

State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing) of which the United States is a member; or

(B) to any information collected by the Secretary regarding foreign vessels.

**(c) IUU vessel lists**

The Secretary may—

(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing or fishing-related activities in support of illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, that—

(A) the United States is party to; or

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

(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management agreements and trade agreements.

**(d) Regulations**

The Secretary may promulgate regulations to implement this section.

(Pub. L. 104-43, title VI, § 608, as added Pub. L. 109-479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3627; amended Pub. L. 111-348, title I, § 102(a), Jan. 4, 2011, 124 Stat. 3668; Pub. L. 114-81, title I, § 101(b), Nov. 5, 2015, 129 Stat. 653.)

**Editorial Notes**

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b)(1), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Atlantic Tunas Convention Act of 1975, referred to in subsec. (b)(1), is Pub. L. 94-70, Aug. 5, 1975, 89 Stat. 385, which is classified generally to chapter 16A (§ 971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

The Western and Central Pacific Fisheries Convention Implementation Act, referred to in subsec. (b)(1), is Pub. L. 109-479, title V, Jan. 12, 2007, 120 Stat. 3635, which is classified generally to chapter 88 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

This Act, referred to in subsec. (b)(2), probably means title VI of Pub. L. 104-43, Nov. 3, 1995, 109 Stat. 391, known as the High Seas Driftnet Fishing Moratorium Protection Act, which is classified generally to sections 1826d to 1826k of this title. For complete classification of title VI to the Code, see Short Title of 1995

Amendment note set out under section 1801 of this title and Tables.

CODIFICATION

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

AMENDMENTS

2015—Pub. L. 114-81 designated existing provisions as subsec. (a), inserted heading and “, or arrangements made pursuant to an international fishery agreement,” after “organizations” in introductory provisions, and added subsecs. (b) to (d).

2011—Par. (1)(F). Pub. L. 111-348, § 102(a)(1), added subpar. (F).

Par. (2)(C). Pub. L. 111-348, § 102(a)(2), struck out “and” at end.

Par. (3). Pub. L. 111-348, § 102(a)(4), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 111-348, § 102(a)(3), redesignated par. (3) as (4).

**Statutory Notes and Related Subsidiaries**

CONSTRUCTION

Pub. L. 111-348, title I, § 104, as added by Pub. L. 115-228, § 2(1), Aug. 2, 2018, 132 Stat. 1628, provided that: “Nothing in this title [see Short Title of 2011 Amendment note set out under section 1801 of this title] or the amendments made by this title shall be construed as affecting, altering, or diminishing in any way the authority of the Secretary of Commerce to establish such conservation and management measures as the Secretary considers necessary and appropriate under sections 302(a)(3) and 304(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(3), 1854(g)).”

[Another section 104 of Pub. L. 111-348 amended section 4107 of this title, prior to repeal by Pub. L. 115-228, § 2(1), Aug. 2, 2018, 132 Stat. 1628.]

**§ 1826j. Illegal, unreported, or unregulated fishing**

**(a) Identification**

**(1) Identification for actions of fishing vessels**

The Secretary shall, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations, identify, and list in the report under section 1826h of this title, a nation if any fishing vessel of that nation is engaged, or has been engaged at any point during the preceding 3 years, in illegal, unreported, or unregulated fishing—

(A) that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

(B) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

**(2) For actions of a nation**

The Secretary shall identify, and list in such report, a nation engaging in or endorsing ille-

gal, unreported, or unregulated fishing. In determining which nations to list in such report, the Secretary shall consider the following:

(A) Any nation that is violating, or has violated at any point during the 3 years preceding the date of the determination, conservation and management measures, including catch and other data reporting obligations and requirements, required under an international fishery management agreement to which the United States is a party.

(B) Any nation that is failing, or has failed in the 3-year period preceding the date of the determination, to effectively address or regulate illegal, unreported, or unregulated fishing within its fleets in any areas where its vessels are fishing.

(C) Any nation that fails to discharge duties incumbent upon it under international law or practice as a flag, port, or coastal state to take action to prevent, deter, and eliminate illegal, unreported, or unregulated fishing.

(D) Any nation that has been identified as producing for export to the United States seafood-related goods through forced labor or oppressive child labor (as those terms are defined in section 11329 of the Don Young Coast Guard Authorization Act of 2022) in the most recent List of Goods Produced by Child Labor or Forced Labor in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

**(3) Application to other entities**

Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.

