

110TH CONGRESS
2D SESSION

S. 2907

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

APRIL 24, 2008

Mr. INOUE (for himself and Mr. STEVENS) 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”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 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.

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. Technical correction to the Pacific Whiting Act of 2006.

Sec. 306. Regulations under the Antarctic Marine Living Resources Convention
Act of 1984.

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

5 **SEC. 101. AUTHORITY OF THE SECRETARY TO ENFORCE**
6 **STATUTES.**

7 (a) IN GENERAL.—

8 (1) ENFORCEMENT OF STATUTES.—The Sec-
9 retary of Commerce and the Secretary of the depart-
10 ment in which the Coast Guard is operating shall
11 enforce the statutes to which this section applies in
12 accordance with the provisions of this section.

13 (2) UTILIZATION OF NONDEPARTMENTAL RE-
14 SOURCES.—The Secretary may, by agreement, on a

1 reimbursable basis or otherwise, utilize the personnel
2 services, equipment (including aircraft and vessels),
3 and facilities of any other Federal agency, including
4 all elements of the Department of Defense, and of
5 any State agency, in carrying out this section.

6 (3) STATUTES TO WHICH APPLICABLE.—This
7 section applies to—

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

11 (B) title III of the Marine Mammal Pro-
12 tection Act of 1972 (16 U.S.C. 1411 et seq.);

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

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

17 (E) the North American Anadromous
18 Stocks Act of 1992 (16 U.S.C. 5001 et seq.);

19 (F) the South Pacific Tuna Act of 1988
20 (16 U.S.C. 973 et seq.);

21 (G) the Antarctic Marine Living Resources
22 Convention Act of 1984 (16 U.S.C. 2431 et
23 seq.);

24 (H) the Atlantic Tunas Convention Act of
25 1975 (16 U.S.C. 971 et seq.);

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

3 (J) the Western and Central Pacific Fish-
4 eries Convention Implementation Act (16
5 U.S.C. 6901 et seq.);

6 (K) the Northern Pacific Halibut Act of
7 1982 (16 U.S.C. 773 et seq.);

8 (L) any other Act in pari materia, so des-
9 ignated by the Secretary after notice and an op-
10 portunity for a hearing; and

11 (M) the Antigua Convention Implementing
12 Act of 2008.

13 (b) ADMINISTRATION AND ENFORCEMENT.—The
14 Secretary shall prevent any person from violating any Act
15 to which this section applies in the same manner, by the
16 same means, and with the same jurisdiction, powers, and
17 duties as though sections 307 through 311 of the Mag-
18 nuson-Stevens Fishery Conservation and Management Act
19 (16 U.S.C. 1857 through 1861) were incorporated into
20 and made a part of each such Act. Except as provided
21 in subsection (c), any person that violates any Act to
22 which this section applies is subject to the penalties, and
23 entitled to the privileges and immunities, provided in the
24 Magnuson-Stevens Fishery Conservation and Manage-
25 ment Act (16 U.S.C. 1801 et seq.) in the same manner

1 and by the same means as though sections 307 through
2 311 of that Act were incorporated into and made a part
3 of each such Act.

4 (c) SPECIAL RULES.—

5 (1) IN GENERAL.—Notwithstanding the incor-
6 poration by reference of certain sections of the Mag-
7 nuson-Stevens Fishery Conservation and Manage-
8 ment Act under subsection (b), if there is a conflict
9 between a provision of this subsection and the cor-
10 responding provision of any section of the Magnu-
11 son-Stevens Fishery Conservation and Management
12 Act so incorporated, the provision of this subsection
13 shall apply.

14 (2) CIVIL ADMINISTRATIVE ENFORCEMENT.—
15 The amount of the civil penalty for a violation of
16 any Act to which this section applies shall not exceed
17 \$250,000 for each violation. Each day of a con-
18 tinuing violation shall constitute a separate violation.

