

**Calendar No. 168**

114TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
114-166 }

ILLEGAL, UNREPORTED, AND UNREGU-  
LATED FISHING ENFORCEMENT ACT OF  
2015

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1334



NOVEMBER 10, 2015—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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### ILLEGAL, UNREPORTED, AND UNREGULATED FISHING ENFORCEMENT ACT OF 2015

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

### R E P O R T

[To accompany S. 1334]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1334) 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, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of S. 1334, is to implement an international agreement to address illegal fishing activity and establish uniform procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826 et seq.) and other international fisheries statutes.

#### BACKGROUND AND NEEDS

Many fish stocks around the world have become depleted in the last several decades as a result of fleet overcapacity, overfishing, and ineffective fishery law enforcement regimes. Coastal fishing nations are responsible for managing the stocks that fall within their domestic waters, which extend 200 miles from their coastline, also known as the Exclusive Economic Zone (EEZ). However, many of these coastal nations do not manage for stock sustainability, enforce their regulations effectively, or coordinate management of shared stocks with other fishing nations.

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA, 16 U.S.C. 1801 et seq.), the United States Government exercises jurisdiction over the management of commercial fisheries within the U.S. EEZ. The MSA charges the Secretary of Commerce, through the National Marine Fisheries Service (NMFS), with responsibility for the management of marine fishery resources. The MSA allows Regional Fishery Management Councils to develop management plans, subject to the Secretary of Commerce's approval, that follow the MSA's requirements for rebuilding overfished stocks and setting harvest levels according to science-based catch limits. While fishing activities within U.S. waters are regulated and enforced under the MSA, 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.

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

Illegal, unreported, or unregulated (IUU) fishing, sometimes referred to as pirate fishing, is a global problem that threatens sustainable fisheries and the economies that rely on a healthy ocean. IUU fishing encompasses: fishing activities that violate national laws; unauthorized transshipments or transfers to cargo vessels at sea; fishing using unauthorized gear; fishing without a license or keeping fish that are protected by regulations; or fishing in closed areas. IUU fishing poses an economic threat to legal fishing operations, especially to sustainably managed U.S. commercial fisheries. Between 2000 and 2014, a National Oceanic and Atmospheric Administration (NOAA) spokesperson estimated that the Alaska king crab fishery lost approximately \$560 million from IUU crab fishing,<sup>1</sup> with an additional \$11 million loss to coastal communities,<sup>2</sup> while the U.S. Coast Guard (USCG) estimates that over 1,100 Mexican boats enter U.S. waters annually, taking up to 760,000 pounds of Red Snapper.<sup>3</sup> As the third largest importer of seafood in the world, the United States has an opportunity to boost consumer confidence in the seafood supply by keeping illegal products out of the market. Globally, IUU fishing is an extensive prob-

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<sup>1</sup>NOAA National Marine Fisheries Service. "Efforts to Combat Illegal, Unreported, and Unregulated (IUU) Fishing." Available at: [http://www.nmfs.noaa.gov/mediacenter/docs/2011/sep/iuu\\_factsheet.pdf](http://www.nmfs.noaa.gov/mediacenter/docs/2011/sep/iuu_factsheet.pdf) (accessed July 8, 2013).

<sup>2</sup>Presidential Task Force on Combating Illegal, Unreported, and Unregulated Fishing and Seafood Fraud, Public Meeting. Available at [http://www.nmfs.noaa.gov/ia/iuu/iuu\\_transcript\\_8\\_20\\_14.pdf](http://www.nmfs.noaa.gov/ia/iuu/iuu_transcript_8_20_14.pdf) (accessed March 23, 2015).

<sup>3</sup>U.S. Coast Guard. "Coast Guard interdicted Mexican fishing crew poaching red snapper in U.S. waters" Available at: <http://www.uscgnews.com/go/doc/4007/2476550/Coast-Guard-interdicted-Mexican-fishing-crew-poaching-red-snapper-in-U-S-waters> (accessed May 19, 2015).

lem: between 11 million and 26 million tons of seafood annually is produced by IUU fishing, resulting in estimated losses of \$10 billion to \$23 billion to legal fishing operations.<sup>4</sup> Because IUU fishing is often driven by economic rewards that incentivize risk-taking, strengthening legal frameworks for addressing IUU fishing is one way to make the activity less profitable.

Worldwide, the amount of IUU fishing appears to be increasing as IUU fishermen attempt to avoid stricter fishing rules created to address declining fish stocks.<sup>5</sup> Preventing IUU fishing on the high seas is difficult due to the vast areas of ocean to monitor, enforcement resource limitations, and a high volume of operating fishing vessels. Current international efforts to eliminate IUU fishing are mainly led through the United Nations Food and Agriculture Organization (FAO), and are primarily focused on pressuring individual nations to better control and manage their fishing fleets.

The threat presented by IUU fishing to the U.S. industry was formally recognized in the 2007 amendments to the MSA. The updates to the law required the Secretary of Commerce to improve international fisheries management by: identifying nations that have vessels engaged in IUU fishing; working with the RFMOs to strengthen their ability to reduce IUU fishing activity; building information-sharing capabilities; and seeking the adoption of stronger port state controls in all nations.

Internationally, the United States has actively worked to strengthen the existing RFMOs through renegotiation of their underlying agreements or the negotiation of new protocols. With substantial U.S. involvement, international fishery management organizations have adopted and shared IUU vessel lists; used observers and technologies to monitor compliance; promoted and used centralized vessel monitoring systems (VMS); established trade tracking and documentation schemes; prevented trade in or importation of IUU-caught fish or other living marine resources; and protected vulnerable marine ecosystems. The United States has been a leader in encouraging international bodies to adopt measures to address IUU fishing. In 2001, the FAO adopted the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (IPOA-IUU), which included tools for port states to deal with IUU fishing such as denial of port access and prohibitions on landing and transshipment. The United States implemented the IPOA-IUU with a National Plan of Action in 2004.

