 2016 to carry out the provisions of the bill.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

