

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-453, §2(b), Jan. 12, 1983, 96 Stat. 2483, provided that: "The amendments made by subsection (a)(1) and (5)(A)(ii) [amending this section] shall take effect January 1, 1984."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-561, title II, §§231(b), 238(b), Dec. 22, 1980, 94 Stat. 3298, 3300, as amended by Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to the 1981 harvesting season and harvesting seasons thereafter (as defined in section 201(d)(1) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by section 301) [subsec. (d)(1) of this section]."

Pub. L. 96-561, title II, §§237, 238(b), Dec. 22, 1980, 94 Stat. 3300, as amended by Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that: "The amendment made by section 236 [amending this section] shall take effect October 1, 1981, and shall apply with respect to permits issued under section 204 of the Magnuson-Stevens Fishery Conservation and Management Act [section 1824 of this title] after December 31, 1981."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION OF PACIFIC ALBACORE TUNA TREATY

Pub. L. 108-219, title IV, §401, Apr. 13, 2004, 118 Stat. 616, provided that:

"(a) **IN GENERAL.**—Notwithstanding anything to the contrary in section 201, 204, or 307(2) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1821, 1824, and 1857(2)), foreign fishing may be conducted pursuant to the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, signed at Washington May 26, 1981, including its Annexes and any amendments thereto.

"(b) **REGULATIONS.**—The Secretary of Commerce, with the concurrence of the Secretary of State, may—

"(1) promulgate regulations necessary to discharge the obligations of the United States under the Treaty and its Annexes; and

"(2) provide for the application of any such regulation to any person or vessel subject to the jurisdiction of the United States, wherever that person or vessel may be located.

"(c) **ENFORCEMENT.**—

"(1) **IN GENERAL.**—The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall be enforced as if subsection (a) were a provision of that Act. Any reference in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to 'this Act' or to any provi-

sion of that Act, shall be considered to be a reference to that Act as it would be in effect if subsection (a) were a provision of that Act.

"(2) **REGULATIONS.**—The regulations promulgated under subsection (b), shall be enforced as if—

"(A) subsection (a) were a provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

"(B) the regulations were promulgated under that Act."

FOREIGN FISHING FOR ATLANTIC HERRING AND MACKEREL

Pub. L. 104-43, title VIII, §802, Nov. 3, 1995, 109 Stat. 396, as amended by Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that: "Notwithstanding any other provision of law—

"(1) no allocation may be made to any foreign nation or vessel under section 201 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) [16 U.S.C. 1821] in any fishery for which there is not a fishery management plan implemented in accordance with that Act [16 U.S.C. 1801 et seq.]; and

"(2) the Secretary of Commerce may not approve the portion of any permit application submitted under section 204(b) of the Act [16 U.S.C. 1824(b)] which proposes fishing by a foreign vessel for Atlantic mackerel or Atlantic herring unless—

"(A) the appropriate regional fishery management council recommends under section 204(b)(5) of that Act that the Secretary approve such fishing, and

"(B) the Secretary of Commerce includes in the permit any conditions or restrictions recommended by the appropriate regional fishery management council with respect to such fishing."

USE OF VESSEL IDENTIFICATION EQUIPMENT

Pub. L. 100-629, §6, Nov. 7, 1988, 102 Stat. 3287, as amended by Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that:

"(a) The Secretary of State, the Secretary of Commerce, and the Secretary of the department in which the Coast Guard is operating, as appropriate, shall exercise their authority under section 201(c)(2)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1821) to require the use of transponders or other such appropriate position-fixing and identification equipment on any vessel other than a vessel of the United States engaged in fishing in the United States Exclusive Economic Zone.

"(b) The Secretary of Commerce, after consultation with the Secretary of Defense, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate within 180 days after the date of enactment of this Act [Nov. 7, 1988] on the results of their compliance with subsection (a)."

§ 1822. International fishery agreements**(a) Negotiations**

The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 1821(c) of this title;

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into such other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this chapter.

