

Union Calendar No. 516

113TH CONGRESS
2^D SESSION

H. R. 69

[Report No. 113–685]

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2013

Ms. BORDALLO (for herself, Mr. MARKEY, Mr. PIERLUISI, Mr. SABLAN, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 22, 2014

Additional sponsors: Mr. FARR, Mr. GRIMM, Mr. FALEOMAVAEGA, Ms. HANABUSA, Mr. BLUMENAUER, Mr. HUFFMAN, Mrs. CAPPS, Mr. LOWENTHAL, Mr. SCHIFF, Mr. THOMPSON of California, Ms. LEE of California, and Mr. KEATING

DECEMBER 22, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on January 3, 2013]

A BILL

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Illegal, Unreported, and*
 5 *Unregulated Fishing Enforcement Act of 2014”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—STRENGTHENING FISHERIES ENFORCEMENT
 MECHANISMS**

*Sec. 101. Amendments to the High Seas Driftnet Fishing Moratorium Protection
 Act.*

Sec. 102. Amendments to the High Seas Driftnet Fisheries Enforcement Act.

Sec. 103. Amendments to North Pacific Anadromous Stocks Act of 1992.

Sec. 104. Amendments to the Pacific Salmon Treaty Act of 1985.

*Sec. 105. Amendments to the Western and Central Pacific Fisheries Convention
 Implementation Act.*

Sec. 106. Amendments to the South Pacific Tuna Act of 1988.

Sec. 107. Amendments to the Antarctic Marine Living Resources Convention Act.

Sec. 108. Amendments to the Atlantic Tunas Convention Act.

Sec. 109. Amendments to the High Seas Fishing Compliance Act of 1965.

Sec. 110. Amendments to the Dolphin Protection Consumer Information Act.

Sec. 111. Amendments to the Northern Pacific Halibut Act of 1982.

*Sec. 112. Amendments to the Northwest Atlantic Fisheries Convention Act of
 1995.*

*Sec. 113. Amendment to the Magnuson-Stevens Fishery Conservation and Man-
 agement Act.*

TITLE II—IMPLEMENTATION OF THE ANTIGUA CONVENTION

Sec. 201. Short title.

Sec. 202. Amendment of the Tuna Conventions Act of 1950.

Sec. 203. Definitions.

Sec. 204. Commissioners; number, appointment, and qualifications.

Sec. 205. General Advisory Committee and Scientific Advisory Subcommittee.

Sec. 206. Rulemaking.

Sec. 207. Prohibited acts.

Sec. 208. Enforcement.

Sec. 209. Reduction of bycatch.

Sec. 210. Repeal of Eastern Pacific Tuna Licensing Act of 1984.

**TITLE III—AGREEMENT ON PORT STATE MEASURES TO PREVENT,
DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGU-
LATED FISHING**

Sec. 301. Short title.

Sec. 302. Purpose.

Sec. 303. Definitions.

Sec. 304. Duties and authorities of the secretary.

Sec. 305. Authorization or denial of port entry.

Sec. 306. Inspections.

Sec. 307. Prohibited acts.

Sec. 308. Enforcement.

Sec. 309. International cooperation and assistance.

Sec. 310. Relationship to other laws.

**1 TITLE I—STRENGTHENING FISH-
2 ERIES ENFORCEMENT MECH-
3 ANISMS**

**4 SEC. 101. AMENDMENTS TO THE HIGH SEAS DRIFTNET
5 FISHING MORATORIUM PROTECTION ACT.**

*6 (a) ADMINISTRATION AND ENFORCEMENT.—Section
7 606 of the High Seas Driftnet Fishing Moratorium Protec-
8 tion Act (16 U.S.C. 1826g) is amended by inserting before
9 the first sentence the following:*

*10 “(a) IN GENERAL.—The Secretary and the Secretary
11 of the department in which the Coast Guard is operating
12 shall enforce this Act, and the Acts to which this section
13 applies, in accordance with this section. Each such Sec-
14 retary may, by agreement, on a reimbursable basis or other-
15 wise, utilize the personnel services, equipment (including
16 aircraft and vessels), and facilities of any other Federal
17 agency, and of any State agency, in the performance of such
18 duties.*

1 “(b) *ACTS TO WHICH SECTION APPLIES.*—*This section*
2 *applies to—*

3 “(1) *the Pacific Salmon Treaty Act of 1985 (16*
4 *U.S.C. 3631 et seq.);*

5 “(2) *the Dolphin Protection Consumer Informa-*
6 *tion Act (16 U.S.C. 1385);*

7 “(3) *the Tuna Conventions Act of 1950 (16*
8 *U.S.C. 951 et seq.);*

9 “(4) *the North Pacific Anadromous Stocks Act of*
10 *1992 (16 U.S.C. 5001 et seq.);*

11 “(5) *the South Pacific Tuna Act of 1988 (16*
12 *U.S.C. 973 et seq.);*

13 “(6) *the Antarctic Marine Living Resources Con-*
14 *vention Act of 1984 (16 U.S.C. 2431 et seq.);*

15 “(7) *the Atlantic Tunas Convention Act of 1975*
16 *(16 U.S.C. 971 et seq.);*

17 “(8) *the Northwest Atlantic Fisheries Convention*
18 *Act of 1995 (16 U.S.C. 5601 et seq.);*

19 “(9) *the Western and Central Pacific Fisheries*
20 *Convention Implementation Act (16 U.S.C. 6901 et*
21 *seq.); and*

22 “(10) *the North Pacific Halibut Act of 1982 (16*
23 *U.S.C. 773a et seq.).*

24 “(c) *ADMINISTRATION AND ENFORCEMENT.*—

1 “(1) *IN GENERAL.*—*The Secretary shall prevent*
2 *any person from violating this Act, or any Act to*
3 *which this section applies, in the same manner, by*
4 *the same means, and with the same jurisdiction, pow-*
5 *ers, and duties as though sections 308 through 311 of*
6 *the Magnuson-Stevens Fishery Conservation and*
7 *Management Act (16 U.S.C. 1858 through 1861) were*
8 *incorporated into and made a part of and applicable*
9 *to this Act and each such Act.*

10 “(2) *INTERNATIONAL COOPERATION.*—*The Sec-*
11 *retary may, subject to appropriations and in the*
12 *course of carrying out the Secretary’s responsibilities*
13 *under the Acts to which this section applies, engage*
14 *in international cooperation to help other nations*
15 *combat illegal, unreported, and unregulated fishing*
16 *and achieve sustainable fisheries.*

17 “(d) *SPECIAL RULES.*—

18 “(1) *ADDITIONAL ENFORCEMENT AUTHORITY.*—
19 *In addition to the powers of officers authorized pursu-*
20 *ant to subsection (c), any officer who is authorized by*
21 *the Secretary, or the head of any Federal or State*
22 *agency that has entered into an agreement with the*
23 *Secretary under subsection (a), may enforce the provi-*
24 *sions of any Act to which this section applies, with*
25 *the same jurisdiction, powers, and duties as though*

1 *section 311 of the Magnuson-Stevens Fishery Con-*
2 *servation and Management Act (16 U.S.C. 1861) were*
3 *incorporated into and made a part of each such Act.*

4 “(2) *DISCLOSURE OF ENFORCEMENT INFORMA-*
5 *TION.—The Secretary, subject to the data confiden-*
6 *tiality provisions in section 402 of the Magnuson-Ste-*
7 *vens Fishery Conservation and Management Act (16*
8 *U.S.C. 1881a), may disclose, as necessary and appro-*
9 *priate, information, including information collected*
10 *under joint authority of the Magnuson-Stevens Fish-*
11 *ery Conservation and Management Act (16 U.S.C.*
12 *1801 et seq.) and the Atlantic Tunas Convention Act*
13 *of 1975 (16 U.S.C. 71 et seq.) or the Western and*
14 *Central Pacific Fisheries Convention Implementation*
15 *Act (16 U.S.C. 6901 et seq.) or other statutes imple-*
16 *menting international fishery agreements, to any*
17 *other Federal or State government agency, the Food*
18 *and Agriculture Organization of the United Nations,*
19 *the secretariat or equivalent of an international fish-*
20 *ery management organization or arrangement made*
21 *pursuant to an international fishery agreement, or a*
22 *foreign government, if—*