19 (3) CIVIL JUDICIAL ENFORCEMENT.—The At-
20 torney General, upon the request of the Secretary,
21 may commence a civil action in an appropriate dis-
22 trict court of the United States to enforce this Act
23 and any Act to which this section applies, and such
24 court shall have jurisdiction to award civil penalties
25 or such other relief as justice may require, including

1 a permanent or temporary injunction. The amount
2 of the civil penalty for a violation of any Act to
3 which this section applies shall not exceed \$250,000
4 for each violation. Each day of a continuing violation
5 shall constitute a separate violation. In determining
6 the amount of a civil penalty, the court shall take
7 into account the nature, circumstances, extent, and
8 gravity of the prohibited acts committed and, with
9 respect to the violator, the degree of culpability, any
10 history of prior violations and such other matters as
11 justice may require. In imposing such penalty, the
12 district court may also consider information related
13 to the ability of the violator to pay.

14 (4) CRIMINAL FINES AND PENALTIES.—

15 (A) INDIVIDUALS.—In the case of an indi-
16 vidual, any offense described in subsection
17 (e)(2), (3), (4), (5), or (6) is punishable by a
18 fine of not more than \$500,000, imprisonment
19 for not more than 5 years, or both. If, in the
20 commission of such offense, an individual uses
21 a dangerous weapon, engages in conduct that
22 causes bodily injury to any officer authorized to
23 enforce the provisions of this Act, or places any
24 such officer in fear of imminent bodily injury

1 the maximum term of imprisonment is 10
2 years.

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

7 (5) OTHER CRIMINAL VIOLATIONS.—Any person
8 (other than a foreign government or any entity of
9 such government) who knowingly violates any provi-
10 sion of subsection (e) of this section, or any provi-
11 sion of any regulation promulgated pursuant to this
12 Act, is guilty of a criminal offense punishable—

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

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

18 (6) CRIMINAL FORFEITURES.—

19 (A) IN GENERAL.—A person found guilty
20 of an offense described in subsection (e), or who
21 is convicted of a criminal violation of any Act
22 to which this section applies, shall forfeit to the
23 United States—

24 (i) any property, real or personal, con-
25 stituting or traceable to the gross proceeds

1 obtained, or retained, as a result of the of-
2 fense including any marine species (or the
3 fair market value thereof) taken or re-
4 tained in connection with or as a result of
5 the offense; and

6 (ii) any property, real or personal,
7 used or intended to be used to commit or
8 to facilitate the commission of the offense,
9 including any shoreside facility, including
10 its conveyances, structure, equipment, fur-
11 niture, appurtenances, stores, and cargo.

12 (B) PROCEDURE.—Pursuant to section
13 2461(c) of title 28, United States Code, the
14 provisions of section 413 of the Controlled Sub-
15 stances Act (21 U.S.C. 853), other than sub-
16 section (d) thereof, shall apply to criminal for-
17 feitures under this section.

18 (7) ADDITIONAL ENFORCEMENT AUTHORITY.—

19 In addition to the powers of officers authorized pur-
20 suant to subsection (b), any officer who is author-
21 ized by the Secretary, or the head of any Federal or
22 State agency that has entered into an agreement
23 with the Secretary under subsection (a) to enforce
24 the provisions of any Act to which this section ap-
25 plies may, with the same jurisdiction, powers, and

1 duties as though section 311 of the Magnuson-Ste-
2 vens fishery Conservation and Management Act (16
3 U.S.C. 1861) were incorporated into and made a
4 part of each such Act—

5 (A) search or inspect any facility or con-
6 veyance used or employed in, or which reason-
7 ably appears to be used or employed in, the
8 storage, processing, transport, or trade of fish
9 or fish products;

10 (B) inspect records pertaining to the stor-
11 age, processing, transport, or trade of fish or
12 fish products;

13 (C) detain, for a period of up to 5 days,
14 any shipment of fish or fish product imported
15 into, landed on, introduced into, exported from,
16 or transported within the jurisdiction of the
17 United States; and

18 (D) make an arrest, in accordance with
19 any guidelines which may be issued by the At-
20 torney General, for any offense under the laws
21 of the United States committed in the person's
22 presence, or for the commission of any felony
23 under the laws of the United States, if the per-
24 son has reasonable grounds to believe that the
25 person to be arrested has committed or is com-

1 mitting a felony; may search and seize, in ac-
2 cordance with any guidelines which may be
3 issued by the Attorney General and may exe-
4 cute and serve any subpoena, arrest warrant,
5 search warrant issued in accordance with rule
6 41 of the Federal Rules of Criminal Procedure,
7 or other warrant or civil or criminal process
8 issued by any officer or court of competent ju-
9 risdiction.