(b) Treaty renegotiation

The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after April 13, 1976, the renegotiation of any treaty which pertains to fishing within the exclusive economic zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this chapter, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after April 13, 1976.

(c) International fishery agreements

No international fishery agreement (other than a treaty) which pertains to foreign fishing within the exclusive economic zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 1821(c) of this title or section 1824(e) of this title.

(d) Boundary negotiations

The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the exclusive economic zone of the United States in relation to any such nation.

(e) Highly migratory species agreements

(1) Evaluation

The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

(2) Access negotiations

The Secretary of State, in cooperation with the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

(3) Reports

The Secretary of State shall report to the Congress—

(A) within 12 months after November 28, 1990, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

(B) within six months after November 28, 1990, on the results of the access negotiations required under paragraph (2).

(4) Negotiation

The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

(5) South Pacific tuna treaty

It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and its¹ Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.

(f) Nonrecognition

It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to an exclusive economic zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

¹ So in original.

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

(g) Fishery agreement with Russia

(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with Russia of a duration of no more than 3 years, pursuant to which—

(A) Russia will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

(B) the United States will give fishing vessels of Russia the opportunity to conduct traditional fisheries within waters claimed by the Union of Soviet Socialist Republics prior to the conclusion of the Agreement referred to in subparagraph (A), east of the maritime boundary, including the eastern special areas described in Article 3(1) of the Agreement;

(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).

(h) Bycatch reduction agreements

(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this chapter for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

(2) An international agreement negotiated under this subsection shall be—

(A) consistent with the policies and purposes of this chapter; and

(B) subject to approval by Congress under section 1823 of this title.

(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.

(Pub. L. 94-265, title II, §202, Apr. 13, 1976, 90 Stat. 339; Pub. L. 99-659, title I, §101(c)(2), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101-627, title I, §§105(a), 120(a), Nov. 28, 1990, 104 Stat. 4439, 4459; Pub. L. 102-251, title III, §301(e), Mar. 9, 1992, 106 Stat. 63; Pub. L. 104-297, title I, §105(b), Oct. 11, 1996, 110 Stat. 3564.)

AMENDMENT OF SECTION

Pub. L. 102-251, title III, §§301(e)(1), (2), 308, Mar. 9, 1992, 106 Stat. 63, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended:

(1) in subsection (b), (A) by inserting “or special areas” immediately after “February 28, 1977)” and (B) by striking “such zone or area” and inserting in lieu thereof “such zone or areas”; and

(2) in subsection (c), (A) by inserting “or special areas” immediately after “February 28, 1977)” and (B) by striking “such zone or area” and inserting in lieu thereof “such zone or areas”.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subssecs. (a)(5), (b), and (h)(1), (2)(A), was in the original “this Act”, meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-297, §105(b)(1), inserted before period at end “or section 1824(e) of this title”.

Subsec. (h). Pub. L. 104-297, §105(b)(2), added subsec. (h).

1992—Subsec. (g). Pub. L. 102-251, §301(e)(3), added subsec. (g).

1990—Subsec. (e). Pub. L. 101-627, §105(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101-627, §120(a), substituted “an exclusive economic” for “a exclusive economic”.

Pub. L. 101-627, §105(a), redesignated former subsec. (e) as (f).

1986—Subsecs. (b) to (e). Pub. L. 99-659 substituted “exclusive economic zone” for “fishery conservation zone” wherever appearing.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 301(e)(3) of Pub. L. 102-251 effective Mar. 9, 1992, and amendment by section 301(e)(1), (2), of Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

SHARK FINNING PROHIBITION

Pub. L. 106-557, Dec. 21, 2000, 114 Stat. 2772, as amended by Pub. L. 109-479, title III, § 302(c), Jan. 12, 2007, 120 Stat. 3623, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Shark Finning Prohibition Act’.

“SEC. 2. PURPOSE.

“The purpose of this Act is to eliminate shark-finning by addressing the problem comprehensively at both the national and international levels.

