

ILLEGAL FISHING AND FORCED LABOR PREVENTION ACT

DECEMBER 30, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3075]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3075) to address seafood slavery and combat illegal, unreported, or unregulated fishing, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Illegal Fishing and Forced Labor Prevention Act”.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) **OPPRESSIVE CHILD LABOR.**—The term “oppressive child labor” has the meaning given such term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(2) **FORCED LABOR.**—The term “forced labor” means any labor or service provided for or obtained by any means described in section 1589(a) of title 18, United States Code.

(3) **HUMAN TRAFFICKING.**—The term “human trafficking” has the meaning given the term “severe forms of trafficking in persons” in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(4) **ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.**—The term “illegal, unreported, or unregulated fishing” has the meaning given such term in section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)), as amended by this Act.

(5) **SEAFOOD.**—The term “seafood” means fish meal, and all marine animal and plant life meant for consumption as food other than marine mammals and birds, including fish, shellfish, shellfish products, and processed fish.

(6) **SEAFOOD FRAUD.**—The term “seafood fraud” means the mislabeling or misrepresentation of the information required under this Act or other any other Federal law or international agreement (other than this Act) pertaining to the import, export, transport, sale, harvest, processing, or trade of seafood, including—

- (A) the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);
- (B) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.);
- (C) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);
- (D) the FDA Food Safety Modernization Act (Public Law 111–353);
- (E) the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.);
- (F) subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.);
- (G) parts 60 and 65 of title 7, Code of Federal Regulations (or any successor regulations);
- (H) part 123 of title 21, Code of Federal Regulations (or any successor regulations); and
- (I) section 216.24 of title 50, Code of Federal Regulations.

(7) **SEAFOOD IMPORT MONITORING PROGRAM.**—The term “Seafood Import Monitoring Program” means the Seafood Traceability Program established under section 300.324 of title 50, Code of Federal Regulations.

(8) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

TITLE I—COMBATING HUMAN TRAFFICKING THROUGH SEAFOOD IMPORT MONITORING

SEC. 101. DEFINITIONS.

In this title, the following additional definitions apply:

(1) **COMPETENT AUTHORITY.**—The term “competent authority” means government and any third party that meets certain governing criteria. Such criteria shall be established by regulation, after outreach to key environmental and labor stakeholders.

(2) **UNIQUE VESSEL IDENTIFIER.**—The term “unique vessel identifier” means a unique number that stays with a vessel for the duration of the vessel’s life, regardless of changes in flag, ownership, name, or other changes to the vessel.

SEC. 102. EXPANSION OF SEAFOOD IMPORT MONITORING PROGRAM TO ALL SPECIES.

The Secretary shall, not later than 2 years after the date of enactment of this Act, expand the Seafood Import Monitoring Program to apply to all seafood and seafood products imported into the United States.

SEC. 103. ENHANCEMENT OF SEAFOOD IMPORT MONITORING PROGRAM AUTOMATED COMMERCIAL ENVIRONMENT MESSAGE SET.

The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, in coordination with the Commissioner of U.S. Customs and Border Protection, shall, not later than 6 months after the date of enactment of this Act, develop a strategy to improve the quality and verifiability of already collected Seafood Import Monitoring Program Message Set data elements in the Automated Commercial Environment system that prioritizes the use of enumerated data types, such as checkboxes, dropdown menus, or radio buttons, and any additional elements the Agency finds necessary, among other options, rather than open text fields, for—

- (1) authorization to fish;
- (2) unique vessel identifier (if available);
- (3) catch document identifier;
- (4) location of wild-capture harvest and landing or aquaculture location;
- (5) type of fishing gear used to harvest the fish;
- (6) name of farm or aquaculture facility, if applicable; and
- (7) location of aquaculture facility, if applicable.

SEC. 104. ADDITIONAL DATA REQUIREMENTS FOR SEAFOOD IMPORT MONITORING PROGRAM DATA COLLECTION.

(a) **IN GENERAL.**—Not later than one year after date of enactment of this Act, the Secretary shall revise section 300.324 of title 50, Code of Federal Regulations, to—

- (1) require at the time of entry for imported seafood and seafood products—
 - (A) location of catch or cultivation, including—

- (i) geographic location at a resolution of not less than 1 degree latitude by 1 degree longitude;
 - (ii) the country code of the International Organization for Standardization if the catch was within the exclusive economic zone or territorial waters of a country;
 - (iii) if appropriate, the regional fisheries management organization or organizations having jurisdiction over the catch, if it occurs within the jurisdiction of any regional fisheries management organization; and
 - (iv) the Food and Agriculture Organization major fishing area codes;
- (B) electronic reports of chain-of-custody records that identify, including with unique vessel identifiers when applicable, each custodian of the seafood, including transshippers, processors, storage facilities, and distributors and the physical address of such facilities;
- (C) maritime mobile service identity number of harvesting and transshipment vessels; and
- (D) beneficial owner of each harvesting and transshipment vessel or aquaculture facility, when applicable;
- (2) require all importers submitting seafood import data to require prior notification and submission of seafood import data at least 72 hours and no more than 15 days prior to entry; and
- (3) require verification and certification of harvest information by competent authorities at all major transfer points in the supply chain, including harvest, landing, processing, and transshipment at the time of entry.
- (b) **FORCED LABOR.**—The Secretary, working in direct consultation with the Secretary of Homeland Security, Department of Labor, and Department of State, shall, not later than one year after the date of enactment of this Act, complete a regulatory process to establish additional key data elements for the Seafood Import Monitoring Program, that collect information about labor conditions in the harvest, transshipment, and processing of imported fish and fish products.
- (c) **INTERNATIONAL FISHERIES TRADE PERMIT.**—Not later than one year after the date of enactment of this Act, the Secretary shall—
- (1) publish and maintain on the website of the National Marine Fisheries Service a list of all current International Fisheries Trade Permit holders, including the name of the permit holder and expiration date of the permit;
 - (2) begin to revoke, modify, or deny issuance of an International Fisheries Trade with respect to a permit holder or applicant that has violated any requirement of section 300.322, 300.323, 300.324, or 300.325 of title 50, Code of Federal Regulations; and
 - (3) require an International Fisheries Trade Permit for importers.

SEC. 105. EFFORTS TO IMPROVE DETECTION OF AT-RISK SEAFOOD IMPORTS.

The Secretary of Commerce, in consultation with the Secretary of Homeland Security, Secretary of Labor, and the Secretary of State, shall, not later than one year after the date of enactment of this Act, finalize a detailed strategic plan to develop, mature, and adopt artificial intelligence and machine learning technologies to detect imports of fish and fish products at risk of being associated with illegal, unreported, or unregulated fishing, human trafficking, forced labor, and seafood fraud, and provide a detailed report of such strategic plan to the Committee on Natural Resources of the House of Representatives, and Committee on Commerce of the Senate.

SEC. 106. IMPORT AUDITS.

(a) **AUDIT PROCEDURES.**—The Secretary shall, not later than 1 year after the date of enactment of this Act, implement procedures to audit information and supporting records of sufficient numbers of imports of seafood and seafood products subject to the Seafood Import Monitoring Program to support statistically robust conclusions that the samples audited are representative of all seafood imports with respect to a given year.

(b) **ANNUAL REVISION.**—In developing the procedures required in subsection (a), the Secretary shall, not less frequently than once each year, revise such procedures to prioritize for audit those imports originating from countries—

- (1) identified pursuant to sections 609(b) or 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(b) or 1826k(a)) that have not yet received a subsequent positive certification pursuant to sections 609(d) or 610(c) of such Act, respectively;
- (2) identified by an appropriate regional fishery management organization as being the flag state or landing location of vessels identified by other countries or regional fisheries management organizations as engaging in illegal, unreported, or unregulated fishing;
- (3) identified as having human trafficking, including forced labor, in any part of the seafood supply chain, including on vessels flagged in such country and

including feed for cultured production, in the most recent Trafficking in Persons Report issued by the Department of State in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.);

(4) identified as producing goods that contain seafood using forced labor or oppressive child labor in the most recent List of Goods Produced by Child Labor or Forced Labor in accordance with the Trafficking Victims Protection Act (22 U.S.C. 7101 et seq.); and

(5) identified as at risk for human trafficking, including forced labor, in their seafood catching and processing industries by the report required in section 3563 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92).

SEC. 107. INTERAGENCY COORDINATION.

The Secretary shall coordinate with the relevant agencies to ensure that data elements described in this title can be submitted through the International Trade Data System Automated Commercial Environment to U.S. Customs and Border Protection.

SEC. 108. AVAILABILITY OF FISHERIES INFORMATION.

(a) **IN GENERAL.**—Section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b)(1)) is amended by striking “or” after the semicolon at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “; or”, and by adding at the end the following:

“(I) to Federal agencies responsible for screening of imported seafood and for the purpose of carrying out the duties under or with respect to—

“(i) the Seafood Import Monitoring Program;

“(ii) the Antarctic Marine Living Resources Program;

“(iii) the Tuna Tracking and Verification Program;

“(iv) the Atlantic Highly Migratory Species International Trade Program;

“(v) the List of Goods Produced by Child Labor or Forced Labor in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.);

“(vi) the Trafficking in Persons Report required by section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107);

“(vii) enforcement activities and regulations authorized under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

“(viii) the taking and related acts in commercial fishing operations under section 216.24 of title 50, Code of Federal Regulations;

“(J) to Federal, State and local agencies for the purposes of verification and enforcement of title II of this Act; or

“(K) information that pertains to catch documentation and legality of catch, if disclosure of that information would not materially damage the value of catch or business.”

(b) **IMPLEMENTATION DEADLINE.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the amendments in this section.

SEC. 109. REPORT ON SEAFOOD IMPORT MONITORING.

(a) **REPORT TO CONGRESS AND PUBLIC AVAILABILITY OF REPORTS.**—The Secretary shall, not later than 120 days after the end of each fiscal year and annually thereafter, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that summarizes the National Marine Fisheries Service’s efforts to prevent the importation of seafood harvested through illegal, unreported, or unregulated fishing, particularly with respect to seafood harvested, produced, processed, or manufactured by forced labor. Each such report shall be made publicly available on the Internet website of the National Oceanic and Atmospheric Administration.

(b) **CONTENTS.**—Each report submitted under subsection (a) shall include—

(1) the volume and value of seafood species subject to the Seafood Import Monitoring Program, described in section 300.324 of title 50, Code of Federal Regulations, reported by 10-digit Harmonized Tariff Schedule of the United States codes, imported during the previous fiscal year;

(2) the enforcement activities and priorities of the National Marine Fisheries Service with respect to implementing the requirements under the Seafood Import Monitoring Program;

(3) the percentage of import shipments subject to this program selected for inspection or the information or records supporting entry selected for audit, as described in section 300.324(d) of title 50, Code of Federal Regulations;

- (4) the number and types of instances of noncompliance with the requirements of the Seafood Import Monitoring Program;
- (5) the number and types of instances of violations of State or Federal law discovered through the Seafood Import Monitoring Program;
- (6) the seafood species with respect to which violations described in paragraphs (4) and (5) were most prevalent;
- (7) the location of catch or harvest with respect to which violations described in paragraphs (4) and (5) were most prevalent; and
- (8) such other information as the Secretary considers appropriate with respect to monitoring and enforcing compliance with the Seafood Import Monitoring Program.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Commissioner of U.S. Customs and Border Protection to carry out enforcement actions pursuant to section 307 of the Tariff Act \$20,000,000 for each of fiscal years 2021 through 2025 for enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

TITLE II—SEAFOOD TRACEABILITY AND LABELING

SEC. 201. FEDERAL ACTIVITIES ON SEAFOOD SAFETY AND FRAUD.

(a) **NATIONAL SEA GRANT COLLEGE PROGRAM.**—The Administrator of the National Oceanic and Atmospheric Administration shall ensure that seafood inspection activities are coordinated with the National Sea Grant College Program established by the National Sea Grant College and Program Act of 1966 (33 U.S.C. 1121 et seq.) which may provide outreach to the States, local health agencies, consumers, and the seafood industry on seafood safety and seafood fraud, as needed.

(b) **INSPECTING TO PREVENT SEAFOOD FRAUD.**—The Secretary of Commerce and the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, shall, to the maximum extent practicable, ensure that inspections and tests for seafood safety also collect information for seafood fraud prevention.