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

U.S. international fishery enforcement activities are coordinated closely between the NMFS, the State Department, and the USCG. The NMFS and the USCG also provide input for the State Department's negotiations of fishery treaties and agreements, in addition to reviewing foreign fishing vessel permit applications. The NMFS and the USCG jointly conduct fisheries enforcement patrols and in-

<sup>4</sup>NOAA National Marine Fisheries Service. "Illegal Fishing: Not in Our Ports." Available at: [http://www.nmfs.noaa.gov/ia/iuu/portstate\\_factsheet.pdf](http://www.nmfs.noaa.gov/ia/iuu/portstate_factsheet.pdf) (accessed July 8, 2013).

<sup>5</sup>Agnew, David J., John Pearce, Ganapathiraju Pramod, Tom Peatman, Reg Watson, John R. Beddington, and Tony J. Pitcher. "Estimating the worldwide extent of illegal fishing." *PLoS one* 4, no. 2 (2009): e4570.

vestigations under a wide-ranging memorandum of understanding (MOU). Additionally, the NMFS and the USCG cooperate closely with individual States and territories, and coordinate MSA enforcement in and adjacent to State and territorial waters.

These agencies enforce the provisions of statutes for implementing the terms of the international fisheries treaties and agreements to which the United States is a party. However, as each implementing statute was developed, divergent approaches were often taken for establishing enforcement tools, setting fines and penalties, and carrying out enforcement patrols and investigations. As a result, U.S. international fisheries enforcement efforts are carried out under a patchwork of different standards and statutes. By harmonizing these standards and activities across statutes and with the MSA, U.S. fisheries enforcement officers and lawyers could streamline, clarify, and improve information sharing and coordination, and strengthen their overall approach for targeting IUU fishing. This process also would likely increase the ease and improve the efficiency with which the USCG executes its at-sea fisheries enforcement activities. This is not an unimportant consideration as the USCG seeks to fulfill its mission requirements in the face of an increasingly unpredictable and resource-constrained budgetary and appropriations process.

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

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

Since 2004, the FAO has focused on strengthening port state controls as an effective way of addressing IUU fishing, and a series of workshops and consultations with other international organizations culminated in the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement), which was approved by the FAO Conference in November 2009. Ultimately, the Port State Measures Agreement will deny port entry to IUU fishing vessels and other vessels that support IUU fishing. The Port State Measures Agreement, of which the United States was a primary negotiator and one of its first signatories, is the first global instrument focused specifically on combating IUU fishing. It sets forth minimum standards for the conduct of dockside inspections and training of inspectors and, most significantly, would require parties to restrict port entry and port services to foreign vessels known or suspected of having been involved in IUU fishing, particularly those on the IUU vessel list maintained by an RFMO. Since all fish must be brought to port to enter into trade, closing ports to illegal product is an effective way to prevent, deter, and eliminate IUU fishing. The Port State Measures Agreement would also require information sharing, including the sharing of inspection results, with parties and other relevant actors to the Port State Measures Agreement when evidence of IUU fishing is found during the course of an inspection.

By eliminating so-called “ports of convenience,” the cost of IUU fishing operations will increase, and financial incentives for engaging in IUU fishing should be diminished. It is important to identify vessels associated with IUU activity as they enter ports, because once illegally-caught fish have entered commerce on land it becomes increasingly difficult to identify the origins of the seafood product.

Additionally, the United States has yet to fully ratify and accede to the Antigua Convention, which was negotiated to strengthen and replace the 1949 Convention establishing the first RFMO, the Inter-American Tropical Tuna Commission. The Senate gave its advice and consent to enter into the Antigua Convention in 2005 and the Antigua Convention entered into force in 2010, but the United States must conform its domestic implementing statute, the Tuna Conventions Act of 1950, to the provisions of the Antigua Convention before it deposits its instrument of ratification and accedes to the Antigua Convention.

Many of the requirements that would be made by S. 1334 are consistent with standards and processes already in place in the United States. For example, the USCG already has rules requiring foreign vessels to submit a Notice of Arrival before entering port (33 C.F.R. part 160, subpart C). Foreign-flagged fishing vessels are generally prohibited from landing their catch in U.S. ports, but transport vessels have entered U.S. ports and S. 1334 would allow the United States to deny access to such vessels if they were supporting IUU fishing or carrying illegally-caught fish.

#### SUMMARY OF PROVISIONS

The Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015 would implement the Antigua Convention, strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and implement the Port State Measures Agreement to combat IUU fishing activity. If enacted, S. 1334 would—

- make consistent existing fisheries enforcement laws;
- implement the Antigua Convention, which was ratified by the Senate in 2005;
- strengthen and harmonize the enforcement provisions of U.S. statutes for implementing international fisheries agreements;
- authorize actions regarding foreign vessels engaged in IUU fishing;
- create interagency programs for coordinating international fisheries enforcement and assistance to developing countries;
- require the Secretary of Commerce to designate which ports foreign vessels may seek to enter;
- require foreign vessels to submit certain information to the USCG and restrict port entry and access to port services by vessels that have been engaged in IUU fishing or vessels supporting these activities; and
- authorize dockside vessel inspections and information sharing, including evidence of IUU fishing found during the course of an inspection.

## LEGISLATIVE HISTORY

S. 1334 was introduced by Senators Murkowski, Sullivan, and Schatz on May 13, 2015. Senators Markey and Whitehouse are co-sponsors. On May 20, 2015, the Committee met in open Executive Session and, by a voice vote, ordered S. 1334 to be reported favorably with an amendment in the nature of a substitute. Similar bills passed out of Committee last Congress: S. 267, the Pirate Fishing Elimination Act; S. 269, the International Fisheries Stewardship and Enforcement Act; and H.R. 69, the Illegal, Unreported, and Unregulated Fishing Enforcement Act.

## ESTIMATED COSTS

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

*S. 1334—Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015*

S. 1334 would provide the National Oceanic and Atmospheric Administration (NOAA) with additional tools to enforce fisheries laws and combat illegal, unreported, and unregulated (IUU) fishing. The bill would establish uniform enforcement policies and procedures under the many federal statutes that govern the regulation of commercial fishing. The bill also would allow NOAA to implement two international fishing agreements previously entered into by the United States.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1334 would cost \$2 million over the 2016–2020 period. Because enacting the bill could increase revenues (from civil and criminal penalties) and associated direct spending, pay-as-you-go procedures apply. However, CBO estimates that such increases in penalties and spending would be less than \$500,000 annually and would offset each other in most years.

CBO has reviewed title I of S. 1334 and determined that it contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that titles II and III fall within that exclusion because they would implement international fishing treaties.

*Enforcement of Fisheries Laws*

Title I would authorize the appropriation of \$450,000 a year for NOAA to expand the scope of information considered for identifying IUU vessels and require the agency to keep a list of countries with vessels engaged in IUU fishing in the preceding three years. Assuming appropriation of the authorized amounts, CBO estimates that carrying out those activities would cost about \$2 million over the 2016–2020 period.

Title I also would provide NOAA with greater authority to combat IUU fishing. While the bill would not explicitly mandate an increase in NOAA's enforcement efforts, the enhanced enforcement

authorities could result in additional costs if those authorities increased the number of violations adjudicated by the agency. In 2015, NOAA received appropriations totaling \$66 million to enforce more than 35 federal statutes. Based on information provided by the agency, CBO expects that any increase in enforcement costs under S. 1334 associated with IUU fishing would not be significant in any year.

In addition, title I would make various amendments to portions of the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act. Based on information provided by NOAA, CBO expects that implementing those amendments would not affect the agency's workload because the agency is conducting most of the newly required activities under current law. The authorization of appropriations to carry out the affected portions of those acts expired in 2013; however, the Congress has continued to appropriate funds to conduct activities under those laws. In 2015, the agency received appropriations totaling \$3 million to implement those provisions.

Finally, title I could increase civil and criminal penalties for violations of fisheries laws. Based on information provided by NOAA, CBO estimates that any increase in revenues from penalties would be less than \$500,000 a year and would be offset by similar increases in direct spending from the Crime Victims Fund (for criminal penalties) or by NOAA (for civil penalties) as authorized by existing law.

#### *Implementation of the Antigua Convention*

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

#### *Implementation of the Agreement on Port State Measures*

Title III would require NOAA to identify ports that can be used by foreign vessels, coordinate inspections of those vessels with the U.S. Coast Guard (USCG), deny port entry to vessels that have engaged in IUU fishing, and share information with foreign governments and other entities regarding the results of inspections and any actions taken if IUU fishing is discovered. Title III also would establish civil and criminal penalties for entities that violate provisions in the bill.

Based on information provided by NOAA and the USCG, CBO estimates that implementing title III would have no significant effect on the federal budget. The affected agencies already carry out the activities required under the bill. Enacting the legislation could increase revenues (from civil and criminal penalties) and associated direct spending; however, CBO estimates that such increases would be small and would offset each other in most years.

On June 12, 2015, CBO transmitted a cost estimate for H.R. 774, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015, as ordered reported by the House Committee on Natural

Resources on April 30, 2015. The two pieces of legislation are similar and the estimated budgetary effects are the same.

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs), Jon Sperl (for intergovernmental mandates), and Amy Petz (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT

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

##### NUMBER OF PERSONS COVERED

S. 1334 would make refinements to the existing statutory authorities of NOAA, the NMFS and the USCG to better enable them to limit and regulate access to U.S. ports and port services in order to curtail IUU fishing activity. It would authorize the Secretary of Commerce to designate ports to which foreign vessels involved in fishing or fishing-related activity may request entry, and to require such vessels to provide advance notice for such requests. It generally would require the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to deny port entry to those vessels known to have engaged in or supported IUU fishing, as well as to prohibit vessels already in U.S. ports from landing, transshipping, packaging, or processing fish where there is evidence they have engaged in or supported IUU fishing. The provisions of the bill would generally apply with respect to foreign vessels seeking entry to or in a port subject to the jurisdiction of the United States, vessels of the United States seeking entry to or in a port subject to the jurisdiction of another party to the Port State Measures Agreement, and persons who are subject to the jurisdiction of the United States.

S. 1334 would strengthen and harmonize the enforcement provisions of a number of implementing statutes for international fisheries agreements to which the United States is a party; authorize actions regarding foreign vessels engaged in IUU fishing; authorize actions regarding the importation of IUU fish and fish product into the United States; facilitate provision of international fisheries enforcement technical expertise, training, and other assistance to developing countries; and make technical and clarifying changes to international fisheries statutes. It would authorize the Secretary of Commerce to promulgate regulations necessary to carry out the enforcement authorities under section 101 of this Act and each act to which that section would apply. Persons subject to enforcement proceedings under these provisions could be subject to new regulations.

##### ECONOMIC IMPACT

The legislation is not expected to have a negative impact on the Nation's economy and in fact, would have a positive impact. IUU-caught fish significantly undercut the value of legally, sustainably caught fish in the United States and elsewhere around the world. Because S. 1334 would substantially curtail the entry of IUU-

caught fish into the stream of commerce in the United States, it is expected to have a positive impact on the domestic fishing and seafood industries. The Secretary of Commerce would be allowed to reimburse United States Commissioners for travel expenses.

#### PRIVACY

The reported bill would have little, if any, impact on the personal privacy of individuals.

#### PAPERWORK

S. 1334 would require a vessel covered by the Act to submit to the USCG Captain of the Port certain basic information about the vessel when it is requesting port entry. However, much of the information (such as a vessel's name, type, flag state, dimensions, destination, estimated date and time of arrival, IMO ship identification number, international radio call sign) is already reported and available to the USCG via automated information system transmissions, the USCG's Marine Information Safety and Law Enforcement System, and other sources. Because the bill would require that the procedure for submitting vessel information utilize existing USCG reporting mechanisms to the maximum extent possible, S. 1334 is not expected to impose any new paperwork requirements on private citizens, businesses, or other entities that do not choose to participate in international fisheries activities; those who do participate in this industry may be subject to some changes in the paperwork requirements to meet emerging program needs. By replacing multiple requirements for Federal enforcement of high seas fishing law with a single set of national requirements, S. 1334 will likely reduce paperwork requirements for individuals, businesses, and enforcement agencies. It would streamline enforcement for the owners and operators of approximately 70,000 vessels with respect to high seas fishing.

#### CONGRESSIONALLY DIRECTED SPENDING

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

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title.*

This section would designate the short title of this bill, the "Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015."

##### *Section 2. Table of contents.*

This section would provide the table of contents.

## TITLE I— STRENGTHENING FISHERIES ENFORCEMENT MECHANISMS

*Section 101. Amendments to the High Seas Driftnet Fishing Moratorium Protection Act.*

This section would change responsibility of the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act from the President to the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating, and would allow them to use the assets of Federal and State agencies in their duties. This section would apply to the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.), the Dolphin Protection Consumer Information Act (16 U.S.C. 1385), the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.), the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.), the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.), the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), and the Antigua Convention Implementing Act of 2015. The Secretary of Commerce would be allowed to engage in international cooperation to help other nations combat IUU fishing. The existing enforcement provisions of the MSA would apply to enforcement of this Act, the authority of authorized officers, and data disclosure. The data confidentiality provisions of the MSA would not apply to obligations of the United States to share information under a RFMO or with respect to foreign vessels. Violating any regulation or permit issued pursuant to this Act, refusing an inspection by an authorized officer, assaulting an officer, resisting arrest, and interfering with or impeding an investigation by any NMFS data collector or observer would be prohibited. Civil and criminal penalties of the existing MSA would apply.

The Secretary of Commerce would be allowed to develop a list of vessels that have engaged in IUU fishing and to take appropriate action against them in accordance with U.S. law. These vessels would be identified using data from the international fishery management organizations and listed in a report if they have engaged in IUU fishing within three years. The definition of IUU fishing would be expanded to include fishing that has undermined the effectiveness of measures taken by an international fishery management organization. Nations would be listed in the report if they are violating, or failing to address or regulate IUU fisheries in the preceding three years. The Secretary of Commerce would be required to notify the President when a nation has been listed on the IUU list. Nations which have been IUU listed would be notified and informed about the provisions of this Act.

The Secretary of Commerce would be allowed to establish a procedure to authorize the importation of fish products from countries or vessels that have been on the IUU list in the last three years if they can demonstrate that they are now fishing in such a way as to avoid bycatch of protected species and are using practices comparable to those used in the United States. Additional changes in this section would ensure consistency.

*Section 102. Amendments to the High Seas Driftnet Fisheries Enforcement Act.*

This section would revoke clearance into U.S. ports of vessels from a nation that has been listed as participating in IUU fishing, except for the purposes of inspection or enforcement. IUU fishing references would be removed from this Act because they would now be covered in the High Seas Driftnet Fishing Moratorium Protection Act. Prohibitions from the High Seas Driftnet Fisheries Enforcement Act would be applied to IUU listed vessels, and within six months the Secretary of Commerce would be required to determine whether the prohibitions are sufficient to cause the nation to address the activities that led to their IUU listing.

*Section 103. Amendments to the North Pacific Anadromous Stocks Act of 1992.*

This section would add “investigation” to “search or inspection,” as activities during which it is unlawful to refuse an enforcement officer to board a vessel for purposes of an investigation, or to assault, impede, or interfere with an officer. The penalties and enforcement sections of the North Pacific Anadromous Stocks Act of 1992 would be replaced with the penalties and enforcement sections of the High Seas Driftnet Fishing Moratorium Protection Act.

*Section 104. Amendments to the Pacific Salmon Treaty Act of 1985.*

This section would add “investigation” to “search or inspection,” as activities during which it is unlawful to refuse an enforcement officer to board a vessel for purposes of an investigation, or to assault, impede, or interfere with an officer. The prohibitions and enforcement sections of the Pacific Salmon Treaty Act of 1985 would be struck out and would refer instead to the prohibitions and enforcement sections of the High Seas Driftnet Fishing Moratorium Protection Act.

*Section 105. Amendments to the Western and Central Pacific Fisheries Convention Implementation Act.*

The prohibitions and enforcement sections of the Western and Central Pacific Fisheries Convention Implementation Act would be struck out and would refer instead to the prohibitions and enforcement sections of the High Seas Driftnet Fishing Moratorium Protection Act.

*Section 106. Amendments to the Antarctic Marine Living Resources Convention Act.*

This section would remove the requirement for a person who is violating the Antarctic Marine Living Resources Convention Act to do so knowingly. It would add “investigation” to “search or inspection,” as activities during which it is unlawful to refuse an enforcement officer to board a vessel for purposes of an investigation, or to assault, impede, or interfere with an officer. It also would allow the Secretary of Commerce to publish a final regulation for conservation measures that have been in effect for 12 months or less and have been adopted by the commission and enters these regulations into force when published.

*Section 107. Amendments to the Atlantic Tunas Convention Act.*

This section would allow the Secretary of Commerce to issue trade restriction measures against nations or fishing entities that violate the Atlantic Tunas Convention Act. The sanctions, forfeiture, and parts of the enforcement sections of that Act would be struck out and would refer instead to the prohibitions and enforcement sections of the High Seas Driftnet Fishing Moratorium Protection Act. The requirement for an annual report would be removed.

*Section 108. Amendments to the High Seas Fishing Compliance Act of 1965.*

This section would remove the five-year limitations of the permit for the High Seas Fishing Compliance Act of 1965, void a permit issued if one or more permits required for a vessel to fish expire, are revoked, or suspended, or the vessel is no longer eligible for U.S. documentation.

*Section 109. Amendments to the Dolphin Protection Consumer Information Act.*

The prohibitions and enforcement sections of the Dolphin Protection Consumer Information Act would be struck out and would refer instead to the prohibitions and enforcement sections of the High Seas Driftnet Fishing Moratorium Protection Act.

*Section 110. Amendments to the Northern Pacific Halibut Act of 1982.*

This section would add “investigation” to “search or inspection,” as activities during which it would be unlawful to refuse an enforcement officer to board a vessel for purposes of an investigation, or to assault, impede, or interfere with an officer. Technical corrections also would be made.

*Section 111. Amendments to the Northwest Atlantic Fisheries Convention Act of 1995.*

The civil and criminal penalties, civil forfeitures, enforcement, fish disposal, and jurisdiction sections of the Northwest Atlantic Fisheries Convention Act of 1995 would be struck out and would refer instead to the prohibitions and enforcement sections of the High Seas Driftnet Fishing Moratorium Protection Act. It would add “investigation” to “search or inspection,” as activities during which it is unlawful to refuse an enforcement officer to board a vessel for purposes of an investigation, or to assault, impede, or interfere with an officer.

*Section 112. Amendment to the Magnuson-Stevens Fishery Conservation and Management Act.*

This section would add a prohibition on the import, export, sale, acquisition, or purchase of fish that have been taken or sold in violation of treaties to which the United States is a party.

## TITLE II— IMPLEMENTATION OF THE ANTIGUA CONVENTION

*Section 201. Short title.*

This section would designate the short title of title II of the bill as the “Antigua Convention Implementing Act of 2015.”

*Section 202. Amendment of the Tuna Conventions Act of 1950.*

This section would apply all changes made in S. 1334 to other acts to the Tuna Conventions Act of 1950.

*Section 203. Definitions.*

This section would define the following terms: “Antigua Convention”; “Commission”; “Convention”; “person”; “United States”; and “United States Commissioners.”

*Section 204. Commissioners; number, appointment, and qualifications.*

This section would direct the President to appoint five United States Commissioners to represent the United States on the Inter-American Tropical Tuna Commission, who would be supervised by the Secretary of State. It would limit the number of outside commissions and would allow the Secretary of State to designate alternates. United States Commissioners would not be considered Federal employees and receive no compensation, but may be reimbursed for travel expenses. The Secretary of Commerce would be allowed to reimburse the Secretary of State for expenses incurred under this Act.

*Section 205. General Advisory Committee and Scientific Advisory Subcommittee.*

This section would direct the Secretary of Commerce, in consultation with the Secretary of State, to appoint a General Advisory Committee, consisting of no more than 25 individuals. This section also would direct the Secretary of Commerce, in consultation with the Secretary of State, to appoint a Scientific Advisory Subcommittee consisting of 5 to 15 qualified scientists. This section would describe how the committee and subcommittee should be set up.

*Section 206. Rulemaking.*

This section would direct the Secretary of Commerce to consult with the Secretary of State and, when appropriate, the Secretary of the department in which the Coast Guard is operating to promulgate regulations necessary to carry out U.S. responsibilities under the Antigua Convention and the Tuna Conventions Act of 1950.

*Section 207. Prohibited acts.*

This section would incorporate into the Tuna Conventions Act of 1950, as amended, the prohibited acts under section 606 of the High Seas Driftnet Fishing Moratorium Protection Act.

*Section 208. Enforcement.*

This section would enforce the Tuna Conventions Act of 1950, as amended, under section 606 of the High Seas Driftnet Fishing Moratorium Protection Act.

*Section 209. Reduction of bycatch.*

This section would make a technical correction.

*Section 210. Repeal of Eastern Pacific Tuna Licensing Act of 1984.*

This section would repeal the Eastern Pacific Tuna Licensing Act of 1984 (16 U.S.C. 972 et seq.).

## TITLE III— STRENGTHENING FISHERIES ENFORCEMENT MECHANISMS

*Section 301. Short title.*

This section would designate the short title of title III of the bill as the “Port State Measures Agreement Act of 2015.”

*Section 302. Purpose.*

This section would state that the purpose of this title of the bill is to implement the Port State Measures Agreement.

*Section 303. Definitions.*

This section would define the following terms: “Agreement” as the Port State Measures Agreement; “fish”; “fishing”; “IUU fishing”; “Listed IUU vessel”; “Magnuson-Stevens Act”; “person”; “RFMO”; “Secretary”; and “vessel.”

*Section 304. Duties and authorizations of the Secretary.*

This section would authorize the Secretary of Commerce to promulgate regulations to carry out this Act. It would authorize the Secretary of Commerce to consult with the Secretary of State, the Secretary of Homeland Security, and the Secretary of the department in which the Coast Guard is operating to develop procedures to carry out this Act. This section would require the Secretary to develop and share a list of ports to which vessels may seek entry under the Act, and would authorize the Secretary to cooperate with the FAO to facilitate information sharing relevant to the Port State Measures Agreement. This section would require the Secretary of Commerce to maintain, and to make readily available, information about legal remedies available to persons affected by actions under this Act. Finally, this section would allow the Secretary of Commerce to request confirmation that fish on board a foreign vessel in a U.S. port were taken in accordance with RFMO measures.

*Section 305. Authorization or denial of port entry.*

This section would require a foreign vessel to submit certain information in advance of its arrival to the Secretary of the department in which the Coast Guard is operating, and for those procedures to conform to existing reporting mechanisms utilized by the USCG. This section would authorize the Secretary of Commerce to authorize port entry or to deny port entry to a vessel that is known or suspected of IUU fishing or supporting IUU fishing. This section would authorize the Secretary of Commerce to allow port entry to a vessel that would otherwise be denied if the vessel or a person

aboard needs assistance, if the vessel is going to be scrapped, or to inspect the vessel or carry out enforcement.

