

ILLEGAL, UNREPORTED, AND UNREGULATED FISHING
ENFORCEMENT ACT OF 2014

DECEMBER 22, 2014.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 69]

The Committee on Natural Resources, to whom was referred the bill (H.R. 69) to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2014”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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**TITLE I—STRENGTHENING FISHERIES
 ENFORCEMENT MECHANISMS**

**SEC. 101. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION
 ACT.**

(a) ADMINISTRATION AND ENFORCEMENT.—Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g) is amended by inserting before the first sentence the following:

“(a) IN GENERAL.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce this Act, and the Acts to which this section applies, in accordance with this section. Each such Secretary 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) ACTS TO WHICH SECTION APPLIES.—This section applies to—

- “(1) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);
- “(2) the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);
- “(3) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);
- “(4) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);
- “(5) the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);
- “(6) the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);
- “(7) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);
- “(8) the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);
- “(9) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.); and
- “(10) the North Pacific Halibut Act of 1982 (16 U.S.C. 773a et seq.).

“(c) ADMINISTRATION AND ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary shall prevent any person from violating this Act, or any Act to which this section applies, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of and applicable to this Act and each such Act.

“(2) INTERNATIONAL COOPERATION.—The Secretary may, subject to appropriations and in the course of carrying out the Secretary’s responsibilities under the Acts to which this section applies, engage in international cooperation to help other nations combat illegal, unreported, and unregulated fishing and achieve sustainable fisheries.

“(d) SPECIAL RULES.—

“(1) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to the powers of officers authorized pursuant to subsection (c), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), may enforce the provisions of any Act to which this section applies, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act.

“(2) DISCLOSURE OF ENFORCEMENT INFORMATION.—The Secretary, subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a), may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.) or the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.) or other statutes implementing international fishery agreements, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, or a foreign government, if—

“(A) such government, organization, or arrangement has policies and procedures to protect such information from unintended or unauthorized disclosure; and

“(B) such disclosure is necessary—

“(i) to ensure compliance with any law or regulation enforced or administered by the Secretary;

“(ii) to administer or enforce any international fishery agreement to which the United States is a party;

“(iii) to administer or enforce a binding conservation measure adopted by any international organization or arrangement to which the United States is a party;

“(iv) to assist in any investigative, judicial, or administrative enforcement proceeding in the United States; or

“(v) to assist in any law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government to the extent the enforcement action is consistent with rules and regulations of a regional fishery management organization that the United States is a member of, or the Secretary has determined that the enforcement action is consistent with the requirements under Federal law for enforcement actions with respect to illegal, unreported, and unregulated fishing.

“(e) PROHIBITED ACTS.—It is unlawful for any person—

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

“(2) to refuse to permit any officer authorized to enforce the provisions of this Act to board, search, or inspect a 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, any regulation promulgated under this Act, or any Act to which this section applies;

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

“(4) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;

“(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of an other person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies; or

“(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with—

“(A) any observer on a vessel under this Act or any Act to which this section applies; or

“(B) any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act or any Act to which this section applies.

“(f) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty, and may be subject to a permit sanction, under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858).

“(g) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under subsection (e)(2), (e)(3), (e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense punishable under section 309(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(b)).

“(h) UTILIZATION OF FEDERAL AGENCY ASSETS.—”

(b) ACTIONS TO IMPROVE THE EFFECTIVENESS OF INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.—Section 608 of such Act (16 U.S.C. 1826i) is amended by—

(1) inserting before the first sentence the following: “(a) IN GENERAL.—”;

(2) in subsection (a) (as designated by paragraph (1) of this subsection) in the first sentence, inserting “, or arrangements made pursuant to an international fishery agreement,” after “organizations”; and

(3) adding at the end the following new subsections:

“(b) DISCLOSURE OF INFORMATION.—The Secretary, subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a), may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), any other statute implementing an international fishery agreement, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, if such government, organization, or arrangement, respectively, has policies and procedures to protect such information from unintended or unauthorized disclosure.

“(c) IUU VESSEL LISTS.—The Secretary may—

“(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing or fishing-related activities in support of 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, that—

“(A) the United States is party to; or

“(B) the United States is not party to, but whose procedures and criteria in developing and maintaining a list of such vessels and vessel owners are substantially similar to such procedures and criteria adopted pursuant to an international fishery agreement to which the United States is a party; and

“(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 agreements and trade agreements.

“(d) REGULATIONS.—The Secretary may promulgate regulations to implement this section.”.

(c) NOTIFICATION REGARDING IDENTIFICATION OF NATIONS.—Section 609(b) of such Act (16 U.S.C. 1826j(b)) is amended to read as follows:

“(b) NOTIFICATION.—The Secretary shall notify the President and that nation of such an identification.”.

(d) NATIONS IDENTIFIED UNDER SECTION 610.—Section 610(b)(1) of such Act (16 U.S.C. 1826k(b)(1)) is amended to read as follows:

“(1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act.”.

(e) EFFECT OF CERTIFICATION UNDER SECTION 609.—Section 609(d)(3)(A)(i) of such Act (16 U.S.C. 1826j(d)(3)(A)(i)) is amended by striking “that has not been certified by the Secretary under this subsection, or”.

(f) EFFECT OF CERTIFICATION UNDER SECTION 610.—Section 610(c)(5) of such Act (16 U.S.C. 1826k(c)(5)) is amended by striking “that has not been certified by the Secretary under this subsection, or”.

(g) IDENTIFICATION OF NATIONS.—

(1) SCOPE OF IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.—Section 609(a) of such Act (16 U.S.C. 1826j(a)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting “, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations,” after “shall”; and

(ii) by striking “2 years” and inserting “3 years”;

(B) in paragraph (1), by inserting “that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether” after “(1)”; and

(C) in paragraph (1), by striking “vessels of”.

(2) ADDITIONAL GROUNDS FOR IDENTIFICATION.—Section 609(a) of such Act (16 U.S.C. 1826j(a)) is further amended—

(A) by redesignating paragraphs (1) and (2) in order as subparagraphs (A) and (B) (and by moving the margins of such subparagraphs 2 ems to the right);

(B) by inserting before the first sentence the following:

“(1) IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.—”; and

(C) by adding at the end the following:

“(2) IDENTIFICATION FOR ACTIONS OF NATION.—Taking into account the factors described under section 609(a)(1), the Secretary shall also identify, and list in such report, a nation—

“(A) if it is violating, or has violated at any point during the preceding three 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; or

“(B) if it is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).

“(3) APPLICATION TO OTHER ENTITIES.—Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.”.

(3) PERIOD OF FISHING PRACTICES SUPPORTING IDENTIFICATION.—Section 610(a)(1) of such Act (16 U.S.C. 1826k(a)(1)) is amended by striking “calendar year” and inserting “three years”.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Commerce \$450,000 for each of fiscal years 2015 through 2019 to implement the amendments made by subsections (b) and (g).