SEC. 202. SEAFOOD LABELING AND IDENTIFICATION.

(a) **IN GENERAL.**—The Secretary, in coordination with other relevant agencies shall, not later than three years after the date of enactment of this Act, implement the following requirements with respect to fish and fish products imported into the United States or otherwise distributed or offered for sale in interstate commerce:

(1) **TRACEABILITY.**—A requirement that the following information shall accompany seafood through processing and distribution:

(A) The United Nations Food and Agriculture Organization Major Fishing Area, or a more specific location, in which the seafood was caught or cultivated.

(B) The acceptable market name (as determined by the Food and Drug Administration), scientific name, and specific Aquatic Sciences and Fisheries Information System number of the Fisheries and Aquaculture Statistics Information Service of the United Nations Food and Agriculture Organization for the seafood species.

(C) Whether the seafood was harvested wild or was farm-raised.

(D) The method of harvest of the seafood, including gear type as listed in section 600.725 of title 50, Code of Federal Regulations, or successor regulation, and defined in section 600.10 of such title, or successor regulation.

(E) The date of the catch or harvest.

(F) The weight or number, as appropriate, of product for an individual fish or lot.

(G) Date and name of entity (processor, dealer, vessel) to which the seafood was landed.

(H) Name and flag state of vessel and evidence of authorization, and if applicable, a unique vessel identifier.

(I) Name and location of the facility from which farm-raised seafood were harvested, the method of cultivation, source and type of feed, and evidence of authorization.

(J) The National Oceanic and Atmospheric Administration Fisheries International Fisheries Trade Permit number issued to the importer of record for the entry, if applicable.

(2) **LABELING.**—The following information shall be included in the labeling of seafood through processing, distribution, and final sale:

(A) The information required in subparagraphs (A), (B), (C), and (D) of paragraph (1).

(B) Whether the seafood has been previously frozen or treated with any substance other than ice or water.

(C) Whether the seafood was farm-raised along with information regarding the country of cultivation, the location of the aquaculture production area, and the method of cultivation.

(b) PRODUCTION CODES.—The Secretary shall allow compliance with subsection (a) through the use of production codes, quick response codes, or other types of commonly used processing codes and electronic bar coding methods.

(c) SAFE HARBOR.—No importer, processor, distributor, or retailer may be found to be in violation of the requirements of this section for unknowingly selling a product that was already mislabeled upon receipt, provided that the importer, processor, distributor, or retailer can provide the required product traceability documentation.

SEC. 203. FEDERAL ENFORCEMENT.

(a) ENFORCEMENT BY SECRETARY.—The Secretary of Commerce shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) was incorporated into and made a part of and applicable to this Act.

(b) LIST OF OFFENDERS.—The Secretary of Commerce, in consultation with the Secretary of Health and Human Services, shall develop, maintain, and post on the public website of the Department of Commerce a list that—

(1) includes, by country, each exporter whose seafood is imported or offered for import into the United States; and

(2) for each such exporter, tracks the timing, type, and frequency of violations of Federal law relating to seafood fraud and illegal, unreported, or unregulated fishing.

(c) INSPECTIONS.—The Secretary of Commerce, in consultation with the Secretary of Health and Human Services, shall—

(1) increase, as resources allow, the number of foreign and domestic seafood shipments that are audited or inspected for seafood fraud and illegal, unreported, or unregulated fishing by National Oceanic and Atmospheric Administration auditors and authorized officers, including verification of compliance with the traceability requirements of section 104(a);

(2) conduct audits and inspections, as resources allow, at a sufficient level to promote compliance and deterrence; and

(3) to the maximum extent practicable, ensure that inspections and tests for seafood fraud prevention also collect information to support the Secretary of Health and Human Services in implementing the seafood safety requirements of the FDA Food Safety Modernization Act (Public Law 111–353).

(d) INTERAGENCY AGREEMENT.—

(1) MEMORANDUM OF UNDERSTANDING REQUIRED.—Not later than one year after the date of enactment of this Act, the Secretary of Commerce, the Secretary of Homeland Security, the Secretary of Labor, and the Secretary of Health and Human Services shall jointly execute a memorandum of understanding to codify and improve interagency cooperation on seafood safety, preventing illegal, unreported, or unregulated fishing and human trafficking, including forced labor, and seafood fraud prevention, enforcement, and inspections.

(2) REQUIREMENTS.—The memorandum of understanding required by paragraph (1) shall include provisions, performance metrics, and timelines as the Secretaries consider appropriate to improve such cooperation described in such paragraph (acting under provisions of law other than this subsection)—

(A) to identify and execute specific procedures for using authorities granted under the FDA Food Safety Modernization Act (Public Law 111–353) to ensure and improve the safety of commercially marketed seafood in the United States;

(B) to identify and execute specific procedures for interagency cooperation on—

- (i) interagency resource and information sharing;
- (ii) use and development of forensic tools including means to fill existing gaps in capabilities and eliminate duplication; and
- (iii) development of specific forensic analysis information required by each agency to promote effective enforcement actions;

(C) to maximize the effectiveness of limited personnel and resources by ensuring that—

(i) inspections of seafood shipments and seafood processing and production facilities by the National Oceanic and Atmospheric Administration and the Food and Drug Administration are not duplicative; and

(ii) information resulting from examinations, testing, and inspections conducted by the Department of Commerce with respect to seafood is considered in making risk-based determinations, including the establishment of inspection priorities for domestic and foreign facilities and the examination and testing of domestic and imported seafood;

(D) to create a process—

(i) by which data collected by all seafood inspectors and officers of the National Oceanic and Atmospheric Administration and U.S. Customs and Border Protection authorized to conduct inspections of seafood shipments or facilities that process or sell seafood, or authorized officers that conduct analysis of seafood import information, will be used for risk-based screening of seafood shipments, including food safety, adulteration and misbranding, by the Food and Drug Administration beginning not later than one year after the date of enactment of this Act; and

(ii) by which data collected by the National Oceanic and Atmospheric Administration, U.S. Customs and Border Protection, the Department of Labor, the Department of State, and the Food and Drug Administration is shared to maximize efficiency and enforcement of seafood safety, fraud prevention, and prohibitions on illegal, unreported, or unregulated fishing;

(E) to create a process by which—

(i) data collected by inspectors and officers of other Federal, State, or local agencies authorized to conduct inspections of seafood, or inspections of facilities that process or sell seafood, or data from import analysts, will be used by the Food and Drug Administration for risk-based screening of seafood shipments; and

(ii) data collected by such inspectors and officials is shared with the National Oceanic and Atmospheric Administration, U.S. Customs and Border Protection, Department of Labor, and the Food and Drug Administration to maximize efficiency and enforcement of seafood safety and fraud prevention; and

(F) to ensure that officers and employees of the National Oceanic and Atmospheric Administration are utilized by the Secretary of Health and Human Services as third-party auditors pursuant to section 808 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384d) to carry out seafood examinations and investigations under chapter VIII of such Act.

SEC. 204. STATE ENFORCEMENT.

(a) IN GENERAL.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of seafood fraud in violation of section 203, the State may bring a civil action on behalf of its residents to enjoin fraud, an action to recover for actual monetary loss or receive \$10,000 in damages for each violation, or both such actions.

(b) WILLFUL OR KNOWING VIOLATIONS.—If the court finds the defendant willfully or knowingly violated this Act, the court may increase the amount of the award to an amount equal to not more than 3 times the amount available under subsection (a).

SEC. 205. EFFECT ON STATE LAW.

Nothing in this title shall preempt the authority of a State to establish and enforce anti-trafficking laws or requirements for improving seafood safety and preventing seafood fraud that are consistent with the requirements of this Act.

TITLE III—STRENGTHENING INTERNATIONAL FISHERIES MANAGEMENT TO COMBAT HUMAN TRAFFICKING

SEC. 301. DENIAL OF PORT PRIVILEGES.

Section 101(a)(2) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(a)(2)) is amended to read as follows:

“(2) DENIAL OF PORT PRIVILEGES.—The Secretary of Homeland Security shall, in accordance with international law—

“(A) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for any large-scale driftnet fishing vessels of a nation that receives a negative certification under sections 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) or 1826k(c)), or fishing vessels of a nation that has been listed pursuant to sections 609(b) or 610(a) of such Act (16 U.S.C. 1826j(b) or 1826k(a)) in two or more consecutive reports as described under section 607 of such Act (16 U.S.C. 1826h), until a positive certification has been received;

“(B) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for fishing vessels of a nation that has been listed pursuant to sections 609(b) or 610(a) of such Act (16 U.S.C. 1826j(b) or 1826k(a)) in two or more consecutive reports as described under section 607 of such Act (16 U.S.C. 1826h); and

“(C) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action.”

SEC. 302. IDENTIFICATION AND CERTIFICATION CRITERIA.

(a) DENIAL OF PORT PRIVILEGES.—Strike subsections (a) and (b) of section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(a) and (b)), and insert the following:

“(a) COOPERATION WITH GOVERNMENTS.—

“(1) INFORMATION COLLECTION.—The Secretary, in consultation with the Secretary of State, shall engage with each flag, coastal, port, and market nation that exports seafood to the United States to collect information sufficient to evaluate the effectiveness of such nation’s management of fisheries and control systems to prevent illegal, unreported, or unregulated fishing.

“(2) RECOMMENDATIONS.—The Secretary, in consultation with the Secretary of State, shall provide recommendations to such nations to resolve compliance gaps and improve fisheries management and control systems in order to assist such nations in preventing illegal, unreported, or unregulated fishing.

“(b) IDENTIFICATION AND WARNING.—

“(1) FOR ACTIONS OF A FISHING VESSEL.—The Secretary shall identify and list in the report required by section 607 a nation if a fishing vessel of such nation is engaged or has, in the preceding 3 years, engaged in illegal, unreported, or unregulated fishing. The Secretary shall include all nations that qualify for identification, regardless of whether the Secretary has engaged in the process described in this subsection or under subsection (a). Any of the following relevant information is sufficient to form the basis of an identification:

“(A) compliance reports;

“(B) data or information from international fishery management organizations, a foreign government, or an organization or stakeholder group;

“(C) information submitted by the public;

“(D) information submitted to the Secretary under section 402(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(a));

“(E) import data collected by the Secretary pursuant to part 300.324 of title 50, Code of Federal Regulations; and

“(F) information compiled from a Federal agency, including, the Coast Guard and agencies within the Interagency Working Group on Illegal, Unreported, and Unregulated Fishing.

“(2) FOR ACTIONS OF A NATION.—The Secretary shall identify, and list in such report, a nation engaging in or endorsing illegal, unreported, or unregulated fishing, including the following:

“(A) Any nation that is failing, or has failed in the preceding 3-year period, to cooperate with the United States government in providing information about their fisheries management and control systems described in subsection (a) of this section.

“(B) Any nation that is violating, or has violated at any point during the preceding 3 years, conservation and management measures, including catch and other data reporting obligations and requirements, required under an international fishery management agreement.

“(C) Any nation that is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing within its fleets in any areas where its vessels are fishing.

“(D) Any nation that fails to discharge duties incumbent upon it under international law or practice as a flag, port, or coastal state to take action to prevent, deter, and eliminate illegal, unreported, or unregulated fishing.

“(E) Any nation that provides subsidies that—

“(i) contribute to illegal, unreported, or unregulated fishing or increased capacity and overfishing at proportionally higher rates than subsidies that promote fishery resource conservation and management;

or

“(ii) that otherwise undermine the effectiveness of any international fishery conservation program.

“(F) Any nation that has been identified as having human trafficking, including forced labor, in any part of the seafood supply chain in the most recent Trafficking in Persons Report issued by the Department of State in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

“(G) Any nation that has been identified as producing seafood-related goods through forced labor or oppressive child labor in the most recent List of Goods Produced by Child Labor or Forced Labor in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

“(H) Any nation that has been identified as at risk for human trafficking, including forced labor, in their seafood catching and processing industries in the report required in section 3563 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92).

“(3) WARNING.—The Secretary shall issue a warning to each nation identified under this subsection.

“(4) TIMING.—The Secretary shall make an identification under paragraphs (1) or (2) at any time that the Secretary has sufficient information to make such identification.”

