

111TH CONGRESS
1ST SESSION

S. 2870

To establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2009

Mr. INOUE (for himself, Ms. SNOWE, Mr. BEGICH, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “International Fisheries Stewardship and Enforcement
6 Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ADMINISTRATION AND ENFORCEMENT OF CERTAIN FISHERY AND
 RELATED STATUTES.

Sec. 101. Authority of the Secretary to enforce statutes.

Sec. 102. Conforming, minor, and technical amendments.

Sec. 103. Illegal, unreported, or unregulated fishing.

Sec. 104. Liability.

TITLE II—LAW ENFORCEMENT AND INTERNATIONAL OPERATIONS

Sec. 201. International fisheries enforcement program.

Sec. 202. International cooperation and assistance program.

TITLE III—MISCELLANEOUS AMENDMENTS

Sec. 301. Atlantic Tunas Convention Act of 1975.

Sec. 302. Data Sharing.

Sec. 303. Permits under the High Seas Fishing Compliance Act of 1995.

Sec. 304. Technical corrections to the Western and Central Pacific Fisheries
 Convention Implementation Act.

Sec. 305. Pacific Whiting Act of 2006.

Sec. 306. Committee on Scientific Cooperation for Pacific Salmon Agreement.

Sec. 307. Reauthorizations.

TITLE IV—IMPLEMENTATION OF ANTIGUA CONVENTION

Sec. 401. Short title.

Sec. 402. Amendment of the Tuna Conventions Act of 1950.

Sec. 403. Definitions.

Sec. 404. Commissioners; number, appointment, and qualifications.

Sec. 405. General advisory committee and scientific advisory subcommittee.

Sec. 406. Rulemaking.

Sec. 407. Prohibited acts.

Sec. 408. Enforcement.

Sec. 409. Reduction of bycatch.

Sec. 410. Repeal of Eastern Pacific Tuna Licensing Act of 1984.

3 **TITLE I—ADMINISTRATION AND**
 4 **ENFORCEMENT OF CERTAIN**
 5 **FISHERY AND RELATED STAT-**
 6 **UTES.**

7 **SEC. 101. AUTHORITY OF THE SECRETARY TO ENFORCE**
 8 **STATUTES.**

9 (a) IN GENERAL.—

1 (1) ENFORCEMENT OF STATUTES.—The Sec-
2 retary of Commerce and the Secretary of the depart-
3 ment in which the Coast Guard is operating shall
4 enforce the statutes to which this section applies in
5 accordance with the provisions of this section.

6 (2) UTILIZATION OF NONDEPARTMENTAL RE-
7 SOURCES.—The Secretary may, by agreement, on a
8 reimbursable basis or otherwise, utilize the personnel
9 services, equipment (including aircraft and vessels),
10 and facilities of any other Federal agency, including
11 all elements of the Department of Defense, and of
12 any State agency, in carrying out this section.

13 (3) STATUTES TO WHICH APPLICABLE.—This
14 section applies to—

15 (A) the High Seas Driftnet Fishing Mora-
16 torium Protection Act (16 U.S.C. 1826d et
17 seq.);

18 (B) the Pacific Salmon Treaty Act of 1985
19 (16 U.S.C. 3631 et seq.);

20 (C) the Dolphin Protection Consumer In-
21 formation Act (16 U.S.C. 1385);

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

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

1 (F) the South Pacific Tuna Act of 1988
2 (16 U.S.C. 973 et seq.);

3 (G) the Antarctic Marine Living Resources
4 Convention Act of 1984 (16 U.S.C. 2431 et
5 seq.);

6 (H) the Atlantic Tunas Convention Act of
7 1975 (16 U.S.C. 971 et seq.);

8 (I) the Northwest Atlantic Fisheries Con-
9 vention Act of 1995 (16 U.S.C. 5601 et seq.);

10 (J) the Western and Central Pacific Fish-
11 eries Convention Implementation Act (16
12 U.S.C. 6901 et seq.);

13 (K) the Northern Pacific Halibut Act of
14 1982 (16 U.S.C. 773 et seq.);

15 (L) any other Act in pari materia, so des-
16 igned by the Secretary after notice and an op-
17 portunity for a hearing; and

18 (M) the Antigua Convention Implementing
19 Act of 2009.

20 (b) ADMINISTRATION AND ENFORCEMENT.—The
21 Secretary shall prevent any person from violating any Act
22 to which this section applies in the same manner, by the
23 same means, and with the same jurisdiction, powers, and
24 duties as though sections 307 through 311 of the Magnu-
25 son-Stevens Fishery Conservation and Management Act

1 (16 U.S.C. 1857 through 1861) were incorporated into
2 and made a part of each such Act. Except as provided
3 in subsection (c), any person that violates any Act to
4 which this section applies is subject to the penalties, and
5 entitled to the privileges and immunities, provided in the
6 Magnuson-Stevens Fishery Conservation and Manage-
7 ment Act (16 U.S.C. 1801 et seq.) in the same manner
8 and by the same means as though sections 307 through
9 311 of that Act were incorporated into and made a part
10 of each such Act.

11 (c) SPECIAL RULES.—

12 (1) IN GENERAL.—Notwithstanding the incor-
13 poration by reference of certain sections of the Mag-
14 nuson-Stevens Fishery Conservation and Manage-
15 ment Act under subsection (b), if there is a conflict
16 between a provision of this subsection and the cor-
17 responding provision of any section of the Magnu-
18 son-Stevens Fishery Conservation and Management
19 Act so incorporated, the provision of this subsection
20 shall apply.

21 (2) CIVIL ADMINISTRATIVE ENFORCEMENT.—

22 The amount of the civil penalty for a violation of
23 any Act to which this section applies shall not exceed
24 \$250,000 for each violation. Each day of a con-
25 tinuing violation shall constitute a separate violation.

1 (3) CIVIL JUDICIAL ENFORCEMENT.—The At-
2 torney General, upon the request of the Secretary,
3 may commence a civil action in an appropriate dis-
4 trict court of the United States to enforce this Act
5 and any Act to which this section applies, and such
6 court shall have jurisdiction to award civil penalties
7 or such other relief as justice may require, including
8 a permanent or temporary injunction. The amount
9 of the civil penalty for a violation of any Act to
10 which this section applies shall not exceed \$250,000
11 for each violation. Each day of a continuing violation
12 shall constitute a separate violation. In determining
13 the amount of a civil penalty, the court shall take
14 into account the nature, circumstances, extent, and
15 gravity of the prohibited acts committed and, with
16 respect to the violator, the degree of culpability, any
17 history of prior violations and such other matters as
18 justice may require. In imposing such penalty, the
19 district court may also consider information related
20 to the ability of the violator to pay.

21 (4) CRIMINAL FINES AND PENALTIES.—

22 (A) INDIVIDUALS.—In the case of an indi-
23 vidual, any offense described in subsection
24 (e)(2), (3), (4), (5), or (6) is punishable by a
25 fine of not more than \$500,000, imprisonment

1 for not more than 5 years, or both. If, in the
2 commission of such offense, an individual uses
3 a dangerous weapon, engages in conduct that
4 causes bodily injury to any officer authorized to
5 enforce the provisions of this Act, or places any
6 such officer in fear of imminent bodily injury
7 the maximum term of imprisonment is 10
8 years.

9 (B) OTHER PERSONS.—In the case of any
10 other person, any offense described in sub-
11 section (e)(2), (3), (4), (5), or (6) is punishable
12 by a fine of not more than \$1,000,000.

13 (5) OTHER CRIMINAL VIOLATIONS.—Any person
14 (other than a foreign government or any entity of
15 such government) who knowingly violates any provi-
16 sion of subsection (e) of this section, or any provi-
17 sion of any regulation promulgated pursuant to this
18 Act, is guilty of a criminal offense punishable—

19 (A) in the case of an individual, by a fine
20 of not more than \$500,000, imprisonment for
21 not more than 5 years, or both; and

22 (B) in the case of any other person, by a
23 fine of not more than \$1,000,000.

24 (6) CRIMINAL FORFEITURES.—

1 (A) IN GENERAL.—A person found guilty
2 of an offense described in subsection (e), or who
3 is convicted of a criminal violation of any Act
4 to which this section applies, shall forfeit to the
5 United States—

6 (i) any property, real or personal, con-
7 stituting or traceable to the gross proceeds
8 obtained, or retained, as a result of the of-
9 fense including any marine species (or the
10 fair market value thereof) taken or re-
11 tained in connection with or as a result of
12 the offense; and

13 (ii) any property, real or personal,
14 used or intended to be used to commit or
15 to facilitate the commission of the offense,
16 including any shoreside facility, including
17 its conveyances, structure, equipment, fur-
18 niture, appurtenances, stores, and cargo.

19 (B) PROCEDURE.—Pursuant to section
20 2461(c) of title 28, United States Code, the
21 provisions of section 413 of the Controlled Sub-
22 stances Act (21 U.S.C. 853), other than sub-
23 section (d) thereof, shall apply to criminal for-
24 feitures under this section.