(i) TECHNICAL CORRECTIONS.—

(1) Section 607(2) of such Act (16 U.S.C. 1826h(2)) is amended by striking “whose vessels” and inserting “that”.

(2) Section 609(d)(1) of such Act (16 U.S.C. 1826j(d)(1)) is amended by striking “of its fishing vessels”.

(3) Section 609(d)(1)(A) of such Act (16 U.S.C. 1826j(d)(1)(A)) is amended by striking “of its fishing vessels”.

(4) Section 609(d)(2) of such Act (16 U.S.C. 1826j(d)(2)) is amended—

(A) by striking “for certification” and inserting “to authorize”;

(B) by inserting “the importation” after “or other basis”;

(C) by striking “harvesting”; and

(D) by striking “not certified under paragraph (1)” and inserting “issued a negative certification under paragraph (1)”.

(5) Section 610 of such Act (16 U.S.C. 1826k) is amended as follows:

(A) In subsection (a)(1), by striking “practices;” and inserting “practices—”.

(B) In subsection (c)(4), by striking all preceding subparagraph (B) and inserting the following:

“(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) 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”.

SEC. 102. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT.

(a) NEGATIVE CERTIFICATION EFFECTS.—Section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a) is amended—

(1) in subsection (a)(2), by striking “recognized principles of” after “in accordance with”;

(2) in subsection (a)(2)(A), by inserting “or, as appropriate, for fishing vessels of a nation that receives a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826)” after “(1)”;

(3) in subsection (a)(2)(B), by inserting before the period the following: “, except for the purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action”;

(4) in subsection (b)(1)(A)(i), by striking “or illegal, unreported, or unregulated fishing” after “driftnet fishing”;

(5) in subsection (b)(1)(B) and subsection (b)(2), by striking “or illegal, unreported, or unregulated fishing” after “driftnet fishing” each place it appears;

(6) in subsection (b)(3)(A)(i), by inserting “or a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after “(1)(A)”;

(7) in subsection (b)(4)(A), by inserting “or issues a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after “paragraph (1)”;

(8) in subsection (b)(4)(A)(i), by striking “or illegal, unreported, or unregulated fishing” after “driftnet fishing”; and

(9) in subsection (b)(4)(A)(i), by inserting “, or to address the offending activities for which a nation received 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), 1826k(c))” after “beyond the exclusive economic zone of any nation”.

(b) DURATION OF NEGATIVE CERTIFICATION EFFECTS.—Section 102 of such Act (16 U.S.C. 1826b) is amended by—

(1) striking “or illegal, unreported, or unregulated fishing”; and

(2) inserting “or effectively addressed the offending activities for which the nation received a negative certification under 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” before the period at the end.

SEC. 103. AMENDMENTS TO NORTH PACIFIC ANADROMOUS STOCKS ACT OF 1992.

(a) UNLAWFUL ACTIVITIES.—Section 810 of the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009) is amended—

(1) in paragraph (5), by inserting “, investigation,” after “search”; and

(2) in paragraph (6), by inserting “, investigation,” after “search”.

(b) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—Section 811 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5010) is amended to read as follows:

“SEC. 811. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

“For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 104. AMENDMENTS TO THE PACIFIC SALMON TREATY ACT OF 1985.

Section 8 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3637) is amended—

(1) in subsection (a)(2)—

(A) by inserting “, investigation,” after “search”; and

(B) by striking “this title,” and inserting “this Act.”;

(2) in subsection (a)(3)—

(A) by inserting “, investigation,” after “search”; and

(B) by striking “subparagraph (2);” and inserting “paragraph (2);”;

(3) in subsection (a)(5), by striking “this title; or” and inserting “this Act.”;

and

(4) by striking subsections (b) through (f) and inserting the following:

“(b) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 105. AMENDMENTS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

The Western and Central Pacific Fisheries Convention Implementation Act (title V of Public Law 109–479) is amended—

(1) by amending section 506(c) (16 U.S.C. 6905(c)) to read as follows:

“(c) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”; and

(2) in section 507(a)(2) (16 U.S.C. 6906(a)(2)) by striking “suspension, on” and inserting “suspension, of”.

SEC. 106. AMENDMENTS TO THE SOUTH PACIFIC TUNA ACT OF 1988.

The South Pacific Tuna Act of 1988 is amended—

(1) in section 5(a) (16 U.S.C. 973c(a))—

(A) in paragraph (8), by inserting “, investigation,” after “search”; and

(B) in paragraph (10), by inserting “, investigation,” after “search”; and

(2) by striking sections 7 and 8 (16 U.S.C. 973e and 973f) and inserting the following:

“SEC. 7. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

“For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”

SEC. 107. AMENDMENTS TO THE ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT.

The Antarctic Marine Living Resources Convention Act of 1984 is amended—

- (1) in section 306 (16 U.S.C. 2435)—
 - (A) in paragraph (3), by striking “which he knows, or reasonably should have known, was”;
 - (B) in paragraph (4), by inserting “, investigation,” after “search”; and
 - (C) in paragraph (5), by inserting “, investigation,” after “search”;
- (2) in section 307 (16 U.S.C. 2436)—
 - (A) by inserting “(a) IN GENERAL.—” before the first sentence; and
 - (B) by adding at the end the following:

“(b) REGULATIONS TO IMPLEMENT CONSERVATION MEASURES.—

“(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final regulation to implement any conservation measure for which the Secretary of State notifies the Commission under section 305(a)(1)—

“(A) that has been in effect for 12 months or less;

“(B) that is adopted by the Commission; and

“(C) with respect to which the Secretary of State does not notify Commission in accordance with section 305(a)(1) within the time period allotted for objections under Article IX of the Convention.

“(2) ENTERING INTO FORCE.—Upon publication of such regulation in the Federal Register, such conservation measure shall enter into force with respect to the United States.”; and

(3) by striking sections 308 and 309 (16 U.S.C. 2437 and 2438) and inserting the following:

“SEC. 308. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

“For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”

SEC. 108. AMENDMENTS TO THE ATLANTIC TUNAS CONVENTION ACT.

The Atlantic Tunas Convention Act of 1975 is amended—

- (1) in section 6(c)(2) (16 U.S.C. 971d(c)(2)(2))—
 - (A) by striking “(A)” and inserting “(i)”;
 - (B) by striking “(B)” and inserting “(ii)”;
 - (C) by inserting “(A)” after “(2)”;
 - (D) by adding at the end the following:

“(B) Notwithstanding the requirements of subparagraph (A) and subsections (b) and (c) of section 553 of title 5, United States Code, the Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) concerning trade restrictive measures against nations or fishing entities.”;

(2) in section 7 (16 U.S.C. 971e) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (e);

(3) in section 8 (16 U.S.C. 971f)—

(A) by striking subsections (a) and (c); and

(B) by inserting before subsection (b) the following:

“(a) For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”;

(4) in section 8(b) by striking “the enforcement activities specified in section 8(a) of this Act” each place it appears and inserting “enforcement activities with respect to this Act that are otherwise authorized by law”; and

(5) by striking section 11 (16 U.S.C. 971j) and redesignating sections 12 and 13 as sections 11 and 12, respectively.