10 (8) SUBPOENAS.—In addition to any subpoena
11 authority pursuant to subsection (b), the Secretary
12 may, for the purposes of conducting any investiga-
13 tion under this section, or any other statute adminis-
14 tered by the Secretary, issue subpoenas for the pro-
15 duction of relevant papers, photographs, records,
16 books, and documents in any form, including those
17 in electronic, electrical, or magnetic form.

18 (d) DISTRICT COURT JURISDICTION.—The several
19 district courts of the United States shall have jurisdiction
20 over any actions arising under this section. For the pur-
21 pose of this section, American Samoa shall be included
22 within the judicial district of the District Court of the
23 United States for the District of Hawaii. Each violation
24 shall be a separate offense and the offense shall be deemed
25 to have been committed not only in the district where the

1 violation first occurred, but also in any other district as
2 authorized by law. Any offenses not committed in any dis-
3 trict are subject to the venue provisions of section 3238
4 of title 18, United States Code.

5 (e) PROHIBITED ACTS.—It is unlawful for any per-
6 son—

7 (1) to violate any provision of this section or
8 any Act to which this section applies or any regula-
9 tion promulgated thereunder;

10 (2) to refuse to permit any authorized enforce-
11 ment officer to board, search, or inspect a fishing
12 vessel, conveyance, or shoreside facility that is sub-
13 ject to the person's control for purposes of con-
14 ducting any search, investigation, or inspection in
15 connection with the enforcement of this section or
16 any Act to which this section applies or any regula-
17 tion promulgated thereunder;

18 (3) to forcibly assault, resist, oppose, impede,
19 intimidate, or interfere with any such authorized of-
20 ficer in the conduct of any search, investigation, or
21 inspection described in paragraph (2);

22 (4) to resist a lawful arrest for any act prohib-
23 ited by this section or any Act to which this section
24 applies;

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

6 (6) to forcibly assault, resist, oppose, impede,
7 intimidate, sexually harass, bribe, or interfere with
8 any observer on a vessel under this Act, or any data
9 collector employed by or under contract to the Na-
10 tional Marine Fisheries Service to carry out respon-
11 sibilities under this section or any Act to which this
12 section applies;

13 (7) to import, export, transport, sell, receive,
14 acquire, or purchase in interstate or foreign com-
15 merce any fish or fish product taken, possessed,
16 transported, or sold in violation of any foreign law,
17 treaty or any binding conservation measure adopted
18 by an international agreement or organization; or

19 (8) to make or submit any false record, ac-
20 count, or label for, or any false identification of, any
21 fish or fish product which has been, or is intended
22 to be imported, exported, transported, sold, offered
23 for sale, purchased, or received in interstate or for-
24 eign commerce.

1 (f) REGULATIONS.—The Secretary may promulgate
 2 such regulations, in accordance with section 553 of title
 3 5, United States Code, as may be necessary to carry out
 4 this section or any Act to which this section applies.

5 **SEC. 102. CONFORMING, MINOR, AND TECHNICAL AMEND-**
 6 **MENTS.**

7 (a) HIGH SEAS DRIFTNET FISHING MORATORIUM
 8 PROTECTION ACT.—Section 606 of the High Seas
 9 Driftnet Fishing Moratorium Protection Act (16 U.S.C.
 10 1826g) is amended—

11 (1) by inserting “(a) DETECTING, MONITORING,
 12 AND PREVENTING VIOLATIONS.—” before “The
 13 President”; and

14 (2) by adding at the end thereof the following:
 15 “(b) ENFORCEMENT.—This Act shall be enforced
 16 under section 101 of the International Fisheries Steward-
 17 ship and Enforcement Act.”.

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

21 (1) by adding at the end of subsection (d) the
 22 following:

23 “(4) An act that is considered to be a violation of
 24 section 5 of the Federal Trade Commission Act under
 25 paragraph (1) is deemed also to be a violation of section

1 609 of the High Seas Driftnet Fishing Moratorium Pro-
2 tection Act (16 U.S.C. 1826j).