1 (7) ADDITIONAL ENFORCEMENT AUTHORITY.—

2 In addition to the powers of officers authorized pur-
3 suant to subsection (b), any officer who is author-
4 ized by the Secretary, or the head of any Federal or
5 State agency that has entered into an agreement
6 with the Secretary under subsection (a) to enforce
7 the provisions of any Act to which this section ap-
8 plies may, with the same jurisdiction, powers, and
9 duties as though section 311 of the Magnuson-Ste-
10 vens fishery Conservation and Management Act (16
11 U.S.C. 1861) were incorporated into and made a
12 part of each such Act—

13 (A) search or inspect any facility or con-
14 veyance used or employed in, or which reason-
15 ably appears to be used or employed in, the
16 storage, processing, transport, or trade of fish
17 or fish products;

18 (B) inspect records pertaining to the stor-
19 age, processing, transport, or trade of fish or
20 fish products;

21 (C) detain, for a period of up to 14 days,
22 any shipment of fish or fish product imported
23 into, landed on, introduced into, exported from,
24 or transported within the jurisdiction of the
25 United States, or, if such fish or fish product

1 is deemed to be perishable, sell and retain the
2 proceeds therefrom for a period of up to 14
3 days; and

4 (D) make an arrest, in accordance with
5 any guidelines which may be issued by the At-
6 torney General, for any offense under the laws
7 of the United States committed in the person's
8 presence, or for the commission of any felony
9 under the laws of the United States, if the per-
10 son has reasonable grounds to believe that the
11 person to be arrested has committed or is com-
12 mitting a felony; may search and seize, in ac-
13 cordance with any guidelines which may be
14 issued by the Attorney General and may exe-
15 cute and serve any subpoena, arrest warrant,
16 search warrant issued in accordance with rule
17 41 of the Federal Rules of Criminal Procedure,
18 or other warrant or civil or criminal process
19 issued by any officer or court of competent ju-
20 risdiction.

21 (8) SUBPOENAS.—In addition to any subpoena
22 authority pursuant to subsection (b), the Secretary
23 may, for the purposes of conducting any investiga-
24 tion under this section, or any other statute adminis-
25 tered by the Secretary, issue subpoenas for the pro-

1 duction of relevant papers, photographs, records,
2 books, and documents in any form, including those
3 in electronic, electrical, or magnetic form.

4 (d) DISTRICT COURT JURISDICTION.—The several
5 district courts of the United States shall have jurisdiction
6 over any actions arising under this section. For the pur-
7 pose of this section, American Samoa shall be included
8 within the judicial district of the District Court of the
9 United States for the District of Hawaii. Each violation
10 shall be a separate offense and the offense shall be deemed
11 to have been committed not only in the district where the
12 violation first occurred, but also in any other district as
13 authorized by law. Any offenses not committed in any dis-
14 trict are subject to the venue provisions of section 3238
15 of title 18, United States Code.

16 (e) PROHIBITED ACTS.—It is unlawful for any per-
17 son—

18 (1) to violate any provision of this section or
19 any Act to which this section applies or any regula-
20 tion promulgated thereunder;

21 (2) to refuse to permit any authorized enforce-
22 ment officer to board, search, or inspect a vessel,
23 conveyance, or shoreside facility that is subject to
24 the person's control for purposes of conducting any
25 search, investigation, or inspection in connection

1 with the enforcement of this section or any Act to
2 which this section applies or any regulation promul-
3 gated thereunder;

4 (3) to forcibly assault, resist, oppose, impede,
5 intimidate, or interfere with any such authorized of-
6 ficer in the conduct of any search, investigation, or
7 inspection described in paragraph (2);

8 (4) to resist a lawful arrest for any act prohib-
9 ited by this section or any Act to which this section
10 applies;

11 (5) to interfere with, delay, or prevent, by any
12 means, the apprehension, arrest, or detection of an-
13 other person, knowing that such person has com-
14 mitted any act prohibited by this section or any Act
15 to which this section applies;

16 (6) to forcibly assault, resist, oppose, impede,
17 intimidate, sexually harass, bribe, or interfere with
18 any observer on a vessel under this section or any
19 Act to which this section applies, or any data col-
20 lector employed by or under contract to the National
21 Marine Fisheries Service to carry out responsibilities
22 under this section or any Act to which this section
23 applies;

24 (7) to import, export, transport, sell, receive,
25 acquire, or purchase in interstate or foreign com-

1 merce any fish or fish product taken, possessed,
2 transported, or sold in violation of any treaty or
3 binding conservation measure adopted pursuant to
4 an international agreement or organization to which
5 the United States is a party; or

6 (8) to make or submit any false record, ac-
7 count, or label for, or any false identification of, any
8 fish or fish product (including false identification of
9 the species, harvesting vessel or nation, or the loca-
10 tion where harvested) which has been, or is intended
11 to be imported, exported, transported, sold, offered
12 for sale, purchased, or received in interstate or for-
13 eign commerce.

14 (f) REGULATIONS.—The Secretary may promulgate
15 such regulations, in accordance with section 553 of title
16 5, United States Code, as may be necessary to carry out
17 this section or any Act to which this section applies.

18 **SEC. 102. CONFORMING, MINOR, AND TECHNICAL AMEND-**
19 **MENTS.**

20 (a) HIGH SEAS DRIFTNET FISHING MORATORIUM
21 PROTECTION ACT.—

22 (1) Section 606 of the High Seas Driftnet Fish-
23 ing Moratorium Protection Act (16 U.S.C. 1826g) is
24 amended—

1 (A) by inserting “(a) DETECTING, MONI-
2 TORING, AND PREVENTING VIOLATIONS.—” be-
3 fore “The President”; and

4 (B) by adding at the end thereof the fol-
5 lowing:

6 “(b) ENFORCEMENT.—This Act shall be enforced
7 under section 101 of the International Fisheries Steward-
8 ship and Enforcement Act.”.

9 (2) Section 607(2) of the High Seas Driftnet
10 Fishing Moratorium Protection Act (16 U.S.C.
11 1826h(2)) is amended by striking “whose vessels”
12 and inserting “that”.

13 (3) Section 609(a) of the High Seas Driftnet
14 Fishing Moratorium Protection Act (16 U.S.C.
15 1826j(a)) is amended to read as follows:

16 “(a) IDENTIFICATION.—

17 “(1) IN GENERAL.—The Secretary shall iden-
18 tify, and list in the report under section 607, a na-
19 tion if that nation is engaged, or has been engaged
20 at any time during the preceding 3 years, in illegal,
21 unreported, or unregulated fishing and—

22 “(A) such fishing undermines the effective-
23 ness of measures required under the relevant
24 international fishery management organization;

1 “(B) the relevant international fishery
2 management organization has failed to imple-
3 ment effective measures to end the illegal, unre-
4 ported, or unregulated fishing activity by ves-
5 sels of that nation, or the nation is not a party
6 to, or does not maintain cooperating status
7 with, such organization; or

8 “(C) there is no international fishery man-
9 agement organization with a mandate to regu-
10 late the fishing activity in question.

11 “(2) OTHER IDENTIFYING ACTIVITIES.—The
12 Secretary shall also identify, and list in the report
13 under section 607, a nation if—

14 “(A) it is violating, or has violated at any
15 time during the preceding 3 years, conservation
16 and management measures required under an
17 international fishery management agreement to
18 which the United States is a party and the vio-
19 lations undermine the effectiveness of such
20 measures, taking into account the factors de-
21 scribed in paragraph (1); or

22 “(B) it is failing, or has failed at any time
23 during the preceding 3 years, to effectively ad-
24 dress or regulate illegal, unreported, or unregu-

1 lated fishing in areas described in paragraph
2 (1)(C).

3 “(3) TREATMENT OF CERTAIN ENTITIES AS IF
4 THEY WERE NATIONS.—Where the provisions of this
5 Act apply to the act, or failure to act, of a nation,
6 they shall also be applicable, as appropriate, to any
7 other entity that is competent to enter into an inter-
8 national fishery management agreement.”.

9 (4) Section 609(d)(1) of the High Seas Driftnet
10 Fishing Moratorium Protection Act (16 U.S.C.
11 1826j(d)(1)) is amended by striking “of its fishing
12 vessels” each place it appears.

13 (5) Section 609(d)(2) of the High Seas Driftnet
14 Fishing Moratorium Protection Act (16 U.S.C.
15 1826j(d)(2)) is amended—

16 (A) by striking “procedure for certifi-
17 cation,” and inserting “procedure,”;

18 (B) by striking “basis of fish” and insert-
19 ing “basis, for allowing importation of fish”;
20 and

21 (C) by striking “harvesting nation not cer-
22 tified under paragraph (1)” and inserting “na-
23 tion issued a negative certification under para-
24 graph (1)”.

1 (6) Section 610(a)(1) of the High Seas Driftnet
2 Fishing Moratorium Protection Act (16 U.S.C.
3 1826k(a)(1)) is amended—

4 (A) by striking “calendar year” and insert-
5 ing “3 years”; and

6 (B) by striking “practices;” and inserting
7 “practices—”.

8 (b) DOLPHIN PROTECTION CONSUMER INFORMATION
9 ACT.—Section 901 of the Dolphin Protection Consumer
10 Information Act (16 U.S.C. 1385) is amended—

11 (1) by adding at the end of subsection (d) the
12 following:

13 “(4) It is a violation of section 101 of the Inter-
14 national Fisheries Stewardship and Enforcement Act for
15 any person to assault, resist, oppose, impede, intimidate,
16 or interfere with and authorized officer in the conduct of
17 any search, investigation or inspection under this Act.”;
18 and

19 (2) by striking subsection (e) and inserting the
20 following:

21 “(e) ENFORCEMENT.—This Act shall be enforced
22 under section 101 of the International Fisheries Steward-
23 ship and Enforcement Act.”.