SEC. 109. AMENDMENTS TO THE HIGH SEAS FISHING COMPLIANCE ACT OF 1965.

Section 104(f) of the High Seas Fishing Compliance Act of 1995 (16 U.S.C. 5503(f)) is amended to read as follows:

“(f) VALIDITY.—A permit issued under this section for a vessel is void if—

“(1) any other permit or authorization required for the vessel to fish is expired, revoked, or suspended; or

“(2) the vessel is no longer documented under the laws of the United States or eligible for such documentation.”.

SEC. 110. AMENDMENTS TO THE DOLPHIN PROTECTION CONSUMER INFORMATION ACT.

The Dolphin Protection Consumer Information Act (16 U.S.C. 1385) is amended by amending subsection (e) to read as follows:

“(e) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 111. AMENDMENTS TO THE NORTHERN PACIFIC HALIBUT ACT OF 1982.

Section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) is amended—

- (1) in paragraph (a) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F);
- (2) by redesignating subsections (a) and (b) as paragraphs (1) and (2), respectively;
- (3) in paragraph (1)(B), as so redesignated, by inserting “, investigation,” before “or inspection”;
- (4) in paragraph (1)(C), as so redesignated, by inserting “, investigation,” before “or inspection”;
- (5) in paragraph (1)(E), as so redesignated, by striking “or” after the semicolon; and
- (6) in paragraph (1)(F), as so redesignated, by striking “section.” and inserting “section; or”.

SEC. 112. AMENDMENTS TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

Section 207 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5606) is amended—

- (1) in the section heading, by striking “**AND PENALTIES**” and inserting “**AND ENFORCEMENT**”;
- (2) in subsection (a)(2), by inserting “, investigation,” before “or inspection”;
- (3) in subsection (a)(3), by inserting “, investigation,” before “or inspection”; and
- (4) by striking subsections (b) through (f) and inserting the following:

“(b) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 113. AMENDMENT TO THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Section 307(1)(Q) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(Q)) is amended by inserting before the semicolon the following: “or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party”.

TITLE II—IMPLEMENTATION OF THE ANTIGUA CONVENTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Antigua Convention Implementing Act of 2011”.

SEC. 202. AMENDMENT OF THE TUNA CONVENTIONS ACT OF 1950.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.).

SEC. 203. DEFINITIONS.

Section 2 (16 U.S.C. 951) is amended to read as follows:

“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 Washington, 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 such Conventions, as the context requires.

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

“(5) UNITED STATES.—The term ‘United States’ includes all areas under the sovereignty of the United States.

“(6) UNITED STATES COMMISSIONERS.—The term ‘United States commissioners’ means the individuals appointed in accordance with section 3(a).”.

SEC. 204. COMMISSIONERS; NUMBER, APPOINTMENT, AND QUALIFICATIONS.

Section 3 (16 U.S.C. 952) is amended to read as follows:

“SEC. 3. COMMISSIONERS.

“(a) COMMISSIONERS.—The United States shall be represented on the Commission by 4 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 United States Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce. Not more than 2 United States 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 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 United States 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 United States 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 Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as United States Commissioners or Alternate 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 Inter-American Tropical Tuna Commission and other meetings the Secretary of State 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. 205. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

Section 4 (16 U.S.C. 953) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL ADVISORY COMMITTEE.—

“(1) APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.—

“(A) 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 United States

delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow.

“(B) 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 ex-officio members of the General Advisory Committee by virtue of their positions in those Councils.

“(C) Each member of the General Advisory Committee appointed under subparagraph (A) shall serve for a term of 3 years and is eligible for re-appointment.

“(D) The General Advisory Committee shall be invited to attend all non-executive meetings of the United States delegation 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) The General Advisory Committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this title, 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. The General Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(2) INFORMATION SHARING.—The Secretary and the Secretary of State shall furnish the General Advisory Committee with relevant information concerning fisheries and international fishery agreements.

“(3) ADMINISTRATIVE MATTERS.—

“(A) 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) Individuals appointed to serve as a member of the General Advisory Committee—

“(i) shall serve without pay, but while away from their homes or regular places 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 persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

“(ii) 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) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

“(b) SCIENTIFIC ADVISORY SUBCOMMITTEE.—(1) 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.”; and

(3) in subsection (b)(3), by striking “General Advisory Subcommittee” and inserting “General Advisory Committee”.

SEC. 206. RULEMAKING.

Section 6 (16 U.S.C. 955) is amended to read as follows:

“SEC. 6. RULEMAKING.

“(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 as may be necessary to carry out the United States international obligations under the Convention and this Act, 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 as may be necessary to carry out the United States international obligations under the Convention and this Act, 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.”.

SEC. 207. PROHIBITED ACTS.

Section 8 (16 U.S.C. 957) is amended—

(1) by striking “section 6(c) of this Act” each place it appears and inserting “section 6”; and

(2) by adding at the end the following:

“(i) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 208. ENFORCEMENT.

Section 10 (16 U.S.C. 959) is amended to read as follows:

“SEC. 10. ENFORCEMENT.

“For enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 209. REDUCTION OF BYCATCH.

Section 15 (16 U.S.C. 962) is amended by striking “vessel” and inserting “vessels”.

SEC. 210. REPEAL OF EASTERN PACIFIC TUNA LICENSING ACT OF 1984.

The Eastern Pacific Tuna Licensing Act of 1984 (16 U.S.C. 972 et seq.) is repealed.

TITLE III—AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

SEC. 301. SHORT TITLE.

This title may be cited as the “Port State Measures Agreement Act of 2014”.

SEC. 302. PURPOSE.

The purpose of this title is to implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

SEC. 303. DEFINITIONS.

As used in this title:

(1) The term “Agreement” means the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at the Food and Agriculture Organization of the United Nations, in Rome, Italy, November 22, 2009, and signed by the United States November 22, 2009.

(2) The term “IUU fishing” means any activity set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

(3) The term “listed IUU vessel” means a vessel that is included in a list of vessels having engaged in IUU fishing or fishing-related activities in support of IUU fishing that has been adopted by a regional fisheries management organization of which the United States is a member, or a list adopted by a regional fisheries management organization of which the United States is not a member if the Secretary determines the criteria used by that organization to create the IUU list is comparable to United States criteria for identifying IUU vessels and activities.

(4) The term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) The term “person” has the same meaning as that term has in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802).