23 “(A) *such government, organization, or ar-*
24 *rangement has policies and procedures to protect*

1 *such information from unintended or unauthor-*
2 *ized disclosure; and*

3 “(B) *such disclosure is necessary—*

4 “(i) *to ensure compliance with any law*
5 *or regulation enforced or administered by*
6 *the Secretary;*

7 “(ii) *to administer or enforce any*
8 *international fishery agreement to which the*
9 *United States is a party;*

10 “(iii) *to administer or enforce a bind-*
11 *ing conservation measure adopted by any*
12 *international organization or arrangement*
13 *to which the United States is a party;*

14 “(iv) *to assist in any investigative, ju-*
15 *dicial, or administrative enforcement pro-*
16 *ceeding in the United States; or*

17 “(v) *to assist in any law enforcement*
18 *action undertaken by a law enforcement*
19 *agency of a foreign government, or in rela-*
20 *tion to a legal proceeding undertaken by a*
21 *foreign government to the extent the enforce-*
22 *ment action is consistent with rules and*
23 *regulations of a regional fishery manage-*
24 *ment organization that the United States is*
25 *a member of, or the Secretary has deter-*

1 *mined that the enforcement action is con-*
2 *sistent with the requirements under Federal*
3 *law for enforcement actions with respect to*
4 *illegal, unreported, and unregulated fishing.*

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

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

9 *“(2) to refuse to permit any officer authorized to*
10 *enforce the provisions of this Act to board, search, or*
11 *inspect a vessel, subject to such person’s control for the*
12 *purposes of conducting any search, investigation, or*
13 *inspection in connection with the enforcement of this*
14 *Act, any regulation promulgated under this Act, or*
15 *any Act to which this section applies;*

16 *“(3) to forcibly assault, resist, oppose, impede,*
17 *intimidate, or interfere with any such authorized offi-*
18 *cer in the conduct of any search, investigation, or in-*
19 *spection described in paragraph (2);*

20 *“(4) to resist a lawful arrest for any act prohib-*
21 *ited by this section or any Act to which this section*
22 *applies;*

23 *“(5) to interfere with, delay, or prevent, by any*
24 *means, the apprehension, arrest, or detection of an*
25 *other person, knowing that such person has committed*

1 *any act prohibited by this section or any Act to which*
2 *this section applies; or*

3 “(6) to forcibly assault, resist, oppose, impede,
4 *intimidate, sexually harass, bribe, or interfere with—*

5 “(A) *any observer on a vessel under this Act*
6 *or any Act to which this section applies; or*

7 “(B) *any data collector employed by the*
8 *National Marine Fisheries Service or under con-*
9 *tract to any person to carry out responsibilities*
10 *under this Act or any Act to which this section*
11 *applies.*

12 “(f) *CIVIL PENALTY.—Any person who commits any*
13 *act that is unlawful under subsection (e) shall be liable to*
14 *the United States for a civil penalty, and may be subject*
15 *to a permit sanction, under section 308 of the Magnuson-*
16 *Stevens Fishery Conservation and Management Act (16*
17 *U.S.C. 1858).*

18 “(g) *CRIMINAL PENALTY.—Any person who commits*
19 *an act that is unlawful under subsection (e)(2), (e)(3),*
20 *(e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense*
21 *punishable under section 309(b) of the Magnuson-Stevens*
22 *Fishery Conservation and Management Act (16 U.S.C.*
23 *1859(b)).*

24 “(h) *UTILIZATION OF FEDERAL AGENCY ASSETS.—*”.

1 **(b) ACTIONS TO IMPROVE THE EFFECTIVENESS OF**
2 **INTERNATIONAL FISHERY MANAGEMENT ORGANIZA-**
3 **TIONS.—Section 608 of such Act (16 U.S.C. 1826i) is**
4 **amended by—**

5 (1) *inserting before the first sentence the fol-*
6 *lowing: “(a) IN GENERAL.—”;*

7 (2) *in subsection (a) (as designated by para-*
8 *graph (1) of this subsection) in the first sentence, in-*
9 *serting “, or arrangements made pursuant to an*
10 *international fishery agreement,” after “organiza-*
11 *tions”;* and

12 (3) *adding at the end the following new sub-*
13 *sections:*

14 **“(b) DISCLOSURE OF INFORMATION.—The Secretary,**
15 **subject to the data confidentiality provisions in section 402**
16 **of the Magnuson-Stevens Fishery Conservation and Man-**
17 **agement Act (16 U.S.C. 1881a), may disclose, as necessary**
18 **and appropriate, information, including information col-**
19 **lected under joint authority of the Magnuson-Stevens Fish-**
20 **ery Conservation and Management Act (16 U.S.C. 1801 et**
21 **seq.) and the Atlantic Tunas Convention Act of 1975 (16**
22 **U.S.C. 71 et seq.), the Western and Central Pacific Fisheries**
23 **Convention Implementation Act (16 U.S.C. 6901 et seq.),**
24 **any other statute implementing an international fishery**
25 **agreement, to any other Federal or State government agen-**

1 *cy, the Food and Agriculture Organization of the United*
2 *Nations, or the secretariat or equivalent of an international*
3 *fishery management organization or arrangement made*
4 *pursuant to an international fishery agreement, if such gov-*
5 *ernment, organization, or arrangement, respectively, has*
6 *policies and procedures to protect such information from*
7 *unintended or unauthorized disclosure.*

8 “(c) *IUU VESSEL LISTS.*—*The Secretary may—*

9 “(1) *develop, maintain, and make public a list*
10 *of vessels and vessel owners engaged in illegal, unre-*
11 *ported, or unregulated fishing or fishing-related ac-*
12 *tivities in support of illegal, unreported, or unregu-*
13 *lated fishing, including vessels or vessel owners identi-*
14 *fied by an international fishery management organi-*
15 *zation or arrangement made pursuant to an inter-*
16 *national fishery agreement, that—*

17 “(A) *the United States is party to; or*

18 “(B) *the United States is not party to, but*
19 *whose procedures and criteria in developing and*
20 *maintaining a list of such vessels and vessel*
21 *owners are substantially similar to such proce-*
22 *dures and criteria adopted pursuant to an inter-*
23 *national fishery agreement to which the United*
24 *States is a party; and*

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 agreements
8 and trade agreements.

9 “(d) REGULATIONS.—The Secretary may promulgate
10 regulations to implement this section.”.

11 (c) NOTIFICATION REGARDING IDENTIFICATION OF NA-
12 TIONS.—Section 609(b) of such Act (166 U.S.C. 1826j(b))
13 is amended to read as follows:

14 “(b) NOTIFICATION.—The Secretary shall notify the
15 President and that nation of such an identification.”.

16 (d) NATIONS IDENTIFIED UNDER SECTION 610.—Sec-
17 tion 610(b)(1) of such Act (16 U.S.C. 1826k(b)(1)) is
18 amended to read as follows:

19 “(1) notify, as soon as possible, the President
20 and nations that have been identified under sub-
21 section (a), and also notify other nations whose vessels
22 engage in fishing activities or practices described in
23 subsection (a), about the provisions of this section and
24 this Act;”.

