

Calendar No. 298112TH CONGRESS
2^D SESSION**S. 52****[Report No. 112-132]**

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

JANUARY 25 (legislative day, JANUARY 5), 2011

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

JANUARY 26, 2012

Reported by Mr. ROCKEFELLER, without amendment

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,*

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

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

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 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. Committee on Scientific Cooperation for Pacific Salmon Agreement.

Sec. 305. 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.

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
15 reimbursable basis or otherwise, utilize the personnel
16 services, equipment (including aircraft and vessels),
17 and facilities of any other Federal agency, including
18 all elements of the Department of Defense, and of
19 any State agency, in carrying out this section.

20 (3) STATUTES TO WHICH APPLICABLE.—This
21 section applies to—

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

1 (B) the Pacific Salmon Treaty Act of 1985
2 (16 U.S.C. 3631 et seq.);

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

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

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

9 (F) the South Pacific Tuna Act of 1988
10 (16 U.S.C. 973 et seq.);

11 (G) the Antarctic Marine Living Resources
12 Convention Act of 1984 (16 U.S.C. 2431 et
13 seq.);

14 (H) the Atlantic Tunas Convention Act of
15 1975 (16 U.S.C. 971 et seq.);

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

18 (J) the Western and Central Pacific Fish-
19 eries Convention Implementation Act (16
20 U.S.C. 6901 et seq.);

21 (K) the Northern Pacific Halibut Act of
22 1982 (16 U.S.C. 773 et seq.);

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

1 (M) the Antigua Convention Implementing
2 Act of 2011.

3 (b) ADMINISTRATION AND ENFORCEMENT.—The
4 Secretary shall prevent any person from violating any Act
5 to which this section applies in the same manner, by the
6 same means, and with the same jurisdiction, powers, and
7 duties as though sections 307 through 311 of the Magnu-
8 son-Stevens Fishery Conservation and Management Act
9 (16 U.S.C. 1857 through 1861) were incorporated into
10 and made a part of each such Act. Except as provided
11 in subsection (c), any person that violates any Act to
12 which this section applies is subject to the penalties, and
13 entitled to the privileges and immunities, provided in the
14 Magnuson-Stevens Fishery Conservation and Manage-
15 ment Act (16 U.S.C. 1801 et seq.) in the same manner
16 and by the same means as though sections 307 through
17 311 of that Act were incorporated into and made a part
18 of each such Act.

19 (c) SPECIAL RULES.—

20 (1) IN GENERAL.—Notwithstanding the incor-
21 poration by reference of certain sections of the Mag-
22 nuson-Stevens Fishery Conservation and Manage-
23 ment Act under subsection (b), if there is a conflict
24 between a provision of this subsection and the cor-
25 responding provision of any section of the Magnu-

1 son-Stevens Fishery Conservation and Management
2 Act so incorporated, the provision of this subsection
3 shall apply.

4 (2) CIVIL ADMINISTRATIVE ENFORCEMENT.—
5 The amount of the civil penalty for a violation of
6 any Act to which this section applies shall not exceed
7 \$250,000 for each violation. Each day of a con-
8 tinuing violation shall constitute a separate violation.

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

1 justice may require. In imposing such penalty, the
2 district court may also consider information related
3 to the ability of the violator to pay.

4 (4) CRIMINAL FINES AND PENALTIES.—

5 (A) INDIVIDUALS.—In the case of an indi-
6 vidual, any offense described in subsection
7 (e)(2), (3), (4), (5), or (6) is punishable by a
8 fine of not more than \$500,000, imprisonment
9 for not more than 5 years, or both. If, in the
10 commission of such offense, an individual uses
11 a dangerous weapon, engages in conduct that
12 causes bodily injury to any officer authorized to
13 enforce the provisions of this Act, or places any
14 such officer in fear of imminent bodily injury
15 the maximum term of imprisonment is 10
16 years.

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

21 (5) OTHER CRIMINAL VIOLATIONS.—Any person
22 (other than a foreign government or any entity of
23 such government) who knowingly violates any provi-
24 sion of subsection (e) of this section, or any provi-

1 sion of any regulation promulgated pursuant to this
2 Act, is guilty of a criminal offense punishable—

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

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

8 (6) CRIMINAL FORFEITURES.—

9 (A) IN GENERAL.—A person found guilty
10 of an offense described in subsection (e), or who
11 is convicted of a criminal violation of any Act
12 to which this section applies, shall forfeit to the
13 United States—

14 (i) any property, real or personal, con-
15 stituting or traceable to the gross proceeds
16 obtained, or retained, as a result of the of-
17 fense including any marine species (or the
18 fair market value thereof) taken or re-
19 tained in connection with or as a result of
20 the offense; and

21 (ii) any property, real or personal,
22 used or intended to be used to commit or
23 to facilitate the commission of the offense,
24 including any shoreside facility, including

1 its conveyances, structure, equipment, fur-
2 niture, appurtenances, stores, and cargo.

3 (B) PROCEDURE.—Pursuant to section
4 2461(c) of title 28, United States Code, the
5 provisions of section 413 of the Controlled Sub-
6 stances Act (21 U.S.C. 853), other than sub-
7 section (d) thereof, shall apply to criminal for-
8 feitures under this section.

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

21 (A) search or inspect any facility or con-
22 veyance used or employed in, or which reason-
23 ably appears to be used or employed in, the
24 storage, processing, transport, or trade of fish
25 or fish products;

1 (B) inspect records pertaining to the stor-
2 age, processing, transport, or trade of fish or
3 fish products;

4 (C) detain, for a period of up to 14 days,
5 any shipment of fish or fish product imported
6 into, landed on, introduced into, exported from,
7 or transported within the jurisdiction of the
8 United States, or, if such fish or fish product
9 is deemed to be perishable, sell and retain the
10 proceeds therefrom for a period of up to 14
11 days; and

12 (D) make an arrest, in accordance with
13 any guidelines which may be issued by the At-
14 torney General, for any offense under the laws
15 of the United States committed in the person's
16 presence, or for the commission of any felony
17 under the laws of the United States, if the per-
18 son has reasonable grounds to believe that the
19 person to be arrested has committed or is com-
20 mitting a felony; may search and seize, in ac-
21 cordance with any guidelines which may be
22 issued by the Attorney General and may exe-
23 cute and serve any subpoena, arrest warrant,
24 search warrant issued in accordance with rule
25 41 of the Federal Rules of Criminal Procedure,

1 or other warrant or civil or criminal process
2 issued by any officer or court of competent ju-
3 risdiction.