(6) The term “RFMO” means a regional fisheries management organization.

(7) The term “Secretary” means the Secretary of Commerce or his or her designee.

(8) The term “vessel” means any vessel, ship of another type, or boat used for, equipped to be used for, or intended to be used for, fishing or fishing-related

activities, including container vessels that are carrying fish that have not been previously landed.

(9) The term “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(10) The term “fishing”—

(A) except as provided in subparagraph (B), means—

- (i) the catching, taking, or harvesting of fish;
- (ii) the attempted catching, taking, or harvesting of fish;
- (iii) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
- (iv) any operations at sea in support of, or in preparation for, any activity described in clauses (i) through (iii).

(B) does not include any scientific research activity that is conducted by a scientific research vessel.

SEC. 304. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) **REGULATIONS.**—The Secretary may, as needed, promulgate such regulations, in accordance with section 553 of title 5, United States Code, and consistent with the provisions of this title, as may be necessary to carry out the purposes of this title to the extent that such regulations are not already promulgated.

(b) **CONSULTATION; UTILIZATION OF EXISTING REPORTING MECHANISMS.**—In promulgating regulations, procedures, and guidance pursuant to subsection (a), the Secretary shall consult with the Secretary of State and the Secretary of the department in which the Coast Guard is operating. To the maximum extent possible and subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a), such procedures shall utilize existing reporting mechanisms maintained and operated by the department in which the Coast Guard is operating.

(c) **PORTS OF ENTRY.**—The Secretary, in consultation with the Secretary of Homeland Security and, when the Coast Guard is not operating in the Department of Homeland Security, the Secretary of the department in which the Coast Guard is operating, may designate and publicize the ports to which vessels may seek entry. No port may be designated under this section that has not also been designated as a port of entry for customs reporting purposes pursuant to section 1433 of title 19, United States Code, or that is not specified under an existing international fisheries agreement.

(d) **NOTIFICATION.**—The Secretary shall provide notification of the denial of port entry or the use of port services for a vessel under section 305, the withdrawal of the denial of port services for a vessel, the taking of enforcement action pursuant to section 306 with respect to a vessel, or the results of any inspection of a vessel conducted pursuant to this title to the flag nation of the vessel and, as appropriate, to the nation of which the vessel's master is a national, relevant coastal nations, RFMOs, the Food and Agriculture Organization of the United Nations, and other relevant international organizations.

(e) **CONFIRMATION THAT FISH WERE TAKEN IN ACCORDANCE WITH CONSERVATION AND MANAGEMENT MEASURES.**—The Secretary may request confirmation from the flag state of a vessel that the fish on board a vessel in a port subject to the jurisdiction of the United States were taken in accordance with applicable RFMO conservation and management measures.

SEC. 305. AUTHORIZATION OR DENIAL OF PORT ENTRY.

(a) **SUBMISSION OF INFORMATION REQUIRED UNDER AGREEMENT.**—All foreign vessels seeking entry to a port subject to the jurisdiction of the United States must submit to the Secretary of the department in which the Coast Guard is operating information as required under the Agreement in advance of its arrival in port.

(b) **DECISION TO AUTHORIZE OR DENY PORT ENTRY.**—The Secretary shall decide, based on the information submitted under subsection (a), whether to authorize or deny port entry and shall communicate this decision to the foreign vessel or to its representative. The Secretary may deny entry to—

- (1) any foreign-listed IUU vessel; or
- (2) any foreign vessel the Secretary has reasonable grounds to believe has engaged in IUU fishing or fishing-related activities in support of such fishing or has violated the Act.

(c) **DENIAL OF USE OF PORT.**—If a foreign vessel is in a port subject to the jurisdiction of the United States, the Secretary shall deny such vessel the use of the port for landing, transshipment, packaging and processing of fish, refueling, resupplying, maintenance and drydocking, if—

- (1) the vessel entered without authorization under subsection (b);
- (2) the vessel is a listed IUU vessel;

- (3) the flag nation of the vessel has failed to provide confirmation requested by the Secretary that the fish on board were taken in accordance with applicable RFMO conservation and management measures; or
- (4) the Secretary has reasonable grounds to believe—
 - (A) the vessel lacks valid authorizations to engage in fishing or fishing-related activities as required by its flag nation or the relevant coastal nation;
 - (B) the fish on board were taken in violation of foreign law or in contravention of any RFMO conservation and management measure; or
 - (C) the vessel has engaged in IUU fishing or fishing-related activities in support of such fishing, including in support of a listed IUU vessel, unless it can establish that—
 - (i) it was acting in a manner consistent with applicable RFMO conservation and management measures; or
 - (ii) in the case of the provision of personnel, fuel, gear, and other supplies at sea, the vessel provisioned was not, at the time of provisioning, a listed IUU vessel.
- (d) EXCEPTIONS.—Notwithstanding subsections (b) and (c), the Secretary may allow port entry or the use of port services—
 - (1) if they are essential to the safety or health of the crew or safety of the vessel;
 - (2) to allow, where appropriate, for the scrapping of the vessel; or
 - (3) pursuant to an inspection or other enforcement action.

SEC. 306. INSPECTIONS.

The Secretary, and the Secretary of the department in which the Coast Guard is operating, shall conduct foreign vessel inspections in ports subject to the jurisdiction of the United States as necessary to achieve the purposes of the Agreement and this title. 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 such fishing, the Secretary may take enforcement action under this title or other applicable law, and shall deny the vessel the use of port services, in accordance with section 305.

SEC. 307. PROHIBITED ACTS.

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

- (1) to violate any provision of this title or the regulations issued under this title;
- (2) to refuse to permit any authorized officer to board, search, or inspect a vessel that is subject to the person's control in connection with the enforcement of this title or the regulations issued under this title;
- (3) to submit false information pursuant to any requirement under this title or the regulations issued under this title; or
- (4) to commit any offense enumerated in paragraph (4), (5), (7) or (9) of section 707(a) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6906(a)).

SEC. 308. ENFORCEMENT.

(a) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The authorities and responsibilities under subsections (a), (b), and (c) of section 311 and section 308(f) of the Magnuson-Stevens Act (16 U.S.C. 1861, 1858(f)) shall apply with respect to enforcement of this title.

(b) CIVIL ENFORCEMENT.—

(1) CIVIL ADMINISTRATIVE PENALTIES.—

(A) IN GENERAL.—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 under section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall be consistent with the amount under section 308(a) of the Magnuson-Stevens Act (16 U.S.C. 1858(a)).

(B) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary shall have the same authority as provided in section 308(e) of the Magnuson-Stevens Act (16 U.S.C. 1858(e)) with respect to a violation of this Act.

(2) IN REM JURISDICTION.—For purposes of this title, the conditions for in rem liability shall be consistent with section 308(d) of the Magnuson-Stevens Act (16 U.S.C. 1858(d)).