1 (c) TUNA CONVENTIONS ACT OF 1950.—Section 8
2 of the Tuna Conventions Act of 1950 (16 U.S.C. 957)
3 is amended—

4 (1) by striking “regulations.” in subsection (a)
5 and inserting “regulation or for any person to make
6 or submit any false record, account, or label for, or
7 any false identification of, any fish or fish product
8 (including the false identification of species, har-
9 vesting vessel or nation or the location where har-
10 vested) which has been, or is intended to be im-
11 ported, exported, transported, sold, offered for sale,
12 purchased, or received in interstate or foreign com-
13 merce.”;

14 (2) by striking subsection (d) and inserting the
15 following:

16 “(d) It shall be unlawful for any person—

17 “(1) to refuse to permit any officer authorized
18 to enforce the provisions of this Act to board a fish-
19 ing vessel subject to such person’s control for pur-
20 poses of conducting any search, investigation, or in-
21 spection in connection with the enforcement of this
22 Act or any regulation promulgation or permit issued
23 under this Act;

24 “(2) to forcibly assault, resist, oppose, impede,
25 intimidate, or interfere with any such authorized of-

1 ficer in the conduct of any search, investigation or
2 inspection described in paragraph (1);

3 “(3) to resist a lawful arrest for any act prohib-
4 ited by this section; or

5 “(4) to interfere with, delay, or prevent, by any
6 means, the apprehension or arrest of another person,
7 knowing that such other person has committed any
8 act prohibited by this section.”;

9 (3) by striking subsections (e) through (g) and
10 redesignating subsection (h) as subsection (f); and

11 (4) by inserting after subsection (d) the fol-
12 lowing:

13 “(e) ENFORCEMENT.—This section shall be enforced
14 under section 101 of the International Fisheries Steward-
15 ship and Enforcement Act.”.

16 (d) NORTHERN PACIFIC ANADROMOUS STOCKS ACT
17 OF 1992.—

18 (1) UNLAWFUL ACTIVITIES.—Section 810 of
19 the Northern Pacific Anadromous Stocks Act of
20 1992 (16 U.S.C. 5009) is amended—

21 (A) by striking “purchases” in paragraph
22 (5) and inserting “purposes”;

23 (B) by striking “search or inspection” in
24 paragraph (5) and inserting “search, investiga-
25 tion, or inspection”;

1 (C) by striking “search or inspection” in
2 paragraph (6) and inserting “search, investiga-
3 tion, or inspection”;

4 (D) by striking “or” after the semicolon in
5 paragraph (8);

6 (E) by striking “title.” in paragraph (9)
7 and inserting “title; or”; and

8 (F) by adding at the end thereof the fol-
9 lowing:

10 “(10) for any person to make or submit any
11 false record, account, or label for, or any false iden-
12 tification of, any fish or fish product (including false
13 identification of the species, harvesting vessel or na-
14 tion, or the location where harvested) which has
15 been, or is intended to be imported, exported, trans-
16 ported, sold, offered for sale, purchased, or received
17 in interstate or foreign commerce.”.

18 (2) ADMINISTRATION AND ENFORCEMENT.—
19 Section 811 of the Northern Pacific Anadromous
20 Stocks Act of 1992 (16 U.S.C. 5010) is amended to
21 read as follows:

22 **“SEC. 811. ADMINISTRATION AND ENFORCEMENT.**

23 “This Act shall be enforced under section 101 of the
24 International Fisheries Stewardship and Enforcement
25 Act.”.

1 (e) PACIFIC SALMON TREATY ACT OF 1985.—Sec-
2 tion 8 of the Pacific Salmon Treaty Act of 1985 (16
3 U.S.C. 3637) is amended—

4 (1) by striking “search or inspection” in sub-
5 section (a)(2) and inserting “search, investigation,
6 or inspection”;

7 (2) by striking “search or inspection” in sub-
8 section (a)(3) and inserting “search, investigation,
9 or inspection”;

10 (3) by striking “or” after the semicolon in sub-
11 section (a)(5);

12 (4) by striking “section.” in subsection (a)(6)
13 and inserting “section; or”;

14 (5) by adding at the end of subsection (a) the
15 following:

16 “(7) for any person to make or submit any false
17 record, account, or label for, or any false identifica-
18 tion of, any fish or fish product (including false
19 identification of the species, harvesting vessel or na-
20 tion, or the location where harvested) which has
21 been, or is intended to be imported, exported, trans-
22 ported, sold, offered for sale, purchased, or received
23 in interstate or foreign commerce.”; and

24 (6) by striking subsections (b) through (f) and
25 inserting the following:

1 “(b) ADMINISTRATION AND ENFORCEMENT.—This
2 Act shall be enforced under section 101 of the Inter-
3 national Fisheries Stewardship and Enforcement Act.”.

4 (f) SOUTH PACIFIC TUNA ACT OF 1988.—

5 (1) PROHIBITED ACTS.—Section 5(a) of the
6 South Pacific Tuna Act of 1988 (16 U.S.C. 973c(a))
7 is amended—

8 (A) by striking “search or inspection” in
9 paragraph (8) and inserting “search, investiga-
10 tion, or inspection”;

11 (B) by striking “search or inspection” in
12 paragraph (10)(A) and inserting “search, inves-
13 tigation, or inspection”;

14 (C) by striking “or” after the semicolon in
15 paragraph (12);

16 (D) by striking “retained.” in paragraph
17 (13) and inserting “retained; or”; and

18 (E) by adding at the end thereof the fol-
19 lowing:

20 “(14) for any person to make or submit any
21 false record, account, or label for, or any false iden-
22 tification of, any fish or fish product (including false
23 identification of the species, harvesting vessel or na-
24 tion, or the location where harvested) which has
25 been, or is intended to be imported, exported, trans-

1 ported, sold, offered for sale, purchased, or received
2 in interstate or foreign commerce.”.

3 (2) ADMINISTRATION AND ENFORCEMENT.—

4 The South Pacific Tuna Act of 1988 (16 U.S.C. 973
5 et seq.) is amended by striking sections 7 and 8 (16
6 U.S.C. 973e and 973f) and inserting the following:

7 **“SEC. 7. ADMINISTRATION AND ENFORCEMENT.**

8 “This Act shall be enforced under section 101 of the
9 International Fisheries Stewardship and Enforcement
10 Act.”.

11 (g) ANTARCTIC MARINE LIVING RESOURCES CON-
12 VENTION ACT OF 1984.—

13 (1) UNLAWFUL ACTIVITIES.—Section 306 of
14 the Antarctic Marine Living Resources Convention
15 Act (16 U.S.C. 2435) is amended—

16 (A) by striking “which he knows, or rea-
17 sonably should have known, was” in paragraph
18 (3);

19 (B) by striking “search or inspection” in
20 paragraph (4) and inserting “search, investiga-
21 tion, or inspection”;

22 (C) by striking “search or inspection” in
23 paragraph (5) and inserting “search, investiga-
24 tion, or inspection”;

1 (D) by striking “or” after the semicolon in
2 paragraph (6);

3 (E) by striking “section.” in paragraph (7)
4 and inserting “section; or”; and

5 (F) by adding at the end thereof the fol-
6 lowing:

7 “(8) to make or submit any false record, ac-
8 count, or label for, or any false identification of, any
9 fish or fish product (including false identification of
10 the species, harvesting vessel or nation, or the loca-
11 tion where harvested) which has been, or is intended
12 to be imported, exported, transported, sold, offered
13 for sale, purchased, or received in interstate or for-
14 eign commerce.”.

15 (2) REGULATIONS.—Section 307 of the Ant-
16 arctic Marine Living Resources Convention Act (16
17 U.S.C. 2436) is amended by inserting after “title.”
18 the following: “Notwithstanding the provisions of
19 subsections (b), (c), and (d) of section 553 of title
20 5, United States Code, the Secretary of Commerce
21 may publish in the Federal Register a final rule to
22 implement conservation measures, described in sec-
23 tion 305(a) of this Act, that are in effect for 12
24 months or less, adopted by the Commission, and not
25 objected to by the United States within the time pe-

1 riod allotted under Article IX of the Convention.
2 Upon publication in the Federal Register, such con-
3 servation measures shall be in force with respect to
4 the United States.”.

5 (3) PENALTIES AND ENFORCEMENT.—The
6 Antarctic Marine Living Resources Convention Act
7 (16 U.S.C. 2431 et seq.) is amended—

8 (A) by striking sections 308 and 309 (16
9 U.S.C. 2437 and 2438);

10 (B) by striking subsection (b), (c), and (d)
11 of section 310 (16 U.S.C. 2439) and redesignig-
12 nating subsection (e) as subsection (c); and

13 (C) by inserting after subsection (a) the
14 following:

15 “(b) ADMINISTRATION AND ENFORCEMENT.—This
16 title shall be enforced under section 101 of the Inter-
17 national Fisheries Stewardship and Enforcement Act.”.