1 (e) *EFFECT OF CERTIFICATION UNDER SECTION*
2 *609.—Section 609(d)(3)(A)(i) of such Act (16 U.S.C.*
3 *1826j(d)(3)(A)(i)) is amended by striking “that has not*
4 *been certified by the Secretary under this subsection, or”.*

5 (f) *EFFECT OF CERTIFICATION UNDER SECTION*
6 *610.—Section 610(c)(5) of such Act (16 U.S.C. 1826k(c)(5))*
7 *is amended by striking “that has not been certified by the*
8 *Secretary under this subsection, or”.*

9 (g) *IDENTIFICATION OF NATIONS.—*

10 (1) *SCOPE OF IDENTIFICATION FOR ACTIONS OF*
11 *FISHING VESSELS.—Section 609(a) of such Act (16*
12 *U.S.C. 1826j(a)) is amended—*

13 (A) *in the matter preceding paragraph*

14 (1)—

15 (i) *by inserting “, based on a cumu-*
16 *lative compilation and analysis of data col-*
17 *lected and provided by international fishery*
18 *management organizations and other na-*
19 *tions and organizations,” after “shall”; and*

20 (ii) *by striking “2 years” and insert-*
21 *ing “3 years”;*

22 (B) *in paragraph (1), by inserting “that*
23 *undermines the effectiveness of measures required*
24 *by an international fishery management organi-*

1 *zation, taking into account whether” after “(1)”;*
2 *and*

3 *(C) in paragraph (1), by striking “vessels*
4 *of”.*

5 (2) *ADDITIONAL GROUNDS FOR IDENTIFICA-*
6 *TION.—Section 609(a) of such Act (16 U.S.C.*
7 *1826j(a)) is further amended—*

8 *(A) by redesignating paragraphs (1) and*
9 *(2) in order as subparagraphs (A) and (B) (and*
10 *by moving the margins of such subparagraphs 2*
11 *ems to the right);*

12 *(B) by inserting before the first sentence the*
13 *following:*

14 *“(1) IDENTIFICATION FOR ACTIONS OF FISHING*
15 *VESSELS.—”; and*

16 *(C) by adding at the end the following:*

17 *“(2) IDENTIFICATION FOR ACTIONS OF NATION.—*
18 *Taking into account the factors described under sec-*
19 *tion 609(a)(1), the Secretary shall also identify, and*
20 *list in such report, a nation—*

21 *“(A) if it is violating, or has violated at*
22 *any point during the preceding three years, con-*
23 *servation and management measures required*
24 *under an international fishery management*
25 *agreement to which the United States is a party*

1 *and the violations undermine the effectiveness of*
2 *such measures; or*

3 *“(B) if it is failing, or has failed in the pre-*
4 *ceding 3-year period, to effectively address or*
5 *regulate illegal, unreported, or unregulated fish-*
6 *ing in areas described under paragraph (1)(B).*

7 *“(3) APPLICATION TO OTHER ENTITIES.—Where*
8 *the provisions of this Act are applicable to nations,*
9 *they shall also be applicable, as appropriate, to other*
10 *entities that have competency to enter into inter-*
11 *national fishery management agreements.”.*

12 *(3) PERIOD OF FISHING PRACTICES SUPPORTING*
13 *IDENTIFICATION.—Section 610(a)(1) of such Act (16*
14 *U.S.C. 1826k(a)(1)) is amended by striking “calendar*
15 *year” and inserting “three years”.*

16 *(h) AUTHORIZATION OF APPROPRIATIONS.—There is*
17 *authorized to be appropriated to the Secretary of Commerce*
18 *\$450,000 for each of fiscal years 2015 through 2019 to im-*
19 *plement the amendments made by subsections (b) and (g).*

20 *(i) TECHNICAL CORRECTIONS.—*

21 *(1) Section 607(2) of such Act (16 U.S.C.*
22 *1826h(2)) is amended by striking “whose vessels” and*
23 *inserting “that”.*

1 (2) *Section 609(d)(1) of such Act (16 U.S.C.*
2 *1826j(d)(1)) is amended by striking “of its fishing*
3 *vessels”.*

4 (3) *Section 609(d)(1)(A) of such Act (16 U.S.C.*
5 *1826j(d)(1)(A)) is amended by striking “of its fishing*
6 *vessels”.*

7 (4) *Section 609(d)(2) of such Act (16 U.S.C.*
8 *1826j(d)(2)) is amended—*

9 *(A) by striking “for certification” and in-*
10 *serting “to authorize”;*

11 *(B) by inserting “the importation” after*
12 *“or other basis”;*

13 *(C) by striking “harvesting”; and*

14 *(D) by striking “not certified under para-*
15 *graph (1)” and inserting “issued a negative cer-*
16 *tification under paragraph (1)”.*

17 (5) *Section 610 of such Act (16 U.S.C. 1826k) is*
18 *amended as follows:*

19 *(A) In subsection (a)(1), by striking “prac-*
20 *tices;” and inserting “practices—”.*

21 *(B) In subsection (c)(4), by striking all pre-*
22 *ceding subparagraph (B) and inserting the fol-*
23 *lowing:*

24 *“(4) ALTERNATIVE PROCEDURE.—The Secretary*
25 *may establish a procedure to authorize, on a ship-*

1 *ment-by-shipment, shipper-by-shipper, or other basis*
2 *the importation of fish or fish products from a vessel*
3 *of a nation issued a negative certification under*
4 *paragraph (1) if the Secretary determines that such*
5 *imports were harvested by practices that do not result*
6 *in bycatch of a protected marine species, or were har-*
7 *vested by practices that—*

8 *“(A) are comparable to those of the United*
9 *States, taking into account different conditions;*
10 *and”.*

11 **SEC. 102. AMENDMENTS TO THE HIGH SEAS DRIFTNET**
12 **FISHERIES ENFORCEMENT ACT.**

13 *(a) NEGATIVE CERTIFICATION EFFECTS.—Section 101*
14 *of the High Seas Driftnet Fisheries Enforcement Act (16*
15 *U.S.C. 1826a) is amended—*

16 *(1) in subsection (a)(2), by striking “recognized*
17 *principles of” after “in accordance with”;*

18 *(2) in subsection (a)(2)(A), by inserting “or, as*
19 *appropriate, for fishing vessels of a nation that re-*
20 *ceives a negative certification under section 609(d) or*
21 *section 610(c) of the High Seas Driftnet Fishing Mor-*
22 *atorium Protection Act (16 U.S.C. 1826)” after “(1)”;*

23 *(3) in subsection (a)(2)(B), by inserting before*
24 *the period the following: “, except for the purposes of*

1 *inspecting such vessel, conducting an investigation, or*
2 *taking other appropriate enforcement action”;*

3 (4) *in subsection (b)(1)(A)(i), by striking “or il-*
4 *legal, unreported, or unregulated fishing” after*
5 *“driftnet fishing”;*

6 (5) *in subsection (b)(1)(B) and subsection (b)(2),*
7 *by striking “or illegal, unreported, or unregulated*
8 *fishing” after “driftnet fishing” each place it appears;*

9 (6) *in subsection (b)(3)(A)(i), by inserting “or a*
10 *negative certification under section 609(d) or section*
11 *610(c) of the High Seas Driftnet Fishing Moratorium*
12 *Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after*
13 *“(1)(A)”;*

14 (7) *in subsection (b)(4)(A), by inserting “or*
15 *issues a negative certification under section 609(d) or*
16 *section 610(c) of the High Seas Driftnet Fishing Mor-*
17 *atorium Protection Act (16 U.S.C. 1826j(d),*
18 *1826k(c))” after “paragraph (1)”;*

19 (8) *in subsection (b)(4)(A)(i), by striking “or il-*
20 *legal, unreported, or unregulated fishing” after*
21 *“driftnet fishing”; and*

22 (9) *in subsection (b)(4)(A)(i), by inserting “, or*
23 *to address the offending activities for which a nation*
24 *received a negative certification under section 609(d)*
25 *or 610(c) of the High Seas Driftnet Fishing Morato-*

1 *rium Protection Act (16 U.S.C. 1826j(d), 1826k(c))”*
2 *after “beyond the exclusive economic zone of any na-*
3 *tion”.*

4 *(b) DURATION OF NEGATIVE CERTIFICATION EF-*
5 *FECTS.—Section 102 of such Act (16 U.S.C. 1826b) is*
6 *amended by—*