(b) ILLEGAL, UNREPORTED, OR UNREGULATED CERTIFICATION DETERMINATION.—Section 609(d) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)) is amended to read as follows:

“(d) IUU CERTIFICATION PROCEDURE.—

“(1) CERTIFICATION DETERMINATION.—

“(A) IN GENERAL.—The Secretary shall establish a procedure for certifying whether a nation identified under subsection (b) has taken appropriate corrective action with respect to the offending activities identified under section (b) that has led to measurable improvements in the reduction of illegal, unreported, or unregulated fishing and any underlying regulatory, policy, or practice failings or gaps that may have contributed to such identification.

“(B) OPPORTUNITY FOR COMMENT.—The Secretary shall ensure that the procedure established under subparagraph (A) provides for notice and an opportunity for comment by the identified nation.

“(C) DETERMINATION.—The Secretary shall, consistent with such procedure, determine and certify to the Congress not later than 90 days after the date on which the Secretary issues a final rule containing the procedure, and biennially thereafter—

“(i) whether the government of each nation identified under subsection (b) has provided documentary evidence that such nation has taken corrective action with respect to such identification; or

“(ii) whether the relevant international fishery management organization has taken corrective action that has ended the illegal, unreported, or unregulated fishing activity by vessels of that nation.

“(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a fishery within a nation issued a negative certification under paragraph (1) if the Secretary—

“(A) determines the fishery has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party;

“(B) determines the fishery is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities; and

“(C) ensures that any such seafood or seafood products authorized for entry under this section are imported consistent with the reporting and the recordkeeping requirements of Seafood Import Monitoring Program described in part 300.324(b) of title 50, Code of Federal Regulations (or any successor regulation).

“(3) EFFECT OF CERTIFICATION DETERMINATION.—

“(A) EFFECT OF NEGATIVE CERTIFICATION.—The provisions of subsections (a) and (b)(3) and (4) of section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(a) and (b)(3) and (4)) shall apply to any nation that, after being identified and warned under subsection (b) has failed to take the appropriate corrective actions for which the Secretary has issued a negative certification under this subsection.

“(B) EFFECT OF POSITIVE CERTIFICATION.—The provisions of subsections (a) and (b)(3) and (4) of section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(a) and (b)(3) and (4)) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.”.

SEC. 303. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.

(a) DEFINITION OF ILLEGAL, UNREPORTED, OR UNREGULATED FISHING IN THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—Section 609(e) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)) is amended to read as follows:

“(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—In this title, the term ‘illegal, unreported, or unregulated fishing’ means any activity set out in paragraph 3 of the 2001 Food and Agriculture Organization International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing.”.

(b) DEFINITION OF ILLEGAL, UNREPORTED, OR UNREGULATED FISHING IN THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.—Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) is amended by adding at the end the following:

“(51) The term ‘illegal, unreported, or unregulated fishing’ means any activity set out in paragraph 3 of the 2001 Food and Agriculture Organization International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing.”.

(c) RULE OF CONSTRUCTION.—In construing the term “illegal, unreported, or unregulated fishing” for purposes of the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary shall follow internationally recognized labor rights stated in the International Labour Organization Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998), including—

- (1) freedom of association and the effective recognition of the right to collective bargaining;
- (2) the elimination of all forms of forced or compulsory labor;
- (3) the effective abolition of oppressive child labor, a prohibition on the worst forms of child labor, and other labor protections for children and minors;
- (4) the elimination of discrimination in respect of employment and occupation; and
- (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

SEC. 304. EQUIVALENT CONSERVATION MEASURES.

(a) IDENTIFICATION.—Section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)) is amended to read as follows:

“(a) IDENTIFICATION.—

“(1) IN GENERAL.—The Secretary shall identify and list in the report under section 607—

“(A) a nation if—

“(i) any fishing vessel of that country is engaged, or has been engaged during the preceding 3 years in fishing activities or practices on the high seas or within the exclusive economic zone of another country, that have resulted in bycatch of a protected living marine resource; and

“(ii) the vessel’s flag state has not adopted, implemented, and enforced a regulatory program governing such fishing designed to end or reduce such bycatch that is comparable to the regulatory program of the United States; and

“(B) a nation if—

“(i) any fishing vessel of that country is engaged, or has engaged during the preceding 3 years, in fishing activities on the high seas or within the exclusive economic zone of another country that target or incidentally catch sharks; and

“(ii) the vessel’s flag state has not adopted, implemented, and enforced a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark, including the tail, before landing the shark in port that is comparable to that of the United States.

“(2) TIMING.—The Secretary shall make an identification under paragraph (1) at any time that the Secretary has sufficient information to make such identification.”.

(b) CONSULTATION AND NEGOTIATION.—Section 610(b) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(b)) is amended to read as follows:

“(b) CONSULTATION AND NEGOTIATION.—The Secretary of State, acting in conjunction with the Secretary, shall—

“(1) notify, as soon as possible, the President, nations that have been identified under subsection (a), and other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this Act;

“(2) initiate discussions as soon as possible with all foreign countries which are engaged in, or a fishing vessel of which has engaged in, fishing activities described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species and to address any underlying failings or gaps that may have contributed to identification under this Act;

“(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization’s Committee on Fisheries, and appropriate international fishery management bodies; and

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

(c) CONSERVATION CERTIFICATION PROCEDURE.—Section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(c)) is amended—

(1) in subparagraph (A) of paragraph (1), by striking “, taking into account different conditions,”;

(2) in paragraph (2), by inserting “the public and” after “comment by”;

(3) in paragraph (4)—

(A) in subparagraph (A), by striking “, taking into account different conditions”;

(B) in subparagraph (B), by striking the period at the end and inserting “, and”; and

(C) by adding at the end the following:

“(C) ensures that any such fish or fish products authorized for entry under this section are imported consistent with the reporting and the recordkeeping requirements of the Seafood Import Monitoring Program established by part 300.324(b) of title 50, Code of Federal Regulations (or any successor regulations).”; and

(4) in paragraph (5), by striking “(except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing)”.

SEC. 305. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations implementing this title.

TITLE IV—MARITIME SAFE AMENDMENTS

SEC. 401. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING WORKING GROUP RESPONSIBILITIES.

Section 3551(c) of the Maritime SAFE Act (Public Law 116–92) is amended—

(1) in paragraph (12), by striking “and” at the end;

(2) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end:

“(14) developing a strategy for leveraging enforcement capacity against illegal, unreported, or unregulated fishing and increasing enforcement and other actions across relevant import control and assessment programs including—

“(A) the Seafood Import Monitoring Program described in part 300.324(b) of title 50, Code of Federal Regulations (or any successor regulation);

“(B) the List of Goods Produced by Child Labor or Forced Labor produced pursuant to section 105 of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112);

“(C) the List of Nations with vessels engaged in illegal, unreported, or unregulated fishing pursuant to section 607 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h);

“(D) the Trafficking in Persons Report required by section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107);

“(E) U.S. Customs and Border Protection’s Forced Labor Division and enforcement activities and regulations authorized under Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

“(F) other relevant programs of Working Group member agencies; and
 “(15) assessing areas for increased information sharing and collaboration among Federal Working Group member agencies and State-based enforcement, wildlife, and fisheries management agencies to identify, interdict, investigate, and prosecute illegal, unreported, or unregulated fishing and fraudulent seafood imports into the United States that were a product of such fishing, including through implementation of the Seafood Import Monitoring Program. The Federal Working Group shall emphasize developing, updating, and employing risk screens to analyze harvest, traceability, and verification and certification information in real time as a key pathway to trigger product audits and enforcement actions.”.

SEC. 402. STRATEGIC PLAN.

Section 3552 of the Maritime SAFE Act (Public Law 116–92) is amended by adding at the end:

“(c) STRATEGIES TO OPTIMIZE DATA COLLECTION, SHARING, AND ANALYSIS.—

“(1) IN GENERAL.—The strategic plan submitted under subsection (a) shall identify information and resources to prevent illegal, unreported, or unregulated fishing or fraudulently labeled or otherwise misrepresented seafood from entering United States commerce. The report shall include a timeline for implementation of recommendations with respect to each of the following:

“(A) Identification of relevant data streams collected by Working Group members.

“(B) Identification of legal, jurisdictional, or other barriers to the sharing of such data.

“(C) Strategies for integrating data streams through the International Trade Data System Automated Commercial Environment or other relevant digital platforms.

“(D) Recommendations for enhancing the automated risk targeting and effectiveness of risk analysis and detection of illegal, unauthorized, or unreported fishing and fraudulent seafood through the Seafood Import Monitoring Program.

“(E) Recommendations for improving the utility and effectiveness of the Commercial Targeting and Analysis Center in detecting illegal, unauthorized, or unreported fishing and fraudulent products through adoption of these strategies or other enhancements.

“(F) Recommendations for joint enforcement protocols, collaboration, and information sharing between Federal agencies and States.

“(G) Recommendations for sharing and developing forensic resources between Federal agencies and States.

“(H) Recommendations for enhancing capacity for U.S. Customs and Border Protection and National Oceanic and Atmospheric Administration to conduct field investigations and to coordinate enforcement efforts with State enforcement officials.

“(I) An implementation strategy, with milestones and deadlines and specific budgetary requirements, for implementing recommendations described in the report.

“(2) PROGRESS REPORT.—Not later than 2 years after submission of the 5-year integrated strategic plan, the Working Group shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Natural Resources of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of the House of Representatives on progress in implementing the recommendations described in this subsection.”.

SEC. 403. AUTHORITY TO HOLD FISH PRODUCTS.

Section 311(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(b)) is amended—

(1) in subparagraph (B), striking “; and” and inserting a semicolon;

(2) in subparagraph (C), striking the period and inserting “; and”; and

(3) by adding at the end the following a new subparagraph:

“(D) detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 21 days.”.

TITLE V—MARITIME AWARENESS

SEC. 501. AUTOMATIC IDENTIFICATION SYSTEM REQUIREMENTS.

(a) REQUIREMENT FOR FISHING VESSELS TO HAVE AUTOMATIC IDENTIFICATION SYSTEMS.—Section 70114(a)(1) of title 46, United States Code, is amended—

(1) by striking “, while operating on the navigable waters of the United States,”

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv);

(3) by inserting before clauses (i) through (iv), as redesignated by paragraph (2), the following:

“(A) While operating on the navigable waters of the United States.”; and

(4) by adding at the end the following:

“(B) A vessel of the United States that is more than 65 feet overall in length, while engaged in fishing, fish processing, or fish tendering operations on the navigable waters of the United States or in the United States exclusive economic zone.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Commerce for fiscal year 2022, \$5,000,000, to remain available until expended, to purchase automatic identification systems for fishing vessels, fish processing vessels, fish tender vessels more than 50 feet in length, as described under this title and the amendments made by this title.

PURPOSE OF THE BILL

The purpose of H.R. 3075 is to address seafood slavery and combat illegal, unreported, or unregulated fishing.

BACKGROUND AND NEED FOR LEGISLATION

Illegal, unreported, and unregulated fishing (IUU fishing) is a severe conservation and natural resources management problem. It is also closely linked to transnational organized crime involving financial crimes, fraud and mislabeling, human trafficking, and forced labor. IUU fishing also devastates fish populations and productive marine habitats, threatening food security and economic stability worldwide.¹ However, the Federal government has numerous tools on hand that, if coordinated, can better track seafood imports and impose more meaningful penalties on nations or individuals engaged in illegal fishing, associated forced labor and human trafficking, and related financial crimes.