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

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

24 (e) PROHIBITED ACTS.—It is unlawful for any per-
25 son—

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

4 (2) to refuse to permit any authorized enforce-
5 ment officer to board, search, or inspect a vessel,
6 conveyance, or shoreside facility that is subject to
7 the person's control for purposes of conducting any
8 search, investigation, or inspection in connection
9 with the enforcement of this section or any Act to
10 which this section applies or any regulation promul-
11 gated thereunder;

12 (3) to forcibly assault, resist, oppose, impede,
13 intimidate, or interfere with any such authorized of-
14 ficer in the conduct of any search, investigation, or
15 inspection described in paragraph (2);

16 (4) to resist a lawful arrest for any act prohib-
17 ited by this section or any Act to which this section
18 applies;

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

24 (6) to forcibly assault, resist, oppose, impede,
25 intimidate, sexually harass, bribe, or interfere with

1 any observer on a vessel under this section or any
2 Act to which this section applies, or any data col-
3 lector employed by or under contract to the National
4 Marine Fisheries Service to carry out responsibilities
5 under this section or any Act to which this section
6 applies;

7 (7) to import, export, transport, sell, receive,
8 acquire, or purchase in interstate or foreign com-
9 merce any fish or fish product taken, possessed,
10 transported, or sold in violation of any treaty or
11 binding conservation measure adopted pursuant to
12 an international agreement or organization to which
13 the United States is a party; or

14 (8) to make or submit any false record, ac-
15 count, or label for, or any false identification of, any
16 fish or fish product (including false identification of
17 the species, harvesting vessel or nation, or the loca-
18 tion where harvested) 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 (f) REGULATIONS.—The Secretary may promulgate
23 such regulations, in accordance with section 553 of title
24 5, United States Code, as may be necessary to carry out
25 this section or any Act to which this section applies.

1 **SEC. 102. CONFORMING, MINOR, AND TECHNICAL AMEND-**
2 **MENTS.**

3 (a) HIGH SEAS DRIFTNET FISHING MORATORIUM
4 PROTECTION ACT.—

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

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

11 (B) by adding at the end thereof the fol-
12 lowing:

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

16 (2) Section 607(2) of the High Seas Driftnet
17 Fishing Moratorium Protection Act (16 U.S.C.
18 1826h(2)) is amended by striking “whose vessels”
19 and inserting “that”.

20 (3) Section 609(a) of the High Seas Driftnet
21 Fishing Moratorium Protection Act (16 U.S.C.
22 1826j(a)) is amended to read as follows:

23 “(a) IDENTIFICATION.—

24 “(1) IN GENERAL.—The Secretary shall iden-
25 tify, and list in the report under section 607, a na-
26 tion if that nation is engaged, or has been engaged

1 at any time during the preceding 3 years, in illegal,
2 unreported, or unregulated fishing and—

3 “(A) such fishing undermines the effective-
4 ness of measures required under the relevant
5 international fishery management organization;

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

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

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

19 “(A) it is violating, or has violated at any
20 time during the preceding 3 years, conservation
21 and management measures required under an
22 international fishery management agreement to
23 which the United States is a party and the vio-
24 lations undermine the effectiveness of such

1 measures, taking into account the factors de-
2 scribed in paragraph (1); or

3 “(B) it is failing, or has failed at any time
4 during the preceding 3 years, to effectively ad-
5 dress or regulate illegal, unreported, or unregu-
6 lated fishing in areas described in paragraph
7 (1)(C).

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

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

18 (5) Section 609(d)(2) of the High Seas Driftnet
19 Fishing Moratorium Protection Act (16 U.S.C.
20 1826j(d)(2)) is amended—

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

23 (B) by striking “basis of fish” and insert-
24 ing “basis, for allowing importation of fish”;
25 and

1 (C) by striking “harvesting nation not cer-
2 tified under paragraph (1)” and inserting “na-
3 tion issued a negative certification under para-
4 graph (1)”.

5 (6) Section 610(a)(1) of the High Seas Driftnet
6 Fishing Moratorium Protection Act (16 U.S.C.
7 1826k(a)(1)) is amended—

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

10 (B) by striking “practices;” and inserting
11 “practices—”.

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

15 (1) by adding at the end of subsection (d) the
16 following:

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

23 (2) by striking subsection (e) and inserting the
24 following:

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

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

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

17 (2) by striking subsection (d) and inserting the
18 following:

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

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

1 Act or any regulation promulgation or permit issued
2 under this Act;

3 “(2) to forcibly assault, resist, oppose, impede,
4 intimidate, or interfere with any such authorized of-
5 ficer in the conduct of any search, investigation or
6 inspection described in paragraph (1);

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

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

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

15 (4) by inserting after subsection (d) the fol-
16 lowing:

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

20 (d) NORTHERN PACIFIC ANADROMOUS STOCKS ACT
21 OF 1992.—

22 (1) UNLAWFUL ACTIVITIES.—Section 810 of
23 the Northern Pacific Anadromous Stocks Act of
24 1992 (16 U.S.C. 5009) is amended—

1 (A) by striking “purchases” in paragraph
2 (5) and inserting “purposes”;

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

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

9 (D) by striking “or” after the semicolon in
10 paragraph (8);

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

13 (F) by adding at the end thereof the fol-
14 lowing:

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

23 (2) ADMINISTRATION AND ENFORCEMENT.—
24 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 (including false
25 identification of the species, harvesting vessel or na-

1 tion, or the location where harvested) which has
2 been, or is intended to be imported, exported, trans-
3 ported, sold, offered for sale, purchased, or received
4 in interstate or foreign commerce.”; and

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

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

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

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

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

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

20 (C) by striking “or” after the semicolon in
21 paragraph (12);

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

24 (E) by adding at the end thereof the fol-
25 lowing:

1 “(14) for any person to make or submit any
2 false record, account, or label for, or any false iden-
3 tification of, any fish or fish product (including false
4 identification of the species, harvesting vessel or na-
5 tion, or the location where harvested) which has
6 been, or is intended to be imported, exported, trans-
7 ported, sold, offered for sale, purchased, or received
8 in interstate or foreign commerce.”.