7 *(1) striking “or illegal, unreported, or unregu-*
8 *lated fishing”; and*

9 *(2) inserting “or effectively addressed the offend-*
10 *ing activities for which the nation received a negative*
11 *certification under 609(d) or 610(e) of the High Seas*
12 *Driftnet Fishing Moratorium Protection Act (16*
13 *U.S.C. 1826j(d), 1826k(c))” before the period at the*
14 *end.*

15 **SEC. 103. AMENDMENTS TO NORTH PACIFIC ANADROMOUS**
16 **STOCKS ACT OF 1992.**

17 *(a) UNLAWFUL ACTIVITIES.—Section 810 of the North*
18 *Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009)*
19 *is amended—*

20 *(1) in paragraph (5), by inserting “, investiga-*
21 *tion,” after “search”; and*

22 *(2) in paragraph (6), by inserting “, investiga-*
23 *tion,” after “search”.*

1 (b) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.*—

2 Section 811 of the Northern Pacific Anadromous Stocks Act

3 of 1992 (16 U.S.C. 5010) is amended to read as follows:

4 “**SEC. 811. ADDITIONAL PROHIBITIONS AND ENFORCE-**
5 **MENT.**”

6 “*For additional prohibitions relating to this Act and*

7 *enforcement of this Act, see section 606 of the High Seas*

8 *Driftnet Fishing Moratorium Protection Act (16 U.S.C.*

9 *1826g).”.*

10 **SEC. 104. AMENDMENTS TO THE PACIFIC SALMON TREATY**

11 **ACT OF 1985.**

12 Section 8 of the Pacific Salmon Treaty Act of 1985

13 (16 U.S.C. 3637) is amended—

14 (1) *in subsection (a)(2)—*

15 (A) *by inserting “, investigation,” after*

16 *“search”; and*

17 (B) *by striking “this title;” and inserting*

18 *“this Act;”;*

19 (2) *in subsection (a)(3)—*

20 (A) *by inserting “, investigation,” after*

21 *“search”; and*

22 (B) *by striking “subparagraph (2);” and*

23 *inserting “paragraph (2);”;*

24 (3) *in subsection (a)(5), by striking “this title;*

25 *or” and inserting “this Act;”;* and

1 (4) by striking subsections (b) through (f) and
2 inserting the following:

3 “(b) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
4 *MENT.—For additional prohibitions relating to this Act*
5 *and enforcement of this Act, see section 606 of the High*
6 *Seas Driftnet Fishing Moratorium Protection Act (16*
7 *U.S.C. 1826g).”.*

8 **SEC. 105. AMENDMENTS TO THE WESTERN AND CENTRAL**
9 **PACIFIC FISHERIES CONVENTION IMPLEMEN-**
10 **TATION ACT.**

11 *The Western and Central Pacific Fisheries Convention*
12 *Implementation Act (title V of Public Law 109–479) is*
13 *amended—*

14 (1) by amending section 506(c) (16 U.S.C.
15 6905(c)) to read as follows:

16 “(c) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
17 *MENT.—For additional prohibitions relating to this Act*
18 *and enforcement of this Act, see section 606 of the High*
19 *Seas Driftnet Fishing Moratorium Protection Act (16*
20 *U.S.C. 1826g).”; and*

21 (2) in section 507(a)(2) (16 U.S.C. 6906(a)(2))
22 by striking “suspension, on” and inserting “suspen-
23 sion, of”.

1 **SEC. 106. AMENDMENTS TO THE SOUTH PACIFIC TUNA ACT**
2 **OF 1988.**

3 *The South Pacific Tuna Act of 1988 is amended—*

4 *(1) in section 5(a) (16 U.S.C. 973c(a))—*

5 *(A) in paragraph (8), by inserting “, inves-*
6 *tigation,” after “search”; and*

7 *(B) in paragraph (10), by inserting “, in-*
8 *vestigation,” after “search”; and*

9 *(2) by striking sections 7 and 8 (16 U.S.C. 973e*
10 *and 973f) and inserting the following:*

11 **“SEC. 7. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**

12 *“For additional prohibitions relating to this Act and*
13 *enforcement of this Act, see section 606 of the High Seas*
14 *Driftnet Fishing Moratorium Protection Act (16 U.S.C.*
15 *1826g).”.*

16 **SEC. 107. AMENDMENTS TO THE ANTARCTIC MARINE LIV-**
17 **ING RESOURCES CONVENTION ACT.**

18 *The Antarctic Marine Living Resources Convention*
19 *Act of 1984 is amended—*

20 *(1) in section 306 (16 U.S.C. 2435)—*

21 *(A) in paragraph (3), by striking “which he*
22 *knows, or reasonably should have known, was”;*

23 *(B) in paragraph (4), by inserting “, inves-*
24 *tigation,” after “search”; and*

25 *(C) in paragraph (5), by inserting “, inves-*
26 *tigation,” after “search”;*

1 (2) *in section 307 (16 U.S.C. 2436)—*

2 (A) *by inserting “(a) IN GENERAL.—” be-*
3 *fore the first sentence; and*

4 (B) *by adding at the end the following:*

5 “(b) *REGULATIONS TO IMPLEMENT CONSERVATION*
6 *MEASURES.—*

7 “(1) *IN GENERAL.—Notwithstanding subsections*
8 *(b), (c), and (d) of section 553 of title 5, United*
9 *States Code, the Secretary of Commerce may publish*
10 *in the Federal Register a final regulation to imple-*
11 *ment any conservation measure for which the Sec-*
12 *retary of State notifies the Commission under section*
13 *305(a)(1)—*

14 “(A) *that has been in effect for 12 months*
15 *or less;*

16 “(B) *that is adopted by the Commission;*
17 *and*

18 “(C) *with respect to which the Secretary of*
19 *State does not notify Commission in accordance*
20 *with section 305(a)(1) within the time period al-*
21 *lotted for objections under Article IX of the Con-*
22 *vention.*

23 “(2) *ENTERING INTO FORCE.—Upon publication*
24 *of such regulation in the Federal Register, such con-*

1 *ervation measure shall enter into force with respect*
 2 *to the United States.”; and*

3 *(3) by striking sections 308 and 309 (16 U.S.C.*
 4 *2437 and 2438) and inserting the following:*

5 **“SEC. 308. ADDITIONAL PROHIBITIONS AND ENFORCE-**
 6 **MENT.**

7 *“For additional prohibitions relating to this Act and*
 8 *enforcement of this Act, see section 606 of the High Seas*
 9 *Driftnet Fishing Moratorium Protection Act (16 U.S.C.*
 10 *1826g).”.*

11 **SEC. 108. AMENDMENTS TO THE ATLANTIC TUNAS CONVEN-**
 12 **TION ACT.**

13 *The Atlantic Tunas Convention Act of 1975 is amend-*
 14 *ed—*

15 *(1) in section 6(c)(2) (16 U.S.C.*
 16 *971d(c)(2)(2))—*

17 *(A) by striking “(A)” and inserting “(i)”;*

18 *(B) by striking “(B)” and inserting “(ii)”;*

19 *(C) by inserting “(A)” after “(2)”;* and

20 *(D) by adding at the end the following:*

21 *“(B) Notwithstanding the requirements of subpara-*
 22 *graph (A) and subsections (b) and (c) of section 553 of title*
 23 *5, United States Code, the Secretary may issue final regula-*
 24 *tions to implement Commission recommendations referred*

1 *to in paragraph (1) concerning trade restrictive measures*
2 *against nations or fishing entities.”;*

3 *(2) in section 7 (16 U.S.C. 971e) by striking sub-*
4 *sections (e) and (f) and redesignating subsection (g)*
5 *as subsection (e);*

6 *(3) in section 8 (16 U.S.C. 971f)—*

7 *(A) by striking subsections (a) and (c); and*

8 *(B) by inserting before subsection (b) the*
9 *following:*

10 *“(a) For additional prohibitions relating to this Act*
11 *and enforcement of this Act, see section 606 of the High*
12 *Seas Driftnet Fishing Moratorium Protection Act (16*
13 *U.S.C. 1826g).”;*

14 *(4) in section 8(b) by striking “the enforcement*
15 *activities specified in section 8(a) of this Act” each*
16 *place it appears and inserting “enforcement activities*
17 *with respect to this Act that are otherwise authorized*
18 *by law”;* and

19 *(5) by striking section 11 (16 U.S.C. 971j) and*
20 *redesignating sections 12 and 13 as sections 11 and*
21 *12, respectively.*

1 **SEC. 109. AMENDMENTS TO THE HIGH SEAS FISHING COM-**
2 **PLIANCE ACT OF 1965.**

3 *Section 104(f) of the High Seas Fishing Compliance*
4 *Act of 1995 (16 U.S.C. 5503(f)) is amended to read as fol-*
5 *lows:*

6 “(f) *VALIDITY.*—*A permit issued under this section for*
7 *a vessel is void if—*

8 “(1) *any other permit or authorization required*
9 *for the vessel to fish is expired, revoked, or suspended;*
10 *or*

11 “(2) *the vessel is no longer documented under the*
12 *laws of the United States or eligible for such docu-*
13 *mentation.*”.

