

112TH CONGRESS
1ST SESSION

S. 1980

To prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2011

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

A BILL

To prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “The Pirate Fishing Elimination Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.
- Sec. 4. Application.
- Sec. 5. Duties of the Secretary.

- Sec. 6. Advance notice of vessel arrival, authorization, or denial of port entry.
 Sec. 7. Denial of port services.
 Sec. 8. Inspections.
 Sec. 9. Prohibited acts.
 Sec. 10. Enforcement.
 Sec. 11. International cooperation and assistance.
 Sec. 12. Relationship to other laws.
 Sec. 13. Authorization of appropriations.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to implement the Agree-
 3 ment on Port State Measures to Prevent, Deter and
 4 Eliminate Illegal, Unreported and Unregulated Fishing,
 5 done at the Food and Agriculture Organization of the
 6 United Nations in Rome, Italy on November 22, 2009.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) AGREEMENT.—The term “Agreement”
 10 means the Agreement on Port State Measures to
 11 Prevent, Deter and Eliminate Illegal, Unreported
 12 and Unregulated Fishing, done at the Food and Ag-
 13 riculture Organization of the United Nations in
 14 Rome, Italy on November 22, 2009.

15 (2) AUTHORIZED OFFICER.—The term “author-
 16 ized officer” means—

17 (A) any commissioned, warrant, or petty
 18 officer of the United States Coast Guard;

19 (B) any special agent or fishery enforce-
 20 ment officer of National Marine Fisheries Serv-
 21 ice; or

1 (C) any officer designated by the head of
2 any Federal or State agency that has entered
3 into an agreement with the Secretary to enforce
4 the provisions of the Magnuson-Stevens Fishery
5 Conservation and Management Act (16 U.S.C.
6 1801 et seq.), or any other statute administered
7 by the National Oceanic and Atmospheric Ad-
8 ministration.

9 (3) CONSERVATION AND MANAGEMENT MEAS-
10 URES.—The term “conservation and management
11 measures” means binding measures to conserve and
12 manage living marine resources adopted by an
13 RFMO.

14 (4) CONTAINER VESSEL.—The term “container
15 vessel” means a self-propelled ocean-going vessel
16 constructed or adapted primarily to carry ocean
17 freight containers.

18 (5) FAO.—The term “FAO” means the Food
19 and Agriculture Organization of the United Nations.

20 (6) FISH.—The term “fish” includes all species
21 of living marine resources, whether processed or not.

22 (7) FISHING.—The term “fishing” means
23 searching for, attracting, locating, catching, taking,
24 or harvesting fish or any activity which can reason-

1 ably be expected to result in the attracting, locating,
2 catching, taking, or harvesting of fish.

3 (8) FISHING-RELATED ACTIVITY.—The term
4 “fishing-related activity” means any operation in
5 support of, or in preparation for, fishing, includ-
6 ing—

7 (A) the landing, packaging, processing,
8 transshipping, or transporting of fish that have
9 not been previously landed at a port or place;
10 and

11 (B) the provision of personnel, fuel, gear,
12 and other supplies at sea.

13 (9) FOREIGN VESSEL.—The term “foreign ves-
14 sel” means any vessel except for a vessel of the
15 United States.

16 (10) ILLEGAL, UNREPORTED, AND UNREGU-
17 LATED FISHING OR IUU FISHING.—The term “ille-
18 gal, unreported, and unregulated fishing” or “IUU
19 fishing” means any activity—

20 (A) conducted by a national or foreign ves-
21 sel in waters under the jurisdiction of a nation
22 without the permission of that nation, or in
23 contravention of its laws and regulations, in-
24 cluding an activity that has not been reported
25 or has been misreported to the relevant national

1 authority of that nation in contravention of its
2 laws and regulations;

3 (B) conducted by a vessel flying the flag of
4 a nation that is a member of an RFMO in con-
5 travention of the conservation and management
6 measures adopted by the RFMO and by which
7 that nation is bound, including an activity that
8 has not been reported or has been misreported
9 in contravention of the reporting requirements
10 of that RFMO;

11 (C) conducted by a vessel flying the flag of
12 a nation that is a cooperating non-member of
13 an RFMO that is inconsistent with the commit-
14 ments undertaken by that nation as a cooper-
15 ating non-member of that RFMO, including an
16 activity that has not been reported or has been
17 misreported in a manner that is inconsistent
18 with those commitments; or

19 (D) conducted in the area of application of
20 an RFMO by a vessel without nationality, or by
21 a vessel flying the flag of a nation that is not
22 a member nor a cooperating non-member of
23 that RFMO and that undermines the effective-
24 ness of the conservation and management meas-
25 ures of that RFMO.

1 (11) LANDING.—The term “landing” means to
2 begin to offload fish or to offload fish from any ves-
3 sel in port or at a dock, berth, beach seawall or
4 ramp, but does not include transshipment.

5 (12) LISTED IUU VESSEL.—The term “listed
6 IUU vessel” means a vessel that is included in a list,
7 adopted by a regional fisheries management organi-
8 zation, of vessels having engaged in IUU fishing or
9 fishing-related activities in support of IUU fishing.

10 (13) PARTY.—The term “Party” means a gov-
11 ernment or regional economic integration organiza-
12 tion for which the Agreement is in force.

13 (14) PERSON.—The term “person” means any
14 individual (whether or not a citizen or national of
15 the United States), corporation, partnership, asso-
16 ciation, or other entity (whether or not organized or
17 existing under the laws of any State) and any Fed-
18 eral, State, local, or foreign government or any enti-
19 ty of any such government.

20 (15) PORT.—The term “port” includes a
21 roadstead, an offshore terminal, and any other in-
22 stallation or place for landing, transshipping, pack-
23 aging, processing, refueling, or resupplying.

24 (16) PREVIOUSLY LANDED.—The term “pre-
25 viously landed” means landed in a port or at a dock,

1 berth, beach seawall, or ramp and subsequently load-
2 ed onto a container or other carrier vessel.

3 (17) PROCESSING.—The term “processing”
4 means the preparation or packaging of fish to render
5 the fish suitable for human consumption, retail sale,
6 industrial uses, export, or long-term storage, includ-
7 ing cooking, canning, smoking, salting, drying,
8 filleting, packaging, freezing, or rendering into meal
9 or oil.

10 (18) REGIONAL FISHERIES MANAGEMENT OR-
11 GANIZATION OR RFMO.—The term “regional fish-
12 eries management organization” or “RFMO” means
13 an intergovernmental fisheries organization or ar-
14 rangement, as appropriate, that has the competence
15 to establish conservation and management measures.

16 (19) SECRETARY.—The term “Secretary”
17 means the Secretary of Commerce or the Secretary
18 of Commerce’s designee.

19 (20) STATE.—The term “State” means each of
20 the several States, the District of Columbia, the
21 Commonwealth of Puerto Rico, American Samoa,
22 the Virgin Islands, Guam, the Northern Mariana Is-
23 lands, and any other Commonwealth, territory, or
24 possession of the United States.

1 (21) TRANSSHIPMENT.—The term “trans-
2 shipment” means to offload and onload or otherwise
3 transfer fish or a fish product from one vessel to an-
4 other vessel.

5 (22) VESSEL.—The term “vessel” means any
6 vessel, ship, or boat used, equipped, or intended for
7 fishing or a fishing-related activity.

8 (23) VESSEL OF THE UNITED STATES.—

9 (A) IN GENERAL.—The term “vessel of the
10 United States” means—

11 (i) a vessel documented under chapter
12 121 of title 46, United States Code, or
13 numbered in accordance with chapter 123
14 of title 46, United States Code; or

15 (ii) a vessel owned in whole or in part
16 by—

17 (I) the United States;

18 (II) a State or political subdivi-
19 sion of a State;

20 (III) a citizen or national of the
21 United States; or

22 (IV) a corporation created under
23 the laws of the United States or any
24 State.

1 (B) EXCLUSIONS.—The term “vessel of
2 the United States” does not include a vessel
3 that has been granted the nationality of a for-
4 eign nation consistent with international law
5 and a claim of nationality or registry for the
6 vessel has been made by the master or indi-
7 vidual in charge at the time of the enforcement
8 action by an officer or employee of the United
9 States authorized to enforce applicable provi-
10 sions of the United States law.

11 **SEC. 4. APPLICATION.**

12 (a) IN GENERAL.—This Act shall apply to—

13 (1) each foreign vessel seeking entry to or in a
14 port subject to the jurisdiction of the United States;

15 (2) each vessel of the United States seeking
16 entry to or in a port subject to the jurisdiction of
17 another Party to the Agreement; and

18 (3) each person subject to the jurisdiction of
19 the United States.

20 (b) EXCLUSIONS.—Notwithstanding subsection (a),
21 this Act shall not apply to—

22 (1) a container vessel that is not carrying fish;

23 or

24 (2) a container vessel that—

1 (A) is carrying only fish that have been
2 previously landed; and

3 (B) the Secretary has no clear grounds to
4 suspect has been engaged in IUU fishing or
5 fishing-related activities in support of IUU fish-
6 ing.

7 **SEC. 5. DUTIES OF THE SECRETARY.**

8 (a) REGULATIONS.—The Secretary may promulgate
9 such regulations, in accordance with section 553 of title
10 5, United States Code, as may be necessary to carry out
11 the purposes of this Act.

12 (b) PROCEDURES.—The Secretary, in consultation
13 with the Secretary of State and the Secretary of the de-
14 partment in which the Coast Guard is operating, shall de-
15 velop procedures for making determinations and notifica-
16 tions as may be necessary to carry out the purposes of
17 this Act.

18 (c) FOREIGN VESSEL ENTRY.—

19 (1) IN GENERAL.—The Secretary (in consulta-
20 tion with the Secretary of Homeland Security or if
21 the Coast Guard is not operating in the Department
22 of Homeland Security, in consultation with the Sec-
23 retary of the department in which the Coast Guard
24 is operating) may designate and publicize each port
25 to which a vessel described in section 4 may seek

1 entry. The Secretary shall not designate a port
2 under this subsection unless the port is designated
3 as a port of entry for customs reporting purposes
4 under section 433 of the Tariff Act of 1930 (19
5 U.S.C. 1433).

6 (2) LIST OF DESIGNATED PORTS.—The Sec-
7 retary shall provide a list of each port designated
8 under paragraph (1) to FAO.

9 (d) ELECTRONIC EXCHANGE OF INFORMATION.—In
10 order to implement the requirements of the Agreement re-
11 garding electronic exchange of information, the Secretary
12 is authorized to designate a point of contact and notify
13 FAO of that designation. The Secretary may cooperate,
14 including by providing financial assistance, in efforts to
15 establish an information-sharing mechanism and to facili-
16 tate the exchange of information with existing databases
17 relevant to the Agreement.

18 (e) INFORMATION ON AVAILABLE RECOURSE.—The
19 Secretary shall maintain information regarding any legal
20 remedy available to a person who is affected by an action
21 under this Act. The Secretary shall make the information
22 publicly accessible and, upon written request, shall provide
23 the information to the owner, operator, master, or rep-
24 resentative of a vessel.

1 **SEC. 6. ADVANCE NOTICE OF VESSEL ARRIVAL, AUTHOR-**
2 **IZATION, OR DENIAL OF PORT ENTRY.**

3 (a) **ADVANCE NOTICE OF VESSEL ARRIVAL.**—Each
4 vessel described in section 4(a) shall submit to the Sec-
5 retary of the department in which the Coast Guard is op-
6 erating information required under the Agreement in ad-
7 vance of the vessel's arrival in a port. The Secretary shall,
8 in consultation with the Secretary of the Department in
9 which the Coast Guard is operating and the Secretary of
10 State, promulgate regulations to establish a procedure
11 that requires each foreign vessel seeking entry into a U.S.
12 port to submit, at a minimum, the information required
13 under the Agreement in advance of the vessel's arrival in
14 a port. The procedure shall utilize, to the maximum extent
15 possible, existing reporting mechanisms maintained and
16 operated by the department in which the Coast Guard is
17 operating.

18 (b) **AUTHORIZATION OR DENIAL OF PORT ENTRY.**—

19 (1) **IN GENERAL.**—In conformance with the
20 procedures under section 5(b) the Secretary shall—

21 (A) decide whether to authorize or deny
22 port entry; and

23 (B) communicate the decision to the vessel
24 or its representative in accordance with the pro-
25 cedure under subsection (a).

1 (2) DENIAL OF ENTRY.—The Secretary may
2 deny entry to—

3 (A) any listed IUU vessel;

4 (B) any vessel that the Secretary has rea-
5 sonable grounds to believe has engaged in IUU
6 fishing or fishing-related activities in support of
7 IUU fishing; or

8 (C) any vessel that the Secretary has rea-
9 sonable grounds to believe has violated this Act.

10 (3) PERMISSIBLE ENTRY.—Notwithstanding
11 paragraph (2), the Secretary may allow a vessel
12 entry into port—

13 (A) for the purpose of rendering assistance
14 to a vessel or person in danger or distress;

15 (B) for the scrapping of the vessel, as ap-
16 propriate; or

17 (C) for inspection or other enforcement ac-
18 tion.

19 (c) NOTICE.—If entry is denied under subsection (b),
20 the Secretary shall provide notice of the decision to the
21 flag nation of the vessel and, as appropriate, to each rel-
22 evant coastal nation, RFMO, and other international orga-
23 nization.

1 **SEC. 7. DENIAL OF PORT SERVICES.**

2 (a) IN GENERAL.—A vessel that has been granted
3 authorization to enter port under section 6 or that is oth-
4 erwise in a port subject to the jurisdiction of the United
5 States shall be denied, by the Secretary, the use of the
6 port for landing, transshipment, packaging and processing
7 of fish, refueling, resupplying, maintenance, and
8 drydocking, if—

9 (1) the vessel entered port without authoriza-
10 tion under section 6;

11 (2) the vessel is a listed IUU vessel;

12 (3) the Secretary has reasonable grounds to be-
13 lieve that the vessel lacks valid authorizations to en-
14 gage in fishing or fishing-related activities as re-
15 quired by its flag nation or the relevant coastal na-
16 tion;

17 (4) the Secretary has reasonable grounds to be-
18 lieve that the fish on board the vessel were taken in
19 violation of foreign law or in contravention of any
20 conservation and management measures;

21 (5) the Secretary requested confirmation from
22 the flag nation that the fish on board were taken in
23 accordance with applicable conservation and man-
24 agement measures, and the flag nation failed to pro-
25 vide confirmation in accordance with regulations
26 promulgated under this Act; or

1 (6) the Secretary has reasonable grounds to be-
2 lieve that the vessel has engaged in IUU fishing or
3 fishing-related activities in support of IUU fishing,
4 including in support of a listed IUU vessel, unless
5 the vessel can establish that—

6 (A) the vessel was acting in a manner con-
7 sistent with applicable conservation and man-
8 agement measures; or

9 (B) in the case of the provision of per-
10 sonnel, fuel, gear, and other supplies at sea, the
11 vessel provisioned was not, at the time of provi-
12 sioning, a listed IUU vessel.

13 (b) PERMISSIBLE USE OF PORT SERVICES.—Not-
14 withstanding subsection (a), the Secretary may allow the
15 use of port services—

16 (1) if the vessel has established that the serv-
17 ices are essential to the safety or health of the crew
18 or safety of the vessel;

19 (2) for the scrapping of the vessel, as appro-
20 priate; or

21 (3) for inspection or other enforcement action.

22 (c) NOTICE.—If use of port services is denied under
23 subsection (a), the Secretary, acting through the Secretary
24 of State, shall provide notice of the decision to the flag
25 nation of the vessel and, as appropriate, to each relevant

1 coastal nation, RFMO, and other international organiza-
2 tion.

3 (d) WITHDRAWAL OF DENIAL.—The Secretary shall
4 withdraw denial of the use of port services if the Secretary
5 determines that the grounds on which the use was denied
6 were inadequate, erroneous, or no longer applicable. The
7 Secretary shall provide notification of the withdrawal
8 promptly to each person that was notified under sub-
9 section (c).

10 **SEC. 8. INSPECTIONS.**

11 (a) INSPECTIONS.—The Secretary and the Secretary
12 of the department in which the Coast Guard is operating
13 shall conduct vessel inspections, as necessary, for the pur-
14 poses of the Agreement and this Act. In conducting a ves-
15 sel inspection, the Secretary may utilize by agreement, on
16 a reimbursable or nonreimbursable basis, the personnel
17 services, equipment (including aircraft and vessels), and
18 facilities of any other Federal agency (including all ele-
19 ments of the Department of Defense), and of any State
20 agency. The Secretary shall prioritize vessel inspections
21 based on—

22 (1) whether a vessel has been denied entry or
23 use of a port in accordance with the Agreement;

24 (2) a request from another relevant Party,
25 State, or RFMO that a certain vessel be inspected,

1 particularly if the request is supported by evidence
2 of IUU fishing or fishing-related activities in sup-
3 port of IUU fishing by the vessel in question; and

4 (3) whether there are clear grounds to suspect
5 that a vessel has engaged in IUU fishing or fishing-
6 related activities in support of IUU fishing.

7 (b) TRANSMITTAL OF INSPECTION RESULTS.—The
8 Secretary shall transmit the results of an inspection under
9 this Act to the flag nation of the inspected vessel and,
10 as appropriate, to—

11 (1) each relevant Party and nation, including a
12 relevant coastal nation and the nation of which the
13 vessel's master is a national;

14 (2) each relevant RFMO;

15 (3) the FAO; and

16 (4) any other relevant international organiza-
17 tion.

18 (c) ACTIONS FOLLOWING INSPECTION.—If, following
19 an inspection, the Secretary has reasonable grounds to be-
20 lieve that a foreign vessel has engaged in IUU fishing or
21 fishing-related activities in support of IUU fishing—

22 (1) the Secretary may take enforcement action
23 under this Act or other applicable law; and

24 (2) the Secretary shall—

1 (A) acting through the Secretary of State,
2 promptly notify the flag nation of the vessel
3 and, as appropriate, each relevant coastal na-
4 tion, RFMO, and other international organiza-
5 tion, and the nation of which the vessel's mas-
6 ter is a national; and

7 (B) deny the vessel the use of port serv-
8 ices, in accordance with section 7.

9 **SEC. 9. PROHIBITED ACTS.**

10 It is unlawful for any person—

11 (1) to violate any provision of this Act or any
12 regulation promulgated thereunder;

13 (2) to refuse to permit an authorized officer to
14 board, search, or inspect any vessel, conveyance, or
15 shoreside facility that is subject to the person's con-
16 trol, for the purpose of conducting any search, inves-
17 tigation, or inspection in connection with the en-
18 forcement of this Act or any regulation promulgated
19 thereunder;

20 (3) to forcibly assault, resist, oppose, impede,
21 intimidate, or interfere with any authorized officer
22 in the conduct of any search, investigation, or in-
23 spection described in paragraph (2);

24 (4) to resist a lawful arrest for any act prohib-
25 ited by this Act;

1 (5) to interfere with, delay, or prevent, by any
2 means, the apprehension, arrest, or detection of an-
3 other person, knowing that such person has com-
4 mitted any act prohibited by this section;

5 (6) to submit any false information pursuant to
6 any requirement under this Act or any regulation
7 promulgated under this Act;

8 (7) to forcibly assault, resist, oppose, impede,
9 intimidate, sexually harass, bribe, or interfere with
10 any observer or any data collector employed or
11 under contract to carry out responsibilities under
12 this Act or any Act administered by the Secretary;

13 (8) to import, export, transport, sell, receive,
14 acquire, or purchase in interstate or foreign com-
15 merce any fish or fish product taken, possessed,
16 transported, or sold in violation of any foreign law
17 or treaty addressing the conservation or manage-
18 ment of living marine resources, or any conservation
19 and management measures (as defined in section 3);
20 or

21 (9) to make or submit any incomplete, invalid,
22 or false record, account, or label for, or any false
23 identification of, any fish or fish product (including
24 false identification of the species, harvesting vessel
25 or nation, or the date or location where harvested)

1 that has been, or is intended to be imported, ex-
2 ported, transported, sold, offered for sale, purchased,
3 or received in interstate or foreign commerce except
4 where such making or submission is prohibited by
5 section 307(1)(I) of the Magnuson Fishery Con-
6 servation and Management Act (16 U.S.C.
7 1857(1)(I)).

8 **SEC. 10. ENFORCEMENT.**

9 (a) **RESPONSIBILITY.**—The Secretary and the Sec-
10 retary of the department in which the Coast Guard is op-
11 erating shall enforce the provisions of this Act. In enforce-
12 ing this Act, the Secretary and the Secretary of the de-
13 partment in which the Coast Guard is operating may uti-
14 lize, by agreement and on a reimbursable or nonreimburs-
15 able basis the personnel, services, equipment (including
16 aircraft and vessels), and facilities of any other Federal
17 agency (including all elements of the Department of De-
18 fense), or of any State agency. The Secretary and the Sec-
19 retary of the department in which the Coast Guard is op-
20 erating shall authorize officers to enforce the provisions
21 of this Act (including any regulation promulgated under
22 this Act). The head of any Federal or State agency that
23 has entered into an agreement with either the Secretary
24 or the Secretary of the department in which the Coast
25 Guard is operating under this section may (if the agree-

1 ment so provides) authorize officers to enforce the provi-
2 sions of this Act (including any regulation promulgated
3 under this Act).

4 (b) POWERS OF AUTHORIZED OFFICERS.—

5 (1) IN GENERAL.—An authorized officer under
6 subsection (a) may, with or without a warrant or
7 other process—

8 (A) arrest a person if the officer has prob-
9 able cause that the person has committed an
10 act prohibited under section 9;

11 (B) board and search or inspect any vessel
12 that is subject to this Act;

13 (C) seize any vessel (together with its fish-
14 ing gear, furniture, appurtenances, stores, and
15 cargo) used or employed in, or with respect to
16 which it reasonably appears that such vessel
17 was used or employed in, the violation of any
18 provision of this Act (including any regulation
19 promulgated under this Act);

20 (D) seize any fish (wherever found) im-
21 ported, exported, transported, sold, received, ac-
22 quired, or purchased in any manner, in connec-
23 tion with or as a result of the violation of any
24 provision of this Act;

1 (E) seize any other evidence related to any
2 violation of any provision of this Act (including
3 any regulation promulgated under this Act);

4 (F) search or inspect any facility or con-
5 veyance used or employed in, or which reason-
6 ably appears to be used or employed in, the
7 storage, processing, transport, or trade of fish
8 or fish products;

9 (G) inspect records pertaining to the stor-
10 age, processing, transport, or trade of fish or
11 fish products;

12 (H) detain, for a period not to exceed 14
13 days, any shipment of fish or fish products that
14 is related to any violation of any provision of
15 this Act (including any regulations promulgated
16 under this Act) and that was imported into,
17 landed on, introduced into, exported from, or
18 transported within the jurisdiction of the
19 United States, or, if such fish or fish product
20 is deemed to be perishable, sell and retain the
21 proceeds for a period not to exceed 14 days;

22 (I) search and seize, in accordance with
23 any guidelines issued by the Attorney General;

24 (J) execute and serve any subpoena, arrest
25 warrant, search warrant issued in accordance

1 with rule 41 of the Federal Rules of Criminal
2 Procedure, or other warrant or civil or criminal
3 process issued by any officer or court of com-
4 petent jurisdiction;

5 (K) access, directly or indirectly, for en-
6 forcement purposes any data or information re-
7 quired to be provided under this Act (including
8 any regulations promulgated under this Act),
9 including data from vessel monitoring systems,
10 automatic identification systems, long-range
11 identification and tracking systems, or any
12 similar system; and

13 (L) exercise any other lawful authority.

14 (2) FELONIES.—An authorized officer under
15 subsection (a) may carry, in accordance with any
16 guidelines issued by the Attorney General, firearms
17 and may make an arrest for any offense under the
18 laws of the United States committed in the officer's
19 presence or for the commission of any felony under
20 the laws of the United States if the officer has prob-
21 able cause that the person to be arrested has com-
22 mitted or is committing a felony.

23 (c) ISSUANCE OF CITATIONS.—If an authorized offi-
24 cer under subsection (a) finds that a person or vessel is
25 engaging or has been engaged in a violation of any provi-

1 sion of this Act, the officer may issue a citation to the
2 owner or operator of the vessel in lieu of proceeding under
3 subsection (f), (g), or (i). The Secretary shall maintain
4 a record of all citations issued under this subsection.

5 (d) SUBPOENAS.—

6 (1) IN GENERAL.—For the purposes of con-
7 ducting any investigation or hearing under this Act,
8 or any other Act administered by the Secretary, the
9 Secretary may—

10 (A) issue subpoenas for the attendance and
11 testimony of witnesses and the production of
12 relevant papers, photographs, records, books,
13 and documents in any form, including those in
14 electronic, optical, or magnetic form; and

15 (B) administer oaths.

16 (2) WITNESS FEES.—Witnesses summoned
17 shall be paid the same fees and mileage that are
18 paid to witnesses in the courts of the United States.

19 (3) CONTEMPT.—In case of contempt or refusal
20 to obey a subpoena served upon any person under
21 this subsection, the district court of the United
22 States for any district in which such person is
23 found, resides, or transacts business, upon applica-
24 tion by the United States and after notice to such
25 person, shall have jurisdiction to issue an order re-

1 quiring such person to appear and give testimony
2 before the Secretary or to appear and produce docu-
3 ments before the Secretary, or both, and any failure
4 to obey such order of the court may be punished by
5 such court as a contempt thereof.

6 (e) DISTRICT COURT JURISDICTION.—

7 (1) IN GENERAL.—The several district courts of
8 the United States shall have jurisdiction over any
9 actions arising under this section. For the purpose
10 of this section, for Hawaii or any possession of the
11 United States in the Pacific Ocean, the appropriate
12 court is the United States District Court for the
13 District of Hawaii, except—

14 (A) in the case of Guam and Wake Island,
15 the appropriate court is the United States Dis-
16 trict Court for the District of Guam; and

17 (B) in the case of the Northern Mariana
18 Islands, the appropriate court is the United
19 States District Court for the District of the
20 Northern Mariana Islands.

21 (2) EACH VIOLATION SEPARATE OFFENSE.—

22 Each violation shall be a separate offense. The of-
23 fense shall be deemed to have been committed not
24 only in the district where the violation first occurred,
25 but also in any other district as authorized by law.

1 (3) OFFENSES NOT COMMITTED IN ANY DIS-
2 TRICT.—Any offense not committed in any district is
3 subject to the venue provisions of section 3238 of
4 title 18, United States Code.

5 (f) CIVIL ENFORCEMENT.—

6 (1) CIVIL ADMINISTRATIVE PENALTIES.—

7 (A) IN GENERAL.—Any person who is
8 found by the Secretary (after notice and oppor-
9 tunity for a hearing in accordance with section
10 554 of title 5, United States Code) to have
11 committed an act prohibited under section 9
12 shall be liable to the United States for a civil
13 penalty. The amount of the civil penalty shall
14 not exceed \$250,000 for each violation. Each
15 day of a continuing violation shall constitute a
16 separate offense. The amount of such civil pen-
17 alty shall be assessed by the Secretary, by writ-
18 ten notice. In determining the amount of such
19 penalty, the Secretary shall take into account
20 the nature, circumstances, extent, and gravity
21 of the prohibited act committed and, with re-
22 spect to the violator, the degree of culpability,
23 any history of prior offenses, and other matters
24 as justice may require. In assessing such pen-
25 alty the Secretary may also consider any infor-

1 mation provided by the violator relating to the
2 ability of the violator to pay if the information
3 is served on the Secretary not later than 30
4 days prior to an administrative hearing.

5 (B) COMPROMISE OR OTHER ACTION BY
6 SECRETARY.—The Secretary may compromise,
7 modify, or remit, with or without conditions,
8 any civil administrative penalty which is or may
9 be imposed under this subsection and that has
10 not been referred to the Attorney General for
11 further enforcement action.

12 (2) CIVIL JUDICIAL PENALTIES.—Any person
13 who violates any provision of this Act (including any
14 regulation promulgated or permit issued thereunder)
15 shall be subject to a civil judicial penalty not to ex-
16 ceed \$300,000 for each such violation. Each day of
17 a continuing violation shall constitute a separate vio-
18 lation. The Attorney General, upon the request of
19 the Secretary, may commence a civil action in an ap-
20 propriate district court of the United States. The
21 district court shall have jurisdiction to award civil
22 penalties and such other relief as justice may re-
23 quire. In determining the amount of a civil penalty,
24 the district court shall take into account the nature,
25 circumstances, extent, and gravity of the prohibited

1 act committed and, with respect to the violator, the
2 degree of culpability, any history of prior violations,
3 and such other matters as justice may require. In
4 imposing such penalty, the district court may also
5 consider information related to the ability of the vio-
6 lator to pay.

7 (3) IN REM JURISDICTION.—A vessel (including
8 its fishing gear, furniture, appurtenances, stores,
9 and cargo) used in the commission of an act prohib-
10 ited by section 9 shall be liable in rem for any civil
11 penalty assessed for such violation under this section
12 and may be proceeded against in any district court
13 of the United States having jurisdiction thereof.
14 Such penalty shall constitute a maritime lien on
15 such vessel. The maritime lien on the vessel may be
16 recovered in an action in rem in the district court
17 of the United States having jurisdiction over the ves-
18 sel.

19 (4) COLLECTION OF ADMINISTRATIVE PEN-
20 ALTIES.—If a person fails to pay an assessment of
21 a civil penalty under paragraph (1) after it has be-
22 come a final and unappealable order, the Secretary
23 shall refer the matter to the Attorney General. The
24 Attorney General shall recover the amount assessed
25 (plus interest at current prevailing rates from the

1 date of the final order) in any appropriate district
2 court of the United States. In such action, the valid-
3 ity and appropriateness of the final order imposing
4 the civil penalty shall not be subject to review. Any
5 person who fails to pay, on a timely basis, the
6 amount of an assessment of a civil penalty shall be
7 required to pay (in addition to such amount and in-
8 terest, attorney's fees, and costs for collection pro-
9 ceedings) a quarterly nonpayment penalty for each
10 quarter during which such failure to pay persists.
11 Such nonpayment penalty shall be in an amount
12 equal to 20 percent of the aggregate amount of such
13 person's penalties and nonpayment penalties that
14 are unpaid as of the beginning of such quarter.

15 (g) FORFEITURE.—

16 (1) CRIMINAL FORFEITURE.—A person who is
17 convicted of an offense in violation of this Act shall
18 forfeit to the United States—

19 (A) any property, real or personal, consti-
20 tuting or traceable to the gross proceeds taken,
21 obtained, or retained, in connection with or as
22 a result of the offense, including, without limi-
23 tation, any fish (or the fair market value there-
24 of); and

1 (B) any property, real or personal, used or
2 intended to be used, in any manner, to commit
3 or facilitate the commission of the offense, in-
4 cluding, without limitation, any vessel (includ-
5 ing the vessel's equipment, stores, catch and
6 cargo), vehicle, aircraft, or other means of
7 transportation. Pursuant to section 2461(c) of
8 title 28, United States Code, the provisions of
9 section 413 of the Controlled Substances Act
10 (21 U.S.C. § 853) except for subsection (d) of
11 that Act shall apply to criminal forfeitures
12 under this section.

13 (2) CIVIL FORFEITURE.—The property set forth
14 below shall be subject to forfeiture to the United
15 States in accordance with the provisions of chapter
16 46 of title 18, United States Code, and no property
17 right shall exist in it:

18 (A) Any property, real or personal, consti-
19 tuting or traceable to the gross proceeds taken,
20 obtained, or retained in connection with, or as
21 a result of, a violation of this Act, including,
22 without limitation, any fish (or the fair market
23 value thereof).

24 (B) Any property, real or personal, used or
25 intended to be used, in any manner, to commit

1 or facilitate the commission of a violation of
2 this Act, including, without limitation, any ves-
3 sel (including the vessel's equipment, stores,
4 catch, and cargo), vehicle, aircraft, or other
5 means of transportation.

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

1 (4) PRESUMPTION.—For the purposes of this
2 section there is a rebuttable presumption that all
3 fish, or components thereof, found on board a vessel
4 that is used or seized in connection with a violation
5 of this Act (including any regulation promulgated
6 under this Act) were taken, obtained, or retained as
7 a result of IUU fishing or fishing-related activities
8 in support of IUU fishing.

9 (h) CRIMINAL ENFORCEMENT.—

10 (1) Any person (other than a foreign govern-
11 ment agency, or entity wholly owned and controlled
12 by a foreign government) who knowingly commits
13 any act prohibited by section 9 of this Act shall be
14 imprisoned for not more than 5 years or fined not
15 more than \$500,000 for individuals or \$1,000,000
16 for an organization, or both; except that if in the
17 commission of any such offense the individual uses
18 a dangerous weapon, engages in conduct that causes
19 bodily injury to any officer authorized to enforce the
20 provisions of this Act, or places any such officer in
21 fear of imminent bodily injury, the maximum term
22 of imprisonment is not more than 10 years.

23 (2) Any person (other than a foreign govern-
24 ment agency, or entity wholly owned and controlled
25 by a foreign government) who violates paragraph

1 (2), (3), (4), (5) or (6) of section 9, and who, in the
2 exercise of due care should know that such person's
3 conduct violates such subsections, shall be fined
4 under title 18, United States Code, or imprisoned
5 not more than 1 year, or both.

6 (i) PAYMENT OF STORAGE, CARE, AND OTHER
7 COSTS.—Any person assessed a civil penalty for, or con-
8 victed of, any violation of this Act (including any regula-
9 tion promulgated under this Act) and any claimant in a
10 forfeiture action brought for such a violation, shall be lia-
11 ble for the reasonable costs incurred by the Secretary in
12 storage, care, and maintenance of any property seized in
13 connection with the violation.

14 **SEC. 11. INTERNATIONAL COOPERATION AND ASSISTANCE.**

15 (a) IN GENERAL.—To the greatest extent possible,
16 consistent with existing authority and the availability of
17 funds, the Secretary shall provide appropriate assistance,
18 including grants, to developing nations and international
19 organizations of which such nations are members to assist
20 those nations in meeting their obligations under the
21 Agreement.

22 (b) USE OF RESOURCES.—In carrying out subsection
23 (a), the Secretary may, by agreement, on a reimbursable
24 or nonreimbursable basis, utilize the personnel, services,
25 equipment, and facilities of any individual, corporation,

1 partnership, association, or other entity, and any Federal,
2 State, local, or foreign government or any entity of any
3 such government.

4 (c) TRANSFER OF FUNDS.—The Secretary is author-
5 ized to transfer funds, subject to the limits of available
6 appropriations, to any foreign government and any inter-
7 national, non-governmental, or intergovernmental organi-
8 zation for purposes related to carrying out the inter-
9 national responsibilities of subsection (a) or any statute
10 administered by the Secretary.

11 **SEC. 12. RELATIONSHIP TO OTHER LAWS.**

12 (a) STATUTORY CONSTRUCTION.—Nothing in this
13 Act shall be construed to displace any requirements im-
14 posed by the customs laws of the United States or any
15 other laws or regulations enforced or administered by the
16 Secretary of Homeland Security. Where more stringent re-
17 quirements regarding port entry or access to port services
18 exist under other Federal law, the more stringent require-
19 ments shall apply. Nothing in this Act shall affect a ves-
20 sel's entry into port, in accordance with international law,
21 for reasons of force majeure or distress.

22 (b) STATUTORY INTERPRETATION.—This Act shall
23 be interpreted and applied in accordance with United
24 States obligations under international law.

1 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to the Sec-
3 retary such sums as are necessary for each of fiscal years
4 2012 through 2016 to carry out the provisions of this Act.

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