18 (h) ATLANTIC TUNAS CONVENTION ACT OF 1975.—

19 (1) VIOLATIONS.—Section 7 of the Atlantic
20 Tunas Convention Act of 1975 (16 U.S.C. 971e) is
21 amended—

22 (A) by striking subsections (e) and (f) and
23 redesignating subsection (g) as subsection (f);
24 and

1 (B) by inserting after subsection (d) the
2 following:

3 “(e) MISLABELING.—It shall be unlawful for any per-
4 son to make or submit any false record, account, or label
5 for, or any false identification of, any fish or fish product
6 (including the false identification of the species, harvesting
7 vessel or nation, or the location where harvested) which
8 has been, or is intended to be, imported, exported, trans-
9 ported, sold, offered for sale, purchased or received in
10 interstate or foreign commerce.”.

11 (2) ENFORCEMENT.—Section 8 of the Atlantic
12 Tunas Convention Act of 1975 (16 U.S.C. 971f) is
13 amended—

14 (A) by striking subsections (a) and (c);

15 (B) by striking “(b) INTERNATIONAL EN-
16 FORCEMENT.—” in subsection (b) and inserting
17 “This Act shall be enforced under section 101
18 of the International Fisheries Stewardship and
19 Enforcement Act.”; and

20 (C) by striking “shall have the authority to
21 carry out the enforcement activities specified in
22 section 8(a) of this Act” each place it appears
23 and inserting “shall enforce this Act”.

24 (i) NORTHWEST ATLANTIC FISHERIES CONVENTION
25 ACT OF 1995.—Section 207 of the Northwest Atlantic

1 Fisheries Convention Act of 1995 (16 U.S.C. 5606) is
2 amended—

3 (1) by striking “**AND PENALTIES.**” in the
4 section caption and inserting “**AND ENFORCE-**
5 **MENT.**”;

6 (2) by striking “search or inspection” in sub-
7 section (a)(2) and inserting “search, investigation,
8 or inspection”;

9 (3) by striking “search or inspection” in sub-
10 section (a)(3) and inserting “search, investigation,
11 or inspection”;

12 (4) by striking “or” after the semicolon in sub-
13 section (a)(5);

14 (5) by striking “section.” in subsection (a)(6)
15 and inserting “section ; or”;

16 (6) by adding at the end of subsection (a) the
17 following:

18 “(7) to make or submit any false record, ac-
19 count, or label for, or any false identification of, any
20 fish or fish product (including false identification of
21 the species, harvesting vessel or nation, or the loca-
22 tion where harvested) which has been, or is intended
23 to be imported, exported, transported, sold, offered
24 for sale, purchased, or received in interstate or for-
25 eign commerce.”; and

1 (7) by striking subsection (b) through (f) and
2 inserting the following:

3 “(b) ADMINISTRATION AND ENFORCEMENT.—This
4 title shall be enforced under section 101 of the Inter-
5 national Fisheries Stewardship and Enforcement Act.”.

6 (j) WESTERN AND CENTRAL PACIFIC FISHERIES
7 CONVENTION IMPLEMENTATION ACT.—

8 (1) ADMINISTRATION AND ENFORCEMENT.—
9 Section 506(c) of the Western and Central Pacific
10 Fisheries Convention Implementation Act (16 U.S.C.
11 6905(c)) is amended to read as follows:

12 “(c) ADMINISTRATION AND ENFORCEMENT.—This
13 title shall be enforced under section 101 of the Inter-
14 national Fisheries Stewardship and Enforcement Act.”.

15 (2) PROHIBITED ACTS.—Section 507(a) of the
16 Western and Central Pacific Fisheries Convention
17 Implementation Act (16 U.S.C. 6906(a)) is amend-
18 ed—

19 (A) by striking “suspension, on” in para-
20 graph (2) and inserting “suspension of”;

21 (B) by striking “title.” in paragraph (14)
22 and inserting “title; or”; and

23 (C) by adding at the end thereof the fol-
24 lowing:

1 “(15) to make or submit any false record, ac-
2 count, or label for, or any false identification of, any
3 fish or fish product (including false identification of
4 the species, harvesting vessel or nation, or the loca-
5 tion where harvested) which has been, or is intended
6 to be imported, exported, transported, sold, offered
7 for sale, purchased, or received in interstate or for-
8 eign commerce.”.

9 (k) NORTHERN PACIFIC HALIBUT ACT OF 1982.—

10 (1) PROHIBITED ACTS.—Section 7 of the
11 Northern Pacific Halibut Act of 1982 (16 U.S.C.
12 773e) is amended—

13 (A) by redesignating subdivisions (a) and
14 (b) as paragraphs (1) and (2), respectively, and
15 subdivisions (1) through (6) of paragraph (1),
16 as redesignated, as subparagraphs (A) through
17 (F);

18 (B) by striking “search or inspection” in
19 paragraph (1)(B), as redesignated, and insert-
20 ing “search, investigation, or inspection”;

21 (C) by striking “search or inspection” in
22 paragraph (1)(C), as redesignated, and insert-
23 ing “search, investigation, or inspection”;

24 (D) by striking “or” after the semicolon in
25 paragraph (1)(E), as redesignated;

1 (E) by striking “section.” in paragraph
2 (1)(F), as redesignated, and inserting “sec-
3 tion;”; and

4 (F) by adding at the end of paragraph (1),
5 as redesignated, the following:

6 “(G) to make or submit any false record, ac-
7 count, or label for, or any false identification of, any
8 fish or fish product (including false identification of
9 the species, harvesting vessel or nation, or the loca-
10 tion where harvested) which has been, or is intended
11 to be imported, exported, transported, sold, offered
12 for sale, purchased, or received in interstate or for-
13 eign commerce.”.

14 (2) ADMINISTRATION AND ENFORCEMENT.—
15 The Northern Pacific Halibut Act of 1982 (16
16 U.S.C. 773 et seq.) is amended—

17 (A) by striking sections 3, 9, and 10 (16
18 U.S.C. 773f, 773g, and 773h); and

19 (B) by striking subsections (b) through (f)
20 of section 11 (16 U.S.C. 773i) and inserting the
21 following:

22 “(b) ADMINISTRATION AND ENFORCEMENT.—This
23 Act shall be enforced under section 101 of the Inter-
24 national Fisheries Stewardship and Enforcement Act.”.

1 **SEC. 103. ILLEGAL, UNREPORTED, OR UNREGULATED FISH-**
2 **ING.**

3 (a) IN GENERAL.—Section 608 of the High Seas
4 Driftnet Fishing Moratorium Protection Act (16 U.S.C.
5 1826i), as amended by section 302(a) of this Act, is fur-
6 ther amended by adding at the end thereof the following:

7 “(c) VESSELS AND VESSEL OWNERS ENGAGED IN IL-
8 LEGAL, UNREPORTED, OR UNREGULATED FISHING.—The
9 Secretary may—

10 “(1) develop, maintain, and make public a list
11 of vessels and vessel owners engaged in illegal, unre-
12 ported, or unregulated fishing, including vessels or
13 vessel owners identified by an international fishery
14 management organization or arrangement made pur-
15 suant to an international fishery agreement, whether
16 or not the United States is a party to such organiza-
17 tion or arrangement;

18 “(2) take appropriate action against listed ves-
19 sels and vessel owners, including action against fish,
20 fish parts, or fish products from such vessels, in ac-
21 cordance with applicable United States law and con-
22 sistent with applicable international law, including
23 principles, rights, and obligations established in ap-
24 plicable international fishery management and trade
25 agreements; and

1 “(3) provide notification to the public of vessels
2 and vessel owners identified by international fishery
3 management organizations or arrangements made
4 pursuant to an international fishery agreement as
5 having been engaged in illegal, unreported, or un-
6 regulated fishing, as well as any measures adopted
7 by such organizations or arrangements to address il-
8 legal, unreported, or unregulated fishing.

9 “(d) RESTRICTIONS ON PORT ACCESS OR USE.—Ac-
10 tion taken by the Secretary under subsection (c)(2) that
11 includes measures to restrict use of or access to ports or
12 port services shall apply to all ports of the United States
13 and its territories.

14 “(e) REGULATIONS.—The Secretary may promulgate
15 regulations to implement subsections (c) and (d).”.

16 (b) ADDITIONAL MEASURES.—

17 (1) AMENDMENT OF THE HIGH SEAS DRIFTNET
18 FISHING MORATORIUM PROTECTION ACT.—

19 (A) Section 609(d)(3) of the High Seas
20 Driftnet Fishing Moratorium Protection Act
21 (16 U.S.C. 1826j(d)(3)) is amended by striking
22 “that has not been certified by the Secretary
23 under this subsection, or” in subparagraph
24 (A)(i).

1 (B) Section 610(c)(5) of the High Seas
2 Driftnet Fishing Moratorium Protection Act
3 (16 U.S.C. 1826k(c)(5)) is amended by striking
4 “that has not been certified by the Secretary
5 under this subsection, or”.