Labor violations include abuses at sea and within processing facilities, such as forced labor, child labor, human trafficking, withholding of pay, physical abuse, debt bondage, etc. In some cases, vulnerable people are smuggled out of their home countries to be enslaved on fishing vessels, coerced into taking illegal narcotics as stimulants and forced to fish around the clock out of fear for their lives. These egregious violations of fundamental human rights and bedrock international labor laws undermine sustainable manage-

¹ <https://www.fisheries.noaa.gov/feature-story/noaa-issues-2021-report-global-iuu-fishing-and-bycatch-protected-marine-life-resources>.

ment of resources and create unfair market prices for law-abiding U.S. fishers.²

Up to one-third of the annual global seafood catch, as much as 56 billion pounds, is a product of IUU fishing. The United States is the largest seafood importer in the world. Despite efforts to deny illegally and unethically harvested seafood access to U.S. markets, a U.S. International Trade Commission report found nearly 11% of total U.S. seafood imports in 2019, worth \$2.4 billion, were illegal or unreported fishing products. According to the report, if the United States prevented IUU imports, U.S. fishers could increase their income by an estimated \$60.8 million.³

For the first time, the National Oceanic and Atmospheric Administration's (NOAA) 2019 IUU report included forced labor and human trafficking in the fishing sector. The report recognized that these activities are known to occur in conjunction with IUU fishing activities and warrant attention but stated that these issues were beyond the report's scope. In 2021, NOAA issued a follow-on report entitled "Improving International Fisheries Management." The report identified 31 nations and entities with vessels engaged in IUU fishing activities or bycatch of protected species on the high seas.⁴ The report also negatively certified Mexico for continued IUU fishing activities, subjecting Mexican fishing vessels to restrictions on U.S. port access and potential import restrictions on fish and fish products.⁵

The Seafood Import Monitoring Program (SIMP), instituted in 2016 to increase transparency in imported seafood supply chains and prevent the import of IUU-backed seafood, applies to 13 species and species groups.⁶ SIMP requires importers of the selected species to report detailed supply chain information, including the name of the fishing vessels, dates of the first landing, transshipment, or delivery, as well as names of entities (processor, dealer, vessel) that landed the product or the recipient of the delivered product.⁷

H.R. 3075 expands SIMP to cover all imported seafood species. It adds new import data requirements, including a more accurate location of catch, the chain of custody records, the vessel beneficial owner, and verification that forced labor was not used at any point in the product's supply chain. H.R. 3075 directs NOAA to improve the quality and verifiability of specific data elements and that import data be submitted at least 72 hours before entry into the U.S. The expansion of SIMP increases necessary interagency coordination and data sharing.

H.R. 3075 provides access to fisheries data by federal agencies responsible for screening imported seafood, verifying and enforcing traceability, and verifying catch documentation and legality. The bill still preserves the confidentiality of personally identifiable in-

² <https://www.fisheries.noaa.gov/feature-story/noaa-issues-2021-report-global-iuu-fishing-and-bycatch-protected-marine-life-resources>.

³ [https://usitc.gov/press_room/news_release/2021/er031811740.htm#:~:text=The%20USITC%20findings%20include%3A,\(%E2%80%9Cmarine%20capture%E2%80%9D\)](https://usitc.gov/press_room/news_release/2021/er031811740.htm#:~:text=The%20USITC%20findings%20include%3A,(%E2%80%9Cmarine%20capture%E2%80%9D)).

⁴ <https://www.fisheries.noaa.gov/feature-story/noaa-issues-2021-report-global-iuu-fishing-and-by-catch-protected-marine-life-resources>.

⁵ *Ibid.*

⁶ Complete text of the final rule is available at: <https://www.federalregister.gov/documents/2016/12/09/2016-29324/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program>. Shrimp and abalone were subject to the requirements of SIMP effective May 24, 2018 (83 FR 17762).

⁷ 50 C.F.R. § 300.324(b).

formation. However, information relating to quantities of fish harvested, type of gear used, and catch location should be publicly available to ensure objective, science-based research and management and ensure consumers are fully informed when purchasing seafood.

Seafood fraud, which can stem from IUU practices, is a significant worldwide problem.⁸ Fraud can include intentionally serving lower-valued species for more expensive ones, mislabeling illegally caught species, mislabeling country of origin to avoid regulations and fees, and short-weighting seafood to increase profits. In the United States, an estimated 15 to 20 percent of seafood is mislabeled.^{9 10}

H.R. 3075 directs NOAA to use the National Sea Grant College Program to provide outreach to states, local health agencies, consumers, and the seafood industry on seafood safety and fraud. It also establishes seafood traceability requirements so that information accompanies seafood through processing and distribution, including whether the fish was wild or farm-raised, the date and location of catch, the method of harvest and type of fishing gear used, and evidence of the authorization to fish. This strengthens federal enforcement of seafood inspections and reduces fraud by establishing full-chain traceability of seafood from the point of harvest to the point of the final sale.

H.R. 3075 strengthens international fisheries management by expanding U.S. authority to revoke port privileges for fishing vessels associated with IUU fishing. It also expands IUU identification criteria to include data from non-governmental stakeholder groups, the public, and the SIMP. H.R. 3075 also changes IUU determination criteria to include human trafficking, forced labor, and other labor rights violations. It requires NOAA to use the IUU fishing definition adopted by the Food and Agriculture Organization.

H.R. 3075 amends the Maritime SAFE Act, which passed as part of the National Defense Authorization Act for Fiscal Year 2020, to direct the IUU Interagency Working Group to develop a strategy for leveraging IUU enforcement across import control and assessment programs, including SIMP, the List of Goods Produced by Child Labor or Forced Labor, and the Trafficking in Persons Report. It also directs the Interagency Working Group to increase information sharing and collaboration between Working Group members and state-based agencies to investigate and prosecute IUU and seafood fraud.

H.R. 3075 authorizes \$5 million for the Secretary of Commerce to fund new Automatic Identification Systems (AIS) on vessels relevant to the seafood industry. It expands AIS use to more geographic regions and smaller U.S. vessels. Automatic Identification Systems (AIS) is the best available tool to track spatiotemporal fishing efforts in the U.S. Exclusive Economic Zone and high seas to manage shared use of the ocean, improve fisheries management, and deter and prevent IUU fishing and associated human trafficking, forced labor, and child labor. It amends statutory require-

⁸ <https://www.fishwatch.gov/eating-seafood/fraud>.

⁹ Oceana. 2019. *Casting a Wider Net: More Action Needed to Stop Seafood Fraud in the United States*.

¹⁰ U.S. Food and Drug Administration. 2013. *Summary of FDA's sampling efforts for seafood species labeling in FY12-13*.

¹¹ Title CXIII, subtitle E.

ficking, forced labor, and child labor. It amends statutory requirements for equipment and operation of AIS to require that AIS be used in the U.S. exclusive economic zone (200 nautical miles from shore) and on the high seas (waters beyond the exclusive economic zone) rather than only in navigable waters (defined by Coast Guard regulations as internal waters and the territorial sea or 12 nautical miles from shore). H.R. 3075 also requires using AIS in fishing vessels, fish processing vessels, and fish tender vessels greater than 65 feet in length. It maintains existing Coast Guard policies on the availability of AIS data.

Many of the provisions of H.R. 3075 were included in H.R. 7776, the National Defense Authorization Act for Fiscal Year 2023¹¹ and were signed into public law on December 23, 2022.

COMMITTEE ACTION

H.R. 3075 was introduced on May 11, 2021, by Representative Jared Huffman (D–CA). The bill was referred to the Committee on Natural Resources, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, Agriculture, and Energy and Commerce. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Water, Oceans, and Wildlife. On July 29, 2021, the Subcommittee held a hearing on the bill. On October 13, 2021, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Rep. Huffman offered a manager’s amendment with Rep. Graves designated Huffman-Graves #036. The amendment was agreed to by voice vote. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by voice vote.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Oceans, and Wildlife held on July 29, 2021.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

Sec. 2. Definitions

Title I: Combating Human Trafficking through Seafood Import Monitoring

Section 101. Definitions.

Section 102. Expansion of Seafood Import Monitoring Program to all species. Directs the Secretary of Commerce to expand the Seafood Import Monitoring Program to apply to all fish and fish products within two years.

Section 103. Automated Commercial Environment. Directs the Secretary to develop a strategy to improve the quality and verifiability of data entry fields for some aspects of the Automated

¹¹Title CXIII, subtitle E.

Commercial Environment system through which importers submit data used by the Seafood Import Monitoring Program.

Sense of Congress—It is the sense of Congress that specific data fields within the Automated Commercial Environment through which seafood import shipment data is submitted are unreasonably open-ended and therefore more prone to inadequate reporting, hampering the ability of the National Oceanic and Atmospheric Administration to identify at-risk shipments.

Section 104. Additional data requirements for Seafood Import Monitoring Program data collection. Adds new import data requirements, including more accurate location of catch, chain of custody records, and the vessel beneficial owner, as well as requires that import data be submitted at least 72 hours before entry into the U.S. Directs a regulatory process to establish additional key data elements for SIMP that collect information about labor conditions for imported fish and fish products, and requires additional oversight for international fisheries trade permits.

Section 105. Efforts to improve detection of at-risk seafood imports. Directs the development of artificial intelligence and machine learning technologies to detect imports at risk of being associated with IUU fishing and labor violations.

Section 106. Import audits. Directs the development of a comprehensive data audit procedure and requires prioritization for audit imports from countries identified by other Federal agencies as having human trafficking, forced labor, and child labor in any part of the seafood supply chain.

Section 107. Interagency coordination. Directs NOAA to coordinate with other agencies to ensure that new data elements required by this title can be submitted through the Automated Commercial Environment to U.S. Customs and Border Protection.

Section 108. Availability of fisheries information. Provides access to fisheries data by federal agencies responsible for screening imported seafood, agencies responsible for traceability verification and enforcement, and verifying catch documentation and legality under the condition it does not damage the value of catch or business. This would still preserve the confidentiality of personally identifiable information.

Sense of Congress.—It is the sense of Congress that while individuals have a right to privacy and that the National Oceanic and Atmospheric Administration has the responsibility to protect personally identifiable information and personal financial data, however, data and information relating to quantities of fish harvested, type of gear used, and catch location, for example, should be publicly available to ensure objective, science-based research and management to prevent overfishing and minimize bycatch, enable Federal and State agencies to better coordinate with each other on enforcement actions, and ensure consumers are fully informed when purchasing seafood. Current fisheries confidentiality rules are a major impediment to interagency data transmission and information sharing and limit U.S. fishers' ability to access their own fishing records. They also limit fisheries observers from accessing records needed to adjudicate claims of harassment, intimidation, and assault in the conduct of their duties.

Section 109. Report on seafood import monitoring. Requires an annual report on Seafood Import Monitoring Program implementation and trends.

Section 110. Authorization of appropriations. Authorizes \$20 million per year through FY2025 for U.S. Customs and Border Protection to carry out enforcement of section 307 of the Tariff Act of 1930.

Title II: Seafood Traceability and Labeling

Section 201. Federal activities on seafood safety and fraud. Directs NOAA to use the National Sea Grant College Program to provide outreach to states, local health agencies, consumers, and the seafood industry on seafood safety and fraud. This section also directs the Departments of Commerce and Health and Human Services to coordinate with the Department of Homeland Security to ensure that inspections and tests for seafood safety also collect information for seafood fraud prevention.

Section 202. Seafood labeling and identification. Establishes seafood traceability requirements so that information accompanies seafood through processing and distribution, including whether the fish was wild or farm-raised, the date and location of catch, the method of harvest and type of fishing gear used, and evidence of authorization to fish. This section also establishes similar labeling requirements that accompany seafood products to the point of final sale to consumers.

Section 203. Federal enforcement. Directs the Secretary of Commerce, in consultation with the Secretary of Health and Human Services, to publish online a list of foreign exporters whose seafood is imported to the United States and any information on their violations of U.S. law relating to seafood fraud. This section also directs the Secretary to increase the number of seafood shipments inspected for seafood fraud and coordinate with other Federal agencies on seafood fraud enforcement.

Section 204. State enforcement. Allows States to bring civil actions against persons it believes have engaged in seafood fraud.

Section 205. Effect on state law. Provides that this title does not preempt the authority of States to establish and enforce antitrafficking laws or requirements for improving seafood safety and preventing seafood fraud.

Title III: Strengthening International Fisheries Management to Combat Human Trafficking

301. Denial of port privileges. Expands the authority of the Secretary of Homeland Security to withhold or revoke U.S. port privileges for fishing vessels of a nation that has been identified for IUU fishing in two consecutive biennial reports, in addition to the existing authority to revoke such privileges for fishing vessels of nations that have received a negative certification.