(3) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty under this title 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, 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.

(c) FORFEITURE.—

(1) IN GENERAL.—The forfeiture provisions of section 310 of the Magnuson-Stevens Act (16 U.S.C. 1860) shall apply in cases in which a person is convicted of an offense in violation of section 309.

(2) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(3) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all fish, or components thereof, found on board a vessel that is used or seized in connection with a violation of this title (including any regulation promulgated under this Act) were taken, obtained, or retained as a result of IUU fishing or fishing-related activities in support of IUU fishing.

(d) CRIMINAL ENFORCEMENT.—Any person (other than a foreign government agency, or entity wholly owned by a foreign government) who knowingly commits an act prohibited by section 309 shall be subject to subsections (b) and (c) of section 309 of the Magnuson-Stevens Act (16 U.S.C. 1859).

(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this title (including any regulation promulgated under this title) and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

SEC. 309. INTERNATIONAL COOPERATION AND ASSISTANCE.

(a) ASSISTANCE TO DEVELOPING NATIONS AND INTERNATIONAL ORGANIZATIONS.—Consistent with existing authority and the availability of funds, the Secretary shall provide appropriate assistance to developing nations and international organizations of which such nations are members to assist those nations in meeting their obligations under the Agreement.

(b) PERSONNEL, SERVICES, EQUIPMENT, AND FACILITIES.—In carrying out subsection (a), the Secretary may, by agreement, on a reimbursable or nonreimbursable basis, utilize the personnel, services, equipment, and facilities of any Federal, State, local, or foreign government or any entity of any such government.

SEC. 310. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Nothing in this title 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. Where more stringent requirements regarding port entry or access to port services exist under other Federal law, those more stringent requirements shall apply. Nothing in this title shall affect a vessel's entry into port, in accordance with international law, for reasons of force majeure or distress.

(b) UNITED STATES OBLIGATIONS UNDER INTERNATIONAL LAW.—This title shall be interpreted and applied in accordance with United States obligations under international law.

PURPOSE OF THE BILL

The purpose of H.R. 69 is to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention.

BACKGROUND AND NEED FOR LEGISLATION

Illegal, Unregulated and Unreported (IUU) fishing, also often referred to as “pirate” fishing, has been identified as a threat to sustainable fisheries worldwide, and the sale of illegally-caught fish undermines markets for legally-caught fish. As an example of the effects of IUU fishing on U.S. fishermen, it is estimated that 98 million pounds of IUU crab entered the global seafood market in 2011 with estimates of over \$500 million in economic losses to U.S. crab fishermen since 2000. This level of economic impact due to IUU fishing is not unique to the U.S. or to the crab fishery. In fact, according to testimony heard by the Committee, “Experts estimate global economic losses from IUU fishing range between \$10 and \$23.5 billion.”

The United Nation’s Food and Agriculture Organization estimates that fish and fishery products are among the most traded food commodities worldwide, and in 2010 the United States was the largest importer of fish and fishery products (followed by Japan, Spain, China, and France). Recent estimates show that the U.S. imports more than 90 percent of the seafood consumed in the U.S., making the U.S. a potential destination for IUU fish.

In an effort to identify and combat IUU fishing, the National Oceanic and Atmospheric Administration (NOAA) published a final rule which defined “illegal, unreported, and unregulated fishing” to mean: “(1) 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, and bycatch reduction requirements; (2) 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 (3) 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.”

According to NOAA, the seafood industry in the U.S.—harvesters, seafood processors and dealers, seafood wholesalers and seafood retailers, taking into account imports and multiplier effects—generated \$129 billion in sales impacts and \$37 billion in income impacts, and supported 1.2 million jobs in 2011.

Fishing activities within the U.S. Exclusive Economic Zone (EEZ) are regulated under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and enforcement of this statute ensures that U.S. vessels adhere to conservation and management measures. While the Magnuson-Stevens Act allows for limited fishing by foreign vessels there is currently little or no fishing by foreign vessels in U.S. waters. In addition, under the Nicholson Act, foreign vessels are generally prohibited from unloading fish and fish products in any U.S. port that were harvested or taken onboard a vessel on the “high seas.” This prohibition on the landing of fish from foreign fishing vessels does not apply to: (1) ports in the U.S. territories of American Samoa, Guam, and the

Commonwealth of the Northern Mariana Islands; (2) certain landings in the U.S. Virgin Islands; and (3) landings pursuant to certain conventions to which the United States is a party. While foreign vessels are limited in their ability to directly land IUU fish at U.S. ports, IUU fish and other seafood products are able to enter the U.S. through other means.

While fishing activities within U.S. waters are regulated and enforced under the Magnuson-Stevens Act, fishing activities outside of U.S. waters—especially illegal fishing—can have an effect on both U.S. fishermen and the U.S. seafood industry.

In addition to domestic fisheries management, the U.S. is a party to a number of Regional Fishery Management Organizations (RFMO) which are usually established by a treaty or other formal international agreement and provide a mechanism through which nations work together towards the conservation, management, and development of fisheries through the adoption of fisheries conservation and management measures that are binding on their members. In many cases, these RFMOs provide conservation and management measures which bind member nations and their fishing vessels while fishing on the high seas and within the area covered by the treaty or agreement. A number of these RFMOs have begun creating lists of vessels which are fishing illegally within the RFMO's region, and these vessels are then identified as IUU vessels.

IUU fishing is not a new problem for the U.S. and for U.S. fishermen. In 2006, Congress passed H.R. 5946 which became Public Law 109-479. The bill, which reauthorized and amended the Magnuson-Stevens Act, included a number of provisions in Title IV of the bill to allow the U.S. government to take unilateral action dealing with IUU fishing.

The provisions in Title IV of the bill authorized the Secretary of Commerce to promote improved monitoring and compliance for high seas fisheries or fisheries governed by international fishery management agreements. These provisions also amended the High Seas Driftnet Fishing Moratorium Protection Act to direct the Secretary to report biennially to Congress on: (1) U.S. awareness of the status of international living marine resources shared by the United States; (2) regulatory failures of nations that have been identified as having engaged in IUU fishing in high seas fisheries; (3) regulatory failures of nations that have been identified as having engaged in fishing activities or practices beyond the EEZ that result in bycatch of a protected living marine resource; (4) corrective actions taken to end IUU fishing activities; (5) international progress to strengthen RFMO's efforts to end IUU fishing; and (6) steps taken for adopting international measures to reduce the impacts of fishing on protected living marine resources. The provisions also directed the Secretary to take certain actions to improve the effectiveness of RFMOs to stop IUU fishing by other nations in high seas fisheries.