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

9 (2) by striking subsection (e) and inserting the
10 following:

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

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

17 (1) by striking “regulation.” in subsection (a)
18 and inserting “regulation or for any person to make
19 or submit any false record, account, or label for, or
20 any false identification of, any fish or fish product
21 which has been, or is intended to be imported, ex-
22 ported, transported, sold, offered for sale, purchased,
23 or received in interstate or foreign commerce.”;

24 (2) by striking subsection (d) and inserting the
25 following:

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

2 “(1) to refuse to permit any officer authorized
3 to enforce the provisions of this Act to board a fish-
4 ing vessel subject to such person’s control for pur-
5 poses of conducting any search, investigation, or in-
6 spection in connection with the enforcement of this
7 Act or any regulation promulgation or permit issued
8 under this Act;

9 “(2) to forcibly assault, resist, oppose, impede,
10 intimidate, or interfere with any such authorized of-
11 ficer in the conduct of any search, investigation or
12 inspection described in paragraph (1);

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

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

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

21 (4) by inserting after subsection (d) the fol-
22 lowing:

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

1 (d) NORTHERN PACIFIC ANADROMOUS STOCKS ACT
2 OF 1992.—

3 (1) UNLAWFUL ACTIVITIES.—Section 810 of
4 the Northern Pacific Anadromous Stocks Act of
5 1992 (16 U.S.C. 5009) is amended—

6 (A) by striking “search or inspection” in
7 paragraph (5) and inserting “search, investiga-
8 tion, or inspection”;

9 (B) by striking “search or inspection” in
10 paragraph (6) and inserting “search, investiga-
11 tion, or inspection”;

12 (C) by striking “or” after the semicolon in
13 paragraph (8);

14 (D) by striking “title.” in paragraph (9)
15 and inserting “title; or”; and

16 (E) by adding at the end thereof the fol-
17 lowing:

18 “(10) for any person to make or submit any
19 false record, account, or label for, or any false iden-
20 tification of, any fish or fish product which has been,
21 or is intended to be imported, exported, transported,
22 sold, offered for sale, purchased, or received in inter-
23 state or foreign commerce.”.

24 (2) ADMINISTRATION AND ENFORCEMENT.—
25 Section 811 of the Northern Pacific Anadromous

1 Stocks Act of 1992 (16 U.S.C. 5010) is amended to
2 read as follows:

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

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

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

10 (1) by striking “search or inspection” in sub-
11 section (a)(2) and inserting “search, investigation,
12 or inspection”;

13 (2) by striking “search or inspection” in sub-
14 section (a)(3) and inserting “search, investigation,
15 or inspection”;

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

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

20 (5) by adding at the end of subsection (a) the
21 following:

22 “(7) for any person to make or submit any false
23 record, account, or label for, or any false identifica-
24 tion of, any fish or fish product which has been, or
25 is intended to be imported, exported, transported,

1 sold, offered for sale, purchased, or received in inter-
2 state or foreign commerce.”; and

3 (6) by striking subsections (b) through (j) and
4 inserting the following:

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

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

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

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

15 (B) by striking “search or inspection” in
16 paragraph (10)(A) and inserting “search, inves-
17 tigation, or inspection”;

18 (C) by striking “or” after the semicolon in
19 paragraph (12);

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

22 (E) by adding at the end thereof the fol-
23 lowing:

24 “(14) for any person to make or submit any
25 false record, account, or label for, or any false iden-

1 tification of, any fish or fish product which has been,
2 or is intended to be imported, exported, transported,
3 sold, offered for sale, purchased, or received in inter-
4 state or foreign commerce.”.

5 (2) ADMINISTRATION AND ENFORCEMENT.—

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

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

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

13 (g) ANTARCTIC MARINE LIVING RESOURCES CON-
14 VENTION ACT OF 1984.—

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

18 (A) by striking “which he knows, or rea-
19 sonably should have known, was” in paragraph
20 (3);

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

1 (C) by striking “search or inspection” in
2 paragraph (5) and inserting “search, investiga-
3 tion, or inspection”;

4 (D) by striking “or” after the semicolon in
5 paragraph (6);

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

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

10 “(8) to make or submit any false record, ac-
11 count, or label for, or any false identification of, any
12 fish or fish product which has been, or is intended
13 to be imported, exported, transported, sold, offered
14 for sale, purchased, or received in interstate or for-
15 eign commerce.”.