**(4) Timing**

The Secretary shall make an identification under paragraph (1) or (2) at any time that the Secretary has sufficient information to make such identification.

**(b) Notification**

The Secretary shall notify the President and that nation of such an identification.

**(c) Consultation**

No later than 60 days after submitting a report to Congress under section 1826h of this title, the Secretary, acting through the Secretary of State, shall—

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

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

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

**(d) IUU certification procedure**

**(1) Certification**

The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, for determining if a na-

tion identified under subsection (a) and listed in the report under section 1826h of this title has taken appropriate corrective action with respect to the offending activities identified in the report under section 1826h of this title. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 1826h of this title—

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

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

**(2) Alternative procedure**

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

(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

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

**(3) Effect of certification determination**

**(A) Effect of negative certification**

The provisions of subsection (a) and paragraphs (3) and (4) of subsection (b) of section 1826a of this title shall apply to any nation that, after being identified and notified under subsection (b) has failed to take the appropriate corrective actions for which the Secretary has issued a negative certification under this subsection.

**(B) Effect of positive certification**

The provisions of subsection (a) and paragraphs (3) and (4) of subsection (b) of section 1826a of this title shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

**(e) Illegal, unreported, or unregulated fishing defined**

**(1) In general**

In this Act the term “illegal, unreported, or unregulated fishing” has the meaning established under paragraph (2).

**(2) Secretary to define term within legislative guidelines**

Within 3 months after January 12, 2007, the Secretary shall publish a definition of the

term “illegal, unreported, or unregulated fishing” for purposes of this Act.

### (3) Guidelines

The Secretary shall include in the definition, at a minimum—

(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, bycatch reduction requirements, and shark conservation measures;

(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

### (f) Authorization of appropriations

There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

(Pub. L. 104-43, title VI, § 609, as added Pub. L. 109-479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3628; amended Pub. L. 111-348, title I, § 102(b), Jan. 4, 2011, 124 Stat. 3669; Pub. L. 114-81, title I, § 101(c), (e), (g)(1), (2), (i)(2)–(4), Nov. 5, 2015, 129 Stat. 654, 655; Pub. L. 114-327, title IV, § 401(c), Dec. 16, 2016, 130 Stat. 1995; Pub. L. 117-263, div. K, title CXIII, § 11337, Dec. 23, 2022, 136 Stat. 4102; Pub. L. 117-328, div. S, title IV, § 401(1), Dec. 29, 2022, 136 Stat. 5274.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 11329 of the Don Young Coast Guard Authorization Act of 2022, referred to in subsec. (a)(2)(D), is section 11329 of div. K of Pub. L. 117-263, which is set out as a note under section 1885a of this title.

The Trafficking Victims Protection Act of 2000, referred to in subsec. (a)(2)(D), is div. A of Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1466, which is classified principally to chapter 78 (§ 7101 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 22 and Tables.

This Act, referred to in subsections (a)(3) and (e)(1), (2), probably means title VI of Pub. L. 104-43, Nov. 3, 1995, 109 Stat. 391, known as the High Seas Driftnet Fishing Moratorium Protection Act, which is classified generally to sections 1826d to 1826k of this title. For complete classification of title VI to the Code, see Short Title of 1995 Amendment note set out under section 1801 of this title and Tables.

#### CODIFICATION

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

#### AMENDMENTS

2022—Subsec. (a)(2). Pub. L. 117-263, § 11337(a)(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “Taking into account the factors described under subsection (a)(1), the Secretary shall also identify, and list in such report, a nation—

“(A) if it is violating, or has violated at any point during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures; or

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

Subsec. (a)(4). Pub. L. 117-263, § 11337(a)(2), added par. (4).

Subsec. (d)(3). Pub. L. 117-263, § 11337(b)(1), added par. (3) and struck out former par. (3) which related to effect of certification.

Subsecs. (e) to (g). Pub. L. 117-328, § 401(1), redesignated subsections (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which related to record-keeping requirements.

Pub. L. 117-263, § 11337(b)(2), (3), added subsec. (e) and redesignated former subsections (e) and (f) as (f) and (g), respectively.

