

“(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.”

§ 1826b. Duration of denial of port privileges and sanctions

Any denial of port privileges or sanction under section 1826a of this title 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 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 1826j(d)¹ or 1826k(c) of this title.

(Pub. L. 102-582, title I, §102, Nov. 2, 1992, 106 Stat. 4903; Pub. L. 109-479, title IV, §403(b)(2), Jan. 12, 2007, 120 Stat. 3632; Pub. L. 114-81, title I, §102(b), Nov. 5, 2015, 129 Stat. 656.)

Editorial Notes

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fisheries Enforcement Act, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2015—Pub. L. 114-81 struck out “or illegal, unreported, or unregulated fishing” after “driftnet fishing” and inserted “or effectively addressed the offending activities for which the nation received a negative certification under 1826j(d) or 1826j(c) of this title” before period at end.

2007—Pub. L. 109-479 inserted “or illegal, unreported, or unregulated fishing” after “driftnet fishing”.

§ 1826c. Definitions

In sections 1826a to 1826c of this title, the following definitions apply:

(1) Fish and fish products

The term “fish and fish products” means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) Large-scale driftnet fishing

(A) In general

Except as provided in subparagraph (B), the term “large-scale driftnet fishing” means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) Exception

Until January 1, 1994, the term “large-scale driftnet fishing” does not include the use in the northeast Atlantic Ocean of

gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) Large-scale driftnet fishing vessel

The term “large-scale driftnet fishing vessel” means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

(Pub. L. 102-582, title I, §104, Nov. 2, 1992, 106 Stat. 4903.)

Editorial Notes

REFERENCES IN TEXT

Sections 1826a to 1826c of this title, referred to in text, was in the original “this title”, meaning title I of Pub. L. 102-582, Nov. 2, 1992, 106 Stat. 4901, which enacted sections 1826a to 1826c of this title and amended section 1371 of this title. For complete classification of title I to the Code, see Tables.

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fisheries Enforcement Act, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826d. Prohibition

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

(Pub. L. 104-43, title VI, §603, Nov. 3, 1995, 109 Stat. 392.)

Editorial Notes

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

CONGRESSIONAL FINDINGS

Pub. L. 104-43, title VI, §602, Nov. 3, 1995, 109 Stat. 391, provided that: “The Congress finds that—

“(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusive economic zone of any nation, including the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV, Public Law 100-220) [16 U.S.C. 1822 note], the Driftnet Act Amendments of 1990 (Public

¹ So in original. Probably should be preceded by “section”.

Law 101-627) [16 U.S.C. 1826], and the High Seas Driftnet Fisheries Enforcement Act (title I, Public Law 102-582) [see Short Title of 1992 Amendment note set out under section 1801 of this title];

“(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

“(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

“(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

“(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

“(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.”

§ 1826e. Negotiations

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

(Pub. L. 104-43, title VI, §604, Nov. 3, 1995, 109 Stat. 392.)

Editorial Notes

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826f. Certification

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 1826d of this title will not be violated if such agreement is signed or provisionally applied.

(Pub. L. 104-43, title VI, §605, Nov. 3, 1995, 109 Stat. 392.)

Editorial Notes

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

§ 1826g. Enforcement

(a) In general

The Secretary and the Secretary of the department in which the Coast Guard is operating

shall enforce this Act, and the Acts to which this section applies, in accordance with this section. Each such Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

(b) Acts to which section applies

This section applies to—

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

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

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

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

(5) the 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; and

(9) the Ensuring Access to Pacific Fisheries Act.

(c) Administration and enforcement

(1) In general

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

(2) International cooperation

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

(d) Special rules

(1) Additional enforcement authority

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

(2) Disclosure of enforcement information

(A) In general

The Secretary, subject to the data confidentiality provisions in section 402 of the