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

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

6 (3) PENALTIES AND ENFORCEMENT.—The
7 Antarctic Marine Living Resources Convention Act
8 (16 U.S.C. 2431 et seq.) is amended—

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

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

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

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

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

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

23 (A) by striking subsections (e) and (f) and
24 redesignating subsection (g) as subsection (f);
25 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 which has been, or is intended to be, imported, exported,
7 transported, sold, offered for sale, purchased or received
8 in interstate or foreign commerce.”.

9 (2) ENFORCEMENT.—Section 8 of the Atlantic
10 Tunas Convention Act of 1975 (16 U.S.C. 971f) is
11 amended by striking subsections (a) and (c), and in-
12 serting the following before subsection (b):

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

16 (i) NORTHWEST ATLANTIC FISHERIES CONVENTION
17 ACT OF 1995.—Section 207 of the Northwest Atlantic
18 Fisheries Convention Act of 1995 (16 U.S.C. 5606) is
19 amended—

20 (1) by striking “**AND PENALTIES.**” in the
21 section caption and inserting “**AND ENFORCE-**
22 **MENT.**”;

23 (2) by striking “search or inspection” in sub-
24 section (a)(2) and inserting “search, investigation,
25 or inspection”;

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

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

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

8 (6) by adding at the end of subsection (a) the
9 following:

10 “(7) to make or submit any false record, ac-
11 count, or label for, or any false identification of, any
12 fish or fish product which has been, or is intended
13 to be, imported, exported, transported, sold, offered
14 for sale, purchased or received in interstate or for-
15 eign commerce.”; and

16 (7) by striking subsection (b) through (f) and
17 inserting the following:

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

21 (j) WESTERN AND CENTRAL PACIFIC FISHERIES
22 CONVENTION IMPLEMENTATION ACT.—

23 (1) ADMINISTRATION AND ENFORCEMENT.—
24 Section 506(c) of the Western and Central Pacific

1 Fisheries Convention Implementation Act (16 U.S.C.
2 6905(e)) is amended to read as follows:

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

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

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

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

14 (C) by adding at the end thereof the fol-
15 lowing:

16 “(15) to make or submit any false record, ac-
17 count, or label for, or any false identification of, any
18 fish or fish product which has been, or is intended
19 to be, imported, exported, transported, sold, offered
20 for sale, purchased or received in interstate or for-
21 eign commerce.”.

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

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

1 (A) by redesignating subdivisions (a) and
2 (b) as paragraphs (1) and (2), respectively, and
3 subdivisions (1) through (6) of paragraph (1),
4 as redesignated, as subparagraphs (A) through
5 (F);

6 (B) by striking “search or inspection” in
7 paragraph (1)(B), as redesignated, and insert-
8 ing “search, investigation, or inspection”;

9 (C) by striking “search or inspection” in
10 paragraph (1)(C), as redesignated, and insert-
11 ing “search, investigation, or inspection”;

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

14 (E) by striking “section.” in paragraph
15 (1)(F), as redesignated; and

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

18 “(G) to make or submit any false record, ac-
19 count, or label for, or any false identification of, any
20 fish or fish product which has been, or is intended
21 to be, imported, exported, transported, sold, offered
22 for sale, purchased or received in interstate or for-
23 eign commerce; or”.

1 suant to an international fishery agreement, whether
2 or not the United States is a party to such organiza-
3 tion or arrangement; and

4 “(2) take appropriate action against listed ves-
5 sels and vessel owners, including action against fish,
6 fish parts, or fish products from such vessels, in ac-
7 cordance with applicable United States law and con-
8 sistent with applicable international law, including
9 principles, rights, and obligations established in ap-
10 plicable international fishery management and trade
11 agreements.

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

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

19 (b) ADDITIONAL MEASURES.—

20 (1) AMENDMENT OF THE HIGH SEAS DRIFTNET
21 FISHING MORATORIUM PROTECTION ACT.—

22 (A) Section 609(d)(3) of the High Seas
23 Driftnet Fishing Moratorium Protection Act
24 (16 U.S.C. 1826j) is amended—

1 (i) by striking “101(a)” in subpara-
2 graph (A) and inserting “101(a)(3)”;

3 (ii) by striking “1826a(a),” in sub-
4 paragraph (A) and inserting
5 “1826(a)(a)(3),”; and

6 (iii) by striking “that has not been
7 certified by the Secretary under this sub-
8 section, or” in subparagraph (A)(i).