Section 302. Identification and certification criteria. Expands IUU identification criteria to include data from non-governmental stakeholder groups, the public, and the Seafood Import Monitoring Program. This section adds new identification criteria, including how much a country subsidizes increased capacity and overfishing and identification by other Federal agencies as having human trafficking, forced labor, or child labor in any part of its seafood supply

chain. It also improves IUU certification criteria to require that a country's corrective actions lead to measurable improvements in reducing IUU fishing and addressing underlying failings or gaps in its corrective actions.

Section 303. Illegal, unreported, or unregulated fishing defined. Requires NOAA to use the definition of IUU fishing adopted by the Food and Agriculture Organization, which includes fishing conducted in violation of other national and international laws and incorporate internationally recognized labor rights into IUU enforcement. The United States has already adopted the FAO's definition in the Port State Measures Agreement, but the High Seas Driftnet Fishing Moratorium Protection Act still gives deference to the Secretary of Commerce to define IUU fishing.

Section 304. Equivalent conservation measures. Applies amendments to identification and certification criteria for high seas fishing activities that result in bycatch of living marine resources similar to those amendments made for identification and certification for IUU fishing found in section 302 of this bill.

Section 305. Regulations. Directs the Secretary to promulgate regulations implementing this title within one year.

Title IV: Maritime SAFE Amendments

Section 401. Illegal, Unreported, or Unregulated Fishing Working Group responsibilities. Amends the Maritime SAFE Act, which was included in the National Defense Authorization Act for Fiscal Year 2020, to direct the IUU Interagency Working Group to develop a strategy for leveraging IUU enforcement across import control and assessment programs, including the Seafood Import Monitoring Program, the List of Goods Produced by Child Labor or Forced Labor, and the Trafficking in Persons Report. In addition, it directs the Interagency Working Group to assess areas for increased information sharing and collaboration between Working Group members and state-based agencies to investigate and prosecute IUU and seafood fraud.

Section 402. Strategic plan. Directs the IUU Interagency Working Group to identify information and resources to prevent IUU and fraudulently labeled seafood from entering U.S. commerce.

Section 403. Authority to hold fish products. Authorizes NOAA to place a hold on fisheries products to aid field inspections and enforcement efforts. Other partner government agencies can place holds, but currently, NOAA must request Customs and Border Protection to use its authority to do so.

Title V: Maritime Awareness

Section 501. Automatic identification system requirements. Includes a sense of Congress that automatic identification systems (AIS) are the best available tool to track spatiotemporal fishing efforts in the U.S. Exclusive Economic Zone and high seas to manage shared use of the ocean, improve fisheries management, and deter and interdict IUU fishing and associated human trafficking, forced labor, and child labor. This section amends statutory requirements for equipment and operation of AIS to require that AIS be used in the U.S. exclusive economic zone (200 nautical miles from shore) and on the high seas (waters beyond the exclusive economic zone) rather than only in navigable waters (defined by Coast Guard regu-

fish processing vessels, and fish tender vessels greater than 65 feet in length overall. It maintains existing Coast Guard policies on the availability of AIS data and authorizes \$5 million for AIS for vessels more than 50 ft in length that do not already have these systems.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) and clause 3(d) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to address seafood slavery and combat illegal, unreported, or unregulated fishing.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**MAGNUSON-STEVENS FISHERY CONSERVATION AND
MANAGEMENT ACT**

* * * * *

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “bycatch” means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

(3) The term “charter fishing” means fishing from a vessel carrying a passenger for hire (as defined in section 2101(30) of title 46, United States Code) who is engaged in recreational fishing.

(4) The term “commercial fishing” means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

(5) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(7) The term "Continental Shelf fishery resources" means the following:

COLEENTERATA

Bamboo Coral—*Acanella* spp.;
 Black Coral—*Antipathes* spp.;
 Gold Coral—*Callogorgia* spp.;
 Precious Red Coral—*Corallium* spp.;
 Bamboo Coral—*Keratoisis* spp.; and
 Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
 Tanner Crab—*Chionoecetes opilio*;
 Tanner Crab—*Chionoecetes angulatus*;
 Tanner Crab—*Chionoecetes bairdi*;
 King Crab—*Paralithodes camtschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californiensis*;
 California King Crab—*Paralithodes rathbuni*;
 Golden King Crab—*Lithodes aequispinus*;
 Northern Stone Crab—*Lithodes maja*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Chaceon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
 Pink Abalone—*Haliotis corrugata*;
 Japanese Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strombus gigas*;
 Surf Clam—*Spisula solidissima*, and
 Ocean Quahog—*Arctica islandica*.

SPONGES

Glove Sponge—*Spongia cheiris*
 Sheepswool Sponge—*Hippiospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbera*.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil, of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(8) The term “Council” means any Regional Fishery Management Council established under section 302.

(9) The term “economic discards” means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

(10) The term “essential fish habitat” means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.

(11) The term “exclusive economic zone” means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

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

(13) The term “fishery” means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(14) The term “regional fishery association” means an association formed for the mutual benefit of members—

(A) to meet social and economic needs in a region or subregion; and

(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.

(15) The term “fishery resource” means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(16) The term “fishing” means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(17) The term “fishing community” means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

(18) The term “fishing vessel” means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(19) The term “foreign fishing” means fishing by a vessel other than a vessel of the United States.

(20) The term “high seas” means all waters beyond the territorial sea of the United States and beyond any foreign nation’s territorial sea, to the extent that such sea is recognized by the United States.

(21) The term “highly migratory species” means tuna species, marlin (*Tetrapturus* spp. and *Makaira* spp.), oceanic sharks, sailfishes (*Istiophorus* spp.), and swordfish (*Xiphias gladius*).

(22) The term “import”—

(A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

(B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.

(23) The term “individual fishing quota” means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).

(24) The term “international fishery agreement” means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(25) The term “large-scale driftnet fishing” means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(26) The term “limited access privilege”—

(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and

(B) includes an individual fishing quota; but
 (C) does not include community development quotas as described in section 305(i).

(27) The term “limited access system” means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.

(28) The term “Marine Fisheries Commission” means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(29) The term “migratory range” means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.

(30) The term “national standards” means the national standards for fishery conservation and management set forth in section 301.

(31) The term “observer” means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.

(32) The term “observer information” means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.

(33) The term “optimum”, with respect to the yield from a fishery, means the amount of fish which—

(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

(34) The terms “overfishing” and “overfished” mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

(35) The term “Pacific Insular Area” means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.

(36) The term “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(37) The term “recreational fishing” means fishing for sport or pleasure.

(38) The term “regulatory discards” means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.

(39) The term “Secretary” means the Secretary of Commerce or his designee.

(40) The term “special areas” means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

(41) The term “special areas” means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

(42) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(43) The term “stock of fish” means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(44) The term “treaty” means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(45) The term “tuna species” means the following:

Albacore Tuna—*Thunnus alalunga*;
Bigeye Tuna—*Thunnus obesus*;
Bluefin Tuna—*Thunnus thynnus*;
Skipjack Tuna—*Katsuwonus pelamis*; and
Yellowfin Tuna—*Thunnus albacares*.

(46) The term “United States”, when used in a geographical context, means all the States thereof.

(47) The term “United States fish processors” means facilities located within the United States for, and vessels of the

United States used or equipped for, the processing of fish for commercial use or consumption.

(48) The term “United States harvested fish” means fish caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented.

(49) The term “vessel subject to the jurisdiction of the United States” has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).

(50) The term “vessel of the United States” means—

(A) any vessel documented under chapter 121 of title 46, United States Code;

(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and used exclusively for pleasure; or

(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

(33) The term “waters of a foreign nation” means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.

(51) *The term “illegal, unreported, or unregulated fishing” means any activity set out in paragraph 3 of the 2001 Food and Agriculture Organization International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing.*

* * * * *

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

* * * * *

SEC. 311. ENFORCEMENT.

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties.

(b) POWERS OF AUTHORIZED OFFICERS.—(1) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(A) with or without a warrant or other process—

(i) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 307;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act;

(iii) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provisions of this Act;

(iv) seize any fish (wherever found) taken or retained in violation of any provision of this Act;

(v) seize any other evidence related to any violation of any provisions of this Act; and

(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 402;

(B) execute any warrant or other process issued by any court of competent jurisdiction[; and];

(C) exercise any other lawful authority[.]; and

(D) *detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 21 days.*

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the exclusive economic zone, the Secretary of the department in which the Coast Guard is operating.

(c) ISSUANCE OF CITATIONS.—If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Hawaii or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Hawaii, except that in the case of Guam and Wake Island, the appropriate court is the United States District Court for the District of Guam, and in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands. Any such court may, at any time—

- (1) enter restraining orders or prohibitions;
 - (2) issue warrants, process in rem, or other process;
 - (3) prescribe and accept satisfactory bonds or other security;
- and
- (4) take such other actions as are in the interest of justice.

(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other marine resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other marine resource law enforced by the Secretary with respect to that fish or other property;

(B) a reward of not less than 20 percent of the penalty collected or \$20,000, whichever is the lesser amount, to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other marine resource law enforced by the Secretary;

(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

(D) any valid liens or mortgages against any property that has been forfeited;

(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.

(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

(1) ENFORCEMENT AGREEMENTS.—Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

(2) REIMBURSEMENT.—An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

(3) COAST GUARD ENFORCEMENT WORKING GROUP.—

(A) ESTABLISHMENT.—The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

(B) MEMBERSHIP.—The working group shall consist of members selected by the Commander, and shall include—

(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

(iii) other individuals the Commander considers appropriate.

(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

(D) MEETINGS.—The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

(4) USE OF FINES AND PENALTIES.—Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.

(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.

(h) JOINT ENFORCEMENT AGREEMENTS.—

(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(3) REQUIREMENTS.—Joint enforcement agreements executed under paragraph (1)—

(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

(B) may include specifications for joint management responsibilities as provided by the first section of Public Law 91–412 (15 U.S.C. 1525); and

(C) shall provide for confidentiality of data and information submitted to the State under section 402.

(4) ALLOCATION OF FUNDS.—The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided to the State by the Secretary under the agreement.

(i) IMPROVED DATA SHARING.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall implement data-sharing measures to make any data required to be provided by this Act from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems—

(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

(B) available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 402(b)(1)(B) of this Act.

(2) AGREEMENT REQUIRED.—The Secretary shall promptly enter into an agreement with a State under section 402(b)(1)(B) of this Act if—

(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.

(j) DEFINITIONS.—For purposes of this section—

(1) The term “provisions of this Act” includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term “violation of any provision of this Act” includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

* * * * *

TITLE IV—FISHERY MONITORING AND RESEARCH

* * * * *

SEC. 402. INFORMATION COLLECTION.

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; **[or]**

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2))**[.]; or**

(I) to Federal agencies responsible for screening of imported seafood and for the purpose of carrying out the duties under or with respect to—

(i) the Seafood Import Monitoring Program;

(ii) the Antarctic Marine Living Resources Program;

(iii) the Tuna Tracking and Verification Program;

(iv) the Atlantic Highly Migratory Species International Trade Program;

(v) the List of Goods Produced by Child Labor or Forced Labor in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.);

(vi) the Trafficking in Persons Report required by section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107);

(vii) enforcement activities and regulations authorized under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

(viii) the taking and related acts in commercial fishing operations under section 216.24 of title 50, Code of Federal Regulations;

(J) to Federal, State and local agencies for the purposes of verification and enforcement of title II of this Act; or

(K) information that pertains to catch documentation and legality of catch, if disclosure of that information would not materially damage the value of catch or business.

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information sub-

mitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

- (1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or
- (2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel’s catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel’s participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

* * * * *

HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

* * * * *

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

[(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with international law—

[(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1) or, as appropriate, for fishing vessels of a nation that receives a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826); and

[(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action.]

(2) DENIAL OF PORT PRIVILEGES.—*The Secretary of Homeland Security shall, in accordance with international law—*

(A) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for any large-scale driftnet fishing vessels of a nation that receives a negative certification under sections 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) or 1826k(c)), or fishing vessels of a nation that has been listed pursuant to sections 609(b) or 610(a) of such Act (16 U.S.C. 1826j(b) or 1826k(a)) in two or more consecutive reports as described under section 607 of such Act (16 U.S.C. 1826h), until a positive certification has been received;

(B) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for fishing vessels of a nation that has been listed pursuant to sections 609(b) or 610(a) of such Act (16 U.S.C. 1826j(b) or 1826k(a)) in two or more consecutive reports as described under section 607 of such Act (16 U.S.C. 1826h); and

(C) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

- (i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and
- (ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

- (i) identify that nation; and
- (ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

- (i) upon receipt of notification of the identification of a nation under paragraph (1)(A) or a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c)); or
- (ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within ninety days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is forty-five days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than six months after the date the Secretary of Commerce identifies a nation under paragraph (1) or issues a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c)), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation, or to address the offending activities for which a nation received a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c)); or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

* * * * *

HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT

* * * * *

TITLE VI—DRIFTNET MORATORIUM

* * * * *

SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

[(a) IDENTIFICATION.—

[(1) IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.—The Secretary shall, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations, identify, and list in the report under section 607, a nation if any fishing vessel of that nation is engaged, or has been engaged at any point during the preceding 3 years, in illegal, unreported, or unregulated fishing—

[(A) that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether the relevant international fishery management organization has failed to implement effective measures to send the illegal, unreported, or unregulated fishing activity by that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

[(B) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

[(2) IDENTIFICATION FOR ACTIONS OF NATION.—Taking into account the factors described under section 609(a)(1), the Secretary shall also identify, and list in such report, a nation—

[(A) if it is violating, or has violated at any point during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures; or

[(B) if it is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).]

[(3) APPLICATION TO OTHER ENTITIES.—Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.

[(b) NOTIFICATION.—The Secretary shall notify the President and that nation of such an identification.]

(a) COOPERATION WITH GOVERNMENTS.—

(1) INFORMATION COLLECTION.—*The Secretary, in consultation with the Secretary of State, shall engage with each flag, coastal, port, and market nation that exports seafood to the United States to collect information sufficient to evaluate the effectiveness of such nation's management of fisheries and control systems to prevent illegal, unreported, or unregulated fishing.*

(2) RECOMMENDATIONS.—*The Secretary, in consultation with the Secretary of State, shall provide recommendations to such nations to resolve compliance gaps and improve fisheries management and control systems in order to assist such nations in preventing illegal, unreported, or unregulated fishing.*

(b) IDENTIFICATION AND WARNING.—

(1) FOR ACTIONS OF A FISHING VESSEL.—*The Secretary shall identify and list in the report required by section 607 a nation if a fishing vessel of such nation is engaged or has, in the preceding 3 years, engaged in illegal, unreported, or unregulated fishing. The Secretary shall include all nations that qualify for identification, regardless of whether the Secretary has engaged in the process described in this subsection or under subsection (a). Any of the following relevant information is sufficient to form the basis of an identification:*

(A) *compliance reports;*

(B) *data or information from international fishery management organizations, a foreign government, or an organization or stakeholder group;*

(C) *information submitted by the public;*

(D) *information submitted to the Secretary under section 402(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(a));*

(E) *import data collected by the Secretary pursuant to part 300.324 of title 50, Code of Federal Regulations; and*

(F) *information compiled from a Federal agency, including, the Coast Guard and agencies within the Interagency Working Group on Illegal, Unreported, and Unregulated Fishing.*

(2) FOR ACTIONS OF A NATION.—*The Secretary shall identify, and list in such report, a nation engaging in or endorsing illegal, unreported, or unregulated fishing, including the following:*

(A) Any nation that is failing, or has failed in the preceding 3-year period, to cooperate with the United States government in providing information about their fisheries management and control systems described in subsection (a) of this section.

(B) Any nation that is violating, or has violated at any point during the preceding 3 years, conservation and management measures, including catch and other data reporting obligations and requirements, required under an international fishery management agreement.

(C) Any nation that is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing within its fleets in any areas where its vessels are fishing.

(D) Any nation that fails to discharge duties incumbent upon it under international law or practice as a flag, port, or coastal state to take action to prevent, deter, and eliminate illegal, unreported, or unregulated fishing.

(E) Any nation that provides subsidies that—

(i) contribute to illegal, unreported, or unregulated fishing or increased capacity and overfishing at proportionally higher rates than subsidies that promote fishery resource conservation and management; or

(ii) that otherwise undermine the effectiveness of any international fishery conservation program.

(F) Any nation that has been identified as having human trafficking, including forced labor, in any part of the seafood supply chain in the most recent Trafficking in Persons Report issued by the Department of State in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

(G) Any nation that has been identified as producing seafood-related goods through forced labor or oppressive child labor in the most recent List of Goods Produced by Child Labor or Forced Labor in accordance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

(H) Any nation that has been identified as at risk for human trafficking, including forced labor, in their seafood catching and processing industries in the report required in section 3563 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92).

(3) **WARNING.**—The Secretary shall issue a warning to each nation identified under this subsection.

(4) **TIMING.**—The Secretary shall make an identification under paragraphs (1) or (2) at any time that the Secretary has sufficient information to make such identification.

(c) **CONSULTATION.**—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

(1) notify nations listed in the report of the requirements of this section;

(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

[(d) IUU CERTIFICATION PROCEDURE.—

[(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining if a nation identified under subsection (a) and listed in the report under section 607 has taken appropriate corrective action with respect to the offending activities identified in the report under section 607. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

[(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities identified in the report; or

[(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

[(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that—

[(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

[(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

[(3) EFFECT OF CERTIFICATION.—

[(A) IN GENERAL.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))—

[(i) shall apply to any nation identified under subsection (a) for which the Secretary has issued a negative certification under this subsection; but

[(ii) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

[(B) EXCEPTIONS.—Subparagraph (A)(i) does not apply—

[(i) to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or

[(ii) if there is no applicable international fishery agreement, to the extent that such provisions

would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing.]

(d) *IUU CERTIFICATION PROCEDURE.*—

(1) *CERTIFICATION DETERMINATION.*—

(A) *IN GENERAL.*—*The Secretary shall establish a procedure for certifying whether a nation identified under subsection (b) has taken appropriate corrective action with respect to the offending activities identified under section (b) that has led to measurable improvements in the reduction of illegal, unreported, or unregulated fishing and any underlying regulatory, policy, or practice failings or gaps that may have contributed to such identification.*

(B) *OPPORTUNITY FOR COMMENT.*—*The Secretary shall ensure that the procedure established under subparagraph (A) provides for notice and an opportunity for comment by the identified nation.*

(C) *DETERMINATION.*—*The Secretary shall, consistent with such procedure, determine and certify to the Congress not later than 90 days after the date on which the Secretary issues a final rule containing the procedure, and biennially thereafter—*

(i) *whether the government of each nation identified under subsection (b) has provided documentary evidence that such nation has taken corrective action with respect to such identification; or*

(ii) *whether the relevant international fishery management organization has taken corrective action that has ended the illegal, unreported, or unregulated fishing activity by vessels of that nation.*

(2) *ALTERNATIVE PROCEDURE.*—*The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a fishery within a nation issued a negative certification under paragraph (1) if the Secretary—*

(A) *determines the fishery has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party;*

(B) *determines the fishery is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities; and*

(C) *ensures that any such seafood or seafood products authorized for entry under this section are imported consistent with the reporting and the recordkeeping requirements of Seafood Import Monitoring Program described in part 300.324(b) of title 50, Code of Federal Regulations (or any successor regulation).*

(3) *EFFECT OF CERTIFICATION DETERMINATION.*—

(A) *EFFECT OF NEGATIVE CERTIFICATION.*—*The provisions of subsections (a) and (b)(3) and (4) of section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(a) and (b)(3) and (4)) shall apply to any nation that, after being identified and warned under subsection (b) has failed to take the appropriate corrective actions for which*

the Secretary has issued a negative certification under this subsection.

(B) EFFECT OF POSITIVE CERTIFICATION.—The provisions of subsections (a) and (b)(3) and (4) of section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(a) and (b)(3) and (4)) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

[(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

[(1) IN GENERAL.—In this Act the term ‘illegal, unreported, or unregulated fishing’ has the meaning established under paragraph (2).

[(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish a definition of the term ‘illegal, unreported, or unregulated fishing’ for purposes of this Act.

[(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

[(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, bycatch reduction requirements, and shark conservation measures;

[(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

[(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.]

*(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—*In this title, the term “illegal, unreported, or unregulated fishing” means any activity set out in paragraph 3 of the 2001 Food and Agriculture Organization International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

SEC. 610. EQUIVALENT CONSERVATION MEASURES.

[(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607—

[(1) a nation if—

[(A) fishing vessels of that nation are engaged, or have been engaged during the preceding 3 years in fishing activities or practices—

[(i) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

[(ii) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

[(B) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

[(C) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

[(2) a nation if—

[(A) fishing vessels of that nation are engaged, or have been engaged during the preceding 3 years, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

[(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.

[(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

[(1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

[(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

[(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

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

(a) IDENTIFICATION.—

(1) IN GENERAL.—The Secretary shall identify and list in the report under section 607—

(A) a nation if—

(i) any fishing vessel of that country is engaged, or has been engaged during the preceding 3 years in fishing activities or practices on the high seas or within the exclusive economic zone of another country, that have resulted in bycatch of a protected living marine resource; and

(ii) the vessel's flag state has not adopted, implemented, and enforced a regulatory program governing such fishing designed to end or reduce such bycatch that is comparable to the regulatory program of the United States; and

(B) a nation if—

(i) any fishing vessel of that country is engaged, or has engaged during the preceding 3 years, in fishing activities on the high seas or within the exclusive economic zone of another country that target or incidentally catch sharks; and

(ii) the vessel's flag state has not adopted, implemented, and enforced a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark, including the tail, before landing the shark in port that is comparable to that of the United States.

(2) *TIMING.*—The Secretary shall make an identification under paragraph (1) at any time that the Secretary has sufficient information to make such identification.

(b) *CONSULTATION AND NEGOTIATION.*—The Secretary of State, acting in conjunction with the Secretary, shall—

(1) notify, as soon as possible, the President, nations that have been identified under subsection (a), and other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this Act;

(2) initiate discussions as soon as possible with all foreign countries which are engaged in, or a fishing vessel of which has engaged in, fishing activities described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species and to address any underlying failings or gaps that may have contributed to identification under this Act;

(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

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

(c) *CONSERVATION CERTIFICATION PROCEDURE.*—

(1) *DETERMINATION.*—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—

(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States[, taking into account different conditions,] and which, in the case of pelagic long line fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

(2) PROCEDURAL REQUIREMENT.—The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by *the public and* any such nation.

(3) CERTIFICATION.—The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States[, taking into account different conditions]; and

(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources[.]; and

(C) ensures that any such fish or fish products authorized for entry under this section are imported consistent with the reporting and the recordkeeping requirements of the Seafood Import Monitoring Program established by part 300.324(b) of title 50, Code of Federal Regulations (or any successor regulations).

(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) [(except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing)] shall apply to any nation identified under subsection (a) for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term “protected living marine resource”—

(1) means non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

* * * * *

MARITIME SAFE ACT

**DIVISION C—DEPARTMENT OF ENERGY
NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

* * * * *

TITLE XXXV—MARITIME MATTERS

* * * * *

Subtitle C—Maritime SAFE Act

* * * * *

PART II—ESTABLISHMENT OF INTERAGENCY WORKING GROUP ON IUU FISHING

SEC. 3551. INTERAGENCY WORKING GROUP ON IUU FISHING.

(a) **IN GENERAL.**—There is established a collaborative inter-agency working group on maritime security and IUU fishing (referred to in this subtitle as the “Working Group”).

(b) **MEMBERS.**—The members of the Working Group shall be composed of—

(1) 1 chair, who shall rotate between the Secretary of the Department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, the Secretary of State, and the National Oceanographic and Atmospheric Administration, acting through the Administrator, on a 3-year term;

(2) 2 deputy chairs, who shall be appointed by their respective agency heads and shall be from a different Department than that of the chair, from—

(A) the Coast Guard;

(B) the Department of State; and

(C) the National Oceanic and Atmospheric Administration;

(3) 12 members, who shall be appointed by their respective agency heads, from—

(A) the Department of Defense;

(B) the United States Navy;

(C) the United States Agency for International Development;

(D) the United States Fish and Wildlife Service;

(E) the Department of Justice;

(F) the Department of the Treasury;

(G) U.S. Customs and Border Protection;

(H) U.S. Immigration and Customs Enforcement;

(I) the Federal Trade Commission;

(J) the Department of Agriculture;

(K) the Food and Drug Administration; and

(L) the Department of Labor;

(4) 1 or more members from the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)), who shall be appointed by the Director of National Intelligence; and

(5) 5 members, who shall be appointed by the President, from—

(A) the National Security Council;

(B) the Council on Environmental Quality;

(C) the Office of Management and Budget;

(D) the Office of Science and Technology Policy; and

(E) the Office of the United States Trade Representative.

(c) **RESPONSIBILITIES.**—The Working Group shall ensure an integrated, Federal Government-wide response to IUU fishing globally, including by—

(1) improving the coordination of Federal agencies to identify, interdict, investigate, prosecute, and dismantle IUU fishing operations and organizations perpetrating and knowingly benefitting from IUU fishing;

(2) assessing areas for increased interagency information sharing on matters related to IUU fishing and related crimes;

(3) establishing standards for information sharing related to maritime enforcement;

(4) developing a strategy to determine how military assets and intelligence can contribute to enforcement strategies to combat IUU fishing;

(5) increasing maritime domain awareness relating to IUU fishing and related crimes and developing a strategy to leverage awareness for enhanced enforcement and prosecution actions against IUU fishing;

(6) supporting the adoption and implementation of the Port State Measures Agreement in relevant countries and assessing the capacity and training needs in such countries;

(7) outlining a strategy to coordinate, increase, and use shiprider agreements between the Department of Defense or the Coast Guard and relevant countries;

(8) enhancing cooperation with partner governments to combat IUU fishing;

(9) identifying opportunities for increased information sharing between Federal agencies and partner governments working to combat IUU fishing;

(10) consulting and coordinating with the seafood industry and nongovernmental stakeholders that work to combat IUU fishing;

(11) supporting the work of collaborative international initiatives to make available certified data from state authorities about vessel and vessel-related activities related to IUU fishing;

(12) supporting the identification and certification procedures to address IUU fishing in accordance with the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.); **[and]**

(13) publishing annual reports summarizing nonsensitive information about the Working Group's efforts to investigate, enforce, and prosecute groups and individuals engaging in IUU fishing**[.]**;

(14) *developing a strategy for leveraging enforcement capacity against illegal, unreported, or unregulated fishing and increasing enforcement and other actions across relevant import control and assessment programs including—*

(A) *the Seafood Import Monitoring Program described in part 300.324(b) of title 50, Code of Federal Regulations (or any successor regulation);*

(B) *the List of Goods Produced by Child Labor or Forced Labor produced pursuant to section 105 of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112);*

(C) *the List of Nations with vessels engaged in illegal, unreported, or unregulated fishing pursuant to section 607 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h);*

(D) *the Trafficking in Persons Report required by section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107);*

(E) U.S. Customs and Border Protection's Forced Labor Division and enforcement activities and regulations authorized under Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

(F) other relevant programs of Working Group member agencies; and

(15) assessing areas for increased information sharing and collaboration among Federal Working Group member agencies and State-based enforcement, wildlife, and fisheries management agencies to identify, interdict, investigate, and prosecute illegal, unreported, or unregulated fishing and fraudulent seafood imports into the United States that were a product of such fishing, including through implementation of the Seafood Import Monitoring Program. The Federal Working Group shall emphasize developing, updating, and employing risk screens to analyze harvest, traceability, and verification and certification information in real time as a key pathway to trigger product audits and enforcement actions.

SEC. 3552. STRATEGIC PLAN.

(a) STRATEGIC PLAN.—Not later than 2 years after the date of the enactment of this title, the Working Group, after consultation with the relevant stakeholders, shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Natural Resources of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of the House of Representatives a 5-year integrated strategic plan on combating IUU fishing and enhancing maritime security, including specific strategies with monitoring benchmarks for addressing IUU fishing in priority regions.

(b) IDENTIFICATION OF PRIORITY REGIONS AND PRIORITY FLAG STATES.—

(1) IN GENERAL.—The strategic plan submitted under subsection (a) shall identify priority regions and priority flag states to be the focus of assistance coordinated by the Working Group under section 3551.

(2) PRIORITY REGION SELECTION CRITERIA.—In selecting priority regions under paragraph (1), the Working Group shall select regions that—

(A) are at high risk for IUU fishing activity or the entry of illegally caught seafood into their markets; and

(B) lack the capacity to fully address the issues described in subparagraph (A).

(3) PRIORITY FLAG STATES SELECTION CRITERIA.—In selecting priority flag states under paragraph (1), the Working Group shall select countries—

(A) the flagged vessels of which actively engage in, knowingly profit from, or are complicit in IUU fishing; and

(B) that lack the capacity to police their fleet.

(c) STRATEGIES TO OPTIMIZE DATA COLLECTION, SHARING, AND ANALYSIS.—

(1) IN GENERAL.—The strategic plan submitted under subsection (a) shall identify information and resources to prevent

illegal, unreported, or unregulated fishing or fraudulently labeled or otherwise misrepresented seafood from entering United States commerce. The report shall include a timeline for implementation of recommendations with respect to each of the following:

(A) Identification of relevant data streams collected by Working Group members.

(B) Identification of legal, jurisdictional, or other barriers to the sharing of such data.

(C) Strategies for integrating data streams through the International Trade Data System Automated Commercial Environment or other relevant digital platforms.

(D) Recommendations for enhancing the automated risk targeting and effectiveness of risk analysis and detection of illegal, unauthorized, or unreported fishing and fraudulent seafood through the Seafood Import Monitoring Program.

(E) Recommendations for improving the utility and effectiveness of the Commercial Targeting and Analysis Center in detecting illegal, unauthorized, or unreported fishing and fraudulent products through adoption of these strategies or other enhancements.

(F) Recommendations for joint enforcement protocols, collaboration, and information sharing between Federal agencies and States.

(G) Recommendations for sharing and developing forensic resources between Federal agencies and States.

(H) Recommendations for enhancing capacity for U.S. Customs and Border Protection and National Oceanic and Atmospheric Administration to conduct field investigations and to coordinate enforcement efforts with State enforcement officials.

(I) An implementation strategy, with milestones and deadlines and specific budgetary requirements, for implementing recommendations described in the report.

(2) PROGRESS REPORT.—Not later than 2 years after submission of the 5-year integrated strategic plan, the Working Group shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Natural Resources of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of the House of Representatives on progress in implementing the recommendations described in this subsection.

* * * * *

TITLE 46, UNITED STATES CODE

* * * * *

**SUBTITLE VII—SECURITY AND DRUG
ENFORCEMENT**

* * * * *

CHAPTER 701—PORT SECURITY

* * * * *

SUBCHAPTER I—GENERAL

* * * * *

§ 70114. Automatic identification systems

(a) **SYSTEM REQUIREMENTS.**—(1) Subject to paragraph (2), the following vessels~~],~~ while operating on the navigable waters of the United States~~,~~ shall be equipped with and operate an automatic identification system under regulations prescribed by the Secretary:

(A) *While operating on the navigable waters of the United States:*

[(A)] (i) A self-propelled commercial vessel of at least 65 feet overall in length.

[(B)] (ii) A vessel carrying more than a number of passengers for hire determined by the Secretary.

[(C)] (iii) A towing vessel of more than 26 feet overall in length and 600 horsepower.

[(D)] (iv) Any other vessel for which the Secretary decides that an automatic identification system is necessary for the safe navigation of the vessel.

(B) *A vessel of the United States that is more than 65 feet overall in length, while engaged in fishing, fish processing, or fish tendering operations on the navigable waters of the United States or in the United States exclusive economic zone.*

(2) The Secretary may—

(A) exempt a vessel from paragraph (1) if the Secretary finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary if the Secretary finds that automatic identification systems are not needed for safe navigation on those waters.

(b) **REGULATIONS.**—The Secretary shall prescribe regulations implementing subsection (a), including requirements for the operation and maintenance of the automatic identification systems required under subsection (a).

* * * * *

COMMITTEE CORRESPONDENCE



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chair
Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member
Jack Ruddy
Republican Staff Director

December 12, 2022

The Honorable Raúl Grijalva
Chair, Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

Dear Chair Grijalva:

I write concerning H.R. 2021, *Environmental Justice for All Act*, H.R. 2780, *Insular Area Climate Change Act*, H.R. 3075, *Illegal Fishing and Forced Labor Prevention Act*, and H.R. 3764, *Ocean-Based Climate Solutions Act*. There are certain provisions in all four pieces of legislation that fall within the Rule X jurisdiction of the Committee on Transportation and Infrastructure.

In order to allow the Committee on Natural Resources to file committee reports on H.R. 2021, H.R. 2780, H.R. 3764, and H.R. 3075 for legislative history purposes, the Committee on Transportation and Infrastructure (Committee) agrees to forgo action on these bills. However, this is conditional on our mutual understanding that these bills will not be considered on the House floor during the 117th Congress. In addition, by forgoing consideration of these bills it will not prejudice the Committee to any future jurisdictional claim over the subject matters contained in these bills or similar legislation that fall within the Committee's Rule X jurisdiction.

Please place a copy of this letter and your response acknowledging our jurisdictional interest into the committee reports for H.R. 2021, H.R. 2780, H.R. 3075, and H.R. 3764. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. DeFazio".

Peter A. DeFazio
Chair

cc: The Honorable Sam Graves
The Honorable Bruce Westerman

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

BRUCE WESTERMAN OF ARKANSAS
RANKING REPUBLICAN

VIVIAN ANGELEIN
REPUBLICAN STAFF DIRECTOR

December 19, 2022

The Honorable Peter A. DeFazio
Chair
Committee on Transportation and Infrastructure
U.S. House of Representatives
2134 Rayburn House Office Building
Washington, DC 20515

Dear Chair DeFazio,

I write to you concerning H.R. 2021, the *Environmental Justice for All Act*, H.R. 2780, the *Insular Area Climate Change Act*, H.R. 3075, the *Illegal Fishing and Forced Labor Prevention Act*, and H.R. 3764, the *Ocean-Based Climate Solutions Act*.

I appreciate your willingness to work cooperatively on these bills. I recognize that they contain provisions that fall within the jurisdiction of the Committee on Transportation and Infrastructure, and I agree that the inaction of your Committee with respect to the bills does not waive any future jurisdictional claim over the matters contained in the bills that fall within your Committee's Rule X jurisdiction. I also acknowledge our mutual understanding that these bills will not be considered on the House floor during the 117th Congress without further consultation with and clear, separate signoff from the Committee on Transportation and Infrastructure.

I will ensure that our exchange of letters is included in the committee reports for these bills. I appreciate your cooperation and look forward to continuing to work with you on the measures.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources
The Honorable Sam Graves, Ranking Member, Committee on Transportation and Infrastructure
The Honorable Jason Smith, Parliamentarian

DAVID SCOTT, GEORGIA
CHAIRMAN

JIM COSTA, CALIFORNIA
JAMES P. McGOVERN, MASSACHUSETTS
FLEUNON VELA, TEXAS
ALMA S. ADAMS, NORTH CAROLINA
VICE CHAIR

ABIGAIL DAVIS SPANBERGER, VIRGINIA
JAHANA HAYES, CONNECTICUT
ANTONIO DELGADO, NEW YORK
BOBBY L. RUSH, ILLINOIS
DHELLE FONDSIE, IOWA
GREGORY KALI CANACHO SABLAN, NORTHERN MARIANA ISLANDS
ANN M. KUSTER, NEW HAMPSHIRE
CHEN BUSTOS, ILLINOIS
SEAN PATRICK MALONEY, NEW YORK
STACEY E. FLASKETT, VIRGIN ISLANDS
TOM O'HALLERAN, ARIZONA
SALLID O. CARBAJAL, CALIFORNIA
RO KHANNA, CALIFORNIA
AL LANGDON, JR., FLORIDA
J. LUIS COFRE, CALIFORNIA
ANGIE CRANE, MINNESOTA
JOSH HARDEE, CALIFORNIA
CYNTHIA AKNE, IOWA
KIM SCHRIER, WASHINGTON
JIMMY PANETTA, CALIFORNIA
ANN KIRKPATRICK, ARIZONA
SANFORD D. BISHOP, JR., GEORGIA

U.S. House of Representatives
Committee on Agriculture
Room 1301, Longworth House Office Building
Washington, DC 20515-6001
(202) 225-2171

GLENN THOMPSON, PENNSYLVANIA
RANKING MINORITY MEMBER

AUSTIN SCOTT, GEORGIA
ERIC A. "RICK" CRAWFORD, ARKANSAS
SCOTT DELAMAR, TENNESSEE
VICKY HARTZLER, MISSOURI
DOUG LAMALLE, CALIFORNIA
RODNEY DAVIS, ILLINOIS
RICK W. ALLEN, GEORGIA
DAVID ROUSE, NORTH CAROLINA
TRENT KELLY, MISSISSIPPI
DON SACIN, NEBRASKA
DUSTY JOHNSON, SOUTH DAKOTA
JAMES R. BARR, INDIANA
JIM HAGEDORN, MINNESOTA
CHRIS JACOBS, NEW YORK
TROY BALDRISON, OHIO
MICHAEL CLOUD, TEXAS
TRACEY MANN, KANSAS
BARRY FEESETELE, IOWA
MARY E. MILLER, ILLINOIS
BARRY WOODIE, ALABAMA
KAT CAMMACK, FLORIDA
MICHELLE FISCHBACH, MINNESOTA
JULIA LETLOW, LOUISIANA

ANNIE SHAMONIS
STAFF DIRECTOR
PARISH BRADEN
MINORITY STAFF DIRECTOR

December 8, 2021

The Honorable Raul M. Grijalva
Chairman, Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter confirms our mutual understanding regarding H.R. 3075, the Illegal Fishing and Forced Labor Prevention Act. Thank you for collaborating with the Committee on Agriculture.

Our Committee will forgo consideration of this bill so that it can proceed expeditiously to the House floor. However, the Committee on Agriculture reserves the right to seek the appointment of conferees to any House-Senate conference and requests consultation on any remaining matters within our jurisdiction.

Sincerely,



David Scott
Chairman

cc:

The Honorable 'GT' Thompson, Ranking Member
The Honorable Nancy Pelosi, Speaker
The Honorable Jason Smith, Parliamentarian

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

BRUCE WESTERMAN OF ARKANSAS
RANKING REPUBLICAN

VIVIAN MDEGLEIN
REPUBLICAN STAFF DIRECTOR

February 3, 2022

The Honorable David Scott
Chair
Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, DC 20515

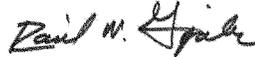
Dear Chair Scott:

I write to you concerning H.R. 3075, the "Illegal Fishing and Forced Labor Prevention Act."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Agriculture. I acknowledge that your Committee will not formally consider H.R. 3075 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction. I am pleased to support your request to name members of the Committee on Agriculture to any conference committee to consider such provisions.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources
The Honorable Glenn 'GT' Thompson, Ranking Member, Committee on Agriculture
The Honorable Jason Smith, Parliamentarian

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

December 8, 2022

The Honorable Raúl M. Grijalva
Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Grijalva:

I write concerning H.R. 3075, the "Illegal Fishing and Forced Labor Prevention Act," which was additionally referred to the Committee on Energy and Commerce.

In recognition of the desire to expedite consideration of H.R.3075, the Committee agrees to waive formal consideration of the bill as to provisions that fall within the Rule X jurisdiction of the Committee. The Committee takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that the Committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. I also request that you support my request to name members of the Committee to any conference committee to consider such provisions.

Finally, I would appreciate the inclusion of this letter in the committee report on H.R. 3075.

Sincerely,



Frank Pallone, Jr.
Chairman

The Honorable Raúl M. Grijalva
December 8, 2022
Page 2

- cc. The Honorable Cathy McMorris Rodgers, Ranking Member, Committee on Energy and Commerce
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources
The Honorable Jason Smith, Parliamentarian

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

BRUCE WESTERMAN OF ARKANSAS
RANKING REPUBLICAN

VIVIAN MOEGLEIN
REPUBLICAN STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

December 8, 2022

The Honorable Frank Pallone Jr.
Chair
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chair Pallone:

I write to you concerning H.R. 3075, the "Illegal Fishing and Forced Labor Prevention Act."

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that your Committee will not formally consider H.R. 3075 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill or similar legislation that falls within your Committee's Rule X jurisdiction. Additionally, the Committee on Natural Resources confirms our mutual understanding that the Committee on Energy and Commerce will be appropriately consulted and involved as the bill or similar legislation moves forward so that you may address any remaining issues within your jurisdiction. I am pleased to support your request to name members of the Committee on Energy and Commerce to any conference committee to consider such provisions.

I will ensure that our exchange of letters is included in the report on H.R. 3075. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Cathy McMorris Rodgers, Ranking Member, Committee on Energy and Commerce
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources
The Honorable Jason Smith, Parliamentarian

DISSENTING VIEWS

H.R. 3075, while well intentioned, could create severe financial and administrative burdens on much of our domestic fishing and aquaculture industries, stifle job creation in the industry, and it could raise food costs for American consumers.

The central premise of H.R. 3075 is to expand the federal Seafood Import Monitoring Program (SIMP). The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) administratively created SIMP as a risk-based traceability program that established reporting and recordkeeping requirements intended to prevent imported illegal, unreported, and unregulated (IUU) fish and fish products or misrepresented seafood from entering U.S. commerce.¹ Currently, SIMP applies to thirteen species groups which were determined by NMFS to be most at-risk of IUU fishing and seafood fraud.² These thirteen species groups comprise over 1,100 individual species and accounted for 45 percent by volume and 47 percent by value of all U.S. seafood imports in 2020.³ The data collected through SIMP includes vessel name and flag state, product location, date of harvest, but also include proprietary information such as gear type and details on processing equipment.⁴ U.S. seafood companies must maintain chain of custody documents to substantiate to NMFS the reported information.⁵

H.R. 3075 would expand the reporting requirements for SIMP, make all imported seafood and seafood products subject to the program (regardless of IUU or seafood fraud risk) and would require the collection of data regarding labor conditions in the harvest, shipment, and processing of imported seafood and seafood products. The Committee has heard from multiple stakeholder groups expressing concerns with this legislation, in particular the expansion of SIMP to approximately 13,000 species.

Any discussion of seafood trade must recognize that seafood supply chains are complex and flow in all directions. It is routine and common for seafood caught and landed in one country to be shipped to another country for processing. In fact, this is the case for some U.S.-caught seafood. An estimated \$695 million by value of seafood harvested in the U.S. by U.S. commercial fisheries are exported to other countries for further processing before being imported back into the U.S. market.⁶ This U.S.-caught seafood is

¹ 50 CFR 300.320–300.325.

² With the exception of shrimp and abalone, which were legislatively added by Congress by Section 539 of the Consolidated Appropriations Act of 2018 on March 23, 2018.

³ Statement of Ms. Janet Coit, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, before the Natural Resources Committee, July 29, 2021.

⁴ NOAA—SIMP Implementation Report, 2021.

⁵ Statement of John P. Connelly, President, National Fisheries Institute, before the Natural Resources Committee, November 14, 2019.

⁶ USITC, Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries, Inv. 332–575, Publ.5168 (February 2021).

treated the same as foreign-caught seafood under SIMP. For example, companies that process U.S.-caught Pacific cod overseas “spend large amounts of time and money sharing with a U.S. government agency documents issued by a U.S. government agency (in some cases the same agency), and fly-specking hundreds of pages of documentation for typographical or administrative errors bearing no relation to actual illegal fishing by the responsible U.S. harvester,” according to the National Restaurant Association and others.⁷ Expanding SIMP to include salmon, lobster, crabs, flounder, and other species that are caught in the U.S. but processed overseas will not only negatively impact American fishermen but increase costs for consumers.

The documentation needed to comply with SIMP is already significant. A letter from the National Customs Brokers and Forwarders Association of America (NCBFAA) describes the logistical and paperwork issues created by the existing SIMP and warned that expansion would create regulatory chaos. NCBFAA explained that “A single fishing vessel may be out at sea for six to eight weeks at a time catching up to 350 tons of fish from 20 to 30 different locations. So, for example, when a typical shipment of canned seafood arrives in the U.S., it may consist of 20 containers holding 60,000 tins. The seafood in these products may easily have originated from 10 or 12 different vessels catching fish from over a hundred different locations. So, for this one typical customs entry, 15 additional data elements explode into thousands of data elements at entry, as all these variations are accounted for.”⁸ NOAA has expressed similar concerns stating that “expanding the program to cover species that are not at risk of IUU fishing would not be an effective use of federal resources, would impose additional burdens on importers and would add to the cost of imported seafood.”⁹ Furthermore, NOAA stated that “SIMP does not prevent or stop IUU fish and fish products from entering U.S. Commerce” and concluded that the program should continue to be employed in a “risk-based” manner.¹⁰

In addition to increased regulatory requirements, H.R. 3075 could create trade issues that impact domestic fisheries and aquaculture. Under World Trade Organization (WTO) rules, the United States cannot impose any requirements on imports that are not also required for comparable U.S. products.¹¹ This is currently an issue within SIMP as it relates to shrimp and abalone. NMFS has previously stated that data collection for aquaculture shrimp and abalone in the U.S. is not equivalent to the data required to be reported for imports through SIMP.¹² Since 2018, the agency has been working a proposed rule establishing reporting requirements for domestic aquaculture shrimp and abalone species

⁷ <https://restaurant.org/nra/media/downloads/pdfs/advocacy/2021/letter-to-chair-regarding-hr3075.pdf>.

⁸ NCBFAA letter, October 8, 2021.

⁹ Ms. Alexa Cole, Acting Director, Office of International Affairs and Seafood Inspection, *Question for the Record*, November 14, 2019.

¹⁰ NOAA Report on the Implementation of the U.S. Seafood Import Monitoring Program, April 2021, page 6.

¹¹ https://www.wto.org/english/tratop_e/sps_e/equivalence2001_e.htm.

¹² 83 FR 17762—Magnuson-Stevens Fishery Conservation and Management Act; *Lifting the Stay on Inclusion of Shrimp and Abalone in the Seafood Traceability Program*.

to meet import equivalency requirements.¹³ To date, this rule has not been finalized and is opposed by the National Aquaculture Association.¹⁴

An expansion of SIMP would require NMFS to develop and establish registration, reporting and recordkeeping requirements for all domestic seafood species that do not currently have equivalent data requirements. This includes most domestic aquaculture, but also species that do not have Fisheries Management Plans under the MSA, if the species is also imported. Without it, discrepancies between the treatment of like products may prompt U.S. trading partners to create new regulatory barriers to U.S. exports.

SIMP has been online since 2018 and NOAA describes it as being in a “nascent stage.”¹⁵ In a October 8, 2021 letter to the Committee, the National Restaurant Association, the National Retail Federation, the Food Industry Association, the International Food Distributors Association, the National Council of Chain Restaurants and other food supply and commercial fishing organizations, wrote: “If enacted, the legislation would create a seafood regulatory Bleak House, generating a never-ending stream of data reporting, audits, document collection and tracking, and risk management and logistics nightmares for thousands of companies that have never been associated with illegal fishing or seafood fraud in any way—all in service of a program that does not block IUU fishing from entering the United States.¹⁶ H.R. 3075 would significantly expand SIMP, which could force unworkable mandates on an agency already struggling to carry out the program.¹⁷

H.R. 3075 is well-intended but would be premature and would significantly increase regulatory burdens for legal U.S. industries and trade while potentially raising seafood costs.

For these reasons I oppose H.R. 3075.

BRUCE WESTERMAN.

○

¹³ 83 FR 51426—Magnuson-Stevens Fishery Conservation and Management Act; Traceability Information Program for Seafood.

¹⁴ NAA Comments on U.S. Farm-Raised Shrimp and Abalone Traceability Rule, November 26, 2018.

¹⁵ Statement of Ms. Janet Coit, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, before the Natural Resources Committee, July 29, 2021.

¹⁶ <https://restaurant.org/nra/media/downloads/pdfs/advocacy/2021/letter-to-chair-regarding-hr3075.pdf>, at 6.

¹⁷ *Id.*, at 2.