

Treasury, who shall promptly remove such import prohibition.

(d) Definitions

As used in this section—

(1) The term “fish” includes any highly migratory species.

(2) The term “fish products” means any article which is produced from or composed of (in whole or in part) any fish.

(Pub. L. 94-265, title II, §205, Apr. 13, 1976, 90 Stat. 345; Pub. L. 101-627, title I, §105(b)(1), Nov. 28, 1990, 104 Stat. 4440.)

Editorial Notes

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-627, §105(b)(1)(A), inserted “including fisheries for tuna species,” after “authority,” and struck out “traditional” after “in accordance with”.

Subsec. (a)(2). Pub. L. 101-627, §105(b)(1)(B), substituted “tuna” for “highly migratory”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-627, title I, §105(b)(2), Nov. 28, 1990, 104 Stat. 4440, provided that: “The amendments made by this subsection [amending this section] shall take effect on January 1, 1992.”

§ 1826. Large-scale driftnet fishing

(a) Short title

This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the “Driftnet Act Amendments of 1990”.

(b) Findings

The Congress finds that—

(1) the continued widespread use of large-scale driftnets beyond the exclusive economic zone of any nation is a destructive fishing practice that poses a threat to living marine resources of the world’s oceans, including but not limited to the North and South Pacific Ocean and the Bering Sea;

(2) the use of large-scale driftnets is expanding into new regions of the world’s oceans, including the Atlantic Ocean and Caribbean Sea;

(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished large-scale driftnets and in large-scale driftnets that are lost, abandoned, or discarded;

(4) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of large-scale driftnet fishing on living marine resources;

(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of large-scale driftnets beyond the exclusive economic zone of any nation;

(6) the nations of the South Pacific have agreed to a moratorium on the use of large-

scale driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989;

(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation; and

(8) within the exclusive economic zone, large-scale driftnet fishing that deploys nets with large mesh sizes causes significant entanglement and mortality of living marine resources, including myriad protected species, despite limitations on the lengths of such nets.

(c) Policy

It is declared to be the policy of the Congress in this section that the United States should—

(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

(2) support the Tarawa Declaration and the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific;

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

(4) prioritize the phase out of large-scale driftnet fishing in the exclusive economic zone and promote the development and adoption of alternative fishing methods and gear types that minimize the incidental catch of living marine resources.

(d) International agreements

The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement immediately the findings, policy, and provisions of this section, and in particular an international ban on large-scale driftnet fishing. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

(1) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

(2) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

(3) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and

nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by large-scale driftnets used by fishing vessels of foreign nations that are parties to the agreement;

(4) officials of the United States have the right to board and inspect for violations of the agreement any large-scale driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

(5) all catch landed or transshipped at sea by large-scale driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

(6) time and area restrictions are imposed on the use of large-scale driftnets in order to prevent interception of anadromous species;

(7) all large-scale driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

(8) all large-scale driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of large-scale driftnets beyond the exclusive economic zone of any nation.

(e) Effect on sovereign rights

This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this chapter or other existing law.

(f) “Living marine resources” defined

As used in this section, the term “living marine resources” includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

(i) ¹ Fishing gear transition program

(1) In general

During the 5-year period beginning on December 29, 2022, the Secretary shall conduct a transition program to facilitate the phase-out of large-scale driftnet fishing and adoption of alternative fishing practices that minimize the incidental catch of living marine resources, and shall award grants to eligible permit holders who participate in the program.

(2) Permissible uses

Any permit holder receiving a grant under paragraph (1) may use such funds only for the purpose of covering—

(A) any fee originally associated with a permit authorizing participation in a large-scale driftnet fishery, if such permit is surrendered for permanent revocation, and such permit holder relinquishes any claim associated with the permit;

(B) a forfeiture of fishing gear associated with a permit described in subparagraph (A); or

(C) the purchase of alternative gear with minimal incidental catch of living marine resources, if the fishery participant is authorized to continue fishing using such alternative gears.