*Section 306. Inspections.*

This section would authorize the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to conduct vessel inspections and to take enforcement action against vessels found to have been engaged in IUU fishing or related activities.

*Section 307. Prohibited acts.*

This section would make it unlawful for any person to: violate this Act; refuse an authorized officer to board, search, or inspect a vessel or facility; or submit false information. For other prohibitions this Act refers to the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C 6901 et seq.).

*Section 308. Enforcement.*

This section would apply the enforcement authorities under the MSA and subsection (b) of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2439(b)) to the enforcement of this title. This section would authorize the Secretary of Commerce to enforce this Act with the same authority as defined in the MSA. This section would specify that civil penalties, the ability of the Secretary of Commerce to take action, in rem jurisdiction, forfeiture, and criminal enforcement, shall be consistent with those defined in the MSA. The Secretary of Commerce would be authorized to refer persons who do not pay civil penalties under this law to the Attorney General, who shall recover the amount of the penalty. This section would apply to all current law on seizure of property to this title, and would authorize customs enforcement agents to enforce this law.

*Section 309. International cooperation and assistance.*

This section would authorize the Secretary of Commerce to provide assistance, including grants, to other nations and international organizations for the purposes of assisting other nations to meet their obligations under the Port State Measures Agreement. The Secretary of Commerce would be authorized by this section to use resources of other entities.

*Section 310. Relationship to other laws.*

This section would clarify that this Act would not displace any requirements of U.S. customs laws or any other laws or regulations enforced or administered by the Department of Homeland Security, and that this Act would not affect a vessel's ability to enter ports for reasons of force majeure or distress.

CHANGES IN EXISTING LAW

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

## HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT

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

### SEC. 606. ENFORCEMENT.

[16 U.S.C. 1826g]

#### 【The President】

(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 the following Acts:*

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

(6) *The Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.).*

(7) *The Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.).*

(8) *The Antigua Convention Implementing Act of 2015.*

(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, 1859, 1860, and 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.—

(A) *IN GENERAL.*—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. 971 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—

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

(ii) 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.

(B) *DATA CONFIDENTIALITY PROVISIONS NOT APPLICABLE.*—The data confidentiality provisions of section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a) shall not apply with respect to this Act with respect to—

(i) any obligation of the United States to share information under a Regional Fishery Management Organization to which the United States is a party; or

(ii) with respect to any information collected by the Secretary regarding foreign vessels.

(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 paragraph (2), (3), (4), (5), or (6) of subsection (e) 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 high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

#### **SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.**

[16 U.S.C. 1826h]

The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and every 2 years thereafter, a report that includes—

(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to

treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

(2) a list of nations [whose vessels] *that* have been identified under section 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

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

[16 U.S.C. 1826i]

(a) *IN GENERAL.*—The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations, or arrangements made pursuant to an international fishery agreement, in conserving and managing fish stocks under their jurisdiction. These actions shall include—

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

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

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

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

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

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

(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;

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

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

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

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

(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and

(4) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

(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. 971 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.*

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

[16 U.S.C. 1826j]

(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] a fishing vessel of that nation is engaged or has 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 paragraph (1), the Secretary shall identify, and list in such report, a nation—*

(A) *if it is violating, or has violated at any point during the preceding 3 years, conservation and management meas-*

ures 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.

[(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 an identification made under subsection (a).

(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

(1) notify nations listed in the report of the requirements of this section;

(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

(d) IUU CERTIFICATION PROCEDURE.—

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

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

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

(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure [for certification,] 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) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

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

(3) EFFECT OF CERTIFICATION.—

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

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

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

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

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

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

\* \* \* \* \*

**SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

[16 U.S.C. 1826k]

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

(1) a nation if—

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

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

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

(B) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

- (C) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions; and
- (2) a nation if—
- (A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and
- (B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.
- (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 other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;*
- (2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;
- (3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and
- (4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.
- (c) CONSERVATION CERTIFICATION PROCEDURE.—
- (1) DETERMINATION.—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—
- (A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

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

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

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

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

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

(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*

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

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

\* \* \* \* \*

## HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

[106 Stat. 4900]

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

[16 U.S.C. 1826a]

## (a) DENIAL OF PORT PRIVILEGES.—

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

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

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph [(1)] (1) or, as appropriate, for fishing vessels of a nation that receives a negative certification under section 609(d) or section 610(e) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) and 1826k(c)); and

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

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

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

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

## (b) SANCTIONS.—

## (1) IDENTIFICATIONS.—

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

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

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

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

sive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

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

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

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

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph [(1)(A);] *(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) and 1826k(c))*; or

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

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

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

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than six months after the date the Secretary of Commerce identifies a nation under [paragraph (1),] *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) and 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] *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 Fish-*

ing *Moratorium Protection Act* (16 U.S.C. 1826j(d), 1826k(c)); or

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

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

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

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

[16 U.S.C. 1826b]

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

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

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

**SEC. 306. UNLAWFUL ACTIVITIES.**

[16 U.S.C. 2435]

It is unlawful for any person—

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

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

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

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any search, *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);

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

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

**SEC. 307. REGULATIONS.**

[16 U.S.C. 2436]

(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.**

[16 U.S.C. 2437]

[(a) *ASSESSMENT OF PENALTIES.*—

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

as justice may require, to the extent that such information is reasonably available to the Secretary.

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

(a) *IN GENERAL.*—*Any person who commits an act that is unlawful under section 306 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).*

\* \* \* \* \*

## NORTH PACIFIC ANADROMOUS STOCKS ACT OF 1992

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

### SEC. 810. UNLAWFUL ACTIVITIES.

[16 U.S.C. 5009]

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

- (1) to fish for any anadromous fish in the Convention area;
- (2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;
- (3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;
- (4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;
- (5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purchases 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);
- (7) to resist a lawful arrest or detection for any act prohibited by this section;
- (8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or
- (9) to violate any provision of the Convention, this title, or any regulation issued under this title.

### [SEC. 811. PENALTIES.

[16 U.S.C. 5010]

[(a) CIVIL PENALTIES.—

[(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed

an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

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

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

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

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

【(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such

person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

[(b) OFFENSES.—

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

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

[(c) FORFEITURE.—

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

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

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

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

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

[(C) the remission or mitigation of any such forfeiture;

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

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

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

[(ii) discharge any fish seized pursuant to such process; upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such

person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

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

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

**SEC. 811. 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

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

**SEC. 8. PROHIBITED ACTS AND PENALTIES.**

[16 U.S.C. 3637]

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

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

(2) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search, *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)*;

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

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

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

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

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

[(d) FORFEITURE.—

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

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

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

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

[(1) enter restraining orders or prohibitions;

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

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

and

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

(b) *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

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

### SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.

[16 U.S.C. 6902]

(a) *IN GENERAL.*—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks and commercial fishing in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the [Department of Commerce,] *Federal Government*, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary

and to select a chairman from among members who are officers or employees of the United States Government.

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**SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.**

[16 U.S.C. 6904]

(a) PROMULGATION OF REGULATIONS.—**[The Secretary,]**

(1) *IN GENERAL.*— *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, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this title, 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 WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).*

**[(b)](2) ADDITIONS TO FISHERY REGIMES AND REGULATIONS.**—The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

(b) *AUTHORITY TO DENY PORT PRIVILEGES OR PROHIBIT FISH IMPORTS.*—*If the Secretary determines that another Commission member with a significant harvest of fish stocks covered by the Convention, or a significant amount of fishing occurring in its waters, is not complying with the Commission’s conservation and management measures in an effective manner or in a manner comparable to compliance by vessels of the United States, the Secretary, in consultation with the Secretary of State, may take action with respect to such member to deny port privileges or apply prohibitions on imports of fish and fish products in the same manner as provided for high-seas large-scale driftnet fishing in the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a et seq.).*

(c) *PROHIBITION ON TRANSFER OF FISHING CAPACITY, FISHING CAPACITY RIGHTS, OR FISHING VESSELS.*—*The Secretary shall not make any agreement, take any action, or promulgate any regulation which requires the transfer, to other nations or foreign entities, of the fishing capacity, fishing capacity rights, or fishing vessels of the United States or its territories.*

**SEC. 506. ENFORCEMENT.**

[16 U.S.C. 6905]

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**[(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.

[16 U.S.C. 6906]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ATLANTIC TUNAS CONVENTION ACT OF 1975

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

### SEC. 6. ADMINISTRATION.

[16 U.S.C. 971d]

\* \* \* \* \*

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

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

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

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

(2)(A) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through [(A)] (i) submission of written data, views, or arguments, and [(B)] (ii) oral presentation at a pub-

lic 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.*

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

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

(B) divide the Convention waters into areas;

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

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

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

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

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

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

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

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

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.

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

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

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

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

(6) IDENTIFICATION AND NOTIFICATION.—

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

(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar

year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

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

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

(B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

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

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

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

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

\* \* \* \* \*

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

[16 U.S.C. 971e]

(a) IN GENERAL.—It shall be unlawful—

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

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

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

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

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

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

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

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

#### SEC. 8. ENFORCEMENT.

[16 U.S.C. 971f]

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

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

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

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

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

(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) INTERNATIONAL ENFORCEMENT.—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 with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

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

#### **[SEC. 11. ANNUAL REPORT.**

[16 U.S.C. 971j]

[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.]

**SEC. [12.]11. SAVINGS CLAUSE.**

[16 U.S.C. 971k]

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

**SEC. [13.]12. SEPARABILITY.**

[16 U.S.C. 971 note]

If any provision of this Act or the application 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**

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

**SEC. 104. PERMITTING.**

[16 U.S.C. 5503]

\* \* \* \* \*

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

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

**FISHERY CONSERVATION AMENDMENTS OF 1990**

[104 Stat. 4436]

**SEC. 901. DOLPHIN PROTECTION.**

(a) **SHORT TITLE.**—This section may be cited as the “Dolphin Protection Consumer Information Act”.

\* \* \* \* \*

[(e) **ENFORCEMENT.**—Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) that is false is liable for a civil penalty of not to exceed

\$100,000 assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.】

(e) *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

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

### SEC. 7. PROHIBITED ACTS.

[16 U.S.C. 773e]

It is unlawful—

【(a)】 (1) for any person subject to the jurisdiction of the United States—

【(1)】 (A) to violate any provision of the Convention [unclassified], 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 [unclassified], 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 [unclassified], 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 [unclassified], this Act and regulations adopted under this Act.

## NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995

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

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

[16 U.S.C. 5606]

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

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

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search, *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);

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

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

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

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

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

[(d) CIVIL FORFEITURES.—

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

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

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

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

[(1) enter restraining orders or prohibitions;

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

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

and

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

(b) *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).*

MAGNUSON-STEVENSON FISHERY CONSERVATION AND  
MANAGEMENT ACT

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

**SEC. 307. PROHIBITED ACTS.**

[16 U.S.C. 1857]

It is unlawful—

(1) for any person—

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

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

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

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

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

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

(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act;

(J) to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster of the species *Homarus americanus*, that—

(i) is smaller than the minimum possession size in effect at the time under the American Lobster Fishery Management Plan, as implemented by regulations

published in part 649 of title 50, Code of Federal Regulations, or any successor to that plan implemented under this title, or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.);

(ii) is bearing eggs attached to its abdominal appendages; or

(iii) bears evidence of the forcible removal of extruded eggs from its abdominal appendages;

(K) to steal or attempt to steal or to negligently and without authorization remove, damage, or tamper with—

(i) fishing gear owned by another person, which is located in the exclusive economic zone,

(ii) fish contained in such fishing gear;

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

(M) to engage in large-scale driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation;

(N) to strip pollock of its roe and discard the flesh of the pollock;

(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A);

(P)(i) to remove any of the fins of a shark (including the tail) at sea;

(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;

(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

(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or in the waters of another country, after the Secretary has made a pay-

ment to the owner of that fishing vessel under section 312(b)(2).

