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105TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 105–74, Part 2

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT

MAY 1, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 408]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 408) 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, having considered the same, report favorably thereon without amendment and recommend that the bill, as amended by the Committee on Resources, do pass.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 408, as amended by the Committee on Resources and reported by the Committee on Ways and Means, would implement into U.S. law the Declaration of Panama concerning tuna fishing in the Eastern Tropical Pacific Ocean (ETP). The bill would recognize that a significant reduction in dolphin mortality has been achieved by nations fishing for tuna in the ETP. In addition, the bill would replace the current use of U.S. unilateral standards as a trigger for an import ban of tuna caught with purse seine nets with multilateral standards agreed to as part of the Panama Declaration. Finally, the bill would amend the definition of "dolphin safe."

B. BACKGROUND

Because large yellowfin tuna associate with schools of dolphin in the Eastern Tropical Pacific Ocean (ETP), fishermen have in the

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past deployed large seine nets around dolphins to harvest the tuna swimming below, resulting in significant dolphin mortality. Since then, fishermen have improved their techniques, greatly reducing the incidence of dolphin mortality. Scientific experts report that the current level of dolphin mortality is less than 4,000 animals per year, a level considered to be below commercial significance.

In an effort to protect marine mammals from the adverse effects of fishing, the Marine Mammal Protection Act (MMPA) was enacted in 1972. In 1984, in response to concerns of the increased incidence of dolphin mortality by the foreign tuna fleet, the MMPA was amended to require each nation wishing to export tuna to the United States to document that its dolphin protection program was "comparable" to that of the United States and that the incidental mortality rate was "comparable" to that of the U.S. fleet. Failure to meet these standards would result in the embargo on the importation of yellowfin tuna from that country.

Legislation enacted as part of the Fishery Conservation Amendments of 1990 codified criteria for the labeling of tuna and tuna products as "dolphin safe." To qualify as dolphin safe, tuna caught in the ETP must have been caught either by a vessel too small to deploy nets around dolphins or, for larger vessels, the catch must be certified by a qualified observer that no "dolphin sets" were made for the entire fishing trip.

In 1990, Mexico was embargoed for not achieving comparability with the U.S. fleet. In response, Mexico requested a GATT panel to consider whether the United States was inconsistent with its GATT obligations by imposing embargoes on tuna imports under the authority of the MMPA. In August 1991, the GATT panel found that the United States had acted inconsistently because it imposed import restrictions based on certain extraterritorial environmental concerns and dictated how other nations produce their goods for export. However, the panel suggested that import sanctions could be permissible if they were designed to encourage compliance with a multilateral agreement. Adoption of the panel report has been blocked by the United States under the pre-WTO dispute settlement procedures of the GATT.

The EU subsequently challenged U.S. embargo provisions applicable to tuna trade through intermediary nations. That GATT panel also found that the United States had acted inconsistently with GATT obligations. Adoption of the panel report has been blocked by the United States under the pre-WTO dispute settlement procedures of the GATT.

In 1992, Eastern Tropical Pacific (ETP) nations concluded the La Jolla Agreement, a non-binding international agreement establishing an International Dolphin Conservation Program (IDCP) under the auspices of the Inter-American Tropical Tuna Commission (IATTC). The agreement established annual limits on incidental dolphin mortality, required observers on tuna vessels, established a review panel to monitor fleet compliance, and created a scientific research and education program and advisory board. The agreement established a dolphin mortality limit for each vessel, and when that limit was reached, such vessel would be required to discontinue "setting on dolphins" for the remainder of the year.

In October 1995, 12 nations signed the Declaration of Panama, including the United States, Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela. The Panama Declaration endorses the success of the La Jolla Agreement and adjusts the marketing policy of dolphin safe tuna in recognition of this success. In exchange for modifications to U.S. law, foreign signatories agreed to modify and formalize the La Jolla Agreement as a binding agreement. Signatories agreed to adopt conservation and management measures to ensure long-term sustainability of tuna and living marine resources, assess the catch and bycatch of tuna and take steps to reduce or eliminate the bycatch, implement the binding agreement through enactment of domestic legislation, enhance mechanisms for reviewing compliance with the IDCP, and establish annual quotas for dolphin mortality limiting total annual dolphin mortality to fewer than 5000 animals.