“SEC. 3. PROHIBITION ON REMOVING SHARK FIN AND DISCARDING SHARK CARCASS AT SEA

“[Amended section 1857 of this title.]

“SEC. 4. REGULATIONS.

“No later than 180 days after the date of the enactment of this Act [Dec. 21, 2000], the Secretary of Commerce shall promulgate regulations implementing the provisions of section 3076(1)(P) [307(1)(P)] of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(P)), as added by section 3 of this Act.

“SEC. 5. INTERNATIONAL NEGOTIATIONS.

“The Secretary of Commerce, acting through the Secretary of State, shall—

“(1) initiate discussions as soon as possible for the purpose of developing bilateral or multilateral agreements with other nations for the prohibition on shark-finning;

“(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in shark-finning, for the purposes of—

“(A) collecting information on the nature and extent of shark-finning by such persons and the landing or transshipment of shark fins through foreign ports; and

“(B) entering into bilateral and multilateral treaties with such countries to protect such species;

“(3) seek agreements calling for an international ban on shark-finning and other fishing practices adversely affecting these species through the United Nations, the Food and Agriculture Organization’s Committee on Fisheries, and appropriate regional fishery management bodies;

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

“(5) urge other governments involved in fishing for or importation of shark or shark products to fulfill their obligations to collect biological data, such as stock abundance and by-catch levels, as well as trade data, on shark species as called for in the 1995 Resolu-

tion on Cooperation with FAO with Regard to study on the Status of Sharks and By-Catch of Shark Species; and

“(6) urge other governments to prepare and submit their respective National Plan of Action for the Conservation and Management of Sharks to the 2001 session of the FAO Committee on Fisheries, as set forth in the International Plan of Action for the Conservation and Management of Sharks.

“SEC. 6. REPORT TO CONGRESS.

“The Secretary of Commerce, in consultation with the Secretary of State, shall provide to Congress, by not later than 1 year after the date of the enactment of this Act [Dec. 21, 2000], and every year thereafter, a report which—

“(1) includes a list that identifies nations whose vessels conduct shark-finning and details the extent of the international trade in shark fins, including estimates of value and information on harvesting of shark fins, and landings or transshipment of shark fins through foreign ports;

“(2) describes the efforts taken to carry out this Act, and evaluates the progress of those efforts;

“(3) sets forth a plan of action to adopt international measures for the conservation of sharks; and

“(4) includes recommendations for measures to ensure that United States actions are consistent with national, international, and regional obligations relating to shark populations, including those listed under the Convention on International Trade in Endangered Species of Wild Flora and Fauna.

“SEC. 7. RESEARCH.

“The Secretary of Commerce, subject to the availability of appropriations authorized by section 10, shall establish a research program for Pacific and Atlantic sharks to engage in the following data collection and research:

“(1) The collection of data to support stock assessments of shark populations subject to incidental or directed harvesting by commercial vessels, giving priority to species according to vulnerability of the species to fishing gear and fishing mortality, and its population status.

“(2) Research to identify fishing gear and practices that prevent or minimize incidental catch of sharks in commercial and recreational fishing.

“(3) Research on fishing methods that will ensure maximum likelihood of survival of captured sharks after release.

“(4) Research on methods for releasing sharks from fishing gear that minimize risk of injury to fishing vessel operators and crews.

“(5) Research on methods to maximize the utilization of, and funding to develop the market for, sharks not taken in violation of a fishing management plan approved under section 303 or section 307(1)(P) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853, 1857(1)(P)).

“(6) Research on the nature and extent of the harvest of sharks and shark fins by foreign fleets and the international trade in shark fins and other shark products.

“SEC. 8. WESTERN PACIFIC LONGLINE FISHERIES COOPERATIVE RESEARCH PROGRAM.

“The National Marine Fisheries Service, in consultation with the Western Pacific Fisheries Management Council, shall initiate a cooperative research program with the commercial longlining industry to carry out activities consistent with this Act, including research described in section 7 of this Act. The service [Service] may initiate such shark cooperative research programs upon the request of any other fishery management council.

