

(7) to intentionally destroy evidence which could be used to determine if a violation of this chapter or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this chapter or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this chapter or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

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

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the Secretary under section 973i of this title; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

(Pub. L. 100-330, § 5, June 7, 1988, 102 Stat. 592.)

#### § 973d. Exceptions

(a) The prohibitions of section 973c of this title and the licensing requirements of section 973g of this title shall not apply to fishing for albacore

tuna by vessels using the trolling method or to fishing by vessels using the longline method in the high seas areas of the Treaty area.

(b) The prohibitions of section 973c(a)(4), (a)(5), and (b)(3) of this title shall not apply to fishing under the terms and conditions of an arrangement which has been reached under paragraph 3 of Article 3 of the Treaty and which, pursuant to a decision by the Secretary of State under section 973p of this title, is covered by Article 4 and paragraph 6 of Article 5 of the Treaty.

(Pub. L. 100-330, § 6, June 7, 1988, 102 Stat. 594; Pub. L. 108-219, title IV, § 402, Apr. 13, 2004, 118 Stat. 617.)

#### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-219 substituted “or to fishing by vessels using the longline method in the high seas areas of the Treaty area” for “outside of the 200 nautical mile fisheries zones of the Pacific Island Parties”.

#### § 973e. Criminal offenses

##### (a) Prohibited acts

A person is guilty of a criminal offense if he or she commits any act prohibited by section 973c(a)(8), (10), (11), or (12) of this title.

##### (b) Sentence and fine

Any offense described in subsection (a) of this section is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000 or imprisonment for not more than 10 years, or both.

##### (c) Jurisdiction

The district courts of the United States shall have jurisdiction over any offense described in this section.

(Pub. L. 100-330, § 7, June 7, 1988, 102 Stat. 594.)

#### § 973f. Civil penalties

##### (a) Determination of liability; amount; participation by Secretary of State in assessment proceeding

Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 973c of this title, shall be liable to the United States Code<sup>1</sup> for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, abil-

<sup>1</sup> So in original. “Code” probably should not appear.