(3) Certification

The Secretary shall certify that, with respect to each participant in the program under this subsection, any permit authorizing participation in a large-scale driftnet fishery has been permanently revoked and that no new permits will be issued to authorize such fishing.

(Pub. L. 94-265, title II, §206, as added Pub. L. 95-6, §3(1), Feb. 21, 1977, 91 Stat. 15; amended Pub. L. 99-659, title I, §101(c)(2), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101-627, title I, §107(a), Nov. 28, 1990, 104 Stat. 4441; Pub. L. 104-297, title I, §105(f), Oct. 11, 1996, 110 Stat. 3569; Pub. L. 117-328, div. S, title I, §§103, 104, title II, §205(b)(1)(B), Dec. 29, 2022, 136 Stat. 5259, 5270.)

Editorial Notes

REFERENCES IN TEXT

The Driftnet Impact Monitoring, Assessment, and Control Act of 1987, referred to in subsec. (a), is title IV of Pub. L. 100-220, which is set out as a note under section 1822 of this title.

Presidential Proclamation Numbered 5030, referred to in subsec. (e), is set out under section 1453 of this title.

This chapter, referred to in subsec. (e), was in the original “this Act”, meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

CODIFICATION

Former subsecs. (g) and (h) were redesignated (e) and (f), respectively, by Pub. L. 117-328, §205(b)(1)(B). See 2022 Amendment note below.

AMENDMENTS

2022—Subsec. (b)(8). Pub. L. 117-328, §103(a), added par. (8).

Subsec. (c)(4). Pub. L. 117-328, §103(b), added par. (4).

Subsecs. (e) to (h). Pub. L. 117-328, §205(b)(1)(B), redesignated subsecs. (g) and (h) as (e) and (f), respectively, and struck out former subsecs. (e) and (f), which related, respectively, to reports and certification.

Subsec. (i). Pub. L. 117-328, §104, added subsec. (i).

1996—Subsec. (e). Pub. L. 104-297, §105(f)(1), redesignated pars. (5) and (6) as (3) and (4), respectively, and struck out former pars. (3) and (4) which read as follows:

“(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

“(4) identifying, evaluating, and making any recommendations considered necessary to improve the ef-

¹ So in original. See Codification note below.

fectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;”.

Subsec. (f). Pub. L. 104-297, §105(f)(2), substituted “subsection (e)(4)” for “subsection (e)(6)”.

1990—Pub. L. 101-627 amended section generally, substituting provisions relating to large-scale driftnet fishing for provisions relating to transitional provisions.

1986—Subsec. (b). Pub. L. 99-659 substituted “exclusive economic zone” for “fishery conservation zone”.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1826a. Denial of port privileges and sanctions for high seas large-scale driftnet fishing

(a) Denial of port privileges

(1) Publication of list

Not later than 30 days after November 2, 1992, and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) Denial of port privileges

The Secretary of Homeland Security shall, in accordance with international law—

(A) withhold or revoke the clearance required by section 60105 of title 46 for any large-scale driftnet fishing vessel of a nation that receives a negative certification under section 1826j(d) or 1826k(c) of this title, or fishing vessels of a nation that has been listed pursuant to section 1826j(b) of this title or section 1826k(a) of this title in 2 or more consecutive reports for the same type of fisheries activity, as described under section 1826h of this title, until a positive certification has been received;

(B) withhold or revoke the clearance required by section 60105 of title 46 for fishing

vessels of a nation that has been listed pursuant to section 1826j(a) or 1826k(a) of this title in 2 or more consecutive reports as described under section 1826h of this title; and

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

(3) Notification of nation

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

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

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

(b) Sanctions

(1) Identifications

(A) Initial identifications

Not later than January 10, 1993, the Secretary of Commerce shall—

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

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

(B) Additional identifications

At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

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

(2) Consultations

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

(3) Prohibition on imports of fish and fish products and sport fishing equipment

(A) Prohibition

The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A) or a negative certification under section 1826j(d) of this title or section 1826k(c) of this title; or

(ii) if the consultations with the government of a nation under paragraph (2) are