9 (B) Section 610(e)(5) of the High Seas
10 Driftnet Fishing Moratorium Protection Act
11 (16 U.S.C. 1826k(e)(5)) is amended—

12 (i) by striking “101(a)” and inserting
13 “101(a)(3)”;

14 (ii) by striking “1826a(a),” and in-
15 sserting “1826(a)(a)(3),”; and

16 (iii) by striking “that has not been
17 certified by the Secretary under this sub-
18 section, or”.

19 (2) AMENDMENT OF THE HIGH SEAS DRIFTNET
20 FISHERIES ENFORCEMENT ACT.—

21 (A) Section 101 of the High Seas Driftnet
22 Fisheries Enforcement Act (16 U.S.C. 1826a)
23 is amended—

1 (i) redesignating paragraph (3) of
2 subsection (a) as paragraph (4) and insert-
3 ing after paragraph (2) the following:

4 “(3) ADDITIONAL AUTHORITY.—The Secretary of
5 Treasury is authorized, in accordance with international
6 law, to undertake actions under paragraph (2)(A) and (B)
7 with respect to fishing vessels engaged in illegal, unre-
8 ported, or unregulated fishing.”;

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 to ter-
9minate large-scale driftnet fishing conducted by its
10 nationals and vessels beyond the exclusive economic
11 zone of any nation, illegal, unreported, or unregu-
12 lated fishing activities under section 609 of the High
13 Seas Driftnet Fishing Moratorium Protection Act
14 (16 U.S.C. 1826j) or bycatch of a protected living
15 marine resource under section 610 of such Act (16
16 U.S.C. 1826k); or”.

17 (B) Section 102 of the High Seas Driftnet
18 Fisheries Enforcement Act (16 U.S.C. 1826b)
19 is amended—

20 (i) by striking “or illegal, unreported,
21 or unregulated fishing”; and

22 (ii) by striking “nation.” and insert-
23 ing “nation, section 609 of the High Seas
24 Driftnet Fishing Moratorium Protection
25 Act (16 U.S.C. 1826j), or bycatch of a

1 protected living marine resource under sec-
2 tion 610 of such Act (16 U.S.C. 1826k).”.

3 **TITLE II—LAW ENFORCEMENT**
4 **AND INTERNATIONAL OPER-**
5 **ATIONS.**

6 **SEC. 201. INTERNATIONAL FISHERIES ENFORCEMENT PRO-**
7 **GRAM.**

8 (a) ESTABLISHMENT.—

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

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

22 (3) STAFF.—The Program shall be staffed with
23 representation from the U.S. Coast Guard, U.S.
24 Customs and Border Protection, U.S. Food and
25 Drug Administration, and any other department or

1 agency determined by the Secretary to be appro-
2 priate and necessary to detect and investigate illegal,
3 unreported, or unregulated fishing activity and en-
4 force the provisions of this Act.

5 (b) PROGRAM ACTIONS.—

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

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

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

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

1 (2) BUDGET.—The Secretary and the heads of
2 other departments and agencies providing staff for
3 the Program, may, at their discretion, develop inter-
4 agency plans and budgets and engage in interagency
5 financing for such purposes.

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

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

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

24 (B) enter into agreements with other Fed-
25 eral, State, or local governments as well as with

1 the governments of other nations, on a reim-
2 bursable basis or otherwise, for such purposes.

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

12 (d) INFORMATION COLLECTION, MAINTENANCE AND
13 USE.—

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

23 (2) COORDINATION OF DATA.—The Secretary,
24 through the Program, shall coordinate the collection,
25 storage, analysis, and dissemination of all applicable

1 information, intelligence, and data related to the
2 harvest, transportation, or trade of fish and fish
3 product collected or maintained by the member
4 agencies of the Program.

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

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

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

1 105A(c)(2) of such Act (50 U.S.C. 403–5a(c)(2))).
2 Such elements of the intelligence community shall
3 collect and share such information with the Sec-
4 retary through the Program for law enforcement
5 purposes in order to detect and investigate illegal,
6 unreported, or unregulated fishing activities and to
7 carry out the provisions of this Act. All collection
8 and sharing of information shall be in accordance
9 with the National Security Act of 1947 (50 U.S.C.
10 401 et seq.).

11 (6) INFORMATION SHARING.—The Secretary,
12 through the Program, shall have authority to share
13 fisheries-related data with other Federal, State, and
14 foreign governments as well as international organi-
15 zations or arrangements, including international
16 fishery management organizations, if—

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

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

23 (i) to ensure compliance with any law
24 or regulation enforced or administered by
25 the Secretary;

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

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

7 (iv) to assist in investigative, judicial,
8 or administrative enforcement proceedings
9 in the United States; or

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

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

20 **SEC. 202. INTERNATIONAL COOPERATION AND ASSISTANCE**
21 **PROGRAM.**

22 (a) INTERNATIONAL COOPERATION AND ASSISTANCE
23 PROGRAM.—The Secretary may establish an international
24 cooperation and assistance program, including grants, to

1 provide assistance for international capacity building ef-
2 forts.

3 (b) AUTHORIZED ACTIVITIES.—In carrying out the
4 program, the Secretary may—

5 (1) provide funding and technical expertise to
6 other nations to assist them in addressing illegal,
7 unreported, or unregulated fishing activities;

8 (2) provide funding and technical expertise to
9 other nations to assist them in reducing the bycatch
10 of living marine resources or promoting international
11 marine resource conservation;

12 (3) provide funding, technical expertise, and
13 training, in cooperation with the International Fish-
14 eries Enforcement Program under section 201 of
15 this Act, to other nations to aid them in building ca-
16 pacity for enhanced fisheries management, fisheries
17 monitoring, catch and trade tracking activities, en-
18 forcement, and international marine resource con-
19 servation;

20 (4) establish partnerships with other Federal
21 agencies, as appropriate, to ensure that fisheries de-
22 velopment assistance to other nations is directed to-
23 ward projects that promote sustainable fisheries
24 management; and

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

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

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

13 **SEC. 302. DATA SHARING.**

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

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

20 (2) by striking “organizations” the first place it
21 appears and inserting, “organizations, or arrange-
22 ments made pursuant to an international fishery
23 agreement (as defined in section 3(24) of the Mag-
24 nuson-Stevens Fishery Conservation and Manage-
25 ment Act),”; and

1 (3) by adding at the end thereof the following:

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

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

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

16 (2) by redesignating subparagraph (H) as sub-
17 paragraph (I); and

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

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

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

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

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

7 “(1) 1 or more permits or authorizations re-
8 quired for a vessel to fish, in addition to a permit
9 issued under this section, expire, are revoked, or are
10 suspended; or

11 “(2) the vessel is no longer eligible for United
12 States documentation, such documentation is re-
13 voked or denied, or the vessel is deleted from such
14 documentation.”.

15 **SEC. 304. TECHNICAL CORRECTIONS TO THE WESTERN AND**
16 **CENTRAL PACIFIC FISHERIES CONVENTION**
17 **IMPLEMENTATION ACT.**

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

21 (1) by striking “the chairman or” in subsection
22 (a);

23 (2) by inserting “ and one of whom shall be a
24 member of” after “Management Council” in sub-
25 section (a); and

1 (3) redesignating subsection (f) as subsection
2 (e).

3 **SEC. 305. TECHNICAL CORRECTION TO THE PACIFIC WHIT-**
4 **ING ACT OF 2006.**

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

8 **SEC. 306. REGULATIONS UNDER THE ANTARCTIC MARINE**
9 **LIVING RESOURCES CONVENTION ACT OF**
10 **1984.**

11 Section 307 of the Antarctic Marine Living Resources
12 Convention Act of 1984 (16 U.S.C. 2436)) is amended
13 by inserting after “title.” the following: “Notwithstanding
14 section 553(b), (c), and (d) of title 5, United States Code,
15 the Secretary of Commerce may publish in the Federal
16 Register a final rule to implement conservation measures,
17 described in section 305(a) of this title, that are in effect
18 for 12 months or less, adopted by the Commission, and
19 not objected to by the United States within the time period
20 allotted under Article IX of the Convention. Upon publica-
21 tion in the Federal Register, such conservation measures
22 shall be in force with respect to the United States.”.

○