“SEC. 9. SHARK-FINNING DEFINED.

“In this Act, the term ‘shark-finning’ means the taking of a shark, removing the fin or fins (whether or not including the tail) of a shark, and returning the remainder of the shark to the sea.

“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary of Commerce for fiscal years 2007 through 2011 such sums as are necessary to carry out this Act.”

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Pub. L. 101-627, title VIII, §801, Nov. 28, 1990, 104 Stat. 4464, provided that:

“(a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

“(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

“(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

“(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

“(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

“(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

“(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of \$1,000,000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

“(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act [Nov. 28, 1990], promulgate regulations providing for—

“(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

“(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

“(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

“(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act [Nov. 28, 1990], submit to the Congress a report—

“(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

“(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

“(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d),

the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1978(a)(1)).”

DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Pub. L. 100-220, title IV, Dec. 29, 1987, 101 Stat. 1477, as amended by Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that:

“SEC. 4001. SHORT TITLE.

“This title may be cited as the ‘Driftnet Impact Monitoring, Assessment, and Control Act of 1987’.

“SEC. 4002. FINDINGS.

“The Congress finds that—

“(1) the use of long plastic driftnets is a fishing technique that may result in the entanglement and death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bering Sea;

“(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

“(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

“SEC. 4003. DEFINITIONS.

“As used in this title—

“(1) DRIFTNET.—The term ‘driftnet’ means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

“(2) DRIFTNET FISHING.—The term ‘driftnet fishing’ means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

“(3) EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.—The term ‘exclusive economic zone of the United States’ means the zone defined in section 3(6) [now 3(11)] of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(b) [1802(11)]).

“(4) MARINE RESOURCES.—The term ‘marine resources’ includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

“(5) MARINE RESOURCES OF THE UNITED STATES.—The term ‘marine resources of the United States’ means—

“(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

“(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

“SEC. 4004. MONITORING AGREEMENTS.

“(a) NEGOTIATIONS.—The Secretary, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government’s driftnet fishing vessels. Such agreements shall provide for—

“(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign

governments may observe and gather statistically reliable information; and

“(2) appropriate methods for sharing equally the costs associated with such activities.

“(b) REPORT.—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act [Dec. 29, 1987] a full report on the results of negotiations under this section.

“SEC. 4005. IMPACT REPORT.

“(a) IN GENERAL.—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act [Dec. 29, 1987], and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

“(1) the number and flag state of vessels involved;

“(2) the areas fished;

“(3) the length, width, and mesh size of driftnets used;

“(4) the number of marine resources of the United States killed by such fishing;

“(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

“(6) any other information the Secretary considers appropriate.

“(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

“(1) request relevant foreign governments to provide the information described in subsection (a), and

“(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

“SEC. 4006. ENFORCEMENT AGREEMENTS.

“(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

“(1) the effective monitoring and detection of violations;

“(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

“(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

“(4) appropriate methods for sharing equally the costs associated with such activities.

“(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act [Dec. 29, 1987], to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

“SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

“(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other

persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

“(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

“(c) DRIFTNET BOUNTY SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

“(d) DRIFTNET FISHING VESSEL TRACKING SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet fishing vessels.

“(e) REPORT.—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act [Dec. 29, 1987] a report setting forth—

“(1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);

“(2) the most effective and appropriate means of implementing such recommendations;

“(3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and

“(4) any need for legislation to provide authority to carry out such recommendations.

“SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

“This title [this note] shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983 [16 U.S.C. 1453 note], and reflected in existing law on the date of the enactment of this Act [Dec. 29, 1987].

“SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.”

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 1823. Congressional oversight of international fishery agreements

(a) In general

No governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement shall become effective with respect to the United States before the close of the first 120 days (excluding any days in a period for which the Congress is adjourned sine die) after the date on which the President