For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term “naturally attached”, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.

\* \* \* \* \*

## TUNA CONVENTIONS ACT OF 1950

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

### SEC. 2. DEFINITIONS.

[16 U.S.C. 951]

【As used in this Act, the term—

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

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

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

**ISEC. 3. COMMISSIONERS; NUMBER, APPOINTMENT, AND QUALIFICATION.**

[16 U.S.C. 952]

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

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

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

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

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

**SEC. 3. COMMISSIONERS.**

(a) *COMMISSIONERS.*—

(1) *IN GENERAL.*—The United States shall be represented on the Commission by 5 United States Commissioners.

(2) *APPOINTMENT.*—The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, including the following:

(A) 1 Commissioner shall be an officer or employee of the Department of Commerce.

(B) 1 Commissioner shall be the chairman or a member of the Western Pacific Fishery Management Council.

(C) 1 commissioner shall be the chairman or a member of the Pacific Fishery Management Council.

(3) *LIMITATION.*—No more than 2 Commissioners may 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.

(d) *SUPERVISION.*—United States Commissioners and alternative commissioners shall be subject to the supervision of the Secretary of Commerce.

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

[16 U.S.C. 953]

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

[(1) appoint a General Advisory Committee which shall be composed of not less than 5 nor more than 15 persons with balanced representation from the various groups participating in

the fisheries included under the conventions, and from non-governmental conservation organizations;

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

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

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

(a) *GENERAL ADVISORY COMMITTEE.*—

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

(A) *GENERAL ADVISORY COMMITTEE.*—*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) *EX-OFFICIO MEMBERS.*—*The chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council's Advisory Committee, or the designee of such a chair, shall be ex-officio members of the General Advisory Committee by virtue of their positions in those Councils.*

(C) *TERM.*—*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) *PARTICIPATION IN MEETINGS.*—*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) *AUTHORITIES.*—*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 a 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 Com-*

*mittee 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.*

**[(b) FUNCTIONS.—**

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

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

(1) *APPOINTMENT.—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.*

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

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

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

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

- (i) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission;
- (ii) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research;
- (iii) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments;
- (iv) consulting with other experts as needed; and

(v) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or its equivalent).

(C) *OTHER AUTHORITIES.*—*The Scientific Advisory Subcommittee 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 a convention.*

(D) *PUBLIC ACCESS.*—

(i) *ORGANIZATION, PRACTICES, AND PROCEDURES.*—*The Scientific Advisory Subcommittee shall publish and make available to the public a statement of its organization, practices, and procedures.*

(ii) *MEETINGS.*—*Meetings of the Scientific Advisory Subcommittee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.*

(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.*

(c) *ADMINISTRATIVE MATTERS.*—

(1) *TECHNICAL SUPPORT.*—*The Secretary shall provide to the General Advisory Committee and the Scientific Advisory Subcommittee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the Committee and the Subcommittee.*

(2) *NO CLASSIFICATION AS FEDERAL EMPLOYEES.*—*Individuals appointed to serve as a member of the General Advisory Committee or the Scientific Advisory Subcommittee—*

(A) *shall serve without pay, but while away from their homes or regular places of business to attend meetings of the General Advisory Committee or the Scientific Advisory Subcommittee, as appropriate, 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*

(B) *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.*

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

[16 U.S.C. 955]

**[(a) APPROVAL OF COMMISSION BYLAWS AND RULES; ACTION ON REPORTS, REQUESTS, AND RECOMMENDATIONS.**—The Secretary of State is authorized to approve or disapprove, on behalf of the

United States Government, bylaws and rules, or amendments thereof, adopted by each commission and submitted for approval of the United States Government in accordance with the provisions of the conventions, and, with the concurrence of the Secretary of 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.—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) RULEMAKING PROCEDURES; PROHIBITIONS.—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 recommendation 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 recommendations. The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or

landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this Act; and such other measures incidental thereto as the Secretary of 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 obli-*

*gations 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. VIOLATIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS.**

[16 U.S.C. 957]

(a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to [section 6(c) of this Act] *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.

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

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

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

(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

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

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

(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been

incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

(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. ENFORCEMENT OF 16 USCS §§ 951 ET SEQ.**

[16 U.S.C. 959]

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

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

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

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

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

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

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

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

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

**SEC. 10. ENFORCEMENT.**

*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.**

[16 U.S.C. 962]

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

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

**EASTERN PACIFIC TUNA LICENSING ACT OF 1984**

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

**【SEC. 2. DEFINITIONS.**

[16 U.S.C. 972]

【As used in this Act—

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

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

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

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

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

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

[16 U.S.C. 972a]

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

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

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

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

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

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

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

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

[16 U.S.C. 972b]

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

**【SEC. 5. APPLICATION TO OTHER LAWS.**

[16 U.S.C. 972c]

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

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

**【SEC. 6. DISPOSITION OF FEES.**

[16 U.S.C. 972d]

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

**【SEC. 7. REGULATIONS.**

[16 U.S.C. 972e]

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

**【SEC. 8. PROHIBITED ACTS.**

[16 U.S.C. 972f]

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

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

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

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

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

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

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

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

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

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

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

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

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

**[SEC. 9. ENFORCEMENT.]**

[16 U.S.C. 972g]

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

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

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

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

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

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

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

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

**[SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

[16 U.S.C. 972h]

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