Changes to U.S. law envisaged by the other signatories, in return, included lifting the primary and secondary embargoes on tuna caught in compliance with the La Jolla Agreement, permitting access to the U.S. market for all tuna (dolphin safe and non-dolphin safe) caught in compliance with the La Jolla Agreement by IATTC members or nations initiating steps to become IATTC members, and redefining "dolphin safe" to include ETP tuna caught in purse seine nets in which no dolphin mortalities were observed.

H.R. 408, as amended, would implement the Panama Declaration into U.S. law, building on the international consensus concerning multilateral management of the ETP tuna fishery, instead of maintaining the use of unilateral standards which operate as a barrier to trade.

C. Legislative History

H.R. 408 was introduced on January 9, 1997, by Representative Gilchrest and was referred to the Committee on Resources. On April 24, 1997, the Committee on Resources reported H.R. 408 favorably, with amendments, by voice vote. See H. Rep. 105–74 (Part 1) for a detailed description of action by the Committee on Resources.

On April 24, 1997, H.R. 408, as amended by the Committee on Resources, was sequentially referred to the Committee on Ways and Means, for a period ending not later than May 5, 1997.

On April 30, 1997, the Committee on Ways and Means met to consider H.R. 408. The Committee ordered H.R. 408, as amended by the Committee on Resources, favorably reported, without additional amendment, by a recorded vote of 28 ayes and 9 nays.

During the 104th Congress, the Committee on Ways and Means considered similar legislation implementing the Panama Declaration, H.R. 2823. The Committee reported the legislation favorably, without amendment, by voice vote on July 23, 1996. The House passed the legislation on July 31, 1996, by a recorded vote of 316–108. The legislation was not considered by the full Senate.

II. EXPLANATION OF PROVISIONS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS

A. SEC. 2(a)(3): PURPOSE

Present law

Not applicable.

Explanation of provision

States that the purpose of the Act is to eliminate the ban on imports of tuna from nations that are in compliance with the International Dolphin Conservation Program.

Reasons for change

The Committee believes that if countries are in compliance with the multilateral standard for the fishing of yellowfin tuna as memorialized in the International Dolphin Conservation Program, then the import ban should not apply. Accordingly, the Committee believes that the use of U.S. comparability standards for the imposition of any embargo on yellowfin tuna should be replaced with the IDCP standards.

B. SEC. 2(b)(2): FINDINGS

Present law

Not applicable.

Explanation of provision

States that the Marine Mammal Protection Act of 1972 provisions 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.

Reasons for change

The Committee believes that these provisions have served as a positive incentive to reduce dolphin mortality. Replacement of the unilateral U.S. standard with the international IDCP standard should serve as an equal incentive while, at the same time, putting the United States in compliance with its international agreements.

C. SEC. 3: DEFINITION OF "INTERNATIONAL DOLPHIN CONSERVATION PROGRAM"

Present law

Not applicable.

Explanation of provision

Adds a definition of the International Dolphin Conservation Program, which refers to 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. The Declaration caps dolphin mortality at 5,000, establishes declining levels of per-stock per-year mortality levels, provides for the ceasing of sets on dolphins if the mortality level is exceeded, provides for scientific review and assessment, establishes

per-vessel mortality limits, and establishes incentives to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

Reasons for change

The definition in section 3 reflects the international agreement reached by the ETP nations through the La Jolla Agreement and the Panama Declaration.

D. SEC. 4(b) and (c): AMENDMENTS TO TITLE I OF THE MARINE MAMMAL PROTECTION ACT

Present law

Current law establishes a moratorium on (i.e., prohibits) the importation of commercial fish (including tuna) which results in the incidental kill or serious injury of ocean mammals in excess of U.S. standards unless the following conditions are met:

The government of the harvesting nation has adopted a regulatory program governing the incidental taking of marine mammals which is "comparable" to that of the United States; and

The average rate of incidental taking by the vessels of the harvesting nation is "comparable" to the average rate of incidental taking of marine mammals by the United States (sec. 101(a)(2) of the Marine Mammal Protection Act (MMPA) of 1972; 16 U.S.C. 1371(a)(2))

Explanation of provision

Section 4(b) of H.R. 408 would maintain the moratorium under current law but would repeal the unilateral comparability standard. Instead, importation would be permitted if the harvesting nation complies with international standards, as follows:

The tuna was harvested by vessels of a nation which participates in the International Dolphin Conservation Program, the harvesting nation is either a member or has initiated steps to become a member of the Inter-American Tropical Tuna Commission, and the nation has implemented its obligations under the Program and the Commission; and

Total dolphin mortality permitted under the Program not to exceed 5,000 in 1997, or any year thereafter.

Section 4(c) would provide standards for the acceptance of documentary evidence and establish an exemption for U.S. citizens incidentally taking marine mammals during fishing operations outside the United States exclusive economic zone under certain circumstances.

Reasons for change

H.R. 408 would implement the multilateral standards for the imposition of trade sanctions agreed to as part of the Panama Declaration, repealing the unilateral comparability standards of current U.S. law. The Committee believes that enforcement actions are often the most effective when they are based on international consensus, and that such consensus would be more constructive to effective management of the ETP tuna fishery by all countries con-

cerned. The Committee thus expects the Secretary to use this authority, wherever possible in accordance with multilaterally agreed decisions taken by ICCAT and to work within ICCAT and other institutions to achieve multilateral consensus on appropriate enforcement mechanisms.

In light of the above, it is the view of the Committee that the preferred course of action with respect to the use of import measures to enforce standards relating to dolphin mortalities is to base those standards on those developed through the Panama Declaration. The change made by section 4(b) of H.R. 408 to section 101(a)(2) of the MMPA is a conforming change concerning this international standard.

E. SEC. 5(f) CHAPEAU AND (f)(1)(c): AMENDMENTS TO TITLE III

Present law

Section 307 of the MMPA (16 U.S.C. 1415) provides that yellowfin tuna or yellowfin tuna product may not be imported in violation of import ban established under section 305. Section 305 imposes the import ban unless the tuna is imported from a country that agrees to implement a 5-year moratorium on setting on dolphins, requires vessel observers, and reduces dolphin mortality.

Explanation of provision

Section 5(f)(1)(c) of H.R. 408 would maintain the section 307 prohibition on importation of tuna in violation of an import ban (renumbering it to become section 305). However, the chapeau to section 5(f) of H.R. 408 would repeal section 305 under present law, which conditions importation on the requirement that importing countries adopt a moratorium, require vessel observers, and reduce dolphin mortality, as no longer necessary because new moratorium would be triggered by international standards. Instead, the requirements of section 101(a)(2) of the Marine Mammal Protection Act (as amended by section 4(b) and (c) of H.R. 408) would govern the imposition of the import ban.

Reasons for change

Section 5(f) of H.R. 408 would prohibit the importation of yellowfin tuna based on the new international standards of section 101(a)(2) (as set forth in section 4(b) and (c) of H.R. 408), thereby replacing the U.S. comparability standard, as discussed above. Because of this new language, section 305 of the current statute would no longer be necessary and would therefore be repealed.

III. VOTE OF THE COMMITTEE

In compliance with clause 2(*l*)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill H.R. 408.

Motion to Report the Bill

The bill, H.R. 408, as reported by the Committee on Resources, was ordered favorably reported by a roll call vote of 28 yeas to 9 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer	X			Mr. Rangel	X		
Mr. Crane	X			Mr. Stark		X	
Mr. Thomas	X			Mr. Matsui	X		
Mr. Shaw	X			Mrs. Kennelly		X	
Mrs. Johnson	X			Mr. Coyne		X	
Mr. Bunning	X			Mr. Levin	X		
Mr. Houghton	X			Mr. Cardin	X		
Mr. Herger				Mr. McDermott		X	
Mr. McCrery	X			Mr. Kleczka		X	
Mr. Camp	X			Mr. Lewis		X	
Mr. Ramstad	X			Mr. Neal		X	
Mr. Nussle	X			Mr. McNulty		X	
Mr. Johnson	X			Mr. Jefferson	X		
Ms. Dunn	X			Mr. Tanner	X		
Mr. Collins	X			Mr. Becerra			
Mr. Portman	X			Mrs. Thurman		X	
Mr. English	X						
Mr. Ensign	X						
Mr. Christensen	X						
Mr. Watkins	X						
Mr. Hayworth	X						
Mr. Weller	X						
Mr. Hulshof	X						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 7(a) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of H.R. 408, as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. Statement Regarding New Budget Authority and Tax Expenditures

In compliance with subdivision (B) of clause 2(*l*)(3) of rule XI of the Rules of the House of Representatives, the Committee states that the provisions of H.R. 408 do not contain any new budget authority, spending authority, credit authority, or a decrease or increase in tax expenditures. Enactment of H.R. 408 would lead to an increase in appropriated spending of approximately $1 million in fiscal year 1998. Enacting H.R. 408 could decrease direct spending beginning in fiscal year 1998 by generating additional offsetting receipts from fees on fishing permits, and new permit fees are estimated to total less than $100,000 per year over the 1998–2002 period. In addition, H.R. 408 would increase governmental receipts by less than $500,000 annually from tariffs on imported tuna.

C. Cost Estimate Prepared by The Congressional Budget Office

In compliance with subdivision (C) of clause 2(*l*)(3) of rule XI of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 30, 1997.

Hon. Bill Archer,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 408, the International Dolphin Conservation Program Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid (for federal costs) and Lesley Frymier (for the private-sector impact).

Sincerely,

June E. O'Neill, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 408—International Dolphin Conservation Program Act

Summary: H.R. 408 would modify the protection of marine mammals, including dolphins, in connection with tuna harvesting. CBO estimates that enacting H.R. 408 would lead to an increase in appropriated spending of about $1 million in fiscal year 1998, assuming appropriations consistent with the bill's provisions. In addition, CBO estimates that enacting H.R. 408 could decrease direct spending beginning in fiscal year 1998 by generating additional offsetting receipts from fees on fishing permits. We estimate that any new permit fees would total less than $100,000 a year over the 1998–2002 period. Finally, based on information for the International Trade Commission (ITC), COB estimates that H.R. 408 would increase governmental receipts by less than $500,000 annually. Because H.R. 408 could affect both direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 408 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would have no impact on state, local, or tribal governments. The bill would impose new private-sector mandates on tuna vessels while removing an existing mandate on tuna vessels and providing other benefits to tuna importers. CBO estimates that the direct costs of the new private-sector mandates would most likely be less than the costs of the existing mandate.

Description of the bill's major provisions: The bill would recognize and incorporate into law many of the provisions of the Declaration of Panama, signed October 4, 1995, by the United States and the governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela. The Declaration of Panama addresses the protection of dol-

phins and other species, and the conservation and management of tuna, in the eastern tropical Pacific Ocean (ETP). Several provisions of the bill would address the use of purse seines in tuna fishing. Purse seines are large nets that encircle tuna and are then drawn shut like a purse.

Specifically, the bill would:

Declare that it is U.S. policy to support the International Dolphin Conservation Program (IDCP) operated under the auspices of the Inter-American Tropical Tuna Commission (IATTC);

Eliminate the current ban by the Secretary of the Treasury on imports of yellowfin tuna from countries whose vessels catch tuna in the ETP using a procedure known as "setting on dolphins" by allowing tuna imports from those nations complying with the IDCP;

Amend the Marine Mammal Protection Act of 1972 to allow the Department of Commerce (DOC) to issue permits to U.S. fishermen authorizing the incidental taking of dolphins during commercial yellowfin tuna harvesting;

Limit the number of dolphins that can be killed by tuna fishing in the ETP to 5,000 annually, with the mortality limit apportioned among various dolphin types—but the limit for each type could not exceed 0.2 percent of the minimum estimated abundance of that type through 2000, and 0.1 percent of that minimum in 2001 and thereafter;

Require U.S. vessels fishing for tuna in the ETP to obtain individual, annual permits from the Secretary of Commerce to authorize their participation in the IDCP, and authorize the Secretary to charge fees to cover the administrative costs of the permits. (Under current law, vessels must pay an annual fee for a certificate of inclusion in one umbrella permit.);

Authorize to be appropriated to the DOC $1 million for scientific research on dolphin conservation;

Amend the Dolphin Protection Consumer Information Act by redefining tuna that may be labeled "dolphin safe" as that caught in any set of a purse seine net in which no dolphins were killed, regardless of whether any dolphins were encircled as part of the tuna harvest. (Under the bill, tuna would be determined to be "dolphin safe" on a set-by-set basis, rather than by vessel-trip as under current law.); and

State that is the sense of the Congress that each nation participating in the International Dolphin Conservation Program should contribute an equitable amount to the expenses of the IATTC.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 408 is shown in the table below. CBO estimates that implementing the bill would increase discretionary spending by about $1 million in 1998, and by less than $100,000 annually thereafter. The bill also could affect direct spending and revenues, but in each case CBO estimates that any such changes would be less than $500,000 a year.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	0	1	(1)	(1)	(1)	(1)
Estimated outlays	0	1	(1)	(1)	(1)	(1)

[1] Less than $100,000.

The costs of this legislation fall within budget function 300 (natural resources and environment).

Basis of estimate: Spending subject to appropriation.—Assuming appropriations consistent with the bill, enacting H.R. 408 would result in about $1 million in additional appropriated spending in fiscal year 1998. H.R. 408 would authorize the appropriation of $1 million to be used by the DOC's National Marine Fisheries Service to support scientific research on dolphin conservation. We estimate outlays of about $1 million in fiscal year 1998, assuming appropriation of the authorized amount.

The bill also states that it is the sense of the Congress that each nation participating in the International Dolphin Conservation Program should contribute an equitable amount to the expenses of the IATTC, which administers the International Dolphin Conservation Program and employs the international observers currently required on all tuna boats operating in the ETP. Currently, the Department of State contributes about $3 million annually to the IATTC. That amount represents about 90 percent of the contributions from all nations to the IATTC, and about 65 percent of the IATTC's $4.5 million budget. H.R. 408 would not, by itself, change the U.S. contribution to the IATTC, and it is unclear whether the factors identified in the bill would lead to a change in the U.S. contribution. Hence, CBO estimates that this provision would not change discretionary spending.

H.R. 408 would require U.S. vessels operating in the ETP to obtain individual permits from the Secretary of Commerce. Such permits would authorize vessels' participation in the IDCP and allow some incidental deaths of marine mammals from using purse seines in commercial fishing for yellowfin tuna. H.R. 408 would authorize the Secretary to charge a permit fee, but such fees could not exceed the administrative costs of issuing permits. Income from fees could be spent, subject to appropriation, by the Under Secretary of Commerce for Oceans and Atmosphere for the expenses incurred in issuing permits. As explained below, CBO estimates that any such increase in fees would be less than $100,000 a year. Hence, the potential effect of this provision on discretionary spending also would be less than $100,000 a year.

Direct spending (including offsetting receipts).—Under current law, all U.S. vessels fishing for tuna in the ETP may operate under one permit issued to the American Tunaboat Association in 1980 by the Secretary of Commerce. Individual vessels pay an annual fee to the DOC to renew certificates of inclusion under that permit. The current permit expires December 31, 1999. Over the last year, about five U.S. vessels have been harvesting tuna in the ETP under the permit.

H.R. 408 would not affect the fees paid by U.S. vessels currently fishing for tuna. The bill could result in additional U.S. vessels

seeking permit authority to operate in the ETP. Under current law, to meet the "dolphin safe" definition for tuna, U.S. vessels in the ETP cannot set purse seine nets on dolphins in the course of fishing for tuna. The bill would permit this practice and allow for limited dolphin mortality in accordance with the international program as long as certain safeguards are adopted. This increase in flexibility could encourage additional U.S. vessels to operate in the ETP, where they would be subject to permit fees. We estimate, however, that any change in receipts from permit fees would be less than $100,000 a year.

Revenues.—The Marine Mammal Protection Act of 1972 bans imports of yellowfin tuna from nations that fish for tuna in the eastern tropical Pacific Ocean. H.R. 408 allows tuna imports from nations that comply with the IDCP. Currently, fresh tuna imported to the U.S. is not subject to duty. However, the U.S. Customs Service collects about $30 million annually from tariffs on canned tuna. Based on historical information provided by the ITC, prior to the embargo about 1 percent of the duties collected on canned tuna imports were from IDCP signatory nations. Therefore, CBO estimates that eliminating the ban on imports of tuna from these nations would not significantly increase governmental receipts.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting H.R. 408 could affect both direct spending and governmental receipts, but that any change would be less than $500,000 a year in both cases.

Estimated impact on State, local, and tribal governments: H.R. 408 contains no intergovernmental mandates as defined in the UMRA and would have no impact on the budgets of state, local, or tribal governments.

Estimated impact on the private sector: The bill would impose new private-sector mandates on tuna vessels while removing an existing mandate on tuna vessels and providing other benefits to tuna importers. CBO estimates that the direct costs of the new mandates would most likely be less than the costs of the existing mandate.

Section 4 of H.R. 408 would change the labeling of dolphin-safe tuna. In order to be labeled dolphin-safe, tuna harvested in the ETP would have to be accompanied by a certification that no dolphins were killed (instead of the current requirement that no dolphin sets are made). Tuna harvested outside of the ETP could be labeled dolphin-safe if it is accompanied by a statement certifying that no sets were intentionally set on dolphins, or, in some fisheries, marine mammals. Based on information obtained from industry and government sources, these mandates would impose minimal, if any, costs on U.S. vessels.

Section 4 of the bill also would give the Secretary of Commerce the authority to require certain vessels to provide observer certification in fisheries where the Secretary has identified a regular and significant incidental mortality or serious injury rate of marine mammals. In those fisheries, in order for tuna to be labeled as dolphin-safe, observers would have to certify that no marine mammals were killed. Based on information obtained from industry and gov-

ernment sources, CBO does not expect the Secretary would use this authority for U.S.-registered vessels.

H.R. 408 would require U.S. tuna vessels fishing in the ETP to comply with tracking and verification procedures to separate dolphin-safe and dolphin-unsafe tuna. In addition, each tuna vessel in the ETP would be required to register for a dolphin mortality limit with the IATTC. Based on information provided by industry experts, CBO does not expect these requirements to entail significant costs to the U.S. tuna industry.

Section 5 of the bill includes provisions that would codify existing regulations of the National Oceanic and Atmospheric Administration. These include provisions that would require the use of certain gear and procedures and would require vessels to obtain permits from the Secretary of Commerce for the incidental taking of marine mammals.

Section 6 of the bill would encourage the Secretary of State to establish a bycatch reduction program that would include the live release of threatened and endangered species, and measures to reduce the harvest and mortality of nontarget species and the mortality of juvenile tuna. Based on information provided by the U.S. Department of State, CBO does not expect that such a program, if established, would result in measurable costs to the private sector.

H.R. 408 would lift the existing prohibition on U.S. vessels setting nets on dolphins in the ETP as long as vessels comply with all appropriate regulations. The bill also would lift the ban on the importation and sale of dolphin-unsafe tuna from countries participating in the International Dolphin Conservation Program. Overall, CBO estimates that enacting this bill would result in decreased costs to the private sector.

Previous CBO estimate: On April 23, 1997, CBO prepared a cost estimate for H.R. 408, as ordered reported by the House Committee on Resources on April 16, 1997. The two versions are identical as are the estimates.

Estimate prepared by: Federal costs—Victoria V. Heid and Gary Brown; revenues—Stephanie Weiner; impact on the private sector—Lesley Frymier.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's oversight activities concerning customs and tariff matters, import trade matters, and specific trade-related issues that the Committee concluded that it was appropriate to enact the provisions contained in the bill.

B. Summary of Findings and Recommendations of the Committee on Government Reform and Oversight

With respect to subdivision (D) of clause 21(*l*)(3) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Reform and Oversight with respect to the subject matter contained in H.R. 408.

C. Constitutional Authority Statement

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

VI. Changes in Existing Law Made by the Bill, as Reported

The bill was referred to the Committee on Ways and Means for consideration of such provisions of the bill, and amendment thereto, as fall within the jurisdiction of the Committee, pursuant to clause 1(a) of rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on Resources are shown in the report filed by that committee (H. Rept. 105–74, Part 1).

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