6 (2) AMENDMENT OF THE HIGH SEAS DRIFTNET
7 FISHERIES ENFORCEMENT ACT.—

8 (A) Section 101 of the High Seas Driftnet
9 Fisheries Enforcement Act (16 U.S.C. 1826a)
10 is amended—

11 (i) by striking subsection (a)(2) and
12 inserting the following:

13 “(2) DENIAL OF PORT PRIVILEGES.—The Sec-
14 retary of the Treasury shall, in accordance with rec-
15 ognized principles of international law—

16 “(A) withhold or revoke the clearance re-
17 quired by section 60105 of title 46, United
18 States Code, for—

19 “(i) any large-scale driftnet fishing
20 vessel that is documented under the law of
21 the United States or of a nation included
22 on a list published under paragraph (1); or

23 “(ii) any fishing vessel of a nation
24 that receives a negative certification under
25 section 609(d) or 610(e) of the High Seas

1 Driftnet Fishing Moratorium Protection
2 Act (16 U.S.C. 1826j(d) or 1826k(e)); and

3 “(B) deny entry of that vessel to any place
4 in the United States and to the navigable wa-
5 ters of the United States, except for the pur-
6 pose of inspecting the vessel, conducting an in-
7 vestigation, or taking other appropriate enforce-
8 ment action.”;

9 (ii) by striking “or illegal, unreported,
10 or unregulated fishing” each place it ap-
11 pears in subsection (b)(1) and (2);

12 (iii) by striking “or” after the semi-
13 colon in subsection (b)(3)(A)(i);

14 (iv) by striking “nation.” in sub-
15 section (b)(3)(A)(ii) and inserting “nation;
16 or”;

17 (v) by adding at the end of subsection
18 (b)(3)(A) the following:

19 “(iii) upon receipt of notification of a negative
20 certification under section 609(d)(1) or 610(c)(1) of
21 the High Seas Driftnet Fishing Moratorium Protec-
22 tion Act (16 U.S.C. 1826j(d)(1) or 1826k(c)(1)).”;

23 (vi) by inserting “or after issuing a
24 negative certification under section
25 609(d)(1) or 610(c)(1) of the High Seas

1 Driftnet Fishing Moratorium Protection
2 Act (16 U.S.C. 1826j(d)(1) or
3 1826k(c)(1),” after “paragraph (1),” in
4 subsection (b)(4)(A); and

5 (vii) by striking subsection
6 (b)(4)(A)(i) and inserting the following:

7 “(i) any prohibition established under para-
8 graph (3) is insufficient to cause that nation—

9 “(I) to terminate large-scale driftnet fish-
10 ing conducted by its nationals and vessels be-
11 yond the exclusive economic zone of any nation;

12 “(II) to address illegal, unreported, or un-
13 regulated fishing activities for which a nation
14 has been identified under section 609 of the
15 High Seas Driftnet Fishing Moratorium Protec-
16 tion Act (16 U.S.C. 1826j); or

17 “(III) to address bycatch of a protected
18 living marine resource for which a nation has
19 been identified under section 610 of such Act
20 (16 U.S.C. 1826k); or”.

21 (B) Section 102 of the High Seas Driftnet
22 Fisheries Enforcement Act (16 U.S.C. 1826b)
23 is amended by striking “such nation has termi-
24 nated large-scale driftnet fishing or illegal, un-
25 reported, or unregulated fishing by its nationals

1 and vessels beyond the exclusive economic zone
2 of any nation.” and inserting “such nation
3 has—

4 “(1) terminated large-scale driftnet fishing by
5 its nationals and vessels beyond the exclusive eco-
6 nomic zone of any nation;

7 “(2) addressed illegal, unreported, or unregu-
8 lated fishing activities for which a nation has been
9 identified under section 609 of the High Seas
10 Driftnet Fishing Moratorium Protection Act (16
11 U.S.C. 1826j); or

12 “(3) addressed bycatch of a protected living
13 marine resource for which a nation has been identi-
14 fied under section 610 of that Act (16 U.S.C.
15 1826k).”.

16 **SEC. 104. LIABILITY.**

17 Any claims arising from the actions of any officer,
18 authorized by the Secretary to enforce the provisions of
19 this Act or any Act to which this Act applies, taken pursu-
20 ant to any scheme for at-sea boarding and inspection au-
21 thorized under any international agreement to which the
22 United States is a party may be pursued under chapter
23 171 of title 28, United States Code, or such other legal
24 authority as may be pertinent.

1 **TITLE II—LAW ENFORCEMENT**
2 **AND INTERNATIONAL OPER-**
3 **ATIONS.**

4 **SEC. 201. INTERNATIONAL FISHERIES ENFORCEMENT PRO-**
5 **GRAM.**

6 (a) ESTABLISHMENT.—

7 (1) IN GENERAL.—Within 12 months after the
8 date of the enactment of this Act, the Secretary
9 shall, subject to the availability of appropriations,
10 establish an International Fisheries Enforcement
11 Program within the Office of Law Enforcement of
12 the National Marine Fisheries Service.

13 (2) PURPOSE.—The Program shall be an inter-
14 agency program established and administered by the
15 Secretary in coordination with the heads of other de-
16 partments and agencies for the purpose of detecting
17 and investigating illegal, unreported, or unregulated
18 fishing activity and enforcing the provisions of this
19 Act.

20 (3) STAFF.—The Program shall be staffed with
21 representation from the U.S. Coast Guard, U.S.
22 Customs and Border Protection, U.S. Food and
23 Drug Administration, and any other department or
24 agency determined by the Secretary to be appro-
25 priate and necessary to detect and investigate illegal,

1 unreported, or unregulated fishing activity and en-
2 force the provisions of this Act.

3 (b) PROGRAM ACTIONS.—

4 (1) STAFFING AND OTHER RESOURCES.—At the
5 request of the Secretary, the heads of other depart-
6 ments and agencies providing staff for the Program
7 shall—

8 (A) by agreement, on a reimbursable basis
9 or otherwise, participate in staffing the Pro-
10 gram;

11 (B) by agreement, on a reimbursable basis
12 or otherwise, share personnel, services, equip-
13 ment (including aircraft and vessels), and facili-
14 ties with the Program; and

15 (C) to the extent possible, and consistent
16 with other applicable law, extend the enforce-
17 ment authorities provided by their enabling leg-
18 islation to the other departments and agencies
19 participating in the Program for the purposes
20 of conducting joint operations to detect and in-
21 vestigate illegal, unreported or unregulated fish-
22 ing activity and enforcing the provisions of this
23 Act.

24 (2) BUDGET.—The Secretary and the heads of
25 other departments and agencies providing staff for

1 the Program, may, at their discretion, develop inter-
2 agency plans and budgets and engage in interagency
3 financing for such purposes.

4 (3) 5-YEAR PLAN.—Within 180 days after the
5 date on which the Program is established under sub-
6 section (a), the Secretary shall develop a 5-year stra-
7 tegic plan for guiding interagency and intergovern-
8 mental international fisheries enforcement efforts to
9 carry out the provisions of this Act. The Secretary
10 shall update the plan periodically as necessary, but
11 at least once every 5 years.

12 (4) COOPERATIVE ACTIVITIES.—The Secretary,
13 in coordination with the heads of other departments
14 and agencies providing staff for the Program, may—

15 (A) create and participate in task forces,
16 committees, or other working groups with other
17 Federal, State or local governments as well as
18 with the governments of other nations for the
19 purposes of detecting and investigating illegal,
20 unreported, or unregulated fishing activity and
21 carrying out the provisions of this Act; and

22 (B) enter into agreements with other Fed-
23 eral, State, or local governments as well as with
24 the governments of other nations, on a reim-
25 bursable basis or otherwise, for such purposes.

1 (c) POWERS OF AUTHORIZED OFFICERS.—Notwith-
2 standing any other provision of law, while operating under
3 an agreement with the Secretary entered into under sec-
4 tion 101 of this Act, and conducting joint operations as
5 part of the Program for the purposes of detecting and in-
6 vestigating illegal, unreported or unregulated fishing activ-
7 ity and enforcing the provisions of this Act, authorized of-
8 ficers shall have the powers and authority provided in that
9 section.

10 (d) INFORMATION COLLECTION, MAINTENANCE AND
11 USE.—

12 (1) IN GENERAL.—The Secretary and the heads
13 of other departments and agencies providing staff
14 for the Program shall, to the maximum extent allow-
15 able by law, share all applicable information, intel-
16 ligence and data, related to the harvest, transpor-
17 tation or trade of fish and fish product in order to
18 detect and investigate illegal, unreported, or unregu-
19 lated fishing activity and to carry out the provisions
20 of this Act.

21 (2) COORDINATION OF DATA.—The Secretary,
22 through the Program, shall coordinate the collection,
23 storage, analysis, and dissemination of all applicable
24 information, intelligence, and data related to the
25 harvest, transportation, or trade of fish and fish

1 product collected or maintained by the member
2 agencies of the Program.

3 (3) CONFIDENTIALITY.—The Secretary,
4 through the Program, shall ensure the protection
5 and confidentiality required by law for information,
6 intelligence, and data related to the harvest, trans-
7 portation, or trade of fish and fish product obtained
8 by the Program.

9 (4) DATA STANDARDIZATION.—The Secretary
10 and the heads of other departments and agencies
11 providing staff for the Program shall, to the max-
12 imum extent practicable, develop data standardiza-
13 tion for fisheries related data for Program agencies
14 and with international fisheries enforcement data-
15 bases as appropriate.