14 **SEC. 110. AMENDMENTS TO THE DOLPHIN PROTECTION**
15 **CONSUMER INFORMATION ACT.**

16 *The Dolphin Protection Consumer Information Act*
17 *(16 U.S.C. 1385) is amended by amending subsection (e)*
18 *to read as follows:*

19 “(e) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
20 *MENT.*—*For additional prohibitions relating to this Act*
21 *and enforcement of this Act, see section 606 of the High*
22 *Seas Driftnet Fishing Moratorium Protection Act (16*
23 *U.S.C. 1826g).*”.

1 **SEC. 111. AMENDMENTS TO THE NORTHERN PACIFIC HAL-**
2 **IBUT ACT OF 1982.**

3 *Section 7 of the Northern Pacific Halibut Act of 1982*
4 *(16 U.S.C. 773e) is amended—*

5 *(1) in paragraph (a) by redesignating para-*
6 *graphs (1) through (6) as subparagraphs (A) through*
7 *(F);*

8 *(2) by redesignating subsections (a) and (b) as*
9 *paragraphs (1) and (2), respectively;*

10 *(3) in paragraph (1)(B), as so redesignated, by*
11 *inserting “, investigation,” before “or inspection”;*

12 *(4) in paragraph (1)(C), as so redesignated, by*
13 *inserting “, investigation,” before “or inspection”;*

14 *(5) in paragraph (1)(E), as so redesignated, by*
15 *striking “or” after the semicolon; and*

16 *(6) in paragraph (1)(F), as so redesignated, by*
17 *striking “section.” and inserting “section; or”.*

18 **SEC. 112. AMENDMENTS TO THE NORTHWEST ATLANTIC**
19 **FISHERIES CONVENTION ACT OF 1995.**

20 *Section 207 of the Northwest Atlantic Fisheries Con-*
21 *vention Act of 1995 (16 U.S.C. 5606) is amended—*

22 *(1) in the section heading, by striking “AND*
23 *PENALTIES” and inserting “AND ENFORCE-*
24 *MENT”;*

25 *(2) in subsection (a)(2), by inserting “, inves-*
26 *tigation,” before “or inspection”;*

1 (3) in subsection (a)(3), by inserting “, inves-
2 tigation,” before “or inspection”; and

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

5 “(b) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
6 *MENT.—For additional prohibitions relating to this Act*
7 *and enforcement of this Act, see section 606 of the High*
8 *Seas Driftnet Fishing Moratorium Protection Act (16*
9 *U.S.C. 1826g).”.*

10 **SEC. 113. AMENDMENT TO THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.**

11 Section 307(1)(Q) of the Magnuson-Stevens Fishery
12 Conservation and Management Act (16 U.S.C. 1857(1)(Q))
13 is amended by inserting before the semicolon the following:
14 “or any treaty or in contravention of any binding conserva-
15 tion measure adopted by an international agreement or or-
16 ganization to which the United States is a party”.

17 **TITLE II—IMPLEMENTATION OF**
18 **THE ANTIGUA CONVENTION**

19 **SEC. 201. SHORT TITLE.**

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

1 **SEC. 202. AMENDMENT OF THE TUNA CONVENTIONS ACT OF**
2 **1950.**

3 *Except as otherwise expressly provided, whenever in*
4 *this title an amendment or repeal is expressed in terms of*
5 *an amendment to, or repeal of, a section or other provision,*
6 *the reference shall be considered to be made to a section or*
7 *other provision of the Tuna Conventions Act of 1950 (16*
8 *U.S.C. 951 et seq.).*

9 **SEC. 203. DEFINITIONS.**

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

12 **“SEC. 2. DEFINITIONS.**

13 *“In this Act:*

14 *“(1) ANTIGUA CONVENTION.—The term ‘Antigua*
15 *Convention’ means the Convention for the Strengthen-*
16 *ing of the Inter-American Tropical Tuna Commis-*
17 *sion Established by the 1949 Convention Between the*
18 *United States of America and the Republic of Costa*
19 *Rica, signed at Washington, November 14, 2003.*

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

23 *“(3) CONVENTION.—The term ‘Convention’*
24 *means—*

25 *“(A) the Convention for the Establishment*
26 *of an Inter-American Tropical Tuna Commis-*

1 *sion, signed at Washington, May 31, 1949, by*
2 *the United States of America and the Republic*
3 *of Costa Rica;*

4 “(B) *the Antigua Convention, upon its*
5 *entry into force for the United States, and any*
6 *amendments thereto that are in force for the*
7 *United States; or*

8 “(C) *both such Conventions, as the context*
9 *requires.*

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

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

16 “(6) *UNITED STATES COMMISSIONERS.—The*
17 *term ‘United States commissioners’ means the indi-*
18 *viduals appointed in accordance with section 3(a).”.*

19 **SEC. 204. COMMISSIONERS; NUMBER, APPOINTMENT, AND**
20 **QUALIFICATIONS.**

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

23 **“SEC. 3. COMMISSIONERS.**

24 “(a) *COMMISSIONERS.—The United States shall be*
25 *represented on the Commission by 4 United States Commis-*

1 sioners. *The President shall appoint individuals to serve on*
2 *the Commission at the pleasure of the President. In making*
3 *the appointments, the President shall select United States*
4 *Commissioners from among individuals who are knowledge-*
5 *able or experienced concerning highly migratory fish stocks*
6 *in the eastern tropical Pacific Ocean, one of whom shall*
7 *be an officer or employee of the Department of Commerce.*
8 *Not more than 2 United States Commissioners may be ap-*
9 *pointed who reside in a State other than a State whose ves-*
10 *sels maintain a substantial fishery in the area of the Con-*
11 *vention.*

12 “(b) *ALTERNATE COMMISSIONERS.—The Secretary of*
13 *State, in consultation with the Secretary, may designate*
14 *from time to time and for periods of time deemed appro-*
15 *priate Alternate United States Commissioners to the Com-*
16 *mission. Any Alternate United States Commissioner may*
17 *exercise, at any meeting of the Commission or of the Gen-*
18 *eral Advisory Committee or Scientific Advisory Sub-*
19 *committee established pursuant to section 4(b), all powers*
20 *and duties of a United States Commissioner in the absence*
21 *of any United States Commissioner appointed pursuant to*
22 *subsection (a) of this section for whatever reason. The num-*
23 *ber of such Alternate United States Commissioners that*
24 *may be designated for any such meeting shall be limited*
25 *to the number of United States Commissioners appointed*

1 *pursuant to subsection (a) of this section who will not be*
2 *present at such meeting.*

3 “(c) *ADMINISTRATIVE MATTERS.*—

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

11 “(2) *COMPENSATION.*—*The United States Com-*
12 *missioners or Alternate Commissioners, although offi-*
13 *cers of the United States while so serving, shall re-*
14 *ceive no compensation for their services as United*
15 *States Commissioners or Alternate Commissioners.*