The Title IV provisions also required the Secretary to identify nations whose vessels have engaged in IUU fishing activities or whose fishing vessels have engaged in fishing activities which resulted in the bycatch of protected living marine resources. Following the identification, the Secretary is required to notify offending nations (including the relevant RFMOs) and to initiate con-

sultations to encourage the nations to take appropriate corrective action or to enter into bilateral treaties to end IUU fishing and bycatch of protected living marine resources.

Under the Title IV provisions, the Secretary of the Treasury is required, with respect to an offending nation if consultations do not result in corrective actions being taken by the nation, to: (1) withhold or revoke the clearance of the nation's vessels and deny the vessels entry into U.S. navigable waters or ports; (2) prohibit the import of fish or fish products or sport fishing gear from such nation; and (3) impose other economic sanctions if needed.

Finally, this Title directed the Secretary of Commerce, in cooperation with the Secretary of State, to seek international action to end overfishing in fisheries that have been determined to have been overfished or are approaching a condition of being overfished due to excessive international fishing, and for which there are no management measures to end overfishing under an international agreement with the United States. The Secretary was directed to: (1) develop recommendations for regulations to address the impact of U.S. fishing vessels on highly migratory fish stock in the fisheries; and (2) develop and submit recommendations to the Secretary of State, and to Congress, for international actions to end overfishing in such fisheries.

As a result of these requirements, in January 2013, NOAA released a report to Congress titled "Improving International Fisheries Management." This was the third report to Congress under this requirement.

In this report, NOAA identified 10 nations as having been engaged in IUU fishing based on violations of international conservation and management measures during 2011 and/or 2012. The nations identified by the report were Colombia, Ecuador, Ghana, Italy, Mexico, Panama, the Republic of Korea, Spain, Tanzania, and Venezuela.

NOAA considered five other nations and fishing entities for identification as having engaged in IUU fishing during the reporting period, but consultations indicated corrective actions had already been taken to address the fishing activities of concern, or the allegations of IUU fishing activities were refuted. NOAA identified one nation, Mexico, for fishing activities involving the bycatch of protected living marine resources. In addition, the report contains NOAA's certification decisions for the six nations identified in the 2011 report and in each case, the nation was found to have taken appropriate corrective actions and is receiving a positive certification. (A positive certification means that a nation has provided documentary evidence that appropriate corrective action has been taken to address the IUU fishing activities for which it was identified.)

In the 2011 report to Congress, NOAA had reported that six nations had been identified as having vessels which participated in IUU fishing in 2009 and/or 2010. These were Columbia, Ecuador, Italy, Panama, Portugal, and Venezuela. NOAA also reported that six nations which had previously been identified as having vessels participating in IUU fishing had addressed the concerns raised by the U.S. These nations were China, France, Italy, Libya, Panama, and Tunisia.

In addition to other measures to combat IUU fishing, the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing provides tools for nations to deal with IUU fishing and to prevent IUU-caught fish from entering markets and competing with legally-caught fish. The Agreement recognizes that all seafood must pass through a port to get to market and that nations can identify both vessels and nations suspected of conducting or condoning IUU fishing and allows nations to use inspections to prevent IUU fish from reaching the market.

The Agreement establishes standards for dockside inspections and requires parties to restrict port entry and port services to foreign vessels known or suspected of having been involved in IUU fishing, particularly those on a RFMO IUU fishing vessel list. These standards would increase the risks and costs associated with IUU fishing activities and help to ensure that IUU fish and fish products do not enter into global trade. Implementation of the Port States Agreement will ultimately benefit U.S. fishermen, seafood buyers, and consumers by preventing IUU vessels from entering our ports and diluting the market with illegally-caught seafood product.

The Port States Agreement established several obligations that nations are required to apply to foreign flagged fishing vessels seeking entry to that nation's port. Under the Agreement, parties are required to: (1) designate ports to which foreign flagged vessels may seek entry and to establish a process for granting or denying port entry and/or the use of port services to foreign flagged fishing vessels; (2) deny port entry and the use of port services to vessels that have been engaged in IUU fishing, including as indicated by inclusion of the vessel on an RFMO IUU vessel list; and (3) share information, including inspection results, with the flag nations and, as appropriate, other relevant parties and entities. H.R. 69, as amended, recognizes those obligations but clarifies that the information shared with other appropriate entities follows the confidentiality standards of the Magnuson-Stevens Act.

The United States signed the Port States Agreement on November 22, 2009. The President transmitted the Agreement to the Senate on November 14, 2011, and the Senate provided advice and consent on April 3, 2014.

A hearing on H.R. 69 and an unnumbered discussion draft of legislation to implement the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing was held on April 3, 2014. Testimony was heard from the Department of State, the Department of Commerce, and three individuals (two representing the fishing industry).

COMMITTEE ACTION

H.R. 69 was introduced on January 3, 2013, by Delegate Madeline Bordallo (D-GU). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. On April 3, 2014, the Subcommittee held a hearing on the bill. On September 18, 2014, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. Delegate

Bordallo offered an amendment designated .002 to the bill; the amendment was adopted by unanimous consent. No further amendments were offered, and the bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee believes that enactment of this bill will not have a significant effect on the federal budget.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention.

earmark Statement

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman estimates that this bill directs the Secretary of Commerce to conduct five rulemakings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be du-

plicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 matter is printed in italic, existing law in which no change is proposed is shown in roman):

HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT

* * * * *

TITLE VI—DRIFTNET MORATORIUM

* * * * *

SEC. 606. ENFORCEMENT.

(a) *IN GENERAL.*—*The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce this Act, and the Acts to which this section applies, in accordance with this section. Each such Secretary 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) *ACTS TO WHICH SECTION APPLIES.*—*This section applies to—*

(1) *the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);*

(2) *the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);*

(3) *the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);*

(4) *the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);*

(5) *the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);*

(6) *the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);*

(7) *the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);*

(8) *the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);*

(9) *the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.); and*

(10) *the North Pacific Halibut Act of 1982 (16 U.S.C. 773a et seq.).*

(c) *ADMINISTRATION AND ENFORCEMENT.—*

(1) *IN GENERAL.—The Secretary shall prevent any person from violating this Act, or any Act to which this section applies, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of and applicable to this Act and each such Act.*

(2) *INTERNATIONAL COOPERATION.—The Secretary may, subject to appropriations and in the course of carrying out the Secretary's responsibilities under the Acts to which this section applies, engage in international cooperation to help other nations combat illegal, unreported, and unregulated fishing and achieve sustainable fisheries.*

(d) *SPECIAL RULES.—*

(1) *ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to the powers of officers authorized pursuant to subsection (c), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), may enforce the provisions of any Act to which this section applies, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act.*

(2) *DISCLOSURE OF ENFORCEMENT INFORMATION.—The Secretary, subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a), may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.) or the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.) or other statutes implementing international fishery agreements, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, or a foreign government, if—*

(A) such government, organization, or arrangement has policies and procedures to protect such information from unintended or unauthorized disclosure; and

(B) such disclosure is necessary—

(i) to ensure compliance with any law or regulation enforced or administered by the Secretary;

(ii) to administer or enforce any international fishery agreement to which the United States is a party;

(iii) to administer or enforce a binding conservation measure adopted by any international organization or arrangement to which the United States is a party;

(iv) to assist in any investigative, judicial, or administrative enforcement proceeding in the United States; or

(v) to assist in any law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government to the extent the enforcement action is consistent with rules and regulations of a regional fishery management organization that the United States is a member of, or the Secretary has determined that the enforcement action is consistent with the requirements under Federal law for enforcement actions with respect to illegal, unreported, and unregulated fishing.

(e) *PROHIBITED ACTS.*—It is unlawful for any person—

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

(2) to refuse to permit any officer authorized to enforce the provisions of this Act to board, search, or inspect a 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, any regulation promulgated under this Act, or any Act to which this section applies;

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

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

(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of an other person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies; or

(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with—

(A) any observer on a vessel under this Act or any Act to which this section applies; or

(B) any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act or any Act to which this section applies.

(f) *CIVIL PENALTY.*—Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty, and may be subject to a permit sanction, under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858).

(g) *CRIMINAL PENALTY.*—Any person who commits an act that is unlawful under subsection (e)(2), (e)(3), (e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense punishable under section 309(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(b)).

(h) *UTILIZATION OF FEDERAL AGENCY ASSETS.*— 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 highseas 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.

SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

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 every 2 years thereafter, a report that includes—

(1) * * *

(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;

* * * * *

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

(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, or arrangements made pursuant to an international fishery agreement, in conserving and managing fish stocks under their jurisdiction. These actions shall include—

(1) * * *

* * * * *

(b) *DISCLOSURE OF INFORMATION.*—*The Secretary, subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a), may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), any other statute implementing an international fishery agreement, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, if such government, organization, or arrangement, respectively, has policies and procedures to protect such information from unintended or unauthorized disclosure.*

(c) *IUU VESSEL LISTS.*—*The Secretary may—*

(1) *develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing or fishing-related activities in support of illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organiza-*

tion or arrangement made pursuant to an international fishery agreement, that—

(A) the United States is party to; or

(B) the United States is not party to, but whose procedures and criteria in developing and maintaining a list of such vessels and vessel owners are substantially similar to such procedures and criteria adopted pursuant to an international fishery agreement to which the United States is a party; and

(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 agreements and trade agreements.

(d) **REGULATIONS.**—The Secretary may promulgate regulations to implement this section.

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

(a) **IDENTIFICATION.**—

(1) **IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.**—The Secretary shall, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations, 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~~ 3 years, in illegal, unreported, or unregulated fishing—

[(1)] (A) that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether 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)] (B) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

(2) **IDENTIFICATION FOR ACTIONS OF NATION.**—Taking into account the factors described under section 609(a)(1), the Secretary shall also identify, and list in such report, a nation—

(A) if it is violating, or has violated at any point during the preceding three 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; or

(B) if it is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).

(3) **APPLICATION TO OTHER ENTITIES.**—Where the provisions of this Act are applicable to nations, they shall also be applica-

ble, as appropriate, to other entities that have competency to enter into international fishery management agreements.

[(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.]

(b) NOTIFICATION.—*The Secretary shall notify the President and that nation of such an identification.*

* * * * *

(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

* * * * *

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

(A) * * *

* * * * *

(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

* * * * *

SEC. 610. EQUIVALENT CONSERVATION MEASURES.

(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】** *three years* in fishing activities or **【practices;】** *practices—*

(i) * * *

* * * * *

(2) a nation if—

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

* * * * *

(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

【(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection(a), about the provisions of this section and this Act;】

(1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

* * * * *

(c) CONSERVATION CERTIFICATION PROCEDURE.—

(1) * * *

* * * * *

【(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 by catch 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 long line fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and】

(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) 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

* * * * *

(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.

* * * * *

HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

* * * * *

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

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

(a) DENIAL OF PORT PRIVILEGES.—

(1) * * *

(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) or, *as appropriate, for fishing vessels of a nation that receives a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826); 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 purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action.*

* * * * *

(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

* * * * *

(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) * * *

* * * * *

(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 a *negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))*; or

* * * * *

(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 issues a *negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))*, 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 to address the offending activities for which a nation received 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), 1826k(c))*; or

* * * * *

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

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 or *effectively addressed the offending activities for which the nation received a negative certification under 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))*.

* * * * *

NORTH PACIFIC ANADROMOUS STOCKS ACT OF 1992

* * * * *

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

* * * * *

SEC. 810. UNLAWFUL ACTIVITIES.

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

(1) * * *

* * * * *

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any 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, *investigation*, or inspection described in paragraph (5);

* * * * *

NORTHERN PACIFIC ANADROMOUS STOCKS ACT OF 1992

[SECTION 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, 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 of this title 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 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 any 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 of this title 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 chapter 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 chapter, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter.

[(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) of this title 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 chapter 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 chapter.]

SEC. 811. ADDITIONAL PROHIBITIONS AND ENFORCEMENT

For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

PACIFIC SALMON TREATY ACT OF 1985

* * * * *

SEC. 8. PROHIBITED ACTS AND PENALTIES.

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

(1) * * *

(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, *investigation*, or inspection in connection with the enforcement of **[[this title;] this Act;**

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

* * * * *

(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] this Act;**

* * * * *

[(b) 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) 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)(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) 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) 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) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

**WESTERN AND CENTRAL PACIFIC FISHERIES
CONVENTION IMPLEMENTATION ACT**

* * * * *

**TITLE V—IMPLEMENTATION OF WEST-
ERN AND CENTRAL PACIFIC FISH-
ERIES CONVENTION**

* * * * *

SEC. 506. ENFORCEMENT.

(a) * * *

* * * * *

[(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) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.*—*For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

* * * * *

SEC. 507. PROHIBITED ACTS.

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

(1) * * *

(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;

* * * * *

SOUTH PACIFIC TUNA ACT OF 1988

* * * * *

SEC. 5. PROHIBITED ACTS.

(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) * * *

* * * * *

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of con-

ducting a search, *investigation*, or inspection in connection with the enforcement of this Act or 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, *investigation*, or inspection in connection with the enforcement of this Act or the Treaty; or

* * * * *

[SEC. 7. CRIMINAL OFFENSES.

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

[SEC. 8. CIVIL PENALTIES.

[(a) 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 Code 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) 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) 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) 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) 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) 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) 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. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

**ANTARCTIC MARINE LIVING RESOURCES CONVENTION
ACT OF 1984**

* * * * *

**TITLE III—ANTARCTIC MARINE LIVING RESOURCES
CONVENTION**

* * * * *

SEC. 306. UNLAWFUL ACTIVITIES.