16 (5) ASSISTANCE FROM INTELLIGENCE COMMU-
17 NITY.—Upon request of the Secretary, elements of
18 the intelligence community (as defined in section
19 3(4) of the National Security Act of 1947 (50
20 U.S.C. 401a(4))) shall collect information related to
21 illegal, unreported, or unregulated fishing activity
22 outside the United States about individuals who are
23 not United States persons (as defined in section
24 105A(c)(2) of such Act (50 U.S.C. 403–5a(c)(2))).
25 Such elements of the intelligence community shall

1 collect and share such information with the Sec-
2 retary through the Program for law enforcement
3 purposes in order to detect and investigate illegal,
4 unreported, or unregulated fishing activities and to
5 carry out the provisions of this Act. All collection
6 and sharing of information shall be in accordance
7 with the National Security Act of 1947 (50 U.S.C.
8 401 et seq.).

9 (6) INFORMATION SHARING.—The Secretary,
10 through the Program, shall have authority to share
11 fisheries-related data with other Federal or State
12 government agency, foreign government, the Food
13 and Agriculture Organization of the United Nations,
14 or the secretariat or equivalent of an international
15 fisheries management organization or arrangement
16 made pursuant to an international fishery agree-
17 ment, if—

18 (A) such governments, organizations, or
19 arrangements have policies and procedures to
20 safeguard such information from unintended or
21 unauthorized disclosure; and

22 (B) the exchange of information is nec-
23 essary—

1 (i) to ensure compliance with any law
2 or regulation enforced or administered by
3 the Secretary;

4 (ii) to administer or enforce treaties
5 to which the United States is a party;

6 (iii) to administer or enforce binding
7 conservation measures adopted by any
8 international organization or arrangement
9 to which the United States is a party;

10 (iv) to assist in investigative, judicial,
11 or administrative enforcement proceedings
12 in the United States; or

13 (v) to assist in any fisheries or living
14 marine resource related law enforcement
15 action undertaken by a law enforcement
16 agency of a foreign government, or in rela-
17 tion to a legal proceeding undertaken by a
18 foreign government.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated \$30,000,000 to the Sec-
21 retary for each of fiscal years 2010 through 2015 to carry
22 out this section.

1 **SEC. 202. INTERNATIONAL COOPERATION AND ASSISTANCE**
2 **PROGRAM.**

3 (a) INTERNATIONAL COOPERATION AND ASSISTANCE
4 PROGRAM.—The Secretary may establish an international
5 cooperation and assistance program, including grants, to
6 provide assistance for international capacity building ef-
7 forts.

8 (b) AUTHORIZED ACTIVITIES.—In carrying out the
9 program, the Secretary may—

10 (1) provide funding and technical expertise to
11 other nations to assist them in addressing illegal,
12 unreported, or unregulated fishing activities;

13 (2) provide funding and technical expertise to
14 other nations to assist them in reducing the loss and
15 environmental impacts of derelict fishing gears, re-
16 ducing the bycatch of living marine resources, and
17 promoting international marine resource conserva-
18 tion;

19 (3) provide funding, technical expertise, and
20 training, in cooperation with the International Fish-
21 eries Enforcement Program under section 201 of
22 this Act, to other nations to aid them in building ca-
23 pacity for enhanced fisheries management, fisheries
24 monitoring, catch and trade tracking activities, en-
25 forcement, and international marine resource con-
26 servation;

1 (4) establish partnerships with other Federal
2 agencies, as appropriate, to ensure that fisheries de-
3 velopment assistance to other nations is directed to-
4 ward projects that promote sustainable fisheries; and

5 (5) conduct outreach and education efforts in
6 order to promote public and private sector awareness
7 of international fisheries sustainability issues, in-
8 cluding the need to combat illegal, unreported, or
9 unregulated fishing activity and to promote inter-
10 national marine resource conservation.

11 (c) GUIDELINES.—The Secretary may establish
12 guidelines necessary to implement the program.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary
15 \$5,000,000 for each of fiscal years 2010 through 2015
16 to carry out this section.

17 **TITLE III—MISCELLANEOUS**
18 **AMENDMENTS**

19 **SEC. 301. ATLANTIC TUNAS CONVENTION ACT OF 1975.**

20 (a) ELIMINATION OF ANNUAL REPORT.—Section 11
21 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C.
22 971j) is repealed.

23 (b) CERTAIN REGULATIONS.—Section 971d(c)(2) of
24 the Atlantic Tunas Convention Act of 1975 (16 U.S.C.
25 971d(c)(2)) is amended—

1 (1) by inserting “(A)” after “(2)”;

2 (2) by striking “(A) submission” and inserting
3 “the presentation”;

4 (3) by striking “arguments, and (B) oral pres-
5 entation at a public hearing. Such” and inserting
6 “written or oral statements at a public hearing.
7 After consideration of such presentations, the ”; and

8 (4) by adding at the end thereof the following:

9 “(B) The Secretary may issue final regulations to im-
10 plement Commission recommendations referred to in para-
11 graph (1) of this subsection concerning trade restrictive
12 measures against nations or fishing entities without re-
13 gard to the requirements of subparagraph (A) of this
14 paragraph and subsections (b) and (c) of section 553 of
15 title 5, United States Code.”.

16 **SEC. 302. DATA SHARING.**

17 (a) HIGH SEAS DRIFTNET FISHING MORATORIUM
18 PROTECTION ACT.—Section 608 of the High Seas
19 Driftnet Fishing Moratorium Protection Act (16 U.S.C.
20 1826i) is amended—

21 (1) by inserting “(a) IN GENERAL.—” before
22 “The Secretary,”;

23 (2) by striking “organizations” the first place it
24 appears and inserting, “organizations, or arrange-
25 ments made pursuant to an international fishery

1 agreement (as defined in section 3(24) of the Mag-
2 nuson-Stevens Fishery Conservation and Manage-
3 ment Act),”;

4 (3) by striking “and” after the semicolon in
5 paragraph (2)(C);

6 (4) by striking “territories.” in paragraph (3)
7 and inserting “territories; and”; and

8 (5) by adding at the end thereof the following:

9 “(4) urging other nations, through the regional
10 fishery management organizations of which the
11 United States is a member, bilaterally and otherwise
12 to seek and foster the sharing of accurate, relevant,
13 and timely information—

14 “(A) to improve the scientific under-
15 standing of marine ecosystems;

16 “(B) to improve fisheries management de-
17 cisions;

18 “(C) to promote the conservation of pro-
19 tected living marine resources;

20 “(D) to combat illegal, unreported, and un-
21 regulated fishing; and

22 “(E) to improve compliance with conserva-
23 tion and management measures in international
24 waters.

1 “(b) INFORMATION SHARING.—In carrying out this
2 section, the Secretary may disclose, as necessary and ap-
3 propriate, information to the Food and Agriculture Orga-
4 nization of the United Nations, international fishery man-
5 agement organizations (as so defined), or arrangements
6 made pursuant to an international fishery agreement, if
7 such organizations or arrangements have policies and pro-
8 cedures to safeguard such information from unintended or
9 unauthorized disclosure.”.

10 (b) CONFORMING AMENDMENT.—Section 402(b)(1)
11 of the Magnuson-Stevens Fishery Conservation and Man-
12 agement Act (16 U.S.C. 1881a(b)(1)) is amended—

13 (1) by striking “or” after the semicolon in sub-
14 paragraph (G);

15 (2) by redesignating subparagraph (H) as sub-
16 paragraph (J); and

17 (3) by inserting after subparagraph (G) the fol-
18 lowing:

19 “(H) to the Food and Agriculture Organization
20 of the United Nations, international fishery manage-
21 ment organizations, or arrangements made pursuant
22 to an international fishery agreement as provided for
23 in the High Seas Driftnet Fishing Moratorium Pro-
24 tection Act (16 U.S.C. 1826i(b));

1 “(I) to any other Federal or State government
2 agency, foreign government, the Food and Agri-
3 culture Organization of the United Nations, or the
4 secretariat or equivalent of an international fisheries
5 management organization or arrangement made pur-
6 suant to an international fishery agreement, as pro-
7 vided in section 201(d)(6) of the International Fish-
8 eries Stewardship and Enforcement Act; or”.

9 **SEC. 303. PERMITS UNDER THE HIGH SEAS FISHING COM-**
10 **PLIANCE ACT OF 1995.**

11 Section 104(f) of the High Seas Fishing Compliance
12 Act (16 U.S.C. 5503(f)) is amended to read as follows:

13 “(f) VALIDITY.—A permit issued under this section
14 is void if—

15 “(1) 1 or more permits or authorizations re-
16 quired for a vessel to fish, in addition to a permit
17 issued under this section, expire, are revoked, or are
18 suspended; or

19 “(2) the vessel is no longer eligible for United
20 States documentation, such documentation is re-
21 voked or denied, or the vessel is deleted from such
22 documentation.”.

1 **SEC. 304. TECHNICAL CORRECTIONS TO THE WESTERN AND**
2 **CENTRAL PACIFIC FISHERIES CONVENTION**
3 **IMPLEMENTATION ACT.**

4 Section 503 of the Western and Central Pacific Fish-
5 eries Convention Implementation Act (16 U.S.C. 6902) is
6 amended—

7 (1) by striking “Management Council and” in
8 subsection (a) and inserting “Management Council,
9 and one of whom shall be the chairman or a member
10 of”;

11 (2) by striking subsection (c)(1) and inserting
12 the following:

13 “(1) EMPLOYMENT STATUS.—Individuals serv-
14 ing as such Commissioners, other than officers or
15 employees of the United States Government, shall
16 not be considered Federal employees except for the
17 purposes of injury compensation or tort claims liabil-
18 ity as provided in chapter 81 of title 5, United
19 States Code, and chapter 171 of title 28, United
20 States Code.”; and

21 (3) by striking subsection (d)(2)(B)(ii) and in-
22 serting the following:

23 “(ii) shall not be considered Federal
24 employees except for the purposes of injury
25 compensation or tort claims liability as
26 provided in chapter 81 of title 5, United

1 States Code, and chapter 171 of title 28,
2 United States Code.”.

3 **SEC. 305. PACIFIC WHITING ACT OF 2006.**

4 (a) **SCIENTIFIC EXPERTS.**—Section 605(a)(1) of the
5 Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is
6 amended by striking “at least 6 but not more than 12”
7 inserting “no more than 2”.

8 (b) **EMPLOYMENT STATUS.**—Section 609(a) of the
9 Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is
10 amended to read as follows:

11 “(a) **EMPLOYMENT STATUS.**—Individuals appointed
12 under section 603, 604, 605, or 606 of this title, other
13 than officers or employees of the United States Govern-
14 ment, shall not be considered to be Federal employees
15 while performing such service, except for purposes of in-
16 jury compensation or tort claims liability as provided in
17 chapter 81 of title 5, United States Code, and chapter 171
18 of title 28, United States Code.”.

19 **SEC. 306. COMMITTEE ON SCIENTIFIC COOPERATION FOR**
20 **PACIFIC SALMON AGREEMENT.**

21 Section 11 of the Pacific Salmon Treaty Act of 1985
22 (16 U.S.C. 3640) is amended by redesignating subsections
23 (c) and (d) as subsections (d) and (e), respectively, and
24 inserting after subsection (b) the following:

1 “(c) SCIENTIFIC COOPERATION COMMITTEE.—Mem-
2 bers of the Committee on Scientific Cooperation who are
3 not State or Federal employees shall receive compensation
4 at a rate equivalent to the rate payable for level IV of
5 the Executive Schedule under section 5315 of title 5,
6 United States Code, when engaged in actual performance
7 of duties for the Commission.”.

8 **SEC. 307. REAUTHORIZATIONS.**

9 (a) INTERNATIONAL DOLPHIN CONSERVATION PRO-
10 GRAM.—Section 304(c)(1) of the Marine Mammal Protec-
11 tion Act (16 U.S.C. 1414a(c)(1)) is amended by adding
12 at the end thereof the following:

13 “(5) \$1,000,000 for each of fiscal years
14 2009 through 2013.”.

15 (b) PACIFIC SALMON TREATY ACT OF 1985.—Sec-
16 tion 16(d)(2)(A) of the Pacific Salmon Treaty Act of 1985
17 (16 3645(d)(2)(A)) is amended by striking “and 2009,”
18 and inserting “2009, 2010, 2011, 2012, and 2013,”.

19 (c) SOUTH PACIFIC TUNA ACT OF 1988.—Section
20 20(a) of the South Pacific Tuna Act of 1988 (16 U.S.C.
21 973r(a)) is amended by striking “1992, 1993, 1994, 1995,
22 1996, 1997, 1998, 1999, 2000, 2001, and 2002,” each
23 place it appears and inserting “2009 through 2013”.

1 **TITLE IV—IMPLEMENTATION OF**
2 **THE ANTIGUA CONVENTION**

3 **SEC. 401. SHORT TITLE.**

4 This title may be cited as the “Antigua Convention
5 Implementing Act of 2009”.

6 **SEC. 402. AMENDMENT OF THE TUNA CONVENTIONS ACT**
7 **OF 1950.**

8 Except as otherwise expressly provided, whenever in
9 this title an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a section or other provi-
11 sion, the reference shall be considered to be made to a
12 section or other provision of the Tuna Conventions Act
13 of 1950 (16 U.S.C. 951 et seq.).

14 **SEC. 403. DEFINITIONS.**

15 Section 2 (16 U.S.C. 951) is amended to read as fol-
16 lows:

17 **“SEC. 2. DEFINITIONS.**

18 “In this Act:

19 “(1) ANTIGUA CONVENTION.—The term ‘Anti-
20 guia Convention’ means the Convention for the
21 Strengthening of the Inter-American Tropical Tuna
22 Commission Established by the 1949 Convention
23 Between the United States of America and the Re-
24 public of Costa Rica, signed at Washington, Novem-
25 ber 14, 2003.

1 “(2) COMMISSION.—The term ‘Commission’
2 means the Inter-American Tropical Tuna Commis-
3 sion provided for by the Convention.

4 “(3) CONVENTION.—The term ‘Convention’
5 means—

6 “(A) the Convention for the Establishment
7 of an Inter-American Tropical Tuna Commis-
8 sion, signed at Washington, May 31, 1949, by
9 the United States of America and the Republic
10 of Costa Rica;

11 “(B) the Antigua Convention, upon its
12 entry into force for the United States, and any
13 amendments thereto that are in force for the
14 United States; or

15 “(C) both such Conventions, as the context
16 requires.

17 “(4) IMPORT.—The term ‘import’ means to
18 land on, bring into, or introduce into, or attempt to
19 land on, bring into, or introduce into, any place sub-
20 ject to the jurisdiction of the United States, whether
21 or not such landing, bringing, or introduction con-
22 stitutes an importation within the meaning of the
23 customs laws of the United States.

1 “(5) PERSON.—The term ‘person’ means an in-
2 dividual, partnership, corporation, or association
3 subject to the jurisdiction of the United States.

4 “(6) UNITED STATES.—The term ‘United
5 States’ includes all areas under the sovereignty of
6 the United States.

7 “(7) U.S. COMMISSIONERS.—The term ‘U.S.
8 commissioners’ means the members of the commis-
9 sion.

10 “(8) U.S. SECTION.—The term ‘U.S. section’
11 means the U.S. Commissioners to the Commission
12 and a designee of the Secretary of State.”.

13 **SEC. 404. COMMISSIONERS; NUMBER, APPOINTMENT, AND**
14 **QUALIFICATIONS.**

15 Section 3 (16 U.S.C. 952) is amended to read as fol-
16 lows:

17 **“SEC. 3. COMMISSIONERS.**

18 “(a) COMMISSIONERS.—The United States shall be
19 represented on the Commission by 5 United States Com-
20 missioners. The President shall appoint individuals to
21 serve on the Commission at the pleasure of the President.
22 In making the appointments, the President shall select
23 Commissioners from among individuals who are knowl-
24 edgeable or experienced concerning highly migratory fish
25 stocks in the eastern tropical Pacific Ocean, one of whom

1 shall be an officer or employee of the Department of Com-
2 merce, one of whom shall be the chairman or a member
3 of the Western Pacific Fishery Management Council, and
4 one of whom shall be the chairman or a member of the
5 Pacific Fishery Management Council. Not more than 2
6 Commissioners may be appointed who reside in a State
7 other than a State whose vessels maintain a substantial
8 fishery in the area of the Convention.

9 “(b) ALTERNATE COMMISSIONERS.—The Secretary
10 of State, in consultation with the Secretary, may designate
11 from time to time and for periods of time deemed appro-
12 priate Alternate United States Commissioners to the Com-
13 mission. Any Alternate United States Commissioner may
14 exercise, at any meeting of the Commission or of the Gen-
15 eral Advisory Committee or Scientific Advisory Sub-
16 committee established pursuant to section 4(b), all powers
17 and duties of a United States Commissioner in the ab-
18 sence of any Commissioner appointed pursuant to sub-
19 section (a) of this section for whatever reason. The num-
20 ber of such Alternate United States Commissioners that
21 may be designated for any such meeting shall be limited
22 to the number of United States Commissioners appointed
23 pursuant to subsection (a) of this section who will not be
24 present at such meeting.

25 “(c) ADMINISTRATIVE MATTERS.—

1 “(1) EMPLOYMENT STATUS.—Individuals serv-
2 ing as such Commissioners, other than officers or
3 employees of the United States Government, shall
4 not be considered Federal employees except for the
5 purposes of injury compensation or tort claims liabil-
6 ity as provided in chapter 81 of title 5, United
7 States Code, and chapter 171 of title 28, United
8 States Code.

9 “(2) COMPENSATION.—The United States Com-
10 missioners or Alternate Commissioners, although of-
11 ficers of the United States while so serving, shall re-
12 ceive no compensation for their services as such
13 Commissioners or Alternate Commissioners.

14 “(3) TRAVEL EXPENSES.—

15 “(A) The Secretary of State shall pay the
16 necessary travel expenses of United States
17 Commissioners and Alternate United States
18 Commissioners to meetings of the IATTC and
19 other meetings the Secretary deems necessary
20 to fulfill their duties, in accordance with the
21 Federal Travel Regulations and sections 5701,
22 5702, 5704 through 5708, and 5731 of title 5,
23 United States Code.

1 “(B) The Secretary may reimburse the
2 Secretary of State for amounts expended by the
3 Secretary of State under this subsection.”.

4 **SEC. 405. GENERAL ADVISORY COMMITTEE AND SCI-**
5 **ENTIFIC ADVISORY SUBCOMMITTEE.**

6 Section 4 (16 U.S.C. 953) is amended—

7 (1) by striking subsection (a) and inserting the
8 following:

9 “(a) GENERAL ADVISORY COMMITTEE.—

10 “(1) APPOINTMENTS; PUBLIC PARTICIPATION;
11 COMPENSATION.—

12 “(A) The Secretary, in consultation with
13 the Secretary of State, shall appoint a General
14 Advisory Committee which shall consist of not
15 more than 25 individuals who shall be rep-
16 resentative of the various groups concerned
17 with the fisheries covered by the Convention, in-
18 cluding nongovernmental conservation organiza-
19 tions, providing to the maximum extent prac-
20 ticable an equitable balance among such groups.
21 Members of the General Advisory Committee
22 will be eligible to participate as members of the
23 U.S. delegation to the Commission and its
24 working groups to the extent the Commission
25 rules and space for delegations allow.

1 “(B) The chair of the Pacific Fishery
2 Management Council’s Advisory Subpanel for
3 Highly Migratory Fisheries and the chair of the
4 Western Pacific Fishery Management Council’s
5 Advisory Committee shall be members of the
6 General Advisory Committee by virtue of their
7 positions in those Councils;

8 “(C) Each member of the General Advi-
9 sory Committee appointed under subparagraph
10 (A) shall serve for a term of 3 years and is eli-
11 gible for reappointment.

12 “(D) The General Advisory Committee
13 shall be invited to attend all non-executive
14 meetings of the United States Section and at
15 such meetings shall be given opportunity to ex-
16 amine and to be heard on all proposed pro-
17 grams of investigation, reports, recommenda-
18 tions, and regulations of the Commission.

19 “(E) The General Advisory Committee
20 shall determine its organization, and prescribe
21 its practices and procedures for carrying out its
22 functions under this chapter, the Magnuson-
23 Stevens Fishery Conservation and Management
24 Act (16 U.S.C. 1801 et seq.), and the Conven-
25 tion. The General Advisory Committee shall

1 publish and make available to the public a
2 statement of its organization, practices and pro-
3 cedures. Meetings of the General Advisory Com-
4 mittee, except when in executive session, shall
5 be open to the public, and prior notice of meet-
6 ings shall be made public in timely fashion. The
7 General Advisory Committee shall not be sub-
8 ject to the Federal Advisory Committee Act (5
9 U.S.C. App.).

10 “(2) INFORMATION SHARING.—The Secretary
11 and the Secretary of State shall furnish the General
12 Advisory Committee with relevant information con-
13 cerning fisheries and international fishery agree-
14 ments.

15 “(3) ADMINISTRATIVE MATTERS.—

16 “(A) The Secretary shall provide to the
17 General Advisory Committee in a timely man-
18 ner such administrative and technical support
19 services as are necessary for its effective func-
20 tioning.

21 “(B) Individuals appointed to serve as a
22 member of the General Advisory Committee—

23 “(i) shall serve without pay, but while
24 away from their homes or regular places of
25 business to attend meetings of the General

1 Advisory Committee shall be allowed travel
2 expenses, including per diem in lieu of sub-
3 sistence, in the same manner as persons
4 employed intermittently in the Government
5 service are allowed expenses under section
6 5703 of title 5, United States Code; and

7 “(ii) shall not be considered Federal
8 employees except for the purposes of injury
9 compensation or tort claims liability as
10 provided in chapter 81 of title 5, United
11 States Code, and chapter 171 of title 28,
12 United States Code.”; and

13 (2) by striking so much of subsection (b) as
14 precedes paragraph (2) and inserting the following:

15 “(b) SCIENTIFIC ADVISORY COMMITTEE.—(1) The
16 Secretary, in consultation with the Secretary of State,
17 shall appoint a Scientific Advisory Subcommittee of not
18 less than 5 nor more than 15 qualified scientists with bal-
19 anced representation from the public and private sectors,
20 including nongovernmental conservation organizations.”.

21 **SEC. 406. RULEMAKING.**

22 Section 6 (16 U.S.C. 955) is amended—

23 (1) by striking the section caption and inserting
24 the following:

1 **“SEC. 6. RULEMAKING.”;**

2 and

3 (2) by striking subsections (a) and (b) and in-
4 serting the following:

5 “(a) REGULATIONS.—The Secretary, in consultation
6 with the Secretary of State and, with respect to enforce-
7 ment measures, the Secretary of the Department in which
8 the Coast Guard is operating, may promulgate such regu-
9 lations as may be necessary to carry out the United States
10 international obligations under the Convention and this
11 Act, including recommendations and decisions adopted by
12 the Commission. In cases where the Secretary has discre-
13 tion in the implementation of one or more measures adopt-
14 ed by the Commission that would govern fisheries under
15 the authority of a Regional Fishery Management Council,
16 the Secretary may, to the extent practicable within the im-
17 plementation schedule of the Convention and any rec-
18 ommendations and decisions adopted by the Commission,
19 promulgate such regulations in accordance with the proce-
20 dures established by the Magnuson-Stevens Fishery Con-
21 servation and Management Act (16 U.S.C. 1801 et seq.).

22 “(b) JURISDICTION.—The Secretary may promulgate
23 regulations applicable to all vessels and persons subject
24 to the jurisdiction of the United States, including United
25 States flag vessels wherever they may be operating, on
26 such date as the Secretary shall prescribe.”.

1 **SEC. 407. PROHIBITED ACTS.**

2 Section 8 (16 U.S.C. 957) is amended to read as fol-
3 lows:

4 **“SEC. 8. PROHIBITED ACTS.**

5 “It is unlawful for any person—

6 “(1) to violate any provision of this chapter or
7 any regulation or permit issued pursuant to this Act;

8 “(2) to use any fishing vessel to engage in fish-
9 ing after the revocation, or during the period of sus-
10 pension, of an applicable permit issued pursuant to
11 this Act;

12 “(3) to refuse to permit any officer authorized
13 to enforce the provisions of this Act (as provided for
14 in section 10) to board a fishing vessel subject to
15 such person’s control for the purposes of conducting
16 any search, investigation or inspection in connection
17 with the enforcement of this Act or any regulation,
18 permit, or the Convention;

19 “(4) to forcibly assault, resist, oppose, impede,
20 intimidate, sexually harass, bribe, or interfere with
21 any such authorized officer in the conduct of any
22 search, investigations or inspection in connection
23 with the enforcement of this Act or any regulation,
24 permit, or the Convention;

25 “(5) to resist a lawful arrest for any act prohib-
26 ited by this Act;

1 “(6) to ship, transport, offer for sale, sell, pur-
2 chase, import, export, or have custody, control, or
3 possession of, any fish taken or retained in violation
4 of this Act or any regulation, permit, or agreement
5 referred to in paragraph (1) or (2);

6 “(7) to interfere with, delay, or prevent, by any
7 means, the apprehension or arrest of another person,
8 knowing that such other person has committed any
9 act prohibited by this section;

10 “(8) to knowingly and willfully submit to the
11 Secretary false information regarding any matter
12 that the Secretary is considering in the course of
13 carrying out this Act;

14 “(9) to forcibly assault, resist, oppose, impede,
15 intimidate, sexually harass, bribe, or interfere with
16 any observer on a vessel under this Act, or any data
17 collector employed by the National Marine Fisheries
18 Service or under contract to any person to carry out
19 responsibilities under this Act;

20 “(10) to engage in fishing in violation of any
21 regulation adopted pursuant to section 6(c) of this
22 Act;

23 “(11) to ship, transport, purchase, sell, offer for
24 sale, import, export, or have in custody, possession,

1 or control any fish taken or retained in violation of
2 such regulations;

3 “(12) to fail to make, keep, or furnish any
4 catch returns, statistical records, or other reports as
5 are required by regulations adopted pursuant to this
6 Act to be made, kept, or furnished;

7 “(13) to fail to stop a vessel upon being hailed
8 and instructed to stop by a duly authorized official
9 of the United States; and

10 “(14) to import, in violation of any regulation
11 adopted pursuant to section 6(c) of this Act, any
12 fish in any form of those species subject to regula-
13 tion pursuant to a recommendation, resolution, or
14 decision of the Commission, or any tuna in any form
15 not under regulation but under investigation by the
16 Commission, during the period such fish have been
17 denied entry in accordance with the provisions of
18 section 6(c) of this Act, unless such person provides
19 such proof as the Secretary of Commerce may re-
20 quire that a fish described in this paragraph offered
21 for entry into the United States is not ineligible for
22 such entry under the terms of section 6(c) of this
23 Act.”.

1 **SEC. 408. ENFORCEMENT.**

2 Section 10 (16 U.S.C. 959) is amended to read as
3 follows:

4 **“SEC. 10. ENFORCEMENT.**

5 “This Act shall be enforced under section 101 of the
6 International Fisheries Stewardship and Enforcement
7 Act.”.

8 **SEC. 409. REDUCTION OF BYCATCH.**

9 Section 15 (16 U.S.C. 962) is amended by striking
10 “vessel” and inserting “vessels”.

11 **SEC. 410. REPEAL OF EASTERN PACIFIC TUNA LICENSING**
12 **ACT OF 1984.**

13 The Eastern Pacific Tuna Licensing Act of 1984 (16
14 U.S.C. 972 et seq.) is repealed.

○