2016—Subsec. (a)(1). Pub. L. 114-327 substituted “any fishing vessel of that nation is engaged, or has” for “fishing vessels of that nation are engaged, or have” in introductory provisions.

2015—Subsec. (a). Pub. L. 114-81, § 101(g)(1), (2), designated existing provisions as par. (1), inserted heading, and, in introductory provisions, inserted “, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations,” after “shall” and substituted “3 years” for “2 years”; redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and, in subpar. (A), inserted “that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether” before “the relevant” and struck out “vessels of” after “activity by”; and added pars. (2) and (3).

Subsec. (b). Pub. L. 114-81, § 101(c), amended subsec. (b) generally. Prior to amendment, text read as follows: “An identification under subsection (a) or section 1826k(a) of this title is deemed to be an identification under section 1826a(b)(1)(A) of this title, and the Secretary shall notify the President and that nation of such identification.”

Subsec. (d)(1). Pub. L. 114-81, § 101(i)(2), struck out “of its fishing vessels” after “offending activities” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 114-81, § 101(i)(3), struck out “of its fishing vessels” after “offending activities”.

Subsec. (d)(2). Pub. L. 114-81, § 101(i)(4), in introductory provisions, substituted “to authorize” for “for certification”, inserted “the importation” after “or other basis”, struck out “harvesting” before “nation”, and substituted “issued a negative certification under paragraph (1)” for “not certified under paragraph (1)”.

Subsec. (d)(3)(A)(i). Pub. L. 114-81, § 101(e), struck out “that has not been certified by the Secretary under this subsection, or” after “subsection (a)”.

2011—Subsec. (e)(3)(A). Pub. L. 111-348 substituted “bycatch reduction requirements, and shark conservation measures;” for “and bycatch reduction requirements;”.

### Statutory Notes and Related Subsidiaries

#### CONSTRUCTION

Nothing in amendment by Pub. L. 111-348 to be construed as affecting, altering, or diminishing the authority of the Secretary of Commerce to establish such conservation and management measures as the Secretary

considers necessary and appropriate under sections 1852(a)(3) and 1854(g) of this title, see section 104 of Pub. L. 111-348, set out as a note under section 1826i of this title.

### § 1826k. Equivalent conservation measures

#### (a) Identification

##### (1) In general

The Secretary shall identify and list in the report under section 1826h of this title—

(A) a nation if—

(i) any fishing vessel of that nation is engaged, or has been engaged during the 3 years preceding the date of the determination, in fishing activities or practices on the high seas or within the exclusive economic zone of any nation, that have resulted in bycatch of a protected living marine resource; and

(ii) the vessel's flag state has not adopted, implemented, and enforced a regulatory program governing such fishing designed to end or reduce such bycatch that is comparable in effectiveness to the regulatory program of the United States, taking into account differing conditions; and

(B) a nation if—

(i) any fishing vessel of that nation is engaged, or has engaged during the 3 years preceding the date of the determination, in fishing activities on the high seas or within the exclusive economic zone of another nation that target or incidentally catch sharks; and

(ii) the vessel's flag state has not adopted, implemented, and enforced a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark, including the tail, before landing the shark in port, that is comparable to that of the United States.

##### (2) Timing

The Secretary shall make an identification under paragraph (1) at any time that the Secretary has sufficient information to make such identification.

#### (b) Consultation and negotiation

The Secretary of State, acting in consultation with the Secretary, shall—

(1) notify, as soon as practicable, the President and nations that are engaged in, or that have any fishing vessels engaged in, fishing activities or practices described in subsection (a), about the provisions of this Act;

(2) initiate discussions as soon as practicable with all foreign nations that are engaged in, or a fishing vessel of which has engaged in, fishing activities described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such nations to protect such species and to address any underlying failings or gaps that may have contributed to identification under this Act; and

(3) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

#### (c) Conservation certification procedure

##### (1) Determination

The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5 for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 1826h of this title—

(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

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

##### (2) Procedural requirement

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

##### (3) Certification

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

##### (4) Alternative procedure

The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States, taking into account different conditions; and

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

##### (5) Effect of certification

The provisions of section 1826a(a) and section 1826a(b)(3) and (4) of this title shall apply to any nation identified under subsection (a) for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

#### (d) International cooperation and assistance

To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—