It is unlawful for any person—

(1) * * *

* * * * *

(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, *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, *investigation*, or inspection described in paragraph (4);

* * * * *

SEC. 307. REGULATIONS.

(a) *IN GENERAL.*—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.

(b) *REGULATIONS TO IMPLEMENT CONSERVATION MEASURES.*—

(1) *IN GENERAL.*—Notwithstanding subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final regulation to implement any conservation measure for which the

Secretary of State notifies the Commission under section 305(a)(1)—

(A) that has been in effect for 12 months or less;

(B) that is adopted by the Commission; and

(C) with respect to which the Secretary of State does not notify Commission in accordance with section 305(a)(1) within the time period allotted for objections under Article IX of the Convention.

(2) ENTERING INTO FORCE.—Upon publication of such regulation in the Federal Register, such conservation measure shall enter into force with respect to the United States.

[SEC. 308. CIVIL PENALTIES.

[(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.

[(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. 308. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

ATLANTIC TUNAS CONVENTION ACT OF 1975

* * * * *

ADMINISTRATION

SEC. 6. (a) * * *

* * * * *

(c)(1) * * *

(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) Notwithstanding the requirements of subparagraph (A) and subsections (b) and (c) of section 553 of title 5, United States Code, the Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) concerning trade restrictive measures against nations or fishing entities.

* * * * *

VIOLATIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS

SEC. 7. (a) * * *

* * * * *

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

[(g)] (e) 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.

ENFORCEMENT

SEC. 8. [(a)] 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.]

(a) *For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

(b) 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] *enforcement activities with respect to this Act that are otherwise authorized by law* 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] *enforcement activities with respect to this Act that are otherwise authorized by law* 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) 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.]

* * * * *

[ANNUAL REPORT

[SEC. 11. Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

[(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from Nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

[(2) identifies those fishing Nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

[(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

[(4) describes actions taken by the Secretary under section 6.]

SAVINGS CLAUSE

SEC. [12.] 11. Nothing in this Act shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.

SEPARABILITY

SEC. [13.] 12. If any provision of this Act or the applications of such provision to any circumstance or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

HIGH SEAS FISHING COMPLIANCE ACT OF 1995

* * * * *

TITLE I—HIGH SEAS FISHING COMPLIANCE

* * * * *

SEC. 104. PERMITTING.

(a) * * *

* * * * *

[(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 for a vessel is void if—

- (1) *any other permit or authorization required for the vessel to fish is expired, revoked, or suspended; or*
 (2) *the vessel is no longer documented under the laws of the United States or eligible for such documentation.*

* * * * *

DOLPHIN PROTECTION CONSUMER INFORMATION ACT

DOLPHIN PROTECTION

SEC. 901. (a) * * *

* * * * *

[(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) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

NORTHERN PACIFIC HALIBUT ACT OF 1982

* * * * *

SEC. 7. 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, *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, *investigation*, or inspection described in paragraph (2);

[(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.] *section; or*

[(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.

* * * * *

NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995

* * * * *

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

* * * * *

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

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

(1) * * *

(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, *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 conduct of any search, *investigation*, or inspection described in paragraph (2);

* * * * *

[(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 sec-

tion 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) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.*—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the *High Seas Driftnet Fishing Moratorium Protection Act* (16 U.S.C. 1826g).

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MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

* * * * *

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

* * * * *

SEC. 307. PROHIBITED ACTS.

It is unlawful—

(1) for any person—

(A) * * *

* * * * *

(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party; or

* * * * *

TUNA CONVENTIONS ACT OF 1950

* * * * *

[SEC. 2. 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 Repub-

lic 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 3 of this Act;

[(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. 3. 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. 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 Washington, 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 such Conventions, as the context requires.*

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

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

(6) **UNITED STATES COMMISSIONERS.**—*The term “United States commissioners” means the individuals appointed in accordance with section 3(a).*

SEC. 3. COMMISSIONERS.

(a) **COMMISSIONERS.**—*The United States shall be represented on the Commission by 4 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 United States Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce. Not more than 2 United States 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 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 United States 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 United States 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 Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as United States Commissioners or Alternate 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 Inter-American Tropical Tuna Commission and other meetings the Secretary of State deems necessary to fulfill their du-*

ties, 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.

[(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 nongovernmental 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.

[(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.】

(a) GENERAL ADVISORY COMMITTEE.—

(1) APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.—

(A) 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 United States delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow.

(B) 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 ex-officio members of the

General Advisory Committee by virtue of their positions in those Councils.

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

(D) The General Advisory Committee shall be invited to attend all non-executive meetings of the United States delegation 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) The General Advisory Committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this title, 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. The General Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(2) INFORMATION SHARING.—The Secretary and the Secretary of State shall furnish the General Advisory Committee with relevant information concerning fisheries and international fishery agreements.

(3) ADMINISTRATIVE MATTERS.—

(A) 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) Individuals appointed to serve as a member of the General Advisory Committee—

(i) shall serve without pay, but while away from their homes or regular places 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 persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) 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.

(b) SCIENTIFIC ADVISORY SUBCOMMITTEE.—(1) 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.

* * * * *

(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. (a) 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 the Interior,, 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 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 the Interior,, 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.

[(c) 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 the Interior upon approval of such recommendations by the Secretary of State and the Secretary of the Interior. The Secretary of the Interior 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 the Interior 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 recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary of the Interior shall suspend at any time the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he 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 rec-

ommendations. 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 or 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 the Interior may deem necessary to implement the recommendations of the commission: *Provided*, That upon the promulgation of any such regulations the Secretary of the Interior 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 the Interior, 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 the Interior 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. 6. RULEMAKING.

(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 as may be necessary to carry out the United States international obligations under the Convention and this Act, 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 as may be necessary to carry out the United States international obligations under the Convention and this Act, 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.

* * * * *

SEC. 8. (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] *section 6*, 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.

* * * * *

(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to [section 6(c) of this Act] *section 6*, 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] *section 6*. 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] *section 6*.

* * * * *

(i) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

[SEC. 10. (a) 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) 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) 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) 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) 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) 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.

For enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

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

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 ves-

sels fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The bycatch reduction program shall include measures—

(1) * * *

* * * * *

EASTERN PACIFIC TUNA LICENSING ACT OF 1984

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Eastern Pacific Tuna Licensing Act of 1984”.

SEC. 2. DEFINITIONS.

[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 maccoyl* (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, *Auxis 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.

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

[(d) 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 intermittently 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.

[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.

[(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 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.

[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.

[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.

[(a) 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) 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) 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) 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 provisions of this Act.

[SEC. 9. ENFORCEMENT.

[(a) 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 war-

rants or other process as may be required for enforcement of this Act and the regulations issued under section 7.

[(b) 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) 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) 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) 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) 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.

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