16 “(3) *TRAVEL EXPENSES.*—

17 “(A) *The Secretary of State shall pay the*
18 *necessary travel expenses of United States Com-*
19 *missioners and Alternate United States Commis-*
20 *sioners to meetings of the Inter-American Trop-*
21 *ical Tuna Commission and other meetings the*
22 *Secretary of State deems necessary to fulfill their*
23 *duties, in accordance with the Federal Travel*
24 *Regulations and sections 5701, 5702, 5704*

1 *through 5708, and 5731 of title 5, United States*
2 *Code.*

3 “(B) *The Secretary may reimburse the Sec-*
4 *retary of State for amounts expended by the Sec-*
5 *retary of State under this subsection.”.*

6 **SEC. 205. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC**
7 **ADVISORY SUBCOMMITTEE.**

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

9 *(1) by striking subsection (a) and inserting the*
10 *following:*

11 “(a) *GENERAL ADVISORY COMMITTEE.—*

12 “(1) *APPOINTMENTS; PUBLIC PARTICIPATION;*
13 *COMPENSATION.—*

14 “(A) *The Secretary, in consultation with*
15 *the Secretary of State, shall appoint a General*
16 *Advisory Committee which shall consist of not*
17 *more than 25 individuals who shall be represent-*
18 *ative of the various groups concerned with the*
19 *fisheries covered by the Convention, including*
20 *nongovernmental conservation organizations,*
21 *providing to the maximum extent practicable an*
22 *equitable balance among such groups. Members*
23 *of the General Advisory Committee will be eligi-*
24 *ble to participate as members of the United*
25 *States delegation to the Commission and its*

1 *working groups to the extent the Commission*
2 *rules and space for delegations allow.*

3 “(B) *The chair of the Pacific Fishery Man-*
4 *agement Council’s Advisory Subpanel for Highly*
5 *Migratory Fisheries and the chair of the Western*
6 *Pacific Fishery Management Council’s Advisory*
7 *Committee shall be ex-officio members of the*
8 *General Advisory Committee by virtue of their*
9 *positions in those Councils.*

10 “(C) *Each member of the General Advisory*
11 *Committee appointed under subparagraph (A)*
12 *shall serve for a term of 3 years and is eligible*
13 *for reappointment.*

14 “(D) *The General Advisory Committee shall*
15 *be invited to attend all non-executive meetings of*
16 *the United States delegation and at such meet-*
17 *ings shall be given opportunity to examine and*
18 *to be heard on all proposed programs of inves-*
19 *tigation, reports, recommendations, and regula-*
20 *tions of the Commission.*

21 “(E) *The General Advisory Committee shall*
22 *determine its organization, and prescribe its*
23 *practices and procedures for carrying out its*
24 *functions under this title, the Magnuson-Stevens*
25 *Fishery Conservation and Management Act (16*

1 *U.S.C. 1801 et seq.), and the Convention. The*
2 *General Advisory Committee shall publish and*
3 *make available to the public a statement of its*
4 *organization, practices and procedures. Meetings*
5 *of the General Advisory Committee, except when*
6 *in executive session, shall be open to the public,*
7 *and prior notice of meetings shall be made pub-*
8 *lic in timely fashion. The General Advisory*
9 *Committee shall not be subject to the Federal Ad-*
10 *visory Committee Act (5 U.S.C. App.).*

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

16 “(3) *ADMINISTRATIVE MATTERS.—*

17 “(A) *The Secretary shall provide to the*
18 *General Advisory Committee in a timely manner*
19 *such administrative and technical support serv-*
20 *ices as are necessary for its effective functioning.*

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

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

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

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

13 *(2) by striking so much of subsection (b) as pre-*
14 *cedes paragraph (2) and inserting the following:*

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

21 *(3) in subsection (b)(3), by striking “General*
22 *Advisory Subcommittee” and inserting “General Ad-*
23 *visory Committee”.*

1 **SEC. 206. RULEMAKING.**

2 *Section 6 (16 U.S.C. 955) is amended to read as fol-*
3 *lows:*

4 **“SEC. 6. RULEMAKING.**

5 *“(a) REGULATIONS.—The Secretary, in consultation*
6 *with the Secretary of State and, with respect to enforcement*
7 *measures, the Secretary of the Department in which the*
8 *Coast Guard is operating, may promulgate such regulations*
9 *as may be necessary to carry out the United States inter-*
10 *national obligations under the Convention and this Act, in-*
11 *cluding recommendations and decisions adopted by the*
12 *Commission. In cases where the Secretary has discretion in*
13 *the implementation of one or more measures adopted by the*
14 *Commission that would govern fisheries under the authority*
15 *of a Regional Fishery Management Council, the Secretary*
16 *may, to the extent practicable within the implementation*
17 *schedule of the Convention and any recommendations and*
18 *decisions adopted by the Commission, promulgate such reg-*
19 *ulations as may be necessary to carry out the United States*
20 *international obligations under the Convention and this*
21 *Act, in accordance with the procedures established by the*
22 *Magnuson-Stevens Fishery Conservation and Management*
23 *Act (16 U.S.C. 1801 et seq.).*

24 *“(b) JURISDICTION.—The Secretary may promulgate*
25 *regulations as may be necessary to carry out the United*
26 *States international obligations under the Convention and*

1 *this Act, applicable to all vessels and persons subject to the*
2 *jurisdiction of the United States, including United States*
3 *flag vessels wherever they may be operating, on such date*
4 *as the Secretary shall prescribe.”.*

5 **SEC. 207. PROHIBITED ACTS.**

6 *Section 8 (16 U.S.C. 957) is amended—*

7 *(1) by striking “section 6(c) of this Act” each*
8 *place it appears and inserting “section 6”; and*

9 *(2) by adding at the end the following:*

10 *“(i) ADDITIONAL PROHIBITIONS AND ENFORCE-*
11 *MENT.—For prohibitions relating to this Act and enforce-*
12 *ment of this Act, see section 606 of the High Seas Driftnet*
13 *Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.*

14 **SEC. 208. ENFORCEMENT.**

15 *Section 10 (16 U.S.C. 959) is amended to read as fol-*
16 *lows:*

17 **“SEC. 10. ENFORCEMENT.**

18 *“For enforcement of this Act, see section 606 of the*
19 *High Seas Driftnet Fishing Moratorium Protection Act (16*
20 *U.S.C. 1826g).”.*

21 **SEC. 209. REDUCTION OF BYCATCH.**

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

1 **SEC. 210. REPEAL OF EASTERN PACIFIC TUNA LICENSING**
2 **ACT OF 1984.**

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

5 **TITLE III—AGREEMENT ON PORT**
6 **STATE MEASURES TO PRE-**
7 **VENT, DETER AND ELIMINATE**
8 **ILLEGAL, UNREPORTED AND**
9 **UNREGULATED FISHING**

10 **SEC. 301. SHORT TITLE.**

11 *This title may be cited as the “Port State Measures*
12 *Agreement Act of 2014”.*

13 **SEC. 302. PURPOSE.**

14 *The purpose of this title is to implement the Agreement*
15 *on Port State Measures to Prevent, Deter and Eliminate*
16 *Illegal, Unreported and Unregulated Fishing.*

17 **SEC. 303. DEFINITIONS.**

18 *As used in this title:*

19 (1) *The term “Agreement” means the Agreement*
20 *on Port State Measures to Prevent, Deter and Eliminate*
21 *Illegal, Unreported and Unregulated Fishing,*
22 *done at the Food and Agriculture Organization of the*
23 *United Nations, in Rome, Italy, November 22, 2009,*
24 *and signed by the United States November 22, 2009.*

25 (2) *The term “IUU fishing” means any activity*
26 *set out in paragraph 3 of the 2001 FAO International*

1 *Plan of Action to Prevent, Deter and Eliminate Ille-*
2 *gal, Unreported and Unregulated Fishing.*

