

Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

At 5:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 641) to reauthorize the Ryan White CARE Act of 1990, and for other purposes, disagreed to by the Senate, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BLILEY, Mr. BILIRAKIS, Mr. COBURN, Mr. WAXMAN, and Mr. STUDDS as the managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 790) to provide for the modifications or elimination of Federal reporting requirements.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2099) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes, and the House recedes from its disagreement to the amendment of the Senate and concurs therein with an amendment.

#### ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1058. An act to reform Federal securities litigation, and for other purposes.

H.R. 2204. An Act to extend and reauthorize the Defense Production Act of 1950, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

#### MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second time and placed on the calendar:

S. 1452. A bill to establish procedures to provide for a taxpayer protection lock-box and related downward adjustment of discretionary spending limits and to provide for additional deficit reduction with funds resulting from the stimulative effect of revenue reductions.

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104-180).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1459. An original bill to provide for uniform management of livestock grazing on Federal land, and for other purposes (Rept. No. 104-181).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act, and for other purposes (Rept. No. 104-182).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 956. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary.

Bruce D. Black, of New Mexico, to be United States District Judge for the District of New Mexico.

Patricia A. Gaughan, of Ohio, to be United States District Judge for the Northern District of Ohio.

Hugh Lawson, of Georgia, to be United States District Judge for the Middle District of Georgia.

John Thomas Marten, of Kansas, to be United States District Judge for the District of Kansas.

(The above nominations were reported with the recommendations that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS (for himself, Mr. CRAIG, Mr. REID, Mr. THOMAS, Mr. BRYAN, and Mr. INHOFE):

S. 1453. A bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 1454. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and fisheries for the vessel *Joan Marie*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1455. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Movin On*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1456. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Play Hard*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1457. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Shogun*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 1458. A bill to amend the provisions of title 35, United States Code, to establish the Patent and Trademark Corporation, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for Mr. DOMENICI):

S. 1459. An original bill to provide for uniform management of livestock grazing on Federal land, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mrs. BOXER (for herself and Mr. BIDEN):

S. 1460. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservative Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. MCCAIN):

S. Res. 198. A resolution to make certain technical changes to S. Res. 158; considered and agreed to.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. BURNS (for himself, Mr. CRAIG, Mr. REID, Mr. THOMAS, Mr. BRYAN, and Mr. INHOFE):

S. 1453. A bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities or sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes; to the Committee on Labor and Human Resources.

## THE RODEO FREEDOM ACT OF 1995

Mr. BURNS. Mr. President, I rise today with the support of Senators REID, CRAIG, THOMAS, BRYAN, and INHOFE, to introduce a bill that is vitally important to the heritage of the Western United States, the sport of rodeo. The Rodeo Freedom Act of 1995 is a bill that will protect the interests of the sport of rodeo and the many small and large communities that host rodeos throughout the year.

Rodeo is the one true American sport—a sporting event watched by millions of people yearly. It's a unique sporting event that tests the skills of both man and beast. Rodeo is a sport that traces its beginnings to contests held between ranches in the West during the latter part of the last century. Cowboys tested their skills in breaking wild horses and the everyday jobs of roping and doctoring the animals of the ranch owner's herds. Rodeo is one of the few sports which early on allowed women to compete and to share in the prize money that is offered. Today thousands of men, women, and children hold dreams of winning a world championship buckle awarded to the top performer in each event.

In recent months the continued good fortune of the sport of rodeo has been threatened by the administration, through the transfer of authority for the control of products that sponsor both professional and local rodeos. The President has taken steps to give control to the Food and Drug Administration of the products that sponsor rodeo events throughout the Nation. This agency has already stated that many of the products that sponsor both professional and amateur sports will have to give up their right to advertise and support these events. This move could send many entertainment events, like rodeo, to an early grave. The cost to many of the small communities that host the hundreds of rodeos around the country could be the end of their involvement.

This is just one of the latest moves that have been made to regulate the manner in which sporting events earn the money necessary to provide top entertainment. The restrictions the Government is seeking to impose would limit, if not destroy, the long standing relationship between rodeo and its

many sponsors. This would threaten the economic viability of an important recreational and economic activity in Montana and throughout the Western United States.

I doubt the agencies involved took into account the economic impact that their decisions would have on small rural communities. In many of the smaller communities in Montana, and I am sure in many Western States, the residents eagerly anticipate the one annual event of the year, the rodeo. The contestants come in from around the country, and for that matter the world, to compete. Tourists traveling through the area many times extend their stay to catch the uniquely American sport.

This event may bring thousands of dollars into an already suffering economy. In one particular city in Montana, an annual rodeo will mean the addition of over \$2 million to the local economy.

The additional money that sponsors provide to local rodeos makes rodeo one of the best family entertainment bargains today. Without the assistance of these sponsors, rodeo, if it could even continue, would need to bring the price of its tickets up to a level that would preclude many families from the one entertainment event they wait for annually.

This is another example of Big Government tossing its weight around. The enforcement of the sponsorship should be controlled at the local level by the State governments, most of which already have laws limiting the distribution of products. If we don't call the Federal Government on this one, What will be next?

This is not a product issue. It is an issue of personal freedom, and the right of westerners to enjoy our recreational pursuits. This legislation is for all competitors, whether they are weekend cowboys or top rodeo stars. Their participation in the sport of rodeo helps to ensure the traditions and heritage of the West. The popularity of western movies and rodeo demonstrates the fascination that people the world over hold for the cowboy tradition.

In closing I would like to commend all the competitors that have struggled so hard in rodeos this year. This week marks the culmination of all that effort, as 15 of the top cowboys and cowgirls meet in Las Vegas, NV to compete in the National Finals Rodeo. By this Sunday night the world champions will be determined in the following events: Bareback and saddle bronc and bull riding, team roping, calf roping, steer wrestling, and barrel racing. I tip my hat to all the competitors and wish them a safe and good ride. And using a term known among the cowboy circles I say "Bare Down and Cowboy up."

I urge my colleagues to join with me in protecting the future of rodeo.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1453

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Rodeo Freedom Act of 1995".

## SEC. 2. FINDINGS.

The Congress finds that—

(1) professional rodeo is an important and popular spectator sport that is attended by an estimated 18,000,000 American adults annually across the United States and particularly in the Western and Southwestern regions;

(2) in the Western and Southwestern regions, the sport of rodeo has a long and interesting history and therefore, is of great cultural and social significance to such States;

(3) the Professional Rodeo Cowboy Association has 10,000 members and sponsors approximately 800 rodeos in 46 States every year;

(4) because of its cultural associations with the Western and Southwestern regions of the United States, the rodeo is an important attraction for domestic and foreign tourism to those regions;

(5) the professional rodeo and the support industries associated with professional rodeo generate substantial economic activity in host communities and are significant sources of income, economic security, employment, recreation, and enjoyment for Americans;

(6) the Professional Rodeo Cowboy Association enjoys the freedom to choose the sponsors or sponsorship programs associated with the rodeos of the association;

(7) the sponsors or sponsorship programs associated with the rodeos of the Professional Rodeo Cowboy Association assist in sustaining the sport of rodeo and in making such sport affordable and accessible to millions of adult rodeo fans across America;

(8) despite the enjoyment that millions of Americans derive from watching rodeo events, and the importance of such events to the economies of the Western and Southwestern regions and of the United States, Federal agencies other than the Federal Trade Commission have proposed restrictions upon the activities of sponsors, sponsorship programs, or advertising connected with rodeo events; and

(9) such restrictions, if adopted will—

(A) jeopardize the continued financial viability of professional rodeos;

(B) result in a considerable financial loss to tourism and other related industries;

(C) interfere with the enjoyment of rodeo events by millions of American adults who attend rodeos annually; and

(D) impose unconstitutional limitations on both commercial speech and the freedom of association of the membership of the Professional Rodeo Cowboys Association.

## SEC. 3. PROHIBITION.

The Secretary of Health and Human Services and the Commissioner of Food and Drugs shall have no authority under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to regulate—

(1) activities of sponsors or sponsorship programs connected with—

(A) the Professional Rodeo Cowboy Association or its activities or events; or

(B) any other professional rodeo association or the agents or affiliates of such association or the activities or events of such association, agents, or affiliates; or

(2) advertising that is used or purchased by, or that is in connection with—

(A) the Professional Rodeo Cowboy Association or its activities or events; or

(B) any other professional rodeo association or the agents or affiliates of such association or the activities or events of such association, agents, or affiliates.

#### SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on August 10, 1995.

By Mr. LAUTENBERG:

S. 1458. A bill to amend the provisions of title 35, United States Code, to establish the Patent and Trademark Corporation, and for other purposes; to the Committee on the Judiciary.

#### THE PATENT AND TRADEMARK OFFICE REFORM ACT OF 1995

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Patent and Trademark Office Reform Act of 1995, that would establish the Patent and Trademark Office as a Government corporation and make significant improvements in its management.

These changes will free the Office from restrictive laws that have prevented it from becoming as efficient as its users and our economy demand. Applications will be processed faster, top talent will be hired and retained, necessary state-of-the-art equipment will be purchased, and office space will be acquired or leased at more favorable terms.

Mr. President, the Patent and Trademark Office is in the business of examining and granting patents and registering trademarks, a function important enough to warrant mention in Article I of our Constitution. The protection of innovation provided by the PTO has helped create millions of jobs and is one of the reasons our country is so competitive and the most productive in the world.

The services and products provided by the PTO are paid for entirely by user fees. Last year, the PTO received more than 185,000 patent applications and 155,000 trademark applications. PTO projects steady increases in both types of applications into the next century.

Unfortunately, the processing and approval of applications has often been delayed. These delays are due in part to a shortage of examiners and out-of-date equipment. As a result of these delays, inventors are being denied protection of the fruits of their labor, and further innovation is thus postponed.

My intent in offering this legislation is to enhance the PTO's ability to process and grant patents and register trademarks in a timely fashion. The legislation responds to various management problems now facing the Office.

First, the Office is now burdened with unnecessary personnel regulations. As a component of the Department of Commerce, the PTO is subject to the same personnel ceilings as other Commerce programs. While such ceilings may make sense for other agencies or departments, they do not for the PTO. If the PTO is prevented from making necessary hires to keep up

with the increase in applications, productivity will decline and potential revenues will be lost.

A large amount of the work performed by the PTO requires specialized skills. The application of the Government-wide compensation and classification systems has constrained PTO's ability to hire and maintain the best talent. For example, the classification system is too rigid to adequately accommodate many of the PTO's unique positions. The resulting misclassifications can mean lower positions, making it more difficult to attract experts from the private sector. Compounding this problem is the General Schedule, restrictions on promotions, and the inability of the PTO to conduct its own personnel examinations.

The PTO also has had serious procurement problems. The Office is subject to various restrictions on its procurement activities, as provided in the Federal Property and Administrative Services Act, the Brooks Act, and the Public Buildings Act. These laws have forced the PTO to endure lengthy and expensive procurement delays. For example, a recent computer procurement took 2 years to complete. When the PTO made the request, the technology contained in this procurement was state of the art. However, by the time the PTO finally received the equipment, technology in this area had advanced significantly.

It has been PTO's experience that the process of procuring items in the \$1 million range averages 12 to 18 months at a cost of \$100,000 to \$200,000. The private sector accomplishes such procurements in a few months at a fraction of the cost.

Another problem is that the PTO is spread throughout 15 office buildings in Crystal City, VA, which are leased through the General Services Administration. This scattering of personnel and operations is not only inconvenient, it is inefficient. Moreover, three times in as many years, GSA appraised this space at amounts not supported by the market, and charged the PTO too much. Congressional action was necessary in all instances, resulting in a savings of \$22.3 million. When the PTO's lease expires in 1996, it will require about one-half million square feet more than it currently has. PTO has been negotiating with GSA and OMB for almost 6 years trying to reach a resolution to this situation, but to no avail.

Mr. President, this bill is one more step to reinvent our Government, an important effort championed by the Clinton administration. My legislation would enable the PTO to be run more like a business. However, unlike a private-sector enterprise, PTO's employees would remain Federal employees and the Office would remain in the Department of Commerce. This is an important distinction because the granting of patents and registering of trademarks is a necessary Government func-

tion and it would be imprudent to insulate this responsibility in an unaccountable autonomous body.

Under the bill, the Commissioner of the Patent and Trademark Corporation, or the PTC, will report to the Secretary of Commerce for trademark and patent policy matters only. The PTC will be free from departmental meddling in the management of its day-to-day activities, such as how many patent examiners need to be hired, which computer system the PTC should buy, and how many buildings the PTC should occupy. This firewall addresses many of the criticisms leveled at the PTO over the years, but ensures that attention to intellectual property policy matters remains at the Cabinet level.

Mr. President, let me describe briefly what my bill will do. The Commissioner of the Patent and Trademark Corporation shall, with the assistance of two deputies, manage the 5,000-plus employees and run this \$600-plus million entity. They will be able to do this without the constraints of the Brooks Act, the Public Buildings Act, and the Federal Property and Administrative Services Act. Like the private sector, the new corporation will be able to acquire computers, office space, and furniture in a timely manner. All assets, liabilities, contracts, property, unexpended and unobligated balances of appropriations, and other funds made available to the PTO will be transferred to the PTC. This includes those unappropriated funds contained in the Treasury Department's surcharge fee account.

The new PTC will be able to provide its employees competitive wages and benefits. It will not be subject to personnel ceilings, including those established in the Federal Workforce Restructuring Act of 1994. During the transition from the Patent and Trademark Office to the Patent and Trademark Corporation, all employees will be assured of work for 1 year. I understand the concerns of PTO's employees who might view this bill as an effort to downsize the Office, and want to assure them that this is not my intent nor the intent of the administration. Our objective is to give the Commissioner discretion over the classification and compensation systems so the PTC can hire and keep top talent, not slash the compensation of PTO's employees. To assuage the concerns of the employees, and those who might object to the 1-year carryover provision, I would again emphasize that PTO projects a steady increase in both trademark and patent applications into the next century. Not only is this a healthy sign for our economy, it is a good sign that PTO's workers are still very much needed.

Mr. President, although the PTC needs freedom from unreasonable bureaucratic redtape and regulations, we also must be careful to ensure that it remains accountable, and is not subject to abuse. My bill contains sufficient safeguards to ensure the PTC will not

be moving into luxurious offices, paying outrageous sums to its employees, or entering into sweetheart deals. These safeguards include oversight by the Congress, an Inspector General, the General Accounting Office, an advisory board, and users of the PTC's services.

Under the legislation, Congress will continue to set the user fees for the PTC. I know some would have preferred to place this responsibility with the Commissioner, and perhaps we can revisit this issue in several years after we see how well the PTC is operating. For now, however, I thought it best to keep the fee-setting authority with Congress to ensure adequate oversight and accountability.

The PTC also will have its own Inspector General to investigate waste, fraud, and abuse. This person will be appointed by the Secretary to ensure a greater degree of independence. Additionally, audits will be performed annually by either an independent CPA or the GAO. The results of these audits shall be made public and will be sent to Congress. Finally, the PTC is required, by the Government Control Corporation Act, to submit annual management reports to Congress and business-like budgets to the President. These reports and budgets must include statements on cash flows, operations, financial position, and internal accounting and administrative control systems.

The Patent and Trademark Corporation Act would also have an advisory board to represent the views of users and other interested persons. The Secretary would appoint members to the board for terms of 3 years as well as select the Chair. The board would review and advise the Commissioner on the PTC's performance, budget, and user fees. Furthermore, the Commissioner is required to consult with the board prior to changing or proposing to change fees or regulations. The board will submit an annual report containing its review of the PTC to the President, Congress, and the Commissioner.

Mr. President, I have drafted this bill in consultation with the Patent and Trademark Office, the administration, the National Academy of Public Administration, the American Intellectual Property Law Association, the International Trademark Association, the Intellectual Property Owners, Inc., the intellectual property section of the American Bar Association, and the National Treasury Employees Union. The benefits resulting from this legislation should be immediately apparent to the PTC's users. Not only will their applications be processed and awarded at a quicker rate, they will have input into how the corporation should be run. Furthermore, I believe that the PTC's increased productivity will have a direct beneficial effect on our economy.

I hope my colleagues will support this legislation and I look forward to working with Senator HATCH, the chairman of the Judiciary Committee, and others as the process of reforming the Patent and Trademark Office moves forward.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1458

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Reform Act of 1995".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—PATENT AND TRADEMARK CORPORATION

Sec. 101. Establishment, officers, and functions of the Corporation.

Sec. 102. Management report.

Sec. 103. Use of Corporation name and definitions.

Sec. 104. Suspension or exclusion from practice.

Sec. 105. Fees.

Sec. 106. Trademark Trial and Appeal Board.

Sec. 107. Transfers.

Sec. 108. Transition provisions.

Sec. 109. Nonapplicability of Federal work-force reductions.

Sec. 110. Technical and conforming amendments.

#### TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Separability.

Sec. 202. Effective date.

#### TITLE I—PATENT AND TRADEMARK CORPORATION

##### SEC. 101. ESTABLISHMENT, OFFICERS, AND FUNCTIONS OF THE CORPORATION.

Chapter 1 of title 35, United States Code, is amended by striking out sections 1, 2, 3, 4, 6, and 7 and inserting in lieu thereof the following:

###### "§ 1. Establishment

"(a) The Patent and Trademark Corporation is established as a wholly owned Government corporation subject to chapter 91 of title 31, except as otherwise provided in this title. The Corporation shall be within the Department of Commerce and shall be subject to the Secretary for patent and trademark policy direction. For purposes of internal management, the Corporation shall be considered a corporate body apart from departmental supervision, except as otherwise provided in this title.

"(b) The Patent and Trademark Corporation shall maintain an office for the service of process in the District of Columbia, or the metropolitan area thereof, and shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"(c) For purposes of this title, the Patent and Trademark Corporation shall also be referred to as the 'Corporation'.

###### "§ 2. Powers and duties

"(a) The Corporation shall have the powers and carry out the functions and duties that are authorized by law with respect to—

"(1) the granting and issuing of patents and the registration of trademarks;

"(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Corporation, or any other matter included in the laws for which the Corporation is responsible including the provision of this title, the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1051 et seq.)), and the Patent and Trademark Office Reform Act of 1995;

"(3) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

"(4) disseminating to the public information with respect to patents and trademarks.

"(b) In order to accomplish the purposes of this title, the Corporation—

"(1) shall have perpetual succession;

"(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Corporation shall be authenticated;

"(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, as provided in section 8 of this title;

"(4) may indemnify the Commissioner, officers, attorneys, agents and employees (including members of the Advisory Board), of the Corporation for liabilities and expenses incurred within the scope of their employment;

"(5) may adopt, amend, and repeal bylaws, rules, and regulations, governing the manner in which its business will be conducted and the powers granted to it by law will be exercised, without regard to chapter 35 of title 44;

"(6) without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.), and sections 501 and 502 of the Stewart B. McKinney Act (42 U.S.C. 11411 and 11412) may—

"(A) acquire, construct, purchase, lease, hold, manage, operate, and alter any property (real, personal, or mixed) or any interest therein, as it determines necessary in the transaction of its business, and sell, lease, grant; and

"(B) dispose of such property, as it deems necessary to effectuate the purposes of this title for periods of time or for terms as the Corporation determines necessary;

"(7)(A) may make purchases, contracts for the construction, alteration, maintenance, or management and operation of facilities and contracts for the supplies or services, except personal services, after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition, except such advertising shall not be required when the Corporation determines that—

"(i) the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title; or

"(ii) advertising is not reasonably practicable; and

"(B) may enter into and perform such purchases and contracts for printing services, to include the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it determines necessary to effectuate the functions of the Corporation, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

"(8) may use, with their consent, services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis, and, on a similar basis, to cooperate with such other agencies and instrumentalities in the establishment and use

of services, equipment, and facilities of the Corporation;

“(9) may obtain from the Administrator of the General Services Administration such services as the Administrator is authorized to provide to agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

“(10) may use, with the consent of the agency, government, or organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform necessary functions on the Corporation's behalf;

“(11) may enter into and perform such contracts, leases, cooperative agreements, or other transactions with international, foreign and domestic public agencies and private organizations and persons as needed in the conduct of its business and on such terms as it determines appropriate;

“(12) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title, the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), and to laws specifically applicable to wholly owned government corporations that are not specifically inconsistent with this title;

“(13) may retain and utilize all of its revenues and receipts, including revenues from the sale, lease, or disposal of any property (real, personal, or mixed) or any interest therein, of the Corporation, including research and development and capital investment, without apportionment under the provisions of subchapter II of chapter 15 of title 31;

“(14) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

“(15) may accept monetary gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes authorized under this section;

“(16) may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

“(17) may provide for liability insurance and insurance against any loss in connection with its property, other assets or operations either by contract or by self-insurance; and

“(18) shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund established under section 1304 of title 31.

### “§ 3. Officers and employees

“(a)(1) The management of the Corporation shall be vested in the Commissioner of Patents and Trademarks, who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be a person who, by reason of professional background and experience in patent and trademark law and of management experience, is especially qualified to manage the Corporation.

“(2) The Commissioner shall—

“(A) be responsible for the management and direction of the Corporation, including the granting and issuance of patents and the registration of trademarks, and may delegate these responsibilities to the officers and employees of the Corporation whose performance of these duties shall be subject to the Commissioner's review;

“(B) report directly to the Secretary on patent and trademark policy matters;

“(C) consult with the Advisory Board established in section 5 on a regular basis on

matters relating to the operation of the Corporation, and shall consult with the Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations;

“(D) inform the Secretary of studies and programs conducted under section 2(a)(3);

“(E) advise the Secretary on all aspects of intellectual property policy, legislation, and issues;

“(F) advise the Secretary on international trade issues concerning intellectual property;

“(G) promote in international trade the United States industries that rely on intellectual property;

“(H) advise the Secretary of State, the United States Trade Representative, and other appropriate department and agency heads, subject to the authority of the Secretary, on international intellectual property issues;

“(I) advise Federal agencies on ways to improve intellectual property protection in other countries through economic assistance and international trade;

“(J) review and coordinate all proposals by agencies to assist foreign governments and international intergovernmental agencies in improving intellectual property protection;

“(K) carry on studies related to the effectiveness of intellectual property protection throughout the world; and

“(L) in coordination with the Department of State, carry on studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

“(3) The Commissioner shall serve a term of 6 years, and such period thereafter until a successor is appointed and assumes office. The Commissioner may be reappointed to subsequent terms.

“(4) The Commissioner shall receive as basic compensation for a calendar year an amount not to exceed the equivalent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5 and, in addition, may receive as a bonus awarded by the Secretary, an amount up to the equivalent of the annual rate of basic pay for such level II, based upon the Secretary's evaluation of the Commissioner's performance—

“(A) as defined in an annual performance agreement between the Commissioner and the Secretary incorporating measurable goals in such specific areas as productivity, cycle times, efficiency, cost-reduction, innovative ways of delivering patent and trademark services, and customer satisfaction, as delineated in an annual performance plan; and

“(B) as reflected in the annual report required under section 14.

“(5) The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Corporation.

“(6) The Commissioner shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Commissioner in the event of absence or incapacity of the Commissioner.

“(b)(1) Officers and employees of the Corporation shall be officers and employees of the United States as defined by sections 2104 and 2105 of title 5, United States Code.

“(2)(A) The Commissioner shall appoint a Deputy Commissioner for Patents and a Deputy Commissioner for Trademarks for terms that shall expire on the date on which the Commissioner's term expires. The Deputy Commissioner for Patents shall be a person with demonstrated experience in patent law and the Deputy Commissioner for Trademarks shall be a person with demonstrated experience in trademark law.

“(B) The Deputy Commissioner for Patents and the Deputy Commissioner for Trademarks shall be—

“(i) the principal advisors to the Commissioner on all aspects of the activities of the Corporation that affect the administration of patent and trademark operations, respectively; and

“(ii) principally responsible for managing their respective patent and trademark units.

“(3) The Commissioner shall appoint an Inspector General and such other officers, employees (including attorneys), and agents of the Corporation as the Commissioner considers necessary to carry out its functions.

“(c)(1) Except as regards the Inspector General, the Commissioner shall fix the compensation of officers and employees in accordance with the policy set forth in section 5301 of title 5 including compensation based on performance.

“(2) Except as otherwise provided in this title or any other provision of law, the basic pay of an officer or employee of the Corporation for any calendar year may not exceed the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5 or level ES-6 for the Senior Executive Service under section 5332 of title 5, whichever is higher. Total compensation, including compensation based on performance (but not including benefits or contributions to retirement systems), may not exceed the equivalent of the basic rate of pay for level I of the Executive Schedule under section 5312 of title 5.

“(3) The Commissioner shall define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Corporation as the Commissioner shall determine.

“(d) The Corporation shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Corporation shall be taken into account for purposes of applying any such limitation, except to the extent otherwise specifically provided by statute with respect to the Corporation.

“(e) Notwithstanding the provisions of title 5 (but subject to the Inspector General Act of 1978 (5 U.S.C. App.)), the Commissioner shall have sole and exclusive discretion—

“(1) over the establishment, amendment, or repeal of any position classification system to determine the qualifications and procedures for appointment; any compensation and award system except gainsharing, including wages and compensation based on performance, and contributions of the Corporation to the retirement and benefits programs, except that the Corporation's contribution shall not be less than that paid for Federal employees under title 5;

“(2) to fix and adjust rates of pay without regard to the provisions of chapter 53 of title 5 and abolish positions and lay off without regard to the provisions of chapter 35 of title 5 except that preference eligibility laws shall apply in any layoff system; and

“(3) to determine any supplement to benefits beyond those provided by statute.

“(f) The following provisions of title 5 shall not apply to the Corporation or its officers and employees:

“(1) Chapter 31 (employment authorities), except that the provisions of sections 3102 and 3110 shall apply to the Corporation and its employees.

“(2) Chapter 33 (examination, selection, and placement), except that the system of veterans' preference established by chapter 33 shall apply to the Corporation and its employees.

“(3) Chapter 35 (retention, restoration, and reemployment).

“(4) Chapter 43 (performance appraisal).

“(5) Chapter 51 (classification).

“(6) Chapter 53, subchapter 3 (general pay rates).

“(g)(1) Officers and employees shall remain subject to chapters 83 (Civil Service Retirement System), 84 (Federal Employees Retirement System), 87 (life insurance), and 89 (health insurance) of title 5. The Corporation may supplement the benefits provided under chapters 83 and 84 of such title from time to time. The Corporation also may change the application of chapters 87 and 89 of such title to its officers and employees, except that such changes, in their aggregate, shall not result in life and health benefits which are less favorable to officers and employees than those offered under chapters 87 and 89.

“(2) The Corporation shall withhold pay and make such payments as are required under the Federal disability and retirement system for the Government's share of the cost of the Civil Service Retirement System or the Federal Employees Retirement System applicable to the Corporation's employees and their beneficiaries. The Corporation shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of administration of the respective funds, which shall be paid into the Treasury as miscellaneous receipts.

“(h)(1) Chapter 71 of title 5 shall apply with respect to the Corporation and its employees.

“(2) The Corporation and employees may bargain with respect to the establishment, amendment, or repeal of—

“(A) any position classification system;

“(B) any compensation system, including wages and compensation based on performance, and contribution of the Corporation to the retirement and benefits program; and

“(C) any system to determine qualifications and procedures for employment; in the same manner and to the same extent as under a Federal Labor Relations Authority holding, in effect on the day before the effective date of the Patent and Trademark Office Reform Act of 1995, with regard to the negotiability of such matters, unless such holding is overturned or modified by a Federal court.

“(i)(1) On the effective date of the Patent and Trademark Office Reform Act of 1995, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Corporation without a break in service.

“(2) No officer or employee of the Office who becomes an officer or employee of the Corporation shall, for a period of 1 year after the effective date of the Patent and Trademark Office Reform Act of 1995, be subject to separation or to any reduction in compensation as a consequence of the establishment of the Corporation.

“(3) The amount of sick and annual leave and compensatory time accumulated under title 5 prior to the effective date of the Patent and Trademark Office Reform Act of 1995, by officers and employees of the Office who become officers and employees of the Corporation under this section shall be obligations of the Corporation.

“(4)(A) The individual serving as the Commissioner of Patents and Trademarks on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 may serve as the Commissioner until a Commissioner has been appointed under subsection (a).

“(B) The individual serving as the Assistant Commissioner for Patents on the day be-

fore the effective date of the Patent and Trademark Office Reform Act of 1995 may serve as the Deputy Commissioner for Patents until a Deputy Commissioner for Patents has been appointed under subsection (b).

“(C) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 may serve as Deputy Commissioner for Trademarks until a Commissioner has been appointed under subsection (b).

“(j) For purposes of appointment to a position in the competitive service for which an officer or employee of the Corporation is qualified, such officer or employee shall—

“(1) not forfeit any competitive status, acquired by such officer or employee before the effective date of the Patent and Trademark Office Reform Act of 1995, by reason of becoming an officer or employee of the Corporation under subsection (i)(1); or

“(2) if not covered by paragraph (1), acquire competitive status after completing at least 1 year of continuous service under a nontemporary appointment to a position within the Corporation (taking into account such service, performed before the effective date described in paragraph (1), as may be appropriate).

“(k) All orders, determinations, rules, and regulations regarding compensation and benefits and other terms and conditions of employment in effect for the Office and its officers and employees on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 shall continue in effect with respect to the Corporation and its officers and employees until modified, superseded, or set aside by the Corporation or a court of competent jurisdiction or by operation of law. The collective bargaining agreements between the Patent and Trademark Office and the National Treasury Employees Union 243, dated March 13, 1993, the Patent and Trademark Office and the National Treasury Employees Union 245, dated July 20, 1993, and the Patent and Trademark Office and the Patent Office Professional Association, dated October 6, 1986, as well as the recognition of the three units, shall remain in effect until modified, superseded, or set aside by the parties.

#### “§ 4. Restrictions on officers and employees as to interest in patents

“Officers and employees of the Patent and Trademark Corporation shall be incapable, during the period of their appointments and for 1 year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Corporation. In patents applied for thereafter they shall not be entitled to any priority date earlier than 1 year after the termination of their appointment.

#### “§ 5. Advisory Board

“(a)(1) There is established an Advisory Board of the Corporation, which shall consist of thirteen members, as follows:

“(A) The Commissioner of Patents and Trademarks, ex officio.

“(B) Twelve members appointed by the Secretary who shall be United States citizens of high integrity and demonstrated accomplishment in a variety of fields, including, finance, labor relations, consumer affairs, academia, large and small business or as an independent inventor. At least 6 shall have strong backgrounds in patents or trademarks.

“(2) No other person may substitute for a member of the Advisory Board.

“(3) The Secretary shall designate the chair of the Board, whose term as chair shall be for 3 years.

“(4) Initial appointments to the Board shall be made within 3 months after the ef-

fective date of the Patent and Trademark Office Reform Act of 1995, and vacancies shall be filled within 3 months after they occur.

“(b) Of those members of the Board specified in subsection (a)(1)(A) who are original appointees, the Secretary shall designate 4 who shall serve for a term of 1 year, 4 who shall serve for a term of 2 years, and 4 who shall serve for a term of 3 years. The term of members of the Board appointed after the expiration of the terms of the first appointed members of the Board shall be 3 years. The Secretary shall appoint an individual to serve the unexpired term of a member who withdraws or otherwise is unable to serve for the full term.

“(c) Members of the Board specified in subsection (a)(1)(B) shall be special Government employees within the meaning of section 202 of title 18. Members of the Board specified in subsection (a)(1)(B) shall serve on a part-time basis and shall be compensated at a per diem rate equivalent to level III of the Executive Schedule under section 5314 of title 5, in addition to reimbursement of reasonable incurred expenses when engaged in performance of duties vested in the Board.

“(d) The Board shall—

“(1) review the Corporation's policies, goals, performance, budget, and user fees and advise the Commissioner on these matters and any other matter that the Commissioner refers to the Board;

“(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President, the Commissioner, and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette; and

“(3) meet at least quarterly, as provided by the bylaws of the Corporation, and at any time at the request of the Commissioner.

“(e)(1) The Corporation shall provide at the request of the Board such assistance as is necessary for the Board to perform its functions.

“(2) Members of the Board shall be provided access to records and information of the Corporation, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122 of this title.

“(f) The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any activities of the Board, except that members shall be considered to be serving on an advisory committee within the meaning of the Federal Advisory Committee Act for purposes of section 208(b)(3) of title 18.

#### “§ 6. Suits by and against the Corporation

“(a)(1) Any civil action, suit, or proceeding to which the Corporation is a party is deemed to arise under the laws of the United States. Exclusive jurisdiction over all civil actions by or against the Corporation is in the Federal courts as provided by law. For purposes of filing suits, the Commissioner shall be the head of the Corporation.

“(2) Any action, suit, or proceeding against the Corporation founded upon contract shall be subject to the limitations and exclusive remedy provided in sections 1346(a)(2) and 1491 through 1509 of title 28, whether or not such contract claims are cognizable under sections 507, 1346, 1402, 1491, 1496, 1497, 1501, 1503, 2071, 2072, 2411, 2501, and 2512 of title 28. For purposes of the Contract Disputes Act of 1978, the Commissioner shall be deemed to be the agency head with respect to contract claims arising with respect to the Corporation.

“(3) Any action, suit, or proceeding against the Corporation founded upon tort shall be



subject to the limitations and exclusive remedies provided in sections 1346(a) and 2671 through 2680 of title 28, whether or not such tort claims are cognizable under section 1346(b) of title 28.

“(4) Any action, suit, or proceeding against the Corporation based upon an alleged violation of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a), title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.) or section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) shall be subject to the limitations and exclusive remedies provided for other Federal Government executive agencies for a violation of such section or title.

“(5) No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Corporation.

“(6) The Corporation shall be substituted as defendant in any civil action, suit, or proceeding against an employee of the Corporation, if the Corporation determines that the employee was acting within the scope of the employee's employment with the Corporation. If the Corporation refuses to certify scope of employment, the employee may at any time before trial, petition the court to find and certify that the employee was acting within the scope of the employee's employment. Upon certification by the court, the Corporation shall be substituted as the party defendant. A copy of the petition shall be served upon the Corporation.

“(b)(1) Except as further provided in this section, in relation to all judicial proceedings in which the Corporation or an employee is a party or in which the Corporation is interested and which arise from or relate to employees acting within the scope of their employment, torts, contracts, property, registration of patent and trademark practitioners, patents or trademarks, or fees, the Corporation may exercise, without prior authorization from the Attorney General, the authorities and duties that otherwise would be exercised by the Attorney General on behalf of the Corporation under title 28 and other laws. In all other judicial proceedings in which the Corporation or an employee of the Corporation is a party or is interested, the Corporation may exercise these authorities and duties only after obtaining authorization from the Attorney General.

“(2) The Attorney General may file an appearance on behalf of the Corporation or an employee of the Corporation, without the consent of the Corporation, in any suit in which the Corporation is a party and represent the Corporation with exclusive authority in the conduct, settlement, or compromise of that suit.

“(3) The Corporation may consult with the Attorney General concerning any legal matter, and the Attorney General shall provide advice and assistance to the Corporation, including representing the Corporation in litigation, if requested by the Corporation.

“(4) The Attorney General shall represent the Corporation in all cases before the United States Supreme Court.

“(5) An attorney admitted to practice to the bar of the highest court of at least one State in the United States or the District of Columbia and appointed by the Corporation may represent the Corporation in any legal proceeding in which the Corporation or an employee of the Corporation is a party or interested, regardless of whether the attorney is a resident of the jurisdiction in which the proceeding is held and notwithstanding any other prerequisites of qualification or appearance required by the court or administrative body.

## “§ 7. Board of Patent Appeals and Interferences

“(a) There shall be in the Patent and Trademark Corporation a Board of Patent Appeals and Interferences. The Commissioner, the officer principally responsible for the examination of patents, the officer principally responsible for the examination of trademarks, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

“(b) The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title (35 U.S.C. 135(a)). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.”.

## SEC. 102. MANAGEMENT REPORT.

Section 14 of title 35, United States Code, is amended to read as follows:

### “§ 14. Annual report to Congress

“The Corporation shall prepare and submit to the Congress an annual management report as required under section 9106 of title 31.”.

## SEC. 103. USE OF CORPORATION NAME AND DEFINITIONS.

Chapter 1 of title 35, United States Code, is amended by inserting after section 14 the following new sections:

### “§ 15. Use of Corporation name

“No individual, association, partnership, or corporation, except the Corporation, shall hereafter use the words ‘United States Patent and Trademark Corporation’, ‘Patent and Trademark Office’, or any combination of such words, as the name or part thereof under which such individual or entity shall do business. Violations of the foregoing may be enjoined by any Federal court at the suit of the Corporation. In any such suit, the Corporation shall be entitled to statutory damages of \$1,000 for each day during which such violation continues or is repeated and, in addition, may recover actual damages flowing from such violation.

### “§ 16. Definitions

“For purposes of this title:

“(1) The term ‘Advisory Board’ means the Advisory Board of the United States Patent and Trademark Corporation.

“(2) The term ‘Commissioner’ means the Commissioner of the United States Patent and Trademark Corporation.

“(3) The term ‘Corporation’ means the United States Patent and Trademark Corporation.

“(4) The term ‘intellectual property’ shall include rights in inventions; in trademarks, service marks, and commercial names and designations; in literary, artistic and scientific works; in performances of performing artists, phonograms and broadcasts; in industrial designs; in trade secrets and scientific discoveries; in semiconductor chip layout designs; in geographical indications; and all other rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields.

“(5) The terms ‘Patent and Trademark Office’ and ‘Office’ mean the Patent and Trademark Office of the Department of Commerce.

“(6) The term ‘Secretary’ means the Secretary of Commerce.”.

## SEC. 104. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sen-

tence the following: “The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the Patent and Trademark Corporation to conduct the hearing required by this section.”.

## SEC. 105. FEES.

(a) IN GENERAL.—Chapter 4 of title 35, United States Code, is amended by striking out section 42 and inserting in lieu thereof the following:

### “§ 42. Patent and Trademark Corporation funding

“(a) All fees for services performed by or materials furnished by the Patent and Trademark Corporation will be payable to the Corporation.

“(b)(1) Moneys of the Corporation not otherwise used to carry out the functions of the Corporation shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds.

“(2) Fees available to the Commissioner under this title shall be used exclusively for the processing of patent applications and for other services and materials relating to patents. Fees available to the Commissioner under section 31 of the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’) (15 U.S.C. 1113) shall be used exclusively for the processing of trademark registrations and for other services and materials relating to trademarks.

“(c) The Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (collectively referred to as ‘obligations’) in an amount not exceeding \$2,000,000,000 outstanding at any one time, to assist in financing its activities. Such obligations shall be redeemable at the option of the Corporation before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Corporation with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Corporation issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Corporation shall be treated as public debt transactions of the United States.

### “§ 43. Audits

“(a) Financial statements of the Corporation shall be prepared on an annual basis in accordance with generally accepted accounting principles and shall be made publicly available in a timely manner. Such statements shall be audited by an independent certified public accountant chosen by the Secretary. The audit shall be conducted in accordance with standards that are consistent with generally accepted government auditing standards and other standards established by the Comptroller General, and with the private sector's generally accepted auditing standards, to the extent feasible. Upon the completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Congress and the Corporation.

“(b) The Comptroller General may review any audit of the Corporation’s financial statements conducted under subsection (a). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

“(c) The Comptroller General may audit the financial statements of the Corporation and such audit shall be in lieu of the audit required by subsection (a). The Corporation shall reimburse the Comptroller General for the cost of any audit conducted under this subsection.

“(d) All books, financial records, report files, memoranda, and other property that the Comptroller General deems necessary for the performance of any audit shall be made available to the Comptroller General.

“(e) This section shall apply to the Corporation in lieu of the provisions of section 9105 of title 31.”

(b) **SURCHARGE FUND.**—(1) On the effective date of this Act, there are transferred to the Patent and Trademark Office those residual and unappropriated balances remaining as of the effective date within the Patent and Trademark Office Surcharge Fund established by section 10101(b) of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note).

(2) Notwithstanding any other provision of law, effective on and after October 1, 1998, section 10101 of the Omnibus Reconciliation Act of 1990 (35 U.S.C. 41 note) shall cease to apply to the revenues of the Corporation.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—(1) The table of sections for chapter 4 of title 35, United States Code, is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

“42. Patent and Trademark Corporation funding.

“43. Audits.”

(2) Section 10101 of the Omnibus Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(A) in subsection (a), by striking out “subsections (a) and (b) of”;

(B) in paragraphs (1)(A) and (2)(A) of subsection (b), by striking out “Patent and Trademark activities in the Department of Commerce” and inserting in lieu thereof “United States Patent and Trademark Corporation”;

(C) in subsection (b), by striking out “Patent and Trademark Office” each place it appears and inserting in each such place “United States Patent and Trademark Corporation”; and

(D) in subsection (c), by striking out “Commissioner of Patents and Trademarks” and inserting in lieu thereof “Commissioner of the United States Patent and Trademark Corporation”.

#### **SEC. 106. TRADEMARK TRIAL AND APPEAL BOARD.**

Section 17 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067) is amended to read as follows:

“SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

“(b) The Trademark Trial and Appeal Board shall include the Commissioner, the officer principally responsible for the examination of trademarks, the officer principally responsible for the examination of patents, and members competent in trademark law, who are appointed by the Commissioner of the United States Patent and Trademark Corporation.”

#### **SEC. 107. TRANSFERS.**

(a) **FUNCTIONS.**—Except as otherwise provided in this Act, there are transferred to, and vested in, the United States Patent and Trademark Corporation all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in officers or components in the Department with respect to the authority to grant patents and register trademarks, and the Patent and Trademark Office, and in the officers and components of such Office.

(b) **ASSETS.**—The Secretary of Commerce is authorized and directed, without need of further appropriation, to transfer to the United States Patent and Trademark Corporation, on the effective date of this title, those assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Department of Commerce (inclusive of funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the Corporation by this title).

#### **SEC. 108. TRANSITION PROVISIONS.**

(a) **CONTRACTS AND AGREEMENTS.**—Except as otherwise provided in this Act, all contracts, agreements, leases and other business instruments, licenses, permits, and privileges that have been afforded to the Patent and Trademark Office before the effective date of this Act, shall continue in effect as if the United States Patent and Trademark Corporation had executed such contracts, agreements, leases, or other business instruments which have been made in the exercise of functions which are transferred to the Corporation by this Act.

(b) **RULES.**—Until changed by the United States Patent and Trademark Corporation, any procedural and administrative rules applicable to particular functions over which the Corporation acquires jurisdiction on the effective date of this Act shall continue in effect with respect to such particular functions.

(c) **APPLICATION OF DEPARTMENT RULES TO CORPORATION.**—Unless otherwise provided by this Act, as related to the functions vested in the United States Patent and Trademark Corporation by this Act, all orders, determinations, rules, regulations, and privileges of the Department shall cease to apply to the Corporation on the effective date of this Act, except for those which the Corporation determines shall continue to be applicable.

(d) **PENDING PROCEEDINGS.**—Except as otherwise provided in this Act, the transfer of functions related to and vested in the United States Patent and Trademark Corporation by this Act shall not affect judicial, administrative, or other proceedings which are pending at the time this Act takes effect, and such proceedings shall be continued by the Corporation.

(e) **REFERENCES.**—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Commissioner of Patents and Trademarks shall be deemed to refer to the Commissioner of the United States Patent and Trademark Corporation; and

(2) the Patent and Trademark Office shall be deemed to refer to the United States Patent and Trademark Corporation.

#### **SEC. 109. NONAPPLICABILITY OF FEDERAL WORKFORCE REDUCTIONS.**

No full-time equivalent position in the Patent and Trademark Corporation shall be eliminated to meet the requirements of section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note).

#### **SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.**

(1) Section 500(e) of title 5, United States Code, is amended by striking out “the Patent Office” and inserting in lieu thereof “the United States Patent and Trademark Corporation”.

(2) Section 5102(c)(23) of title 5, United States Code, is amended by striking out “Patent and Trademark Office” and inserting in lieu thereof “United States Patent and Trademark Corporation”.

(3) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

“Commissioner of Patents and Trademarks, United States Patent and Trademark Office, Department of Commerce.”

(4) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

“Inspector General, United States Patent and Trademark Corporation.”

(5) Section 5316 of title 5, United States Code (5 U.S.C. 5316), is amended by striking out the items relating to Commissioner of Patents, Department of Commerce, Deputy Commissioner for Patents, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks.

(6) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “the United States Patent and Trademark Corporation,” before “and the United States Postal Service”.

(7) Section 13 of title 35, United States Code, is amended by striking out “at the rate for each year’s issue established for this purpose in section 41(d) of this title”.

(8) The provisions of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1051 et seq.), other than section 29, are amended by striking out “Patent and Trademark Office” and “United States Patent and Trademark Office” each place such terms appear and inserting in each such place “United States Patent and Trademark Corporation”.

(9) The Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended in section 12(a) (15 U.S.C. 1062(a)) by striking out “shall refer the application to the examiner in charge of the registration of marks”.

(10) Section 4 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking out “Patent and Trademark Office”.

(11) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended by striking out “Patent and Trademark Office of the United States” and inserting in lieu thereof “United States Patent and Trademark Corporation”.

(12) Section 2320(d)(1)(A)(ii) of title 18, United States Code, is amended by striking out “United States Patent and Trademark Office” and inserting in lieu thereof “United States Patent and Trademark Corporation”.

(13) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526(a)) is amended by striking out “Patent and Trademark Office” and inserting in lieu thereof “United States Patent and Trademark Corporation”.

(14) The Joint Resolution approved April 12, 1892 (20 U.S.C. 91) is amended by striking out “Patent Office” and inserting in lieu thereof “United States Patent and Trademark Corporation”.

(15) Section 505(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m)) is amended by striking out “Patent and Trademark Office of the Department of Commerce” and inserting in lieu thereof “United States Patent and Trademark Corporation”.

(16) Section 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(o)) is



amended by striking out "Patent and Trademark Office of the Department of Commerce" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(17) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking out "Commissioner of Patents" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

(18) Section 501(b)(1) of the Jobs Through Trade Expansion Act of 1994 (22 U.S.C. 2151-1(b)(1)) is amended by striking out "Patent and Trademark Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(19) Section 2 of the Act of August 27, 1935 (25 U.S.C. 305a) is amended by striking out "Patent and Trademark Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(20) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking out "Patent Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(21) Section 1295(a)(4) of title 28, United States Code, is amended by striking out "Patent and Trademark Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(22) Section 1744 of title 28, United States Code, is amended—

(A) in the section heading by striking out "Patent Office" and inserting in lieu thereof "United States Patent and Trademark Office";

(B) by striking out "Patent Office" each place such term appears and inserting in lieu thereof "United States Patent and Trademark Corporation"; and

(C) by striking out "Commissioner of Patents" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

(23) Section 1745 of title 28, United States Code, is amended by striking out "United States Patent Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(24) Section 1928 of title 28, United States Code, is amended by striking out "Patent Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(25) Section 9101(3) of title 31, United States Code, is amended by adding at the end thereof:

"(O) the United States Patent and Trademark Corporation.".

(26) The provisions of title 35, United States Code, are amended by striking out "Patent and Trademark Office" and "United States Patent and Trademark Office" each place such terms appear and inserting in each such place "United States Patent and Trademark Corporation".

(27) The table of sections for chapter 1 of part I of title 35, United States Code, is amended to read as follows:

**"CHAPTER 1—ESTABLISHMENT,  
OFFICERS, FUNCTIONS**

"Sec.

"1. Establishment.

"2. Powers and duties.

"3. Officers and employees.

"4. Restrictions on officers and employees as to interest in patents.

"5. Advisory Board.

"6. Suits by and against the Corporation.

"7. Board of Patent Appeals and Interferences.

"8. Library.

"9. Classification of patents.

"10. Certified copies of records.

"11. Publications.

"12. Exchange of copies of patents with foreign countries.

"13. Copies of patents for public libraries.

"14. Annual report to Congress.

"15. Use of Corporation name.

"16. Definitions."

(28) Section 302 of title 35, United States Code, is amended in the second sentence by inserting "established" before "pursuant".

(29) Sections 371(c)(1) and 376(a) of title 35, United States Code, are amended by striking out "provided" and inserting in lieu thereof "established under".

(30) Section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474) is amended by inserting after paragraph (21) the following new paragraph:

"(22) the United States Patent and Trademark Corporation."

(31) Section 151 (c) and (d) of the Atomic Energy Act of 1954 (42 U.S.C. 2181 (c) and (d)) are each amended by striking out "Commissioner of Patents" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

(32) Section 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2190) is amended by striking out "Patent Office" and inserting in lieu thereof "United States Patent and Trademark Corporation".

(33) Section 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)) is amended by striking out "Commissioner of Patents" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

(34) Section 12(a) of the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking out "Commissioner of Patent Office" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

(35) Section 1111 of title 44, United States Code, is amended by striking out "Commissioner of Patents" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

(36) Section 1123 of title 44, United States Code, is amended by striking out "the Patent Office,".

(37) Section 1114 of title 44, United States Code, is amended by striking out "Commissioner of Patents,".

(38)(A) Sections 1337 and 1338 of title 44, United States Code, are repealed.

(B) The table of sections for chapter 13 of title 44, United States Code, is amended by striking out the items relating to sections 1337 and 1338.

(39) Section 10(i) of the Trading with the Enemy Act (50 U.S.C. App. 10) is amended by striking out "Commissioner of Patents" and inserting in lieu thereof "Commissioner of Patents and Trademarks".

**TITLE II—MISCELLANEOUS PROVISIONS**

**SEC. 201. SEPARABILITY.**

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

**SEC. 202. EFFECTIVE DATE.**

This Act shall take effect 180 days after the date of the enactment of this Act.●

By Mrs. BOXER (for herself and Mr. BIDEN):

S. 1460. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERNATIONAL DOLPHIN PROTECTION AND CONSUMER INFORMATION ACT

● Mrs. BOXER. Mr. President, nearly 6 years ago, as a Member of the House of

Representatives, I introduced legislation to establish a dolphin safe label for tuna sold in the United States. The companion Senate bill was introduced by my colleague the distinguished junior Senator from Delaware, JOE BIDEN. In 1990, our bill—the Dolphin Protection Consumer Information Act—became law.

This year, on October 4, the United States and 11 other nations—Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Panama, Spain, Mexico, Vanuatu, and Venezuela—signed the Declaration of Panama, an international agreement to manage tuna fishing in the Eastern Tropical Pacific. That agreement calls for changes in U.S. dolphin protection laws—including in our 1990 Dolphin Protection Act.

Today, Senator BIDEN and I are introducing legislation—the Dolphin Protection and Consumer Information Act of 1995—that will implement all of the positive aspects of the Panama Declaration, while maintaining the current labelling requirements that allow only truly dolphin safe tuna to be sold in the United States.

The signers and supporters of the Panama Declaration want other countries to be able to sell tuna in the United States market. We agree—as long as they catch that tuna by dolphin safe methods as prescribed by the 1990 Act. Our bill will lift the U.S. country-by-country tuna embargo to give all tuna fishermen the opportunity to export to the United States market as long as they use dolphin safe practices. We believe this will open United States markets and comply with international trade agreements without gutting U.S. dolphin protection laws.

As defined in the 1990 Act, dolphin safe tuna fishing means that dolphins were not chased or encircled with nets during a tuna fishing trip. The \$1 billion U.S. canned tuna market is a dolphin safe market and consumers know that the dolphin safe label means that dolphins were not harassed or killed.

We believe that the definition of dolphin safe should not be changed until we know for sure that setting purse seine nets on dolphins and then freezing them is dolphin safe. It would be consumer fraud to change the label. Let us continue to encourage those who fish tuna using the best dolphin safe methods to get the label.

Let me briefly explain other major provisions and outcomes of our bill:

First, it requires that the Panama Declaration and its 5,000 cap on dolphin mortality be enforceable and binding. Our bill makes it clear that if the limit is exceeded, all sets on dolphins allowed by the Panama Declaration would stop for the rest of the fishing year.

Second, it requires that the Panama Declaration establish an enforceable timeframe for the reduction of dolphin mortality from the cap of 5,000 to zero. Our bill requires that dolphin mortality be reduced by a statistically significant amount each year.

Third, it will result in the protection of U.S. cannery—who 5 years ago made a commitment to the American public to process and sell only dolphin safe tuna—from unfair foreign competition and from the dumping of stockpiled dolphin unsafe tuna in the U.S. market.

Fourth, it ensures that countries will enforce their obligations under the International Dolphin Conservation Program—established in the Panama Declaration and fully reflected in our bill—to protect dolphins and the Eastern Tropical Pacific ecosystem by requiring that an embargo be reestablished for any country which consistently fails to take enforcement actions. Countries must show that they are acting to punish fishermen who do not comply with the requirements of the Panama Declaration—the embargoes could be reestablished.

Fifth, it requires the establishment of a research program to determine (1) the effect of harassment by chase and encirclement on the health and biology of dolphins and its impact on dolphin populations encircled by purse seine nets in the ETP and (2) the extent to which the incidental take of non-target species, including juvenile tuna, occurs when fishing for yellowfin tuna using dolphin-safe methods and the impact of that incidental take on tuna stocks.

Sixth, it ensures that Congress is informed of progress in the fishery by requiring that the Secretary of Commerce report to Congress within 3 years on the results of the dolphin stress and bycatch research.

Seventh, it directs the Secretary of Commerce to make recommendations on how U.S. law should be modified according to what the research results show.

Our bill is supported by 70 organizations, including the Sierra Club, the Humane Society of the United States, Earth Island Institute, Public Citizen's Global Trade Watch, American Society for the Prevention of Cruelty to Animals, Friends of the Earth, International Dolphin Project, and Defenders of Wildlife.

While U.S. cannery have not taken a formal position on this legislation, they have stated their firm support for the current dolphin safe label. Bumble Bee Seafoods for example stated that it is "firmly committed" to its policy of "marketing only dolphin safe tuna". In a statement Bumble Bee Seafoods said "We share our customers concern about this issue and are proud of the fact that all Bumblebee tuna is verifiably 100 percent dolphin safe. . . We believe that Bumblebee's dolphin safe policy is right and we will not compromise it".

I firmly believe that our bill is a responsible alternative to the bill recently introduced by our colleagues, Senator STEVENS and Senator BREAUX, which redefines "dolphin safe" to allow dolphins to be chased and encircled with purse seine nets as long as there is no observed mortality. Observed

mortality is a tricky issue that leaves room for errors and a lot of judgement calls. What if the dolphin isn't quite dead yet? Injury to dolphins often occurs and can lead to eventual death. We don't know for sure that dolphins don't suffer from the constant chasing and encircling that they are subjected to.

What Senator BIDEN and I, and the 70 environmental and other organizations who support us, are saying is: Look at the science first—then make changes to U.S. law. We say: Let's encourage and help those who are fishing dolphin safe and canning dolphin safe by opening the U.S. market to them. We say: Let's not weaken our commitment to save the dolphins for the sake of a little more foreign trade.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "International Dolphin Protection and Consumer Information Act of 1995".

(b) REFERENCES TO MARINE MAMMAL PROTECTION ACT OF 1972.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The nations that fish for tuna in the eastern tropical Pacific Ocean have reduced dolphin mortalities associated with that fishery from hundreds of thousands annually to fewer than 5,000 annually.

(2) The provisions of the Marine Mammal Protection Act of 1972 that impose a ban on imports from nations that fish for tuna in the eastern tropical Pacific Ocean have served as an incentive to reduce dolphin mortalities.

(3) Consumers of the United States and Europe have made clear their preference for tuna that has not been caught through the killing, chasing, or harming of dolphins.

(4) Tuna cannery and processors of the United States have led the canning and processing industry in promoting a dolphin-safe tuna market.

(5) The 12 signatory nations to the Declaration of Panama, including the United States, agreed under that Declaration to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000, with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize that nations fishing for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with that fishery; and

(2) to eliminate the ban on imports of dolphin-safe tuna from those nations.

#### SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

"(28) The term 'International Dolphin Conservation Program' means the international program established by the agreement signed in La Jolla, California, in June 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama, that requires—

"(A)(i) that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean be limited to 5,000; and

"(ii) a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits;

"(B) the establishment of a per stock per year mortality limit of dolphin at a level between 0.2 percent and 0.1 percent of the minimum population estimate to be in effect through 2001;

"(C) beginning with the calendar year 2001, the establishment of a per stock per year mortality limit of dolphin at a level less than or equal to 0.1 percent of the minimum population estimate;

"(D) that if a mortality limit is exceeded under—

"(i) subparagraph (A), all sets on dolphins shall cease for the applicable fishing year; and

"(ii) subparagraph (B) or (C), all sets on the stocks covered under subparagraph (B) or (C) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

"(E) a scientific review and assessment to be conducted in 1998 to—

"(i) assess progress in meeting the objectives set for 2,000 under subparagraph (B); and

"(ii) as appropriate, consider recommendations for meeting these objectives;

"(F) a scientific review and assessment to be conducted—

"(i) to review the stocks covered under subparagraph (C); and

"(ii) as appropriate, consider recommendations to further the objectives set under that subparagraph;

"(G) the establishment of a per vessel maximum annual dolphin mortality limit consistent with the applicable per year mortality caps, as determined under subparagraphs (A) through (C); and

"(H) the provision of a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.—

"(29) The term 'Declaration of Panama' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995."

#### SEC. 4. AMENDMENTS TO TITLE I.

(a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) in the first sentence, by inserting ", and authorizations may be granted under title III with respect to yellowfin tuna fishery of the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103" before the period; and

(2) in the second sentence, by striking the semicolon and all that follows through "practicable".

(b) Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B)) is amended to read as follows:

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

“(i) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of the International Dolphin Protection and Consumer Information Act of 1995; or

“(ii) the tuna or products therefrom were harvested after the effective date of the International Dolphin Protection and Consumer Information Act of 1995 by vessels of a nation that—

“(I) is a member of the Inter-American Tropical Tuna Commission; and

“(II) is participating in the International Dolphin Conservation Program; and

“(III) has implemented the obligations of that member as a member of the Inter-American Tropical Tuna Commission; and

“(iii) the total dolphin mortality permitted under the International Dolphin Conservation Program will not exceed 5,000 in 1996, or in any year thereafter and the total dolphin mortality limit for each vessel in each successive year shall be reduced by a statistically significant amount until the goal of zero mortality is reached, except that the per stock per year mortality limits for stocks designated as depleted under this Act shall not exceed the actual 1994 mortality level;

except that the Secretary shall not accept such documentary evidence as satisfactory proof for purposes of clauses (i) through (iii) if the government of the harvesting nation does not authorize the Inter-American Tropical Tuna Commission to release sufficient information to the Secretary to allow a determination of compliance with the International Dolphin Conservation Program, or if after taking into consideration that information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations currently specified in the agreement signed in La Jolla, California, in June 1992 and adopted by the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, shall find that the violations diminish the effectiveness of the International Dolphin Conservation Program and that the harvesting nation is not in compliance with the International Dolphin Conservation Program;”.

(c) Section 101 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

“(d) The provisions of this Act shall not apply to a citizen of the United States when such citizen incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone, as that term is defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)) when employed on a foreign fishing vessel of a harvesting nation that is in compliance with the International Dolphin Conservation Program.”.

(d) Section 104(h) is amended to read as follows:

“(h)(1) Consistent with the regulations prescribed pursuant to section 103 and consistent with the requirements of section 101, the Secretary may issue an annual permit to a United States vessel for the taking of such marine mammals, together with regulations to cover the use of any such annual permits.

“(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 304, subject to the regulations issued pursuant to section 302.”.

(e) Section 110(a) (16 U.S.C. 1380(a)) is amended—

(1) by striking “(a)(1) The Secretary” and inserting “(a) The Secretary”; and

(2) by striking paragraph (2).

(f) Section 901(d)(1) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(1)) is amended to read as follows:

“(1) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term ‘Dolphin Safe’ or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

“(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing;

“(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements of being considered dolphin safe under paragraph (2); or

“(C) tuna harvested outside the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (3).”.

(g) Section 901(d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)) is amended by adding at the end the following new paragraphs:

“(3) For purposes of paragraph (1)(C), tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

“(A) it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; or

“(B) in any fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, it is accompanied by a written statement executed by the captain of the vessel and an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.

“(4) No tuna product may be labeled with any reference to dolphins, porpoises, or marine mammals, except as dolphin safe in accordance with this subsection.”.

(h) Section 901(f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)) is amended to read as follows:

“(f) The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section, not later than 3 months after the effective date of the International Dolphin Protection and Consumer Information Act of 1995.”.

#### SEC. 5. AMENDMENTS TO TITLE III.

(a) The heading of title III is amended to read as follows:

#### “TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM”.

(b) Section 301 (16 U.S.C. 1411) is amended—

(1) in subsection (a), by striking paragraph (4) and inserting the following:

“(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce, and eventually eliminate, dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will ensure that the existing trend of reduced dolphin mortality continues, that individual stocks of dolphins are adequately protected, and that the goal of eliminating all dolphin mortality continues to be a priority.”; and

(2) in subsection (b), by striking paragraphs (2) and (3) and inserting the following: “(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, and eventually eliminate, the mortality referred to in paragraph (1);

“(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets, or caught by deploying purse seine nets on or to encircle dolphins, in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;”.

(c) Section 302 (16 U.S.C. 1412) is amended to read as follows:

#### “SEC. 302. AUTHORITY OF THE SECRETARY.

“(a) REGULATIONS.—(1) The Secretary shall issue regulations to implement the International Dolphin Conservation Program.

“(2)(A) Not later than 3 months after the effective date of the International Dolphin Protection and Consumer Information Act of 1995, consistent with section 101, the Secretary shall issue regulations to authorize and govern the incidental taking of marine mammals in the eastern tropical Pacific Ocean by vessels of the United States participating in the International Dolphin Conservation Program.

“(B) The regulations issued under this section shall include provisions—

“(i) requiring observers on each vessel;

“(ii) requiring the use of the backdown procedure or other procedures that are equally or more effective in avoiding mortality of marine mammals in fishing operations;

“(iii) prohibiting intentional set on stocks and schools in accordance with the International Dolphin Conservation Program;

“(iv) requiring the use of special equipment, including dolphin safety panels in nets, operable rafts, speedboats with towing bridles, floodlights in operable condition, and diving masks and snorkels;

“(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than 30 minutes after sundown;

“(vi) banning the use of explosive devices in all purse seine operations;

“(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per stock per year mortality limits subject to section 101 in accordance with the International Dolphin Conservation Program;

“(viii) preventing the making of intentional sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits, or per stock per year mortality limit;

“(ix) preventing the encirclement with purse seine nets on dolphins by a vessel without an assigned vessel dolphin mortality limit;

“(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or that do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing; and

“(xi) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to the vessels of the United States;

except that the Secretary may make such adjustments as may be appropriate to provisions that pertain to fishing gear and fishing

practice requirements in order to carry out the International Dolphin Conservation Program.

“(b) CONSULTATION.—In developing a regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

“(c) EMERGENCY REGULATIONS.—(1) If the Secretary determines, on the basis of the best scientific information available (including scientific information obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this title is having, or is likely to have, a significant adverse effect on a marine mammal stock or species, the Secretary shall take the following actions:

“(A) Notify the Inter-American Tropical Tuna Commission of the findings of the Secretary, and include in that notification recommendations to the Commission concerning actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact.

“(B) Prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

“(2) Prior to taking action under subparagraph (A) or (B) of paragraph (1), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

“(3) Emergency regulations prescribed under this subsection—

“(A) shall be published in the Federal Register, together with an explanation thereof;

“(B) shall remain in effect for the duration of the applicable fishing year; and

“(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for the emergency action no longer exist.

“(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.

“(d) RESEARCH.—(1) The Secretary may, in cooperation with the nations participating in the International Dolphin Conservation Program and with the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program, including—

“(A) devising cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

“(B) developing cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals; and

“(C) carrying out a scientific research program (as described in section 117) for those marine mammal species and stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks that are not within waters under the jurisdiction of the United States.

“(2) The Secretary, acting through the National Marine Fisheries Service, shall undertake a research program to—

“(A) determine the effect of harassment by chase and encirclement on the health and bi-

ology of dolphins and the impact of that harassment on dolphin populations encircled by purse seine nets in the course of fishing for yellowfin tuna in the eastern tropical Pacific Ocean; and

“(B) the extent to which the incidental take of nontarget species, including juvenile tuna, occurs when fishing for yellowfin tuna using dolphin-safe methods including fish aggregation devices, the impact of that incidental take on tuna stocks, and where such methods are occurring in international waters, the exclusive economic zone of any nation, or coastal waters.

“(3)(A) Not later than 3 years after the date of enactment of the International Dolphin Protection and Consumer Information Act of 1995, the Secretary shall submit a report to the Congress on the results of the research program conducted under paragraph (2).

“(B) The Secretary shall include in the report submitted to the Congress under this paragraph any recommendations made on the basis of the results of the research program conducted under paragraph (2) that the Secretary considers to be appropriate concerning—

“(i) legislation to address issues that the Secretary determines to be relevant to the results of the research program; and

“(ii) changes to the International Dolphin Conservation Program.

“(4) There are authorized to be appropriated to the Department of Commerce \$1,000,000 to be used by the Secretary, acting through the National Marine Fisheries Service, to carry out paragraph (2).”

(d) Title III (16 U.S.C. 1411) et seq. is amended—

(1) by striking sections 303 and 304;

(2) by inserting after section 302 the following:

**“SEC. 303. REPORTS BY THE SECRETARY.**

“Notwithstanding section 103(f), the Secretary shall annually submit to the Congress a report that includes—

“(1) results of research conducted pursuant to section 320;

“(2) a description of the status and trends of stocks of tuna;

“(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;

“(4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the goals and objectives of the International Dolphin Conservation Program, including the protection of dolphin populations in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

“(5) actions taken by the Secretary under the matter following clause (iii) of section 101(a)(2)(B);

“(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this title; and

“(7) any other information that the Secretary considers to be relevant.”;

(3) by striking sections 305 and 306;

(4) by inserting after section 303 the following:

**“SEC. 304. PERMITS.**

“(a) IN GENERAL.—(1) In a manner consistent with the regulations issued pursuant to section 302, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and the Secretary may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Sec-

retary shall prescribe such procedures as are necessary to carry out this subsection, including requiring the submission of—

“(A) the name and official number or other identification of each fishing vessel for which a permit is sought together with the name and address of the owner thereof; and

“(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 302, with respect to each fishing vessel.

“(2) The Secretary may charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

“(3) After the effective date of the International Dolphin Protection and Consumer Information Act of 1995, no vessel of the United States shall encircle dolphins with purse seine nets in the course of fishing for yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

“(b) PERMIT SANCTIONS.—(1) In any case in which—

“(A) a vessel for which a permit has been issued under this section has been used in the commission in an act prohibited under section 305;

“(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 305; or

“(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel as provided for under the International Dolphin Conservation Program, or other person who has applied for or been issued a permit under this section has not been paid or is overdue, the Secretary may—

“(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

“(ii) suspend a permit referred to in clause (i) for a period of time the Secretary considers to be appropriate;

“(iii) deny a permit referred to in clause (i); or

“(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

“(2) In imposing a sanction under this subsection, the Secretary shall take into account—

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

“(B) with respect to the violator, the degree of culpability, and history of prior offenses, and other such matters as justice requires.

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

“(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and any accrued interest on that penalty or fine at the prevailing rate (as determined by the Secretary).

“(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this title or otherwise.”;

(5) by redesignating section 307 as section 305;

(6) in section 305, as so redesignated—

(A) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

“(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is dolphin-safe (as defined in section 901(d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d))) and has been harvested in compliance with the International Dolphin Conservation Program by a nation that is a member of the Inter-American Tropical Tuna Commission;”;

(ii) by striking paragraphs (2) and (3) and inserting the following:

“(2) except as provided for in section 101(d), for any person or vessel subject to the jurisdiction of the United States to set intentionally a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean, except in accordance with this title and regulations issued pursuant to this title;”;

“(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101;”;

(B) in subsection (b)(2), by inserting “(a)(5) or” before “(a)(6)”;

(7) by redesignating section 308 as section 306; and

(8) in section 306, as so redesignated, by striking “section 303” and inserting “section 302(d)”.

(e) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the items relating to title III and inserting the following:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

“Sec. 301. Finding and policy.

“Sec. 302. Authority of the Secretary.

“Sec. 303. Reports by the Secretary.

“Sec. 304. Permits.

“Sec. 305. Prohibitions.

“Sec. 306. Authorization of appropriations.”.

SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT OF 1950.

(a) Section 3(c) of the Tuna Conventions Act of 1950 (16 U.S.C. 952(c)) is amended to read as follows:

“(c) at least one shall be the Director, or an appropriate regional director, of the National Marine Fisheries Service; and”.

(b) Section 4 of the Tuna Conventions Act of 1950 (16 U.S.C. 953) is amended to read as follows:

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

“(1)(A) The Secretary, in consultation with the United States Commissioners, shall appoint a committee to be known as the ‘General Advisory Committee’. The General Advisory Committee shall be composed of not less than 5 and not more than 15 individuals and shall have balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations.

“(B) 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 any meeting of an international commission on the invitation of that commission.

“(2)(A) The Secretary, in consultation with the United States Commissioners, shall appoint a subcommittee to be known as the ‘Scientific Advisory Subcommittee’. The Scientific Advisory Subcommittee shall be composed of not less than 5 and not more than 15 qualified scientists and shall have balanced representation from the public and private sectors, including nongovernmental conservation organizations. The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters relating to the conservation of ecosystems, the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean, and the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

“(B) In addition to carrying out the duties specified, 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. The functions referred to in the preceding sentence may include—

“(i) the review of data from the International Dolphin Conservation Program, including data received from the Inter-American Tropical Tuna Commission;

“(ii) recommendations concerning 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 the coordination and facilitation of such research;

“(iii) recommendations concerning scientific reviews and assessments required under the International Dolphin Conservation Program, and engaging, as appropriate, in such reviews and assessments;

“(iv) consulting with other experts as needed; and

“(v) recommending measures to ensure the regular and timely full exchange of data among the parties to the International Dolphin Conservation Program and the national scientific advisory committee of each country that participates in the program (or its equivalent entity of that country).

“(3) The Secretary, in consultation with the United States Commissioners, shall establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data. The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee 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.

“(4)(A) The Secretary, in consultation with the United States Commissioners, shall fix the terms of office of the members of the General Advisory Committee and the Scientific Advisory Subcommittee.

“(B) Each member of the General Advisory Committee and the Scientific Advisory Sub-

committee who is not an officer or employee of the Federal Government shall serve without compensation.

“(C) The General Advisory Committee and the Scientific Advisory Subcommittee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).”.

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective upon—

(1) a certification by the Secretary of State to the Congress that a binding resolution of the Inter-American Tropical Tuna Commission, or other legally binding instrument, establishing the International Dolphin Conservation Program has been adopted by each nation participating in the International Dolphin Conservation Program and is in effect; and

(2) the promulgation of final regulations under section 302(a).●

ADDITIONAL COSPONSORS

S. 948

At the request of Mr. DORGAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 1005

At the request of Mr. BAUCUS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1005, a bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes.

S. 1115

At the request of Mr. THURMOND, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1115, a bill to prohibit an award of costs, including attorney's fees, or injunctive relief, against a judicial officer for action taken in a judicial capacity.

S. 1212

At the request of Mr. COATS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1212, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based welfare policy may be used to enable individuals and families with low income to achieve economic self-sufficiency.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1252

At the request of Mr. ABRAHAM, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Tennessee [Mr. FRIST] were added as