9 (2) ADMINISTRATION AND ENFORCEMENT.—
10 The South Pacific Tuna Act of 1988 (16 U.S.C. 973
11 et seq.) is amended by striking sections 7 and 8 (16
12 U.S.C. 973e and 973f) and inserting the following:

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

14 “This Act shall be enforced under section 101 of the
15 International Fisheries Stewardship and Enforcement
16 Act.”.

17 (g) ANTARCTIC MARINE LIVING RESOURCES CON-
18 VENTION ACT OF 1984.—

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

22 (A) by striking “which he knows, or rea-
23 sonably should have known, was” in paragraph

24 (3);

1 (B) by striking “search or inspection” in
2 paragraph (4) and inserting “search, investiga-
3 tion, or inspection”;

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

7 (D) by striking “or” after the semicolon in
8 paragraph (6);

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

11 (F) by adding at the end thereof the fol-
12 lowing:

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

21 (2) REGULATIONS.—Section 307 of the Ant-
22 arctic Marine Living Resources Convention Act (16
23 U.S.C. 2436) is amended by inserting after “title.”
24 the following: “Notwithstanding the provisions of
25 subsections (b), (c), and (d) of section 553 of title

1 5, United States Code, the Secretary of Commerce
2 may publish in the Federal Register a final rule to
3 implement conservation measures, described in sec-
4 tion 305(a) of this Act, that are in effect for 12
5 months or less, adopted by the Commission, and not
6 objected to by the United States within the time pe-
7 riod allotted under Article IX of the Convention.
8 Upon publication in the Federal Register, such con-
9 servation measures shall be in force with respect to
10 the United States.”.

11 (3) PENALTIES AND ENFORCEMENT.—The Ant-
12 arctic Marine Living Resources Convention Act (16
13 U.S.C. 2431 et seq.) is amended—

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

16 (B) by striking subsection (b), (c), and (d)
17 of section 310 (16 U.S.C. 2439) and redesign-
18 nating subsection (e) as subsection (c); and

19 (C) by inserting after subsection (a) the
20 following:

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

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

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

4 (A) by striking subsections (e) and (f) and
5 redesignating subsection (g) as subsection (f);
6 and

7 (B) by inserting after subsection (d) the
8 following:

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

17 (2) ENFORCEMENT.—Section 8 of the Atlantic
18 Tunas Convention Act of 1975 (16 U.S.C. 971f) is
19 amended—

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

21 (B) by striking “(b) INTERNATIONAL EN-
22 FORCEMENT.—” in subsection (b) and inserting
23 “This Act shall be enforced under section 101
24 of the International Fisheries Stewardship and
25 Enforcement Act.”; and

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

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

9 (1) by striking “**AND PENALTIES.**” in the
10 section caption and inserting “**AND ENFORCE-**
11 **MENT.**”;

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

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

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

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

22 (6) by adding at the end of subsection (a) the
23 following:

24 “(7) to make or submit any false record, ac-
25 count, or label for, or any false identification of, any

1 fish or fish product (including false identification of
2 the species, harvesting vessel or nation, or the loca-
3 tion where harvested) which has been, or is intended
4 to be imported, exported, transported, sold, offered
5 for sale, purchased, or received in interstate or for-
6 eign commerce.”; and

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

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

12 (j) WESTERN AND CENTRAL PACIFIC FISHERIES
13 CONVENTION IMPLEMENTATION ACT.—

14 (1) ADMINISTRATION AND ENFORCEMENT.—
15 Section 506(c) of the Western and Central Pacific
16 Fisheries Convention Implementation Act (16 U.S.C.
17 6905(c)) is amended to read as follows:

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

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

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

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

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

7 “(15) 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 (k) NORTHERN PACIFIC HALIBUT ACT OF 1982.—

16 (1) PROHIBITED ACTS.—Section 7 of the
17 Northern Pacific Halibut Act of 1982 (16 U.S.C.
18 773e) is amended—

19 (A) by redesignating subdivisions (a) and
20 (b) as paragraphs (1) and (2), respectively, and
21 subdivisions (1) through (6) of paragraph (1),
22 as redesignated, as subparagraphs (A) through
23 (F);

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

4 (C) by striking “search or inspection” in
5 paragraph (1)(C), as redesignated, and insert-
6 ing “search, investigation, or inspection”;

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

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

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

14 “(G) to make or submit any false record, ac-
15 count, or label for, or any false identification of, any
16 fish or fish product (including false identification of
17 the species, harvesting vessel or nation, or the loca-
18 tion where harvested) 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 (2) ADMINISTRATION AND ENFORCEMENT.—
23 The Northern Pacific Halibut Act of 1982 (16
24 U.S.C. 773 et seq.) is amended—

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

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

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

9 **SEC. 103. ILLEGAL, UNREPORTED, OR UNREGULATED FISH-**
10 **ING.**

11 (a) IN GENERAL.—Section 608 of the High Seas
12 Driftnet Fishing Moratorium Protection Act (16 U.S.C.
13 1826i), as amended by section 302(a) of this Act, is fur-
14 ther amended by adding at the end thereof the following:

15 “(c) VESSELS AND VESSEL OWNERS ENGAGED IN IL-
16 LEGAL, UNREPORTED, OR UNREGULATED FISHING.—The
17 Secretary may—

18 “(1) develop, maintain, and make public a list
19 of vessels and vessel owners engaged in illegal, unre-
20 ported, or unregulated fishing, including vessels or
21 vessel owners identified by an international fishery
22 management organization or arrangement made pur-
23 suant to an international fishery agreement, whether
24 or not the United States is a party to such organiza-
25 tion or arrangement;

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

9 “(3) provide notification to the public of vessels
10 and vessel owners identified by international fishery
11 management organizations or arrangements made
12 pursuant to an international fishery agreement as
13 having been engaged in illegal, unreported, or un-
14 regulated fishing, as well as any measures adopted
15 by such organizations or arrangements to address il-
16 legal, unreported, or unregulated fishing.

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

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

24 (b) ADDITIONAL MEASURES.—

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

3 (A) Section 609(d)(3) of the High Seas
4 Driftnet Fishing Moratorium Protection Act
5 (16 U.S.C. 1826j(d)(3)) is amended by striking
6 “that has not been certified by the Secretary
7 under this subsection, or” in subparagraph
8 (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 by striking
12 “that has not been certified by the Secretary
13 under this subsection, or”.

14 (2) AMENDMENT OF THE HIGH SEAS DRIFTNET
15 FISHERIES ENFORCEMENT ACT.—

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

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

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

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

4 “(i) any large-scale driftnet fishing
5 vessel that is documented under the law of
6 the United States or of a nation included
7 on a list published under paragraph (1); or

8 “(ii) any fishing vessel of a nation
9 that receives a negative certification under
10 section 609(d) or 610(e) of the High Seas
11 Driftnet Fishing Moratorium Protection
12 Act (16 U.S.C. 1826j(d) or 1826k(e)); and

13 “(B) deny entry of that vessel to any place
14 in the United States and to the navigable
15 waters of the United States, except for the pur-
16 pose of inspecting the vessel, conducting an in-
17 vestigation, or taking other appropriate enforce-
18 ment action.”;

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

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

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

4 (v) by adding at the end of subsection
5 (b)(3)(A) the following:

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

10 (vi) by inserting “or after issuing a
11 negative certification under section
12 609(d)(1) or 610(c)(1) of the High Seas
13 Driftnet Fishing Moratorium Protection
14 Act (16 U.S.C. 1826j(d)(1) or
15 1826k(c)(1)),” after “paragraph (1),” in
16 subsection (b)(4)(A); and

17 (vii) by striking subsection
18 (b)(4)(A)(i) and inserting the following:

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

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

24 “(II) to address illegal, unreported, or un-
25 regulated fishing activities for which a nation

1 has been identified under section 609 of the
2 High Seas Driftnet Fishing Moratorium Protec-
3 tion Act (16 U.S.C. 1826j); or

4 “(III) to address bycatch of a protected
5 living marine resource for which a nation has
6 been identified under section 610 of such Act
7 (16 U.S.C. 1826k); or”.

8 (B) Section 102 of the High Seas Driftnet
9 Fisheries Enforcement Act (16 U.S.C. 1826b)
10 is amended by striking “such nation has termi-
11 nated large-scale driftnet fishing or illegal, un-
12 reported, or unregulated fishing by its nationals
13 and vessels beyond the exclusive economic zone
14 of any nation.” and inserting “such nation
15 has—

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

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

24 “(3) addressed bycatch of a protected living
25 marine resource for which a nation has been identi-

1 fied under section 610 of that Act (16 U.S.C.
2 1826k).”.

3 **SEC. 104. LIABILITY.**

4 Any claims arising from the actions of any officer,
5 authorized by the Secretary to enforce the provisions of
6 this Act or any Act to which this Act applies, taken pursu-
7 ant to any scheme for at-sea boarding and inspection au-
8 thorized under any international agreement to which the
9 United States is a party may be pursued under chapter
10 171 of title 28, United States Code, or such other legal
11 authority as may be pertinent.

12 **TITLE II—LAW ENFORCEMENT**
13 **AND INTERNATIONAL OPER-**
14 **ATIONS**

15 **SEC. 201. INTERNATIONAL FISHERIES ENFORCEMENT PRO-**
16 **GRAM.**

17 (a) ESTABLISHMENT.—

18 (1) IN GENERAL.—Within 12 months after the
19 date of the enactment of this Act, the Secretary
20 shall, subject to the availability of appropriations,
21 establish an International Fisheries Enforcement
22 Program within the Office of Law Enforcement of
23 the National Marine Fisheries Service.

24 (2) PURPOSE.—The Program shall be an inter-
25 agency program established and administered by the

1 Secretary in coordination with the heads of other de-
2 partments and agencies for the purpose of detecting
3 and investigating illegal, unreported, or unregulated
4 fishing activity and enforcing the provisions of this
5 Act.

6 (3) STAFF.—The Program shall be staffed with
7 representation from the Coast Guard, Customs and
8 Border Protection, the Food and Drug Administra-
9 tion, and any other department or agency deter-
10 mined by the Secretary to be appropriate and nec-
11 essary to detect and investigate illegal, unreported,
12 or unregulated fishing activity and enforce the provi-
13 sions of this Act.

14 (b) PROGRAM ACTIONS.—

15 (1) STAFFING AND OTHER RESOURCES.—At the
16 request of the Secretary, the heads of other depart-
17 ments and agencies providing staff for the Program
18 shall—

19 (A) by agreement, on a reimbursable basis
20 or otherwise, participate in staffing the Pro-
21 gram;

22 (B) by agreement, on a reimbursable basis
23 or otherwise, share personnel, services, equip-
24 ment (including aircraft and vessels), and facili-
25 ties with the Program; and

1 (C) to the extent possible, and consistent
2 with other applicable law, extend the enforce-
3 ment authorities provided by their enabling leg-
4 islation to the other departments and agencies
5 participating in the Program for the purposes
6 of conducting joint operations to detect and in-
7 vestigate illegal, unreported or unregulated fish-
8 ing activity and enforcing the provisions of this
9 Act.

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

15 (3) 5-YEAR PLAN.—Within 180 days after the
16 date on which the Program is established under sub-
17 section (a), the Secretary shall develop a 5-year stra-
18 tegic plan for guiding interagency and intergovern-
19 mental international fisheries enforcement efforts to
20 carry out the provisions of this Act. The Secretary
21 shall update the plan periodically as necessary, but
22 at least once every 5 years.

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

1 (A) create and participate in task forces,
2 committees, or other working groups with other
3 Federal, State or local governments as well as
4 with the governments of other nations for the
5 purposes of detecting and investigating illegal,
6 unreported, or unregulated fishing activity and
7 carrying out the provisions of this Act; and

8 (B) enter into agreements with other Fed-
9 eral, State, or local governments as well as with
10 the governments of other nations, on a reim-
11 bursable basis or otherwise, for such purposes.

12 (c) POWERS OF AUTHORIZED OFFICERS.—Notwith-
13 standing any other provision of law, while operating under
14 an agreement with the Secretary entered into under sec-
15 tion 101 of this Act, and conducting joint operations as
16 part of the Program for the purposes of detecting and in-
17 vestigating illegal, unreported or unregulated fishing activ-
18 ity and enforcing the provisions of this Act, authorized of-
19 ficers shall have the powers and authority provided in that
20 section.

21 (d) INFORMATION COLLECTION, MAINTENANCE AND
22 USE.—

23 (1) IN GENERAL.—The Secretary and the heads
24 of other departments and agencies providing staff
25 for the Program shall, to the maximum extent allow-

1 able by law, share all applicable information, intel-
2 ligence and data, related to the harvest, transpor-
3 tation or trade of fish and fish product in order to
4 detect and investigate illegal, unreported, or unregu-
5 lated fishing activity and to carry out the provisions
6 of this Act.

7 (2) COORDINATION OF DATA.—The Secretary,
8 through the Program, shall coordinate the collection,
9 storage, analysis, and dissemination of all applicable
10 information, intelligence, and data related to the
11 harvest, transportation, or trade of fish and fish
12 product collected or maintained by the member
13 agencies of the Program.

14 (3) CONFIDENTIALITY.—The Secretary,
15 through the Program, shall ensure the protection
16 and confidentiality required by law for information,
17 intelligence, and data related to the harvest, trans-
18 portation, or trade of fish and fish product obtained
19 by the Program.

20 (4) DATA STANDARDIZATION.—The Secretary
21 and the heads of other departments and agencies
22 providing staff for the Program shall, to the max-
23 imum extent practicable, develop data standardiza-
24 tion for fisheries related data for Program agencies

1 and with international fisheries enforcement data-
2 bases as appropriate.

3 (5) ASSISTANCE FROM INTELLIGENCE COMMU-
4 NITY.—Upon request of the Secretary, elements of
5 the intelligence community (as defined in section
6 3(4) of the National Security Act of 1947 (50
7 U.S.C. 401a(4))) shall collect information related to
8 illegal, unreported, or unregulated fishing activity
9 outside the United States about individuals who are
10 not United States persons (as defined in section
11 105A(c)(2) of such Act (50 U.S.C. 403–5a(c)(2))).
12 Such elements of the intelligence community shall
13 collect and share such information with the Sec-
14 retary through the Program for law enforcement
15 purposes in order to detect and investigate illegal,
16 unreported, or unregulated fishing activities and to
17 carry out the provisions of this Act. All collection
18 and sharing of information shall be in accordance
19 with the National Security Act of 1947 (50 U.S.C.
20 401 et seq.).

21 (6) INFORMATION SHARING.—The Secretary,
22 through the Program, shall have authority to share
23 fisheries-related data with other Federal or State
24 government agency, foreign government, the Food
25 and Agriculture Organization of the United Nations,

1 or the secretariat or equivalent of an international
2 fisheries management organization or arrangement
3 made pursuant to an international fishery agree-
4 ment, if—

5 (A) such governments, organizations, or
6 arrangements have policies and procedures to
7 safeguard such information from unintended or
8 unauthorized disclosure; and

9 (B) the exchange of information is nec-
10 essary—

11 (i) to ensure compliance with any law
12 or regulation enforced or administered by
13 the Secretary;

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

16 (iii) to administer or enforce binding
17 conservation measures adopted by any
18 international organization or arrangement
19 to which the United States is a party;

20 (iv) to assist in investigative, judicial,
21 or administrative enforcement proceedings
22 in the United States; or

23 (v) to assist in any fisheries or living
24 marine resource related law enforcement
25 action undertaken by a law enforcement

1 agency of a foreign government, or in rela-
2 tion to a legal proceeding undertaken by a
3 foreign government.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$30,000,000 to the Sec-
6 retary for each of fiscal years 2012 through 2017 to carry
7 out this section.

8 **SEC. 202. INTERNATIONAL COOPERATION AND ASSISTANCE**
9 **PROGRAM.**

10 (a) INTERNATIONAL COOPERATION AND ASSISTANCE
11 PROGRAM.—The Secretary may establish an international
12 cooperation and assistance program, including grants, to
13 provide assistance for international capacity building ef-
14 forts.

15 (b) AUTHORIZED ACTIVITIES.—In carrying out the
16 program, the Secretary may—

17 (1) provide funding and technical expertise to
18 other nations to assist them in addressing illegal,
19 unreported, or unregulated fishing activities;

20 (2) provide funding and technical expertise to
21 other nations to assist them in reducing the loss and
22 environmental impacts of derelict fishing gears, re-
23 ducing the bycatch of living marine resources, and
24 promoting international marine resource conserva-
25 tion;

1 (3) provide funding, technical expertise, and
2 training, in cooperation with the International Fish-
3 eries Enforcement Program under section 201 of
4 this Act, to other nations to aid them in building ca-
5 pacity for enhanced fisheries management, fisheries
6 monitoring, catch and trade tracking activities, en-
7 forcement, and international marine resource con-
8 servation;

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

13 (5) conduct outreach and education efforts in
14 order to promote public and private sector awareness
15 of international fisheries sustainability issues, in-
16 cluding the need to combat illegal, unreported, or
17 unregulated fishing activity and to promote inter-
18 national marine resource conservation.

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

21 (d) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary
23 \$5,000,000 for each of fiscal years 2012 through 2017
24 to carry out this section.

1 **TITLE III—MISCELLANEOUS**
2 **AMENDMENTS**

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

4 (a) **ELIMINATION OF ANNUAL REPORT.**—Section 11
5 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C.
6 971j) is repealed.

7 (b) **CERTAIN REGULATIONS.**—Section 971d(c)(2) of
8 the Atlantic Tunas Convention Act of 1975 (16 U.S.C.
9 971d(c)(2)) is amended—

10 (1) by inserting “(A)” after “(2)”;

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

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

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

18 “(B) The Secretary may issue final regulations to im-
19 plement Commission recommendations referred to in para-
20 graph (1) of this subsection concerning trade restrictive
21 measures against nations or fishing entities without re-
22 gard to the requirements of subparagraph (A) of this
23 paragraph and subsections (b) and (c) of section 553 of
24 title 5, United States Code.”.

1 **SEC. 302. DATA SHARING.**

2 (a) HIGH SEAS DRIFTNET FISHING MORATORIUM
3 PROTECTION ACT.—Section 608 of the High Seas
4 Driftnet Fishing Moratorium Protection Act (16 U.S.C.
5 1826i) is amended—

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

8 (2) by striking “organizations” the first place it
9 appears and inserting, “organizations, or arrange-
10 ments made pursuant to an international fishery
11 agreement (as defined in section 3(24) of the Mag-
12 nuson-Stevens Fishery Conservation and Manage-
13 ment Act),”;

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

16 (4) by striking “territories.” in paragraph (3)
17 and inserting “territories; and”; and

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

19 “(4) urging other nations, through the regional
20 fishery management organizations of which the
21 United States is a member, bilaterally and otherwise
22 to seek and foster the sharing of accurate, relevant,
23 and timely information—

24 “(A) to improve the scientific under-
25 standing of marine ecosystems;

1 “(B) to improve fisheries management de-
2 cisions;

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

5 “(D) to combat illegal, unreported, and un-
6 regulated fishing; and

7 “(E) to improve compliance with conserva-
8 tion and management measures in international
9 waters.

10 “(b) INFORMATION SHARING.—In carrying out this
11 section, the Secretary may disclose, as necessary and ap-
12 propriate, information to the Food and Agriculture Orga-
13 nization of the United Nations, international fishery man-
14 agement organizations (as so defined), or arrangements
15 made pursuant to an international fishery agreement, if
16 such organizations or arrangements have policies and pro-
17 cedures to safeguard such information from unintended or
18 unauthorized disclosure.”.

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

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

24 (2) by redesignating subparagraph (H) as sub-
25 paragraph (J); and

1 (3) by inserting after subparagraph (G) the fol-
2 lowing:

3 “(H) to the Food and Agriculture Organization
4 of the United Nations, international fishery manage-
5 ment organizations, or arrangements made pursuant
6 to an international fishery agreement as provided for
7 in the High Seas Driftnet Fishing Moratorium Pro-
8 tection Act (16 U.S.C. 1826i(b));

9 “(I) to any other Federal or State government
10 agency, foreign government, the Food and Agri-
11 culture Organization of the United Nations, or the
12 secretariat or equivalent of an international fisheries
13 management organization or arrangement made pur-
14 suant to an international fishery agreement, as pro-
15 vided in section 201(d)(6) of the International Fish-
16 eries Stewardship and Enforcement Act; or”.

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

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

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

23 “(1) 1 or more permits or authorizations re-
24 quired for a vessel to fish, in addition to a permit

1 issued under this section, expire, are revoked, or are
2 suspended; or

3 “(2) the vessel is no longer eligible for United
4 States documentation, such documentation is re-
5 voked or denied, or the vessel is deleted from such
6 documentation.”.

7 **SEC. 304. COMMITTEE ON SCIENTIFIC COOPERATION FOR**
8 **PACIFIC SALMON AGREEMENT.**

9 Section 11 of the Pacific Salmon Treaty Act of 1985
10 (16 U.S.C. 3640) is amended by redesignating subsections
11 (c) and (d) as subsections (d) and (e), respectively, and
12 inserting after subsection (b) the following:

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

20 **SEC. 305. REAUTHORIZATIONS.**

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

1 “(E) \$1,000,000 for each of fiscal years
2 2009 through 2013.”.

3 (b) PACIFIC SALMON TREATY ACT OF 1985.—Sec-
4 tion 16(d)(2)(A) of the Pacific Salmon Treaty Act of 1985
5 (16 U.S.C. 3645(d)(2)(A)) is amended by striking “and
6 2009,” and inserting “2009, 2010, 2011, 2012, and
7 2013.”.

8 (c) SOUTH PACIFIC TUNA ACT OF 1988.—Section
9 20(a) of the South Pacific Tuna Act of 1988 (16 U.S.C.
10 973r(a)) is amended by striking “1992, 1993, 1994, 1995,
11 1996, 1997, 1998, 1999, 2000, 2001, and 2002,” each
12 place it appears and inserting “2009 through 2013”.

13 **TITLE IV—IMPLEMENTATION OF** 14 **THE ANTIGUA CONVENTION**

15 **SEC. 401. SHORT TITLE.**

16 This title may be cited as the “Antigua Convention
17 Implementing Act of 2011”.

18 **SEC. 402. AMENDMENT OF THE TUNA CONVENTIONS ACT**

19 **OF 1950.**

20 Except as otherwise expressly provided, whenever in
21 this title an amendment or repeal is expressed in terms
22 of an amendment to, or repeal of, a section or other provi-
23 sion, the reference shall be considered to be made to a
24 section or other provision of the Tuna Conventions Act
25 of 1950 (16 U.S.C. 951 et seq.).

1 **SEC. 403. DEFINITIONS.**

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

4 **“SEC. 2. DEFINITIONS.**

5 “In this Act:

6 “(1) ANTIGUA CONVENTION.—The term ‘Anti-
7 gua Convention’ means the Convention for the
8 Strengthening of the Inter-American Tropical Tuna
9 Commission Established by the 1949 Convention
10 Between the United States of America and the Re-
11 public of Costa Rica, signed at Washington, Novem-
12 ber 14, 2003.

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

16 “(3) CONVENTION.—The term ‘Convention’
17 means—

18 “(A) the Convention for the Establishment
19 of an Inter-American Tropical Tuna Commis-
20 sion, signed at Washington, May 31, 1949, by
21 the United States of America and the Republic
22 of Costa Rica;

23 “(B) the Antigua Convention, upon its
24 entry into force for the United States, and any
25 amendments thereto that are in force for the
26 United States; or

1 “(C) both such Conventions, as the context
2 requires.

3 “(4) IMPORT.—The term ‘import’ means to
4 land on, bring into, or introduce into, or attempt to
5 land on, bring into, or introduce into, any place sub-
6 ject to the jurisdiction of the United States, whether
7 or not such landing, bringing, or introduction con-
8 stitutes an importation within the meaning of the
9 customs laws of the United States.

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

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

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

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

22 **SEC. 404. COMMISSIONERS; NUMBER, APPOINTMENT, AND**
23 **QUALIFICATIONS.**

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

1 **“SEC. 3. COMMISSIONERS.**

2 “(a) COMMISSONERS.—The United States shall be
3 represented on the Commission by 5 United States Com-
4 missioners. The President shall appoint individuals to
5 serve on the Commission at the pleasure of the President.
6 In making the appointments, the President shall select
7 Commissioners from among individuals who are knowl-
8 edgeable or experienced concerning highly migratory fish
9 stocks in the eastern tropical Pacific Ocean, one of whom
10 shall be an officer or employee of the Department of Com-
11 merce, one of whom shall be the chairman or a member
12 of the Western Pacific Fishery Management Council, and
13 one of whom shall be the chairman or a member of the
14 Pacific Fishery Management Council. Not more than 2
15 Commissioners may be appointed who reside in a State
16 other than a State whose vessels maintain a substantial
17 fishery in the area of the Convention.

18 “(b) ALTERNATE COMMISSIONERS.—The Secretary
19 of State, in consultation with the Secretary, may designate
20 from time to time and for periods of time deemed appro-
21 priate Alternate United States Commissioners to the Com-
22 mission. Any Alternate United States Commissioner may
23 exercise, at any meeting of the Commission or of the Gen-
24 eral Advisory Committee or Scientific Advisory Sub-
25 committee established pursuant to section 4(b), all powers
26 and duties of a United States Commissioner in the ab-

1 sence of any Commissioner appointed pursuant to sub-
2 section (a) of this section for whatever reason. The num-
3 ber of such Alternate United States Commissioners that
4 may be designated for any such meeting shall be limited
5 to the number of United States Commissioners appointed
6 pursuant to subsection (a) of this section who will not be
7 present at such meeting.

8 “(c) ADMINISTRATIVE MATTERS.—

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

17 “(2) COMPENSATION.—The United States Com-
18 missioners or Alternate Commissioners, although of-
19 ficers of the United States while so serving, shall re-
20 ceive no compensation for their services as such
21 Commissioners or Alternate Commissioners.

22 “(3) TRAVEL EXPENSES.—

23 “(A) The Secretary of State shall pay the
24 necessary travel expenses of United States
25 Commissioners and Alternate United States

1 Commissioners to meetings of the IATTC and
 2 other meetings the Secretary deems necessary
 3 to fulfill their duties, in accordance with the
 4 Federal Travel Regulations and sections 5701,
 5 5702, 5704 through 5708, and 5731 of title 5,
 6 United States Code.

7 “(B) The Secretary may reimburse the
 8 Secretary of State for amounts expended by the
 9 Secretary of State under this subsection.”.

10 **SEC. 405. GENERAL ADVISORY COMMITTEE AND SCI-**
 11 **ENTIFIC ADVISORY SUBCOMMITTEE.**

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

13 (1) by striking subsection (a) and inserting the
 14 following:

15 “(a) GENERAL ADVISORY COMMITTEE.—

16 “(1) APPOINTMENTS; PUBLIC PARTICIPATION;
 17 COMPENSATION.—

18 “(A) The Secretary, in consultation with
 19 the Secretary of State, shall appoint a General
 20 Advisory Committee which shall consist of not
 21 more than 25 individuals who shall be rep-
 22 resentative of the various groups concerned
 23 with the fisheries covered by the Convention, in-
 24 cluding nongovernmental conservation organiza-
 25 tions, providing to the maximum extent prac-

1 ticable an equitable balance among such groups.
2 Members of the General Advisory Committee
3 will be eligible to participate as members of the
4 U.S. delegation to the Commission and its
5 working groups to the extent the Commission
6 rules and space for delegations allow.

7 “(B) The chair of the Pacific Fishery
8 Management Council’s Advisory Subpanel for
9 Highly Migratory Fisheries and the chair of the
10 Western Pacific Fishery Management Council’s
11 Advisory Committee shall be members of the
12 General Advisory Committee by virtue of their
13 positions in those Councils.

14 “(C) Each member of the General Advi-
15 sory Committee appointed under subparagraph
16 (A) shall serve for a term of 3 years and is eli-
17 gible for reappointment.

18 “(D) The General Advisory Committee
19 shall be invited to attend all non-executive
20 meetings of the United States Section and at
21 such meetings shall be given opportunity to ex-
22 amine and to be heard on all proposed pro-
23 grams of investigation, reports, recommenda-
24 tions, and regulations of the Commission.

1 “(E) The General Advisory Committee
2 shall determine its organization, and prescribe
3 its practices and procedures for carrying out its
4 functions under this chapter, the Magnuson-
5 Stevens Fishery Conservation and Management
6 Act (16 U.S.C. 1801 et seq.), and the Conven-
7 tion. The General Advisory Committee shall
8 publish and make available to the public a
9 statement of its organization, practices and pro-
10 cedures. Meetings of the General Advisory Com-
11 mittee, except when in executive session, shall
12 be open to the public, and prior notice of meet-
13 ings shall be made public in timely fashion. The
14 General Advisory Committee shall not be sub-
15 ject to the Federal Advisory Committee Act (5
16 U.S.C. App.).

17 “(2) INFORMATION SHARING.—The Secretary
18 and the Secretary of State shall furnish the General
19 Advisory Committee with relevant information con-
20 cerning fisheries and international fishery agree-
21 ments.

22 “(3) ADMINISTRATIVE MATTERS.—

23 “(A) The Secretary shall provide to the
24 General Advisory Committee in a timely man-
25 ner such administrative and technical support

1 services as are necessary for its effective func-
2 tioning.

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

5 “(i) shall serve without pay, but while
6 away from their homes or regular places of
7 business to attend meetings of the General
8 Advisory Committee shall be allowed travel
9 expenses, including per diem in lieu of sub-
10 sistence, in the same manner as persons
11 employed intermittently in the Government
12 service are allowed expenses under section
13 5703 of title 5, United States Code; and

14 “(ii) shall not be considered Federal
15 employees except for the purposes of injury
16 compensation or tort claims liability as
17 provided in chapter 81 of title 5, United
18 States Code, and chapter 171 of title 28,
19 United States Code.”; and

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

22 “(b) SCIENTIFIC ADVISORY COMMITTEE.—(1) The
23 Secretary, in consultation with the Secretary of State,
24 shall appoint a Scientific Advisory Subcommittee of not
25 less than 5 nor more than 15 qualified scientists with bal-

1 anced representation from the public and private sectors,
2 including nongovernmental conservation organizations.”.

3 **SEC. 406. RULEMAKING.**

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

5 (1) by striking the section caption and inserting
6 the following:

7 **“SEC. 6. RULEMAKING.”; and**

8 (2) by striking subsections (a) and (b) and in-
9 serting the following:

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

1 dures established by the Magnuson-Stevens Fishery Con-
2 servation and Management Act (16 U.S.C. 1801 et seq.).

3 “(b) JURISDICTION.—The Secretary may promulgate
4 regulations applicable to all vessels and persons subject
5 to the jurisdiction of the United States, including United
6 States flag vessels wherever they may be operating, on
7 such date as the Secretary shall prescribe.”.

8 **SEC. 407. PROHIBITED ACTS.**

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

11 **“SEC. 8. PROHIBITED ACTS.**

12 “It is unlawful for any person—

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

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

19 “(3) to refuse to permit any officer authorized
20 to enforce the provisions of this Act (as provided for
21 in section 10) to board a fishing vessel subject to
22 such person’s control for the purposes of conducting
23 any search, investigation or inspection in connection
24 with the enforcement of this Act or any regulation,
25 permit, or the Convention;

1 “(4) to forcibly assault, resist, oppose, impede,
2 intimidate, sexually harass, bribe, or interfere with
3 any such authorized officer in the conduct of any
4 search, investigations or inspection in connection
5 with the enforcement of this Act or any regulation,
6 permit, or the Convention;

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

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

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

18 “(8) to knowingly and willfully submit to the
19 Secretary false information regarding any matter
20 that the Secretary is considering in the course of
21 carrying out this Act;

22 “(9) to forcibly assault, resist, oppose, impede,
23 intimidate, sexually harass, bribe, or interfere with
24 any observer on a vessel under this Act, or any data
25 collector employed by the National Marine Fisheries

1 Service or under contract to any person to carry out
2 responsibilities under this Act;

3 “(10) to engage in fishing in violation of any
4 regulation adopted pursuant to section 6(c) of this
5 Act;

6 “(11) to ship, transport, purchase, sell, offer for
7 sale, import, export, or have in custody, possession,
8 or control any fish taken or retained in violation of
9 such regulations;

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

14 “(13) to fail to stop a vessel upon being hailed
15 and instructed to stop by a duly authorized official
16 of the United States;

17 “(14) to import, in violation of any regulation
18 adopted pursuant to section 6(c) of this Act, any
19 fish in any form of those species subject to regula-
20 tion pursuant to a recommendation, resolution, or
21 decision of the Commission, or any tuna in any form
22 not under regulation but under investigation by the
23 Commission, during the period such fish have been
24 denied entry in accordance with the provisions of
25 section 6(c) of this Act, unless such person provides

1 such proof as the Secretary of Commerce may re-
2 quire that a fish described in this paragraph offered
3 for entry into the United States is not ineligible for
4 such entry under the terms of section 6(c) of this
5 Act.”.

6 **SEC. 408. ENFORCEMENT.**

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

9 **“SEC. 10. ENFORCEMENT.**

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

13 **SEC. 409. REDUCTION OF BYCATCH.**

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

16 **SEC. 410. REPEAL OF EASTERN PACIFIC TUNA LICENSING**
17 **ACT OF 1984.**

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

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112TH CONGRESS
2^D SESSION

S. 52

[Report No. 112-132]

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.

JANUARY 26, 2012

Reported without amendment