3 (3) *The term “listed IUU vessel” means a vessel*
4 *that is included in a list of vessels having engaged in*
5 *IUU fishing or fishing-related activities in support of*
6 *IUU fishing that has been adopted by a regional fish-*
7 *eries management organization of which the United*
8 *States is a member, or a list adopted by a regional*
9 *fisheries management organization of which the*
10 *United States is not a member if the Secretary deter-*
11 *mines the criteria used by that organization to create*
12 *the IUU list is comparable to United States criteria*
13 *for identifying IUU vessels and activities.*

14 (4) *The term “Magnuson-Stevens Act” means the*
15 *Magnuson-Stevens Fishery Conservation and Manage-*
16 *ment Act (16 U.S.C. 1801 et seq.).*

17 (5) *The term “person” has the same meaning as*
18 *that term has in section 3 of the Magnuson-Stevens*
19 *Act (16 U.S.C. 1802).*

20 (6) *The term “RFMO” means a regional fish-*
21 *eries management organization.*

22 (7) *The term “Secretary” means the Secretary of*
23 *Commerce or his or her designee.*

24 (8) *The term “vessel” means any vessel, ship of*
25 *another type, or boat used for, equipped to be used*

1 *for, or intended to be used for, fishing or fishing-re-*
2 *lated activities, including container vessels that are*
3 *carrying fish that have not been previously landed.*

4 (9) *The term “fish” means finfish, mollusks,*
5 *crustaceans, and all other forms of marine animal*
6 *and plant life other than marine mammals and birds.*

7 (10) *The term “fishing”—*

8 (A) *except as provided in subparagraph*

9 (B), *means—*

10 (i) *the catching, taking, or harvesting*
11 *of fish;*

12 (ii) *the attempted catching, taking, or*
13 *harvesting of fish;*

14 (iii) *any other activity which can rea-*
15 *sonably be expected to result in the catch-*
16 *ing, taking, or harvesting of fish; or*

17 (iv) *any operations at sea in support*
18 *of, or in preparation for, any activity de-*
19 *scribed in clauses (i) through (iii).*

20 (B) *does not include any scientific research*
21 *activity that is conducted by a scientific research*
22 *vessel.*

23 **SEC. 304. DUTIES AND AUTHORITIES OF THE SECRETARY.**

24 (a) *REGULATIONS.—The Secretary may, as needed,*
25 *promulgate such regulations, in accordance with section*

1 553 of title 5, United States Code, and consistent with the
2 provisions of this title, as may be necessary to carry out
3 the purposes of this title to the extent that such regulations
4 are not already promulgated.

5 (b) *CONSULTATION; UTILIZATION OF EXISTING RE-*
6 *PORTING MECHANISMS.*—In promulgating regulations, pro-
7 cedures, and guidance pursuant to subsection (a), the Sec-
8 retary shall consult with the Secretary of State and the Sec-
9 retary of the department in which the Coast Guard is oper-
10 ating. To the maximum extent possible and subject to the
11 data confidentiality provisions in section 402 of the Magnu-
12 son-Stevens Fishery Conservation and Management Act (16
13 U.S.C. 1881a), such procedures shall utilize existing report-
14 ing mechanisms maintained and operated by the depart-
15 ment in which the Coast Guard is operating.

16 (c) *PORTS OF ENTRY.*—The Secretary, in consultation
17 with the Secretary of Homeland Security and, when the
18 Coast Guard is not operating in the Department of Home-
19 land Security, the Secretary of the department in which
20 the Coast Guard is operating, may designate and publicize
21 the ports to which vessels may seek entry. No port may be
22 designated under this section that has not also been des-
23 igned as a port of entry for customs reporting purposes
24 pursuant to section 1433 of title 19, United States Code,

1 *or that is not specified under an existing international fish-*
2 *eries agreement.*

3 (d) *NOTIFICATION.*—*The Secretary shall provide noti-*
4 *fication of the denial of port entry or the use of port services*
5 *for a vessel under section 305, the withdrawal of the denial*
6 *of port services for a vessel, the taking of enforcement action*
7 *pursuant to section 306 with respect to a vessel, or the re-*
8 *sults of any inspection of a vessel conducted pursuant to*
9 *this title to the flag nation of the vessel and, as appropriate,*
10 *to the nation of which the vessel’s master is a national, rel-*
11 *evant coastal nations, RFMOs, the Food and Agriculture*
12 *Organization of the United Nations, and other relevant*
13 *international organizations.*

14 (e) *CONFIRMATION THAT FISH WERE TAKEN IN AC-*
15 *CORDANCE WITH CONSERVATION AND MANAGEMENT MEAS-*
16 *URES.*—*The Secretary may request confirmation from the*
17 *flag state of a vessel that the fish on board a vessel in a*
18 *port subject to the jurisdiction of the United States were*
19 *taken in accordance with applicable RFMO conservation*
20 *and management measures.*

21 **SEC. 305. AUTHORIZATION OR DENIAL OF PORT ENTRY.**

22 (a) *SUBMISSION OF INFORMATION REQUIRED UNDER*
23 *AGREEMENT.*—*All foreign vessels seeking entry to a port*
24 *subject to the jurisdiction of the United States must submit*
25 *to the Secretary of the department in which the Coast*

1 *Guard is operating information as required under the*
2 *Agreement in advance of its arrival in port.*

3 (b) *DECISION TO AUTHORIZE OR DENY PORT*
4 *ENTRY.—The Secretary shall decide, based on the informa-*
5 *tion submitted under subsection (a), whether to authorize*
6 *or deny port entry and shall communicate this decision to*
7 *the foreign vessel or to its representative. The Secretary may*
8 *deny entry to—*

9 (1) *any foreign-listed IUU vessel; or*

10 (2) *any foreign vessel the Secretary has reason-*
11 *able grounds to believe has engaged in IUU fishing or*
12 *fishing-related activities in support of such fishing or*
13 *has violated the Act.*

14 (c) *DENIAL OF USE OF PORT.—If a foreign vessel is*
15 *in a port subject to the jurisdiction of the United States,*
16 *the Secretary shall deny such vessel the use of the port for*
17 *landing, transshipment, packaging and processing of fish,*
18 *refueling, resupplying, maintenance and drydocking, if—*

19 (1) *the vessel entered without authorization*
20 *under subsection (b);*

21 (2) *the vessel is a listed IUU vessel;*

22 (3) *the flag nation of the vessel has failed to pro-*
23 *vide confirmation requested by the Secretary that the*
24 *fish on board were taken in accordance with applica-*

1 *ble RFMO conservation and management measures;*
2 *or*

3 *(4) the Secretary has reasonable grounds to be-*
4 *lieve—*

5 *(A) the vessel lacks valid authorizations to*
6 *engage in fishing or fishing-related activities as*
7 *required by its flag nation or the relevant coastal*
8 *nation;*

9 *(B) the fish on board were taken in viola-*
10 *tion of foreign law or in contravention of any*
11 *RFMO conservation and management measure;*
12 *or*

13 *(C) the vessel has engaged in IUU fishing or*
14 *fishing-related activities in support of such fish-*
15 *ing, including in support of a listed IUU vessel,*
16 *unless it can establish that—*

17 *(i) it was acting in a manner con-*
18 *sistent with applicable RFMO conservation*
19 *and management measures; or*

20 *(ii) in the case of the provision of per-*
21 *sonnel, fuel, gear, and other supplies at sea,*
22 *the vessel provisioned was not, at the time*
23 *of provisioning, a listed IUU vessel.*

1 (d) *EXCEPTIONS.*—*Notwithstanding subsections (b)*
2 *and (c), the Secretary may allow port entry or the use of*
3 *port services—*

4 (1) *if they are essential to the safety or health of*
5 *the crew or safety of the vessel;*

6 (2) *to allow, where appropriate, for the scrap-*
7 *ping of the vessel; or*

8 (3) *pursuant to an inspection or other enforce-*
9 *ment action.*

10 **SEC. 306. INSPECTIONS.**

11 *The Secretary, and the Secretary of the department in*
12 *which the Coast Guard is operating, shall conduct foreign*
13 *vessel inspections in ports subject to the jurisdiction of the*
14 *United States as necessary to achieve the purposes of the*
15 *Agreement and this title. If, following an inspection, the*
16 *Secretary has reasonable grounds to believe that a foreign*
17 *vessel has engaged in IUU fishing or fishing-related activi-*
18 *ties in support of such fishing, the Secretary may take en-*
19 *forcement action under this title or other applicable law,*
20 *and shall deny the vessel the use of port services, in accord-*
21 *ance with section 305.*

22 **SEC. 307. PROHIBITED ACTS.**

23 *It is unlawful for any person subject to the jurisdiction*
24 *of the United States—*

1 (1) *to violate any provision of this title or the*
2 *regulations issued under this title;*

3 (2) *to refuse to permit any authorized officer to*
4 *board, search, or inspect a vessel that is subject to the*
5 *person's control in connection with the enforcement of*
6 *this title or the regulations issued under this title;*

7 (3) *to submit false information pursuant to any*
8 *requirement under this title or the regulations issued*
9 *under this title; or*

10 (4) *to commit any offense enumerated in para-*
11 *graph (4), (5), (7) or (9) of section 707(a) of the*
12 *Western and Central Pacific Fisheries Convention*
13 *Implementation Act (16 U.S.C. 6906(a)).*

14 **SEC. 308. ENFORCEMENT.**

15 (a) *EXISTING AUTHORITIES AND RESPONSIBIL-*
16 *ITIES.—The authorities and responsibilities under sub-*
17 *sections (a), (b), and (c) of section 311 and section 308(f)*
18 *of the Magnuson-Stevens Act (16 U.S.C. 1861, 1858(f)) shall*
19 *apply with respect to enforcement of this title.*

20 (b) *CIVIL ENFORCEMENT.—*

21 (1) *CIVIL ADMINISTRATIVE PENALTIES.—*

22 (A) *IN GENERAL.—Any person who is found*
23 *by the Secretary (after notice and opportunity*
24 *for a hearing in accordance with section 554 of*
25 *title 5, United States Code) to have committed*

1 *an act prohibited under section 307 shall be lia-*
2 *ble to the United States for a civil penalty. The*
3 *amount of the civil penalty shall be consistent*
4 *with the amount under section 308(a) of the*
5 *Magnuson-Stevens Act (16 U.S.C. 1858(a)).*

6 *(B) COMPROMISE OR OTHER ACTION BY*
7 *SECRETARY.—The Secretary shall have the same*
8 *authority as provided in section 308(e) of the*
9 *Magnuson-Stevens Act (16 U.S.C. 1858(e)) with*
10 *respect to a violation of this Act.*

11 *(2) IN REM JURISDICTION.—For purposes of this*
12 *title, the conditions for in rem liability shall be con-*
13 *sistent with section 308(d) of the Magnuson-Stevens*
14 *Act (16 U.S.C. 1858(d)).*

15 *(3) ACTION UPON FAILURE TO PAY ASSESS-*
16 *MENT.—If any person fails to pay an assessment of*
17 *a civil penalty under this title after it has become a*
18 *final and unappealable order, or after the appro-*
19 *priate court has entered final judgment in favor of the*
20 *Secretary, the Secretary shall refer the matter to the*
21 *Attorney General, who shall recover the amount as-*
22 *essed in any appropriate district court of the United*
23 *States. In such action, the validity and appropriate-*
24 *ness of the final order imposing the civil penalty shall*
25 *not be subject to review.*

1 (c) *FORFEITURE.*—

2 (1) *IN GENERAL.*—*The forfeiture provisions of*
3 *section 310 of the Magnuson-Stevens Act (16 U.S.C.*
4 *1860) shall apply in cases in which a person is con-*
5 *victed of an offense in violation of section 309.*

6 (2) *APPLICATION OF THE CUSTOMS LAWS.*—*All*
7 *provisions of law relating to seizure, summary judg-*
8 *ment, and judicial forfeiture and condemnation for*
9 *violation of the customs laws, the disposition of the*
10 *property forfeited or condemned or the proceeds from*
11 *the sale thereof, the remission or mitigation of such*
12 *forfeitures, and the compromise of claims shall apply*
13 *to seizures and forfeitures incurred, or alleged to have*
14 *been incurred, under the provisions of this title, inso-*
15 *far as applicable and not inconsistent with the provi-*
16 *sions hereof. For seizures and forfeitures of property*
17 *under this section by the Secretary, such duties as are*
18 *imposed upon the customs officer or any other person*
19 *with respect to the seizure and forfeiture of property*
20 *under the customs law may be performed by such offi-*
21 *cers as are designated by the Secretary or, upon re-*
22 *quest of the Secretary, by any other agency that has*
23 *authority to manage and dispose of seized property.*

24 (3) *PRESUMPTION.*—*For the purposes of this sec-*
25 *tion there is a rebuttable presumption that all fish, or*

1 *components thereof, found on board a vessel that is*
2 *used or seized in connection with a violation of this*
3 *title (including any regulation promulgated under*
4 *this Act) were taken, obtained, or retained as a result*
5 *of IUU fishing or fishing-related activities in support*
6 *of IUU fishing.*

7 *(d) CRIMINAL ENFORCEMENT.—Any person (other*
8 *than a foreign government agency, or entity wholly owned*
9 *by a foreign government) who knowingly commits an act*
10 *prohibited by section 309 shall be subject to subsections (b)*
11 *and (c) of section 309 of the Magnuson-Stevens Act (16*
12 *U.S.C. 1859).*

13 *(e) PAYMENT OF STORAGE, CARE, AND OTHER*
14 *COSTS.—Any person assessed a civil penalty for, or con-*
15 *victed of, any violation of this title (including any regula-*
16 *tion promulgated under this title) and any claimant in a*
17 *forfeiture action brought for such a violation, shall be liable*
18 *for the reasonable costs incurred by the Secretary in storage,*
19 *care, and maintenance of any property seized in connection*
20 *with the violation.*

21 **SEC. 309. INTERNATIONAL COOPERATION AND ASSIST-**
22 **ANCE.**

23 *(a) ASSISTANCE TO DEVELOPING NATIONS AND INTER-*
24 *NATIONAL ORGANIZATIONS.—Consistent with existing au-*
25 *thority and the availability of funds, the Secretary shall*

1 *provide appropriate assistance to developing nations and*
2 *international organizations of which such nations are mem-*
3 *bers to assist those nations in meeting their obligations*
4 *under the Agreement.*

5 **(b) PERSONNEL, SERVICES, EQUIPMENT, AND FACILI-**
6 *TIES.—In carrying out subsection (a), the Secretary may,*
7 *by agreement, on a reimbursable or nonreimbursable basis,*
8 *utilize the personnel, services, equipment, and facilities of*
9 *any Federal, State, local, or foreign government or any en-*
10 *tity of any such government.*

11 **SEC. 310. RELATIONSHIP TO OTHER LAWS.**

12 **(a) IN GENERAL.—***Nothing in this title shall be con-*
13 *strued to displace any requirements imposed by the customs*
14 *laws of the United States or any other laws or regulations*
15 *enforced or administered by the Secretary of Homeland Se-*
16 *curity. Where more stringent requirements regarding port*
17 *entry or access to port services exist under other Federal*
18 *law, those more stringent requirements shall apply. Nothing*
19 *in this title shall affect a vessel's entry into port, in accord-*
20 *ance with international law, for reasons of force majeure*
21 *or distress.*

22 **(b) UNITED STATES OBLIGATIONS UNDER INTER-**
23 *NATIONAL LAW.—This title shall be interpreted and applied*
24 *in accordance with United States obligations under inter-*
25 *national law.*

Union Calendar No. 516

113TH CONGRESS
2^D SESSION

H. R. 69

[Report No. 113-685]

A BILL

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing; to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes.

DECEMBER 22, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed