been called the McCain-Feingold-Thompson bill. I think that is a good sign for the future of our legislation.

I thank the Chair.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

MEASURE PLACED ON CALENDAR—S. 1085

Mr. McCAIN. I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1085) to improve the management of the Boundary Waters Canoe Area Wilderness, and for other purposes.

Mr. McCAIN. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will go to the calendar.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT

Mr. McCAIN. I now ask unanimous consent that the Senate proceed to the consideration of S. 39 as under the consent agreement.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 39) to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''International Dolphin Conservation Program Act''.

(b) REFERENCES TO MARINE MAMMAL PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 2. PURPOSE AND FINDINGS.

(a) PURPOSES.—The purposes of this Act are—

(1) to give effect to the Declaration of Panama, signed October 4, 1995, by the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, the United States of America, Vanuatu, and Venezuela, including the establishment of the International Dolphin Conservation Program, relating to the protection of dolphins and other species, and the conservation and management of tuna in the eastern tropical Pacific Ocean;

(2) to recognize that nations fishing for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with that fishery; and

(3) to eliminate the ban on imports of tuna from those nations that are in compliance with the International Dolphin Conservation Program.

(b) FINDINGS.—The Congress finds that—

(1) the nations that fish for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with the purse seine fishery from hundreds of thousands annually to fewer than 5,000 annually;

(2) the provisions of the Marine Mammal Protection Act of 1972 that impose a ban on imports from nations that fish for tuna in the eastern tropical Pacific Ocean have served as an incentive to reduce dolphin mortalities;

(3) tuna canners and processors of the United States have led the canning and processing industry in promoting a dolphin-safe tuna market; and

(4) 12 signatory nations to the Declaration of Panama, including the United States, agreed under that Declaration to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000 animals, with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits with the goal of eliminating dolphin mortality.

SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

''(28) The term 'International Dolphin Conservation Program' means the international program established by the agreement signed in LaJolla, California, in June, 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama, that requires—

''(A) that the total annual dolphin mortality in the purse seine fishery for yellow fin tuna in the eastern tropical Pacific Ocean shall not exceed 5,000 animals with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits;

''(B) the establishment of a per stock per year dolphin mortality limit at a level between 0.2 percent and 0.1 percent of the minimum population estimate to be in effect through calendar year 2000;

''(C) the establishment of a per stock per year dolphin mortality limit at a level less than or equal to 0.1 percent of the minimum population estimate beginning with the calendar year 2001;

''(D) that if a dolphin mortality limit is exceeded under—

''(i) subparagraph (A), all sets on dolphins shall cease for the applicable fishing year; and

''(ii) subparagraph (B) or (C), all sets on the stocks covered under subparagraph (B) or (C) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

''(E) a scientific review and assessment to be conducted in calendar year 1998 to—

''(i) assess progress in meeting the objectives set for calendar year 2000 under subparagraph (B); and

''(ii) as appropriate, consider recommendations for meeting these objectives;

''(F) a scientific review and assessment to be conducted in calendar year 2000—

''(i) to review the stocks covered under subparagraph (C); and

''(ii) as appropriate to consider recommendations to further the objectives set under that subparagraph;

''(G) the establishment of a per vessel maximum annual dolphin mortality limit consistent with the established per-year mortality limits, as determined under subparagraphs (A) through (C); and

''(H) the provision of a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

''(29) The term 'Declaration of Panama' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.''.

SEC. 4. AMENDMENTS TO TITLE I.

(a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) by inserting after the first sentence ''Such authorizations may be granted under title III with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103'' before the period; and

(2) by striking the semicolon in the second sentence and all that follows through ''practicable''.

(b) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

''(i)(I) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of the International Dolphin Conservation Program Act; or

''(II) the tuna or products therefrom were harvested after the effective date of the International Dolphin Conservation Program Act by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

''(ii) such nation is meeting the obligations of the International Dolphin Conservation Program and the obligations of membership in the Inter-American Tropical Tuna Commission, including all financial obligations; and

''(iii) the total dolphin mortality limits, and per stock per year dolphin mortality limits permitted for that nation's vessels under the International Dolphin Conservation Program do not exceed those levels determined for 1996, or in any year thereafter, consistent with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits and the goal of eliminating dolphin mortality, and requirements of the International Dolphin Conservation Program; and''

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(3) by inserting after subparagraph (B) the following:

''(C) the Secretary shall not accept such documentary evidence if—

''(i) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna Commission to release complete and accurate information to the Secretary in a timely manner to allow determination of compliance with the International Dolphin Conservation Program; or

''(ii) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna Commission to release complete and accurate information to the Secretary in a timely manner for the purposes of tracking and verifying compliance with the minimum requirements established by the Secretary in regulations promulgated under subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)); or

''(iii) after taking into consideration this information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation

with the Secretary of State, finds that the harvesting nation is not in compliance with the International Dolphin Conservation Program.''; and

(4) by striking ''subparagraph (E)'' in the matter after subparagraph (F), as redesignated by paragraph (2) of this subsection, and inserting ''subparagraph (F)''.

(c) Section 101 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

''(d) ACT NOT TO APPLY TO INCIDENTAL TAKINGS BY UNITED STATES CITIZENS EMPLOYED ON FOREIGN VESSELS OUTSIDE THE UNITED STATES EEZ.—The provisions of this Act shall not apply to a citizen of the United States who incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.''.

(d) Section 104(h) (16 U.S.C. 1374(h)) is amended to read as follows:

''(h) GENERAL PERMITS.—

''(1) Consistent with the regulations prescribed pursuant to section 103 of this title and to the requirements of section 101 of this title, the Secretary may issue an annual permit to a United States purse seine fishing vessel for the taking of such marine mammals, and shall issue regulations to cover the use of any such annual permits.

''(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 304 of this Act, subject to the regulations issued pursuant to section 302 of this Act.''.

(e) Section 108(a)(2) (16 U.S.C. 1378(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by inserting after subparagraph (B) the following:

''(C) negotiations to revise the Convention for the Establishment of an Inter-American Tropical Tuna Commission (1 U.S.T. 230; TIAS 2044) which will incorporate—

''(i) the conservation and management provisions agreed to by the nations which have signed the Declaration of Panama and in the Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement, as opened for signature on December 4, 1995; and

''(ii) a revised schedule of annual contributions to the expenses of the Inter-American Tropical Tuna Commission that is equitable to participating nations; and

''(D) discussions with those countries participating, or likely to participate, in the International Dolphin Conservation Program, for the purpose of identifying sources of funds needed for research and other measures promoting effective protection of dolphins, other marine species, and the marine ecosystem;''.

(f) Section 110(a) (16 U.S.C. 1380(a)) is amended—

(1) by striking ''(1)'' in paragraph (1); and

(2) by striking paragraph (2).

(g) Subsection (d)(1) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(1)) is amended to read as follows:

''(1) It is a violation of section 5 of the Federal Trade Commission Act for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term 'Dolphin Safe' or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

''(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing;

''(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements of being considered dolphin safe under paragraph (2);

''(C) tuna harvested outside the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (3); or

''(D) tuna harvested by a vessel engaged in any fishery identified by the Secretary pursuant to paragraph (4) as having a regular and significant incidental mortality of marine animals.''.

(h) Subsection (d)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(2)) is amended to read as follows:

''(2) For purposes of paragraph (1)(B), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets is dolphin safe if—

''(A) the vessel is of a type and size that the Secretary has determined, consistent with the International Dolphin Conservation Program, is not capable of deploying its purse seine nets on or to encircle dolphins; or

''(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna certifying that no dolphins were killed or seriously injured during the sets in which the tuna were caught;

''(ii) the product is accompanied by a written statement executed by—

''(I) the Secretary or the Secretary's designee;

''(II) a representative of the Inter-American Tropical Tuna Commission; or

''(III) an authorized representative of a participating nation whose national program meets the requirements of the International Dolphin Conservation Program,

which states that there was an observer approved by the International Dolphin Conservation Program on board the vessel during the entire trip and that such observer documented that no dolphins were killed or seriously injured during the sets in which the tuna in the tuna product were caught; and

''(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product; and

''(C) the written statements and endorsements referred to in subparagraph (B) comply with regulations promulgated by the Secretary which would provide for the verification of tuna products as dolphin safe.''.

(i) Subsection (d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)) is amended further by adding the following new paragraphs:

''(3) For purposes of paragraph (1)(C), tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

''(A) it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; or

''(B) in any fishing in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, it is accompanied by a written statement executed by the captain of the vessel and an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.

''(4) For purposes of paragraph (1)(D), tuna or a tuna product that contains tuna harvested in a fishery identified by the Secretary as having a regular and significant incidental mortality or serious injury of marine mammals is dolphin safe if it is accompanied by a written statement executed by the captain of the vessel and, where determined to be practicable by the Secretary, an observer participating in a national or international program acceptable to the Secretary certifying that no marine mammals were killed or seriously injured in the course of the fishing operation or operations in which the tuna were caught.

''(5) No tuna product may be labeled with any reference to dolphins, porpoises, or marine mammals, except as dolphin safe in accordance with this subsection.''.

(j) Subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)) is amended to read as follows:

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the effective date of the International Dolphin Conservation Program Act.

''(2) TRACKING REGULATIONS.—Within 3 months after the date of enactment of the International Dolphin Conservation Program Act, the Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to establish a domestic tracking and verification program that provides for the effective tracking of tuna labeled under subsection (d). In the development of these regulations, the Secretary shall establish appropriate procedures for ensuring the confidentiality of proprietary information the submission of which is voluntary or mandatory. The regulations shall include provisions that address each of the following items:

''(1) the use of weight calculation for purposes of tracking tuna caught, landed, processed, and exported;

''(2) additional measures to enhance current observer coverage, including the establishment of criteria for training, and for improving monitoring and reporting capabilities and procedures;

''(3) the designation of well location, procedures for sealing holds, procedures for monitoring and certifying both above and below deck, or through equally effective methods, the tracking and verification of tuna labeled under subsection (d);

''(4) the reporting, receipt, and database storage of radio and facsimile transmittals from fishing vessels containing information related to the tracking and verification of tuna, and the definition of set;

''(5) the shore-based verification and tracking throughout the fishing, transshipment, and canning process by means of Inter-American Tropical Tuna Commission trip records or otherwise;

''(6) the use of periodic audits and spot checks for caught, landed, and processed tuna products labeled in accordance with subsection (d); and

''(7) the provision of timely access to data required under this subsection by the Secretary from harvesting nations to undertake the actions required in paragraph (6) of this subsection.

The Secretary may make such adjustments as may be appropriate to the regulations promulgated under this subsection to implement an international tracking and verification program that meets or exceeds the minimum requirements established by the Secretary under this subsection.''.

SEC. 5. AMENDMENTS TO TITLE III.

(a) The heading of title III is amended to read as follows:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM''.

(b) Section 301 (16 U.S.C. 1411) is amended—

(1) by striking paragraph (4) of subsection (a) and inserting the following:

''(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce dolphin mortality progressively to a level approaching zero through the setting of annual limits, with the goal of eliminating, dolphin mortality

in that fishery. Recognition of the International Dolphin Conservation Program will assure that the existing trend of reduced dolphin mortality continues; that individual stocks of dolphins are adequately protected; and that the goal of eliminating all dolphin mortality continues to be a priority.''; and

(2) by striking paragraphs (2) and (3) of subsection (b) and inserting the following:

''(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, with the goal of eliminating, the mortality referred to in paragraph (1);

''(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets or caught by purse seine vessels in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;''.

(c) Section 302 (16 U.S.C. 1412) is amended to read as follows:

''SEC. 302. AUTHORITY OF THE SECRETARY.

''(a) REGULATIONS.—

''(1) The Secretary shall issue regulations to implement the International Dolphin Conservation Program.

''(2)(A) Not later than 3 months after the effective date of the International Dolphin Conservation Program Act, the Secretary shall issue regulations to authorize and govern the taking of marine mammals in the eastern tropical Pacific Ocean, including any species of marine mammal designated as depleted under this Act but not listed as endangered or threatened under the Endangered Species Act (16 U.S.C. 1531 et seq.), by vessels of the United States participating in the International Dolphin Conservation Program.

''(B) Regulations issued under this section shall include provisions—

''(i) requiring observers on each vessel;

''(ii) requiring use of the backdown procedure or other procedures equally or more effective in avoiding mortality of marine mammals in fishing operations;

''(iii) prohibiting intentional sets on stocks and schools in accordance with the International Dolphin Conservation Program;

''(iv) requiring the use of special equipment, including dolphin safety panels in nets, monitoring devices as identified by the International Dolphin Conservation Program to detect unsafe fishing conditions that may cause high incidental dolphin mortality before nets are deployed by a tuna vessel, operable rafts, speedboats with towing bridles, floodlights in operable condition, and diving masks and snorkels;

''(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than 30 minutes before sundown;

''(vi) banning the use of explosive devices in all purse seine operations;

''(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits in accordance with the International Dolphin Conservation Program;

''(viii) preventing the making of intentional sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits, or per-stock per-year mortality limits;

''(ix) preventing the fishing on dolphins by a vessel without an assigned vessel dolphin mortality limit;

''(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing;

''(xi) authorizing fishing with the area covered by the International Dolphin Conservation Program by vessels of the United States without the use of special equipment or nets if the vessel takes an observer and does not intentionally deploy nets on, or encircle, dolphins, under such terms and conditions as the Secretary may prescribe; and

''(xii) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to vessels of the United States.

''(C) ADJUSTMENTS TO REQUIREMENTS.—The Secretary may make such adjustments as may be appropriate to requirements of subparagraph (B) that pertain to fishing gear, vessel equipment, and fishing practices to the extent the adjustments are consistent with the International Dolphin Conservation Program.

''(b) CONSULTATION.—In developing any regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

''(c) EMERGENCY REGULATIONS.—

''(1) If the Secretary determines, on the basis of the best scientific information available (including research conducted under subsection (d) and information obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this title is having, or is likely to have, a significant adverse effect on a marine mammal stock or species, the Secretary shall—

''(A) notify the Inter-American Tropical Tuna Commission of his or her findings, along with recommendations to the Commission as to actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact; and

''(B) prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

''(2) Before taking action under subparagraph (A) or (B) of paragraph (1), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission.

''(3) Emergency regulations prescribed under this subsection—

''(A) shall be published in the Federal Register, together with an explanation thereof;

''(B) shall remain in effect for the duration of the applicable fishing year; and

''(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines that the reasons for the emergency action no longer exist.

''(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.

''(5) Within 120 days after the Secretary notifies the United States Commissioners to the Inter-American Tropical Tuna Commission of the Secretary's findings under paragraph (1)(A), the United States Commissioners shall call for a special meeting of the Commission to address the problem described in the findings. The Commissioners shall report the results of the special meeting in writing to the Secretary and to the Secretary of State. In their report, the Commissioners shall—

''(A) include a description of the actions taken by the harvesting nations or under the International Dolphin Conservation Program to reduce the incidental mortality and serious injury and measures to mitigate the adverse impact on the marine mammal species or stock;

''(B) indicate whether, in their judgment, the actions taken address the problem adequately; and

''(C) if they indicate that the actions taken do not address the problem adequately, include recommendations of such additional action to be taken as may be necessary.

''(d) RESEARCH.—

''(1) IN GENERAL.—The Secretary shall, in cooperation with the nations participating in the International Dolphin Conservation Program and with the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program.

''(2) SPECIFIC AREAS OF RESEARCH.—Research carried out under paragraph (1)—

''(A) may include projects to devise cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

''(B) may include projects to develop cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals;

''(C) may include projects to carry out stock assessments for those marine mammal species and marine mammal stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks not within waters under the jurisdiction of the United States;

''(D) shall include projects to study the effect of chase and encirclement on the health and biology of dolphin and dolphin populations incidentally taken in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean; and

''(E) may include projects to determine the extent to which the incidental take of nontarget species, including juvenile tuna, occurs in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, the geographic location of the incidental take, and the impact of that incidental take on tuna stocks, and nontarget species.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $8,000,000 to be used by the Secretary, acting through the National Marine Fisheries Service, to carry out the research described in paragraph (2)(D).

''(4) REPORT.—Within 5 years after the date of enactment of the International Dolphin Conservation Program Act, the Secretary shall complete and submit a report containing the results of the research described in paragraph (2)(D), together with any recommendations the Secretary may have to offer on the basis of the study, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives, and to the Inter-American Tropical Tuna Commission. The Secretary shall include a description of the annual activities and results of research carried out under this subsection in the report required under section 303.''.

(d) Section 303 (16 U.S.C. 1413) is hereby repealed.

(e) Section 304 (16 U.S.C. 1414) is amended to read as follows:

''SEC. 303. REPORTS BY THE SECRETARY.

''Notwithstanding section 103(f), the Secretary shall submit annual reports to the Congress which include—

''(1) results of research conducted pursuant to section 302;

''(2) a description of the status and trends of stocks of tuna;

''(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;

''(4) a description of the activities of the International Dolphin Conservation Program and of

the efforts of the United States in support of the Program's goals and objectives, including the protection of dolphin populations in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

''(5) actions taken by the Secretary under section 101(a)(2)(B) and section 101(d);

''(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this title; and

''(7) any other information deemed relevant by the Secretary.''.

(f) Section 305 (16 U.S.C. 1415) is hereby repealed.

(g) Section 306 (16 U.S.C. 1416) is amended to read as follows:

''SEC. 304. PERMITS.

''(a) IN GENERAL.—

''(1) Consistent with the regulations issued pursuant to section 302, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including requiring the submission of—

''(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof; and

''(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 302, with respect to each vessel.

''(2) The Secretary is authorized to charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

''(3) After the effective date of the International Dolphin Conservation Program Act, no vessel of the United States shall operate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

''(b) PERMIT SANCTIONS.—

''(1) In any case in which—

''(A) a vessel for which a permit has been issued under this section has been used in the commission of an act prohibited under section 305;

''(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 305; or

''(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel, or other person who has applied for or been issued a permit under this section has not been paid or is overdue,

the Secretary may—

''(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

''(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

''(iii) deny such permit; or

''(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

''(2) In imposing a sanction under this subsection, the Secretary shall take into account—

''(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

''(B) with respect to the violator, the degree of culpability, any history of prior offenses, and other such matters as justice requires.

''(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

''(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

''(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this title or otherwise.''.

(h) Section 307 (16 U.S.C. 1417) is hereby redesignated as section 305, and amended—

(1) by striking paragraphs (1), (2), and (3) of subsection (a) and inserting the following:

''(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is a member of the Inter-American Tropical Tuna Commission or has initiated and within 6 months thereafter completed all steps required of applicant nations in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

(B) by striking paragraph (2) and inserting in lieu thereof the following:

''(2) except as provided for in subsection 101(d), for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this title and regulations issued under pursuant to this title; and

''(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101(a)(2);'';

(2) by inserting ''(a)(5) or'' before ''(a)(6)'' in subsection (b)(2); and

(3) by striking subsection (d).

(i) Section 308 (16 U.S.C. 1418) is redesignated as section 306, and amended by striking ''303'' and inserting in lieu thereof ''302(d)''.

(j) CLERICAL AMENDMENTS.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the items relating to title III and inserting in lieu thereof the following:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

''Sec. 301. Findings and policy.
''Sec. 302. Authority of the Secretary.
''Sec. 303. Reports by the Secretary.
''Sec. 304. Permits.

SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT.

(a) Section 3(c) of the Tuna Conventions Act (16 U.S.C. 952(c)) is amended to read as follows:

''(c) at least one shall be either the Administrator, or an appropriate officer, of the National Marine Fisheries Service; and''.

(b) Section 4 of the Tuna Conventions Act (16 U.S.C. 953) is amended to read as follows:

''SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

''(a) APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.—The Secretary, in consultation with the United States Commissioners, shall—

''(1) appoint a General Advisory Committee which shall be composed of not less than 5 nor more than 15 persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations;

''(2) appoint a Scientific Advisory Subcommittee which shall be composed of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations;

''(3) establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data; and

''(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members.

''(b) FUNCTIONS.—

''(1) GENERAL ADVISORY COMMITTEE.—The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions.

''(2) SCIENTIFIC ADVISORY SUBCOMMITTEE.—

''(A) ADVICE.—The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including—

''(i) the conservation of ecosystems;

''(ii) the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and

''(iii) the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

''(B) OTHER FUNCTIONS AND ASSISTANCE.—The Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the United States Commissioners, or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include—

''(i) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission;

''(ii) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research;

''(iii) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments;

''(iv) consulting with other experts as needed; and

''(v) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or its equivalent).

''(3) ATTENDANCE AT MEETINGS.—The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission.''.

(c) BYCATCH REDUCTION.—The Tuna Conventions Act (16 U.S.C. 951 et seq.) is amended by adding at the end thereof the following:

"SEC. 15. REDUCTION OF BYCATCH IN THE EASTERN TROPICAL PACIFIC OCEAN.

"The Secretary of State, acting through the United States Commissioners, shall take the necessary steps to establish standards and measures for a bycatch reduction program for vessels fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The bycatch reduction program shall include measures—

"(1) to require, to the maximum extent practicable, that sea turtles and other threatened species and endangered species are released alive;

"(2) to reduce, to the maximum extent practicable, the harvest of nontarget species;

"(3) to reduce, to the maximum extent practicable, the mortality of nontarget species; and

"(4) to reduce, to the maximum extent practicable, the mortality of juveniles of the target species.".

SEC. 7. EFFECTIVE DATES.

(a) AMENDMENTS TO TAKE EFFECT WHEN IDCP IN EFFECT.—Sections 3 through 6 of this Act shall become effective upon certification by the Secretary of State to Congress that a binding resolution of the Inter-American Tropical Tuna Commission or other legally binding instrument establishing the International Dolphin Conservation Program has been adopted and is in effect.

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding subsection (a), subsection (f)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)(2)), as added by section 4(j) of this Act takes effect on the date of enactment of this Act.

Mr. McCAIN. Mr. President, we have an agreement to move forward on the tuna-dolphin legislation, S. 39, the Snowe-Breaux-Stevens-Kerry, et al., legislation.

This legislation would implement the International Dolphin Conservation Program. Senator SNOWE, who is responsible for this legislation, will soon offer a managers' amendment that will make several changes to the bill. As I stated last week, my consent to modifications was with the stipulation that any changes would not undermine the International Dolphin Conservation Program by causing the signatory nations to dissolve the agreement.

With the assurances we have received from the President's National Security Adviser that these changes meet that stipulation, I support strongly the managers' amendment.

Again, Mr. President, this legislation is supported by Greenpeace, the National Wildlife Federation, the World Wild Life Fund, the Environmental Defense Fund and the Center for Marine Conservation.

I ask unanimous consent to have printed in the RECORD at this time letters from these organizations and from the President endorsing this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 17, 1997.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN, The Center for Marine Conservation, Environmental Defense Fund, Greenpeace, National Wildlife Federation and the World Wildlife Fund, representing more than 10 million supporters in the United States strongly support passage of S. 39, *The International Dolphin Conservation Program Act*. We urge you to support S. 39, seek prompt consideration of the bill by the full Senate, and to oppose any procedural moves which would delay consideration of the bill.

Not only does the bill strengthen the Marine Mammal Protection Act, protection for dolphins in the Eastern Tropical Pacific (ETP) but it also protects the ecosystem by reducing the bycatch of endangered sea turtles, sharks, billfish and juvenile tuna. Additionally, the Act is an important step in solidifying the voluntary program presently in place in the ETP which has reduced dolphin mortality from 423,678 in 1972 to 2,700 in the last year. Enactment of S.39 and the development of the new international standards it prescribes will bring the conservation community significantly closer to the goal of eliminating dolphin deaths altogether.

We applaud your efforts to bring S. 39 to the floor for consideration. The amendments passed by the Senate Committee on Commerce, Science and Transportation have strengthened the bill considerably. Significantly, these changes directly address concerns about truth in labeling, because they prohibit the use of the of "Dolphin Safe" label on tuna if a single dolphin died or suffered serious injury during the fishing operation. That change means that the "Dolphin Safe" label will provide greater protection for dolphins than ever before. In addition, the bill as amended now provides numerous fail-safe measures to protect the dolphin populations in the ETP. The amended bill gives the Secretary of Commerce emergency powers to re-impose the trade embargoes if a detrimental change in the dolphin population is observed. While there is no indication in the current science that chase and encirclement adversely affects dolphins populations the bill, as amended provides that a five year study be done to determine the effects of chase and encirclement on those dolphin populations. If at any time the study shows adverse impact on the populations, the bill provides the Secretary of Commerce emergency powers to protect dolphins. In short, S. 39 offers a powerful and effective means of protecting dolphins, the Eastern Tropical Pacific ecosystem, and the American consumer.

This bill is supported by environmentalists, the fishing industry, and the Seafarers Union. It is based on sound science, and has been the subject of Congressional consideration for two full legislative sessions. Delay in enactment of S. 39 would mean sacrificing this important opportunity to strengthen the protection of dolphins and the ecosystem in which they live. We strongly urge you to seek prompt consideration of S. 39 by the full Senate and to oppose any procedural moves which would delay its prompt enactment.

Sincerely,

ROGER MCMANUS,
President, Center for Marine Conservation.

BARBARA DUDLEY,
Executive Director, Greenpeace.

KATHRYN FULLER,
President, World Wildlife Fund.

FRED KRUPP,
Executive Director, Environmental Defense Fund.

MARK VAN PUTTEN,
President, National Wildlife Federation.

THE WHITE HOUSE,
Washington, July 15, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I urge the Senate to consider and pass S. 39, the International Dolphin Conservation Program Act.

The House of Representatives recently passed counterpart legislation with wide bipartisan support and it is my hope that the Senate will act similarly. As you know, this legislation has recovered the support of environmental organizations in addition to our nation's fishing industry. If enacted, S. 39 will allow the United States to implement the Panama Declaration, a strong international program needed to protect dolphins and other marine life in the Eastern Tropical Pacific Ocean.

I hope that the Senate acts in our national interest and passes this measure, which will permit the United States to maintain its leadership role in promoting better stewardship of our oceans and their valuable resources.

Sincerely,

BILL CLINTON.

Mr. McCAIN. The bill, which was approved in the House last year and again last May by overwhelming majorities, would implement the International Dolphin Conservation Program by making basically two changes to U.S. law. First, when the IDCP agreement is officially concluded, it permits the importation of tuna from the Eastern Tropical Pacific as long as dolphin-safe fishing practices are adhered to. Second, it will permit the labeling of tuna from this area as dolphin safe as long as no dolphin were killed or seriously injured during the catch and that science shows no significant adverse impact on dolphins.

Failure to enact this bill would be a devastating blow to our efforts to protect the marine environment. Without this implementing legislation, current fishing practices will continue, practices which scientists have learned have an adverse impact not only on dolphin but a host of other marine life including sea turtles and bill fish. Foreign fishing companies no longer bound by the international treaty may well resume even more harmful fishing practices which would spell disaster for dolphin. The impact of tuna fishing on dolphin is an international problem which demands an international response. Passage of this legislation will ensure the cooperation of the need to provide meaningful and sustainable protection for dolphin and other marine life.

Mr. President, I want to again thank Senator SNOWE, the chairman of the Ocean and Fisheries Subcommittee, Senator STEVENS, Senator BREAUX, and Senator KERRY of Massachusetts. They have been working on this legislation for 2 years. Senator SNOWE has held numerous hearings, has agreed to a number of compromises, and a number of amendments, and I would like to again congratulate her for her success in reaching agreement on this very difficult and controversial legislation. The enactment of this legislation is a great victory for the environment and the environmental communities and

they deserve enormous credit and gratitude.

I thank the other Senators without whose cooperation passage of this bill would not be possible. I would like to yield to Senator SNOWE for her comments including a description of the managers' amendment.

Mr. President, I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Maine.

Ms. SNOWE. I thank Senator MCCAIN, who, as chairman of the Commerce Committee, has shown tremendous leadership, and I congratulate him for getting this contentious bill to the floor.

Before beginning, I ask unanimous consent that Kate Wing, a Sea Grant fellow from the Subcommittee on Ocean and Fisheries, be given floor privileges during consideration of S. 3 9.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I would also like to commend the original sponsors of this legislation, Senator STEVENS and Senator BREAUX, for their stellar efforts on the bill before us today. They have spent a tremendous amount of time and energy over the past year and a half to get this bill to this point, and they have made every effort to accommodate the concerns of Senators with opposing views.

I would also like to thank Senator KERRY, the ranking member of the subcommittee, and Senators HOLLINGS, BOXER, and BIDEN who have been instrumental in helping us reach agreement on this bill, and I appreciate their efforts.

S. 39, the International Dolphin Conservation Program Act, will make the changes in U.S. law necessary to implement the Declaration of Panama, which was signed by the United States and 11 other countries in 1995. Under Panama, these nations agreed to conclude a binding agreement to protect dolphins in the Eastern Tropical Pacific tuna fishery, and to adhere to broadly sustainable methods of harvesting this tuna.

This bill enjoys a tremendous amount of public support. The Clinton administration, which negotiated the agreement, strongly supports this bill. As Senator MCCAIN indicated, a number of environmental groups are champions of this legislation as well. The World Wildlife Fund, National Wildlife Federation, Center for Marine Conservation, Environmental Defense Fund, and Greenpeace have all strongly supported this bill.

The bill is also strongly supported by the National Fisheries Institute, the U.S. tuna fishing industry, and the Seafarer's International Union.

The Panama Declaration and S. 39 represent a landmark international effort to achieve two critical objectives: to protect dolphins in the ETP, and to protect the entire marine ecosystem of this vast region. They do this by requiring the nations fishing in the ETP to meet exceedingly strict limitations on the mortality and serious injury of dolphins. In exchange for the other nations agreeing to this stringent conservation regime, the United States will lift its embargoes of tuna from other nations, and permit fishermen that set purse seine nets around dolphins to use the U.S. dolphin-safe label if they do not kill or seriously injure any dolphins.

This is the most effective and responsible way to achieve our dual objectives of protecting dolphins and the ecosystem of the ETP, and the reasons are twofold. While dolphin setting was once very deadly for dolphins, refinements to the practice in recent years have yielded tremendous gains. The graph behind me shows dolphin mortality per dolphin set, and we can see how successful fishermen have been in reducing mortality to dolphins in each set—99 percent since 1986.

These mortality reductions per set have in turn led to a precipitous decline in total dolphin mortality in the ETP, as this other graph behind me indicates as well. Overall dolphin mortality has plummeted 99 percent since 1986, even though the rate of dolphin setting has remained stable during that period.

At the same time, it has become apparent that the alternatives to dolphin setting—log and school setting—are very damaging to many other species. The table behind me shows the relative amounts of bycatch for each of the three harvesting methods.

I ask unanimous consent the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Year	Number of Dolphin sets	Total dolphin mortality	Mortality per set	Dolphin sets as a percent of total sets
1986	10,507	133,174	5.34	59.82
1987	12,538	99,177	12.67	62.00
1988	10,571	81,593	7.91	47.75
1989	12,580	97,046	7.72	56.34
1990	10,571	52,531	7.71	51.95
1991	9,482	27,292	4.97	55.32
1992	10,326	15,550	2.88	56.16
1993	6,953	3,716	1.51	40.27
1994	7,804	4,095	0.53	50.00
1995	7,209	3,276	0.52	47.00
1996	7,353	2,766	0.45	52.00

Data from the Inter-American Tropical Tuna Association.

Ms. SNOWE. Mahi-mahi, for instance, a fish popular in white tablecloth restaurants in the United States, suffers far higher bycatch rates in log and school sets than in dolphin sets. Looking at blacktip sharks, we see a similar problem. The same is true for every other nondolphin species in the ETP. If you look at Mahi-mahi, you are talking about losing 30,000 Mahi-mahi fish for every 1,000 pounds of tuna caught in the eastern tropical pacific.

Mr. President, the basic intent of the Panama Declaration and S. 39 is to lock the nations that fish in the ETP into a very strict conservation regime that will require them to continue the progress made to date and eventually reduce dolphin mortality to a level near zero. And it is also to recognize a fishing method that causes very little harm to dolphins, but which is also the safest possible fishing method for all of the other species that live in the ETP.

Mr. President, as we know, some Senators have been concerned that dolphin setting may be causing unseen harm to dolphins, and they objected to the immediate change in the dolphin safe label contained in S. 39 as reported by the committee. The latest compromise that we all reached last week, and that is contained in the manager's amendment that was offered by Senator MCCAIN.

It requires the expeditious commencement of research to further study the effect of dolphin setting on dolphins. Tuna caught by dolphin sets may not be labeled dolphin safe until at least March 1999, at which time the Secretary of Commerce must review the preliminary results of the study, and make a determination as to whether or not dolphin setting is causing significant adverse impacts to depleted dolphin stocks in the ETP. If the Secretary finds no significant impact, then the label changes to permit tuna caught with dolphin sets to be labeled dolphin safe, as long as no dolphins were killed or seriously injured during harvest.

Between July 1, 2001, and December 31, 2002, the Secretary will review the completed results of the study, and make another determination. If significant adverse impacts to dolphins are found at that time, he must prohibit the labeling of tuna caught with dolphin sets as dolphin safe.

Mr. President, I think this compromise reasonably addresses the concerns on both sides, and it resolves what has been a very contentious issue. I urge my colleagues to support the

manager's amendment to S. 39, and the bill as amended.

I reserve the remainder of my time, Mr. President.

Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 5 minutes and 28 second.

Ms. SNOWE. Mr. President, I yield 3 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. BREAUX. I thank the Senator and start by congratulating her on the effort she has made in this regard, and Senator STEVENS from Alaska for the work he has done along with Senator KERRY, and also acknowledge Senator Barbara BOXER's longstanding commitment on doing what is necessary to preserve and protect dolphins.

As we bring this legislation to the floor, it is very, very significant, for we have been working on this for 25 years to try to improve on a program that I think has made great progress in preserving the ability for the tuna industry in the United States, one of the most popular fishing resources in the entire world, to be able to continue to operate in a manner that does not cause death or mortality or serious harm to dolphin, which conflict, many times, with the tuna fish themselves. This industry, I think, is to be commended because they have made tremendous strides in trying to preserve their industry, at the same time protecting dolphins. So they are to be congratulated for the great work they have done. This legislation hopefully will be an improvement. I commend all of those who have had a chance to be involved in it.

One concern that I do have is directly related to the labeling issue. As many of you know, the debate on the tuna-dolphin issue has a long and tortuous history. It was our own industry, primarily the U.S. canners, who started the dolphin-safe movement by voluntarily adopting that label back in 1990. It took several years and many millions of dollars to educate the American consumer about what the dolphin-safe label means. It was because of the industry's efforts and congressional backing that we still have that label today.

But today, when we pass S. 39, the Congress will establish criteria by which to evaluate the appropriateness of the dolphin-safe label. The definition of the label may change, based upon further scientific studies.

But let us not fool ourselves that there are some people who will oppose this change at all costs. One way to do this is through the use of alternative labels.

The existence of alternative labels alone is not problematic, but the misuse of those labels to deceive or mislead the American public is a problem. The original version of S. 39 recognized this fact and prohibited other labels that referred to dolphins or other marine mammals on a can of tuna. It made sense from a practical point of view—if the Congress is establishing very strict criteria for a Government dolphin-safe label, then it should be the only such label.

Opponents to this provision would argue on the right to free commercial speech. We must remember that commercial speech is not given the same degree of protection as individual speech. If a significant Government interest exists, then the Government can regulate such commercial speech. I believe that the conservation goals of the International Dolphin Conservation Program are such a significant Government interest. But in the spirit of compromise, I was willing to allow alternative labels under some strict conditions.

Alternative labels can exist if they meet the minimum standards of the dolphin-safe label, including the no mortality or serious injury standard as well as the support of a tracking and verification program similar to that found in S. 39. If you want to claim that you are as safe as dolphin safe, then you must be able to prove it. Alternative labels are subject to all applicable labeling, marketing and advertising laws and regulations of the Federal Trade Commission Act—this only makes sense.

But the concern on the misuse of alternative labels continues to exist. Our compromise would address this concern by forbidding any campaign or effort to mislead or deceive consumers about the level of protection afforded dolphins under the International Dolphin Conservation Program.

Finally, we ask the Secretary of Commerce to monitor the situation. If alternative labels are used in such a way to undermine the conservation goals of the International Dolphin Conservation Program, then the Secretary will make a report to the Congress. If our efforts here today, and over the past 2 years, are being thwarted by a campaign to undercut the label or International Dolphin Conservation Program, then we should know and we should take action to eliminate this problem.

Mr. President, I hope these safeguards are sufficient in dealing with the misuse of alternative labels. I can only support this bill if I know that our efforts and the goals of the binding international program are not being undone by a campaign which uses alternative labels to cerate market distinctions for the purpose of customer confusion or deception. I believe that we addressed this concern with our compromise. If not, I am sure that we shall visit this issue again.

In closing, Mr. President, I would like to acknowledge the leadership of my friend from Alaska, Senator STEVENS, who has helped guide this bill through to this day. I also would like to note the efforts of Senators SNOWE and MCCAIN who took a personal interest in protecting dolphins through an international agreement. My colleague from Massachusetts, Senator KERRY, helped to forge the compromise agreement which we stand to implement today. Of course, Senators BIDEN and BOXER should be noted for their continuing concern for dolphin protection—I am glad that our common interests were merged into common legislation. I urge my colleagues to vote in favor of S. 39.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Will the Senator yield to me?

Ms. SNOWE. Mr. President, I am more than happy to yield the remainder of my time to Senator STEVENS, who is a major sponsor of this legislation along with Senator BREAUX. I thank the Senator for his leadership on this issue.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes and 22 seconds.

PRIVILEGE OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent that Jean Toal and Tom Richey be granted the privilege of the floor for this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I ask unanimous consent my staff person, Paul Deveau, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I introduced S. 39, the International Dolphin Conservation Program Act, in January of this year at the request of the administration.

The bill would implement the international conservation agreement called the Panama Declaration, which was signed on October 4, 1995, by the 12 nations that fish for tuna in the eastern tropical Pacific Ocean [the ETP].

These countries include: Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela.

The President and Vice President strongly support the bill, as do Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, the National Wildlife Federation, the World Wildlife Fund, the American Sportfishing Association, U.S. labor unions, and the U.S. tuna industry.

The House of Representatives has passed measures similar to S. 39 twice—in both the 104th and 105th Congresses, by large bipartisan majorities.

Under the Panama Declaration and S. 39, a binding international agreement to reduce dolphin mortality and conserve fishery resources in the ETP will be created.

This binding agreement will cap dolphin mortality in the ETP at no more than 5,000 dolphins annually, with the goal of reducing the mortality of dolphins to zero.

It will also create binding observer, bycatch, and other conservation and management measures in the ETP similar to those we just enacted in our domestic fisheries in the Magnuson-Stevens Act.

These important conservation measures are contingent on specific changes to U.S. law.

The key changes include: A change to allow tuna caught in compliance with the Panama Declaration—including through the encirclement of dolphins—to be imported into the United States; and a change so that dolphin safe will mean tuna in the ETP caught in a set in which dolphin mortality occurred.

Under the agreement we have reached with Senators BOXER, BIDEN, and BREAUX, the second of these changes will be delayed.

Tuna caught by encircling dolphins in the ETP will only be able to be labeled as dolphin safe beginning in March 1999.

Before this happens, the Secretary of Commerce must determine—as we believe he will based on the scientific data we have already seen—that encirclement is not having a significant adverse impact on depleted dolphin stocks.

I have strong doubts about whether this delay is necessary, but the Latin American countries who signed the Panama Declaration with the United States have agreed to the delay.

It is appropriate that in 1997—the 25th anniversary of the passage of the Marine Mammal Protection Act—we are making improvements with respect to the protection of dolphins, a primary focus in our enactment of the original MMPA.

Since passage of the MMPA in 1972, dolphin mortality in the ETP has been reduced from over 400,000 per year, to below 5,000.

This decrease in dolphin mortality is primarily due to the development of a practice called the back-down technique, in which dolphin are safely allowed to escape from the net.

Our bill today acknowledges the vast improvements that have been made in this encirclement fishing method.

S. 39 will allow tuna caught through this method to be imported into the United States and thereby discouraged alternative methods—log sets—which we have learned have extremely high levels of bycatch.

We spent the last 3 years working on the new measures to curb bycatch in our domestic fisheries—this year's S. 39 will help with the situation in the ETP.

I thank Senator BREAUX for his work on the matter, along with Senator KERRY, and I want to acknowledge the leadership of Senator SNOWE in working out the final version of this bill.

I thank the staff: Trevor McCabe, of my office; Paul Deveau, from Senator BREAUX's staff; Clark LeBlanc, with Senator SNOWE and Senator MCCAIN; Kate Wing, from Senator MCCAIN's staff; Penny Dalton, along with Jean Toal, from Senator HOLLINGS' staff; Margaret Cummisky, from Senator INOUYE's staff; and Kate English and Tom Richey, from Senator KERRY's staff. It has been an excellent staff job.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I yield myself 5 minutes.

I would like to also thank all of those involved in this effort, which has been a very long, very complicated, sometimes difficult effort, but I think, nevertheless, an extremely important one, which is resulting in a very important conservation bill being passed.

I particularly thank Senator MCCAIN, Senator STEVENS, Senator HOLLINGS, Senator BREAUX, Senator SNOWE, Senator BOXER, Senator BIDEN, Senator DASCHLE, Senator INOUYE, and Senator SMITH, all of whom have been involved in the negotiations and effort to reach this point. I thank the representative from the White House, Katie McGinty, and the State Department, and the Department of Commerce who have all been part of these negotiations, and particularly the staff on both sides, the staff on the majority side that Senator STEVENS mentioned and also particularly Kate English and Penny Dalton, Tom Richey and Jean Toal on our side who have really spent hour upon hour upon hour trying to find a compromise.

I fought for this compromise because it includes the critical element missing from the original bill: enhanced protection for depleted dolphin stocks on the basis of sound science before any changes are made to U.S. law to ease restrictions on fishing procedures that could jeopardize dolphins. This was my key concern: sound science first.

In addition, the compromise strengthens the bill by adding a bycatch reduction program, mandating a research study, guaranteeing funding costs for its initiation, and strengthening the authority for the emergency regulatory provisions. Finally, tied to the conclusions of the research study, the compromise resolves perhaps the key concern over the timing of, and the process for, changing the definition of what constitutes ''dolphin-safe'' when that term is employed to label tuna products.

What this debate was and is about is the impact that fishing for yellowfin tuna in the eastern tropical Pacific Ocean [ETP] has had on the two depleted dolphin stocks placed at risk as a result of this fishing effort: the eastern spinner and northeastern offshore spotted dolphins. The authors of legislation that established the dolphin-safe label—Senators BOXER and BIDEN—intended the label as one method to bring attention to the plight of these quickly declining dolphin stocks due to the unsafe fishing practices of catching yellowfin tuna by setting nets on dolphins that swim with tuna.

Since the creation of the label and the embargo of tuna products from countries that do not use the dolphin-safe fishing methods, dolphin mortality has dropped significantly. This decline in mortality has been attributed to the attention that the United States brought to this issue through the dolphin-safe label, and to the efforts of nations which participate in the dolphin conservation program under the La Jolla agreement of 1992.

I think there is consensus that the La Jolla agreement and its successor agreement, the Panama Declaration, are very important to dolphin conservation. That is why I and Senators BOXER and BIDEN and others have continued to struggle to reach a compromise on this legislation which will move the Panama Declaration further along the path to creating an international treaty on dolphin protection.

The outstanding concern with the bill originally reported by the Commerce Committee was that it altered the international conservation regime, before the safety of those alterations were scientifically known to be safe for depleted dolphin stocks. This concern applied particularly to changing the definition of the dolphin-safe label as required by the Panama Declaration. In my judgement, a decision to change the criteria for use of the dolphin-safe label could only be made responsibly after the U.S. Government would authoritatively answer the question, ''What is the current health and abundance of these two dolphin stocks?''

We know that 10 years ago over 80,000 dolphins were killed each year in the ETP through the practice of setting on dolphins to catch giant yellowfin tuna. While the Technique has been modified, the practice still exists today.

The National Marine Fisheries Service, our Government agency charged with fisheries research and regulation, has not conducted a dolphin population study since 1987.

Proponents of the bill as reported by committee claim that empirical data provided by the Inter-American Tropical Tuna Commission [IATTC] provides enough information for them to feel comfortable that the dolphin stocks are safe and that no further study is needed. They conclude that IATTC observer data indicate that dolphin populations are either stable or increasing and that, taking into account the added number of boats fishing in the ETP since 1988, dolphin recovery is suggested.

BYCATCH VERSUS DOLPHIN

Supporters of S. 39 argue that, from a broader conservation perspective, catching yellowfin tuna by methods other than setting on dolphin results in the higher catch levels of juvenile yellowfin and bycatch including sea turtles, sharks, and marlin. I share their conservation concerns about bycatch and I support the bycatch reduction program added to S. 39.

However, I don't believe that we should address the bycatch problem at the expense of the two depleted dolphin stocks at risk in the ETP. That is why I have pushed so hard to ensure that

any changes made to Federal law regarding fishing agreements that impact these two dolphin stocks must be based on sound scientific knowledge regarding the dolphin populations. If we all could agree that the dolphin stocks are recovering and that the new fishing practices developed over that last 10 years are now safe for dolphins, then there would be agreement on lifting the embargo and revisiting the precept of the dolphin-safe label. The dolphin research study included in this compromise will provide the necessary knowledge to support or refute this conclusion.

HISTORY OF TUNA-DOLPHIN DEBATE

I would like to briefly describe the history of dolphin conservation and why this compromise is so important to it continued success. Since the enactment of the Marine Mammal Protection Act in 1972 there has been a dramatic decrease in the dolphin deaths from American fishing practices. However, in the early years of the MMPA, foreign nations had become a far more serious source of dolphin mortality. During the 1980's amendments to the MMPA required foreign nations to accept dolphin protection requirements comparable to those imposed on U.S. tuna fishermen, or become subject to a U.S. ban on tuna imports. Those protections include a ban on encircling dolphin using purse seine nets when fishing in the eastern tropical Pacific Ocean [ETP].

In 1990, following a voluntary prohibition on the purchase of tuna caught in association with dolphin by canned tuna companies, the U.S. implemented legislation to require a dolphin-safe tuna label which remains in use-today. The labeling law specifies that tuna caught in driftnets could not qualify as dolphin safe. That same year, the United States embargoed tuna imports from Mexico, Venezuela, and Vanuatu for failure to meet the MMPA requirements.

In 1992, the MMPA was further amended by the International Dolphin Conservation Act, giving the Secretary of State authority to enter into international agreements to establish a global moratorium on the practice of setting nets on dolphins and established a dolphin-safe market in the United States in 1994.

In 1992, the Inter-American Tropical Tuna Commission [IATTC] adopted a voluntary international agreement—the La Jolla agreement—establishing a multilateral program to reduce dolphin mortalities in the ETP. This agreement contains the goal of reducing dolphin deaths to less than 5,000 annually. Currently, 11 nations including the United States, participate in this voluntary program. While Mexico had been a participant in the program, they recently announced that they were suspending their formal participation in the voluntary program.

During the summer of 1995, five environmental groups and six Latin American nations negotiated the Panama Declaration, a new initiative to strengthen the IATTC dolphin protection program in exchange for eliminating the current United States ban on tuna that is not dolphin safe.

This brings us to today, where our efforts are focused on enacting the necessary legislation for implementing the Panama Declaration, and the requirements that we revise United States dolphin protections laws.

Thanks to the efforts of so many Senators, their staffs and others, the bill we are about to vote on now includes: a label change provision that accommodates our international obligations as laid out in the Panama Declaration, while providing enhanced protection for dolphins, and sound science for future conservation efforts.

The compromise reflected in S. 39 as amended, provides for a $12 million over 3 years to fully fund a study on the practice of chase and encirclement and its impact on depleted dolphin stocks. The bill requires a preliminary finding on the results of this study to be made in March, 1999. Unless the Secretary of Commerce finds that intentional encirclement has a significant adverse impact on depleted dolphin stocks, then the definition of the ''dolphin-safe'' label immediately changes to allow for the encirclement of dolphin—as long as no dolphin were killed or seriously injured in the process—as a legitimate fishing practice in the eastern tropical Pacific Ocean. Conversely, if the Secretary of Commerce finds that intentional encirclement does not have a significant adverse impact on depleted stocks, then the dolphin-safe label does not change at that time.

This compromise provides, further, for a second and final finding to be made by the Secretary of Commerce at the conclusion of the 3-year study, between July 2001 and December 2002, as to whether or not the intentional encirclement of dolphins has a significant adverse impact on depleted dolphin stocks or is preventing the recovery of such stocks. The Secretary of Commerce shall use the same threshold for this second determination.

In closing, Mr. President, this compromise is an important step forward for both continued dolphin protection and enhanced ecosystem protection. The agreement we reached accommodates our international obligations as laid out in the Panama Declaration, while providing enhanced protection for dolphins, and sound science for future conservation efforts. This bill also continues to protect consumers by maintaining the dolphin-safe standards. S. 39 represents a serious, well-vetted effort to bridge legitimate differences on how best to protection dolphins. I, therefore, encourage my colleagues to vote for its swift passage.

I ask unanimous consent that a letter from Kathleen McGinty at the White House be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY,

Washington, DC, July 29, 1997.

Hon. TED STEVENS

Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, members of the Senate and the Administration have reached a compromise on S. 39, the International Dolphin Conservation Act. A key component of this compromise is a comprehensive dolphin population abundance study and stress study to be undertaken by the National Marine Fisheries Service commencing in Fiscal Year 1998 and continuing through Fiscal Years 1999, 2000, and 2001. The Administration strongly supports this study and will work with Congress to obtain the necessary funding to initiate it in 1998. To ensure that the study achieves its scientific objectives, as laid out in the compromise, the Administration will seek the funds necessary to continue the study in Fiscal Years 1999 and 2000 and to complete it in Fiscal Year 2001.

Sincerely,

KATHLEEN A. MCGINTY,

Chair.

Mr. KERRY. Mr. President, I yield to the Senator from California 5 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Thank you very much, Mr. President. I thank Senator KERRY, and I will say more about him in a moment.

Mr. President, we have travelled a very difficult route to get to this day. There are so many people I wish to thank. I will start off by thanking my colleagues, Senator JOE BIDEN and Senator BOB SMITH, for their constant support over the last several years on this issue. Senator BIDEN was the Senate author of the 1990 dolphin-safe label law that I authored in the House at that time. Senator SMITH has, time and time again, proven that he is a champion of dolphin protection. Getting this compromise worked out has been very difficult—and Senator JOHN KERRY was a master negotiator. When many of us on all sides of the issue thought we would never reach agreement, he stuck with it. We are here today in great part due to the dedication of Senator KERRY. He knows this issue, he was persistent, and he never quit.

I also thank Senator HOLLINGS, the distinguished ranking member of the Commerce Committee, for his leadership and, of course, Senator JOHN MCCAIN, the chair of the committee, for coming to the table, as well as Senator SNOWE, Senator STEVENS and Senator BREAUX.

One more thank you, Mr. President, to the 45 Senators from both sides of the aisle who stood with us in this fight. The only reason we got here today is they refused to vote for cloture on this bill. They made promises on it to their constituents, and they kept those promises. I feel, I have to say, that without them, we would not be here either. Senator DASCHLE, the Democratic leader, stood with us the entire time.

I think we have saved dolphin lives as a result of this compromise, and we have protected American consumers.

Mr. President, the whole argument over this bill really revolved around one issue: What is the definition of ''dolphin safe''? In 1990, we decided that if you want to get a dolphin-safe label, you have to fish for tuna in such a way as to not harm the dolphin. That is, you may not chase or encircle dolphin with purse seine nets on that fishing trip. There are those who believe there are new ways to use the purse seine nets that no longer harm the dolphin.

Many of us believe there is no proof of that. Senator BIDEN and I, Senator SMITH, the other Senators, and 85 environmental and consumer groups said we can't change the definition until we have a scientific study that tells us it is safe for dolphins. That is what this debate is all about.

Eleven countries put tremendous pressure on this Government to change the definition of ''dolphin safe'' before there was even a study. We believed that our position was the right position; there should be a study.

We did have to give on this. We wanted a 3-year study, and we did not want any change in the label until that 3-year study was analyzed. We did not win that point.

Essentially, the way the compromise works, in 18 months when the preliminary results come in on the study, if—if—the Secretary of Commerce believes that those preliminary results indicate that chasing and setting nets on dolphins is safe for dolphins then the definition of ''dolphin safe,'' will be changed. And if the study does not show that, the bill we are passing today says we will have no change in the definition.

So, yes, this is clearly a compromise. We have won 18 months of the status quo; 18 months when consumers know that the dolphin-safe label means just that, and after that, we will live to see the preliminary results of that study, I hope, and we can have a new debate at that time. But this is what compromise is all about.

I want to make one further statement, Mr. President, because there is a disturbing element in all of this to me, and it doesn't just come into being with respect to this issue; it is an overall issue. And that is, I have a very straightforward opinion that American laws should be made by Americans; that, in fact, our environmental laws, all of our laws, our labor laws, ought to be made by the people who are sent here to fight out those issues. American laws should not be made by other countries.

I was disturbed in the course of this debate that, in fact, there was tremendous influence from other countries. I think there are many Senators who feel that is appropriate, and I think this debate shall continue, but we have a very good law on the books and I am proud to say it is going to stand for 18 months.

I look forward to making sure that the bill we are passing today comes back after conference in just this format, and it can be signed into law. Thank you very much, Mr. President. I reserve my side's time.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes 18 seconds.

Mr. KERRY. Mr. President, I thank the Senator from California, and I thank her particularly for her comments about me. I am very appreciative of that. I thank her for her extraordinary tenacity in this effort and willingness to fight for what she believes in, which she did.

I also want to emphasize that I believe this was a fair compromise arrived at by a lot of people who wanted to do what was in the best interest. I thank Senator SNOWE and Senator MCCAIN for their patience in this effort. It was trying at times and sometimes there were some difficulties along the way. They have been very gracious and very decent in arriving at this. I think a compromise is a compromise. Everybody agrees to settle, and they do so because it is in the best interests ultimately of the issue, and that is what has happened here.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1045

(Purpose: To make changes in the bill as reported by committee)

Ms. SNOWE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. BREAUX, Mr. STEVENS, and Mr. MCCAIN, proposes an amendment numbered 1045.

Mr. KERRY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1045) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BREAUX. Mr. President, I would like to engage the bill managers and Senator STEVENS in a colloquy.

As a chief cosponsor of S. 39, my understanding is that the appropriate standard of judicial review that would apply to the Secretarial findings in section 5 on whether dolphin encirclement is having a significant adverse impact on dolphin stocks in the standard under the Administrative Procedures Act. Is that the understanding of the bill managers and the sponsor of the bill?

Ms. SNOWE. Yes, the Senator is correct on that point. The Secretarial determinations to which you refer are included in S. 39 as an amendment to the Dolphin Consumer Protection Information Act. That act does not specify any alternative standard of review, and therefore the standard under the Administrative Procedures Act would apply. Furthermore, the bill managers intend that such standard will apply to the Secretarial findings in section 5 of S. 39. this standard involves a review of the administrative record, and a determination of whether the Secretary acted in an arbitrary and capricious manner.

Mr. STEVENS. I concur with Senator SNOWE. As the original sponsor of the bill, it is my intent that the Secretarial findings in section 5 be subject only to the scope of judicial review in the Administrative Procedures Act. That is clearly the appropriate standard, and I think we all agree on that.

Mr. KERRY. I concur with Senator SNOWE and Senator STEVENS on this point.

Mr. BREAUX. I thank the Senators for clarifying that point.

Mr. CHAFEE. Mr. President, I commend the efforts of the Senator from Alaska Senator STEVENS, and the Senator from Maine Senator SNOWE, for bringing this much-needed legislation to the floor. It has been nearly 2 years since legislation was first introduced in the Senate to implement the Panama Declaration, an international agreement which will promote marine conservation in the Pacific Ocean. I recognize that the opponents of this measure have strong convictions, and am pleased that the two sides were able to work out a compromise that, most importantly, is consistent with the international agreement which the United States signed.

Let me first state my view that eliminating dolphin mortality must remain a top priority as the Senate considers this bill. Like so many Americans, I will not soon forget the tragedy that occurred in the 1970's, when hundreds of thousands of dolphins were killed annually from tuna fishing in the Eastern Tropical Pacific [ETP]. In 1972 alone, more than 420,000 dolphins were killed there. While we can all applaud the tremendous progress that has been made in reducing dolphin mortality in recent years, Congress must be vigilant in working toward complete elimination.

But dolphins are not the only species adversely impacted by tuna fishing in the Eastern Tropical Pacific, sometimes called ETP. New fishing methods have resulted in significant bycatch of nondolphin species, including juvenile tuna. These other marine species in this ecosystem must also be protected, and legislation should address this larger goal.

The question before the Senate today is how do we best achieve sustained conservation in the ETP tuna fishery? We must first acknowledge that much progress has been made in reducing dolphin mortality through new fishing techniques such as the back down procedure. Through this technique, the back edge of the purse seine fishing net sinks below the surface, allowing dolphins to swim out. In 1996, dolphin mortality in the ETP is currently estimated at a record low of less than 3,000, down from record highs of more than 400,000 in the 1970's. That's a 99-percent reduction.

International cooperation in conserving this resource, particularly through the voluntary measures of the La Jolla agreement of 1992, has also been a primary factor in achieving this great success. Among other things, this landmark agreement, which was signed by 10 nations, established strict dolphin mortality limits and required observers to be present aboard tuna fishing boats in the ETP.

In order to continue this tremendous progress, the United States must continue to work with our neighbors on multilateral efforts to conserve this resource. This involves enacting the legislation before the Senate today, S. 39, which implements the Panama Declaration.

Contrary to much of what has been said in the 2 years since it was signed, the Panama Declaration represents the best in international conservation. It would retain—and in many cases, enhance—the provisions of the La Jolla agreement that have been so successful in reducing dolphin mortality and protecting the tuna fishery. Let me be clear: the Panama Declaration will not threaten the dolphin population in the Eastern Tropical Pacific.

Unlike the voluntary La Jolla Agreement, the Panama Declaration is binding upon its signatories. Among its many stringent requirements are reductions in the annual overall limit on dolphin mortalities that were established by the La Jolla agreement. These limits include per-stock mortality limits to protect all dolphin populations.

The Panama Declaration also increases enforcement and monitoring efforts to protect dolphins, including mandatory observers on all tuna fishing vessels. In addition, it sets as an agreed goal the elimination of all dolphin mortality in the ETP tuna fishery. And the Panama Declaration has teeth: if foreign nations do not comply, then the United States can reimpose our tuna embargo.

Opponents of S. 39 have been concerned over its change in the definition of dolphin safe, as mandated by the Panama Declaration. It is important to note that the new definition of dolphin safe is not weaker than current law. Let me explain.

When the current definition was adopted in 1990, the dolphin safe label was intended to prevent the import of tuna into the United States that were caught by encircling dolphins. This definition made good sense in 1990 since, historically, fishing methods that encircled dolphins caused high mortality rates. But as I've stated, recent modifications to the encirclement method of tuna fishing have resulted in reduced dolphin mortality.

A more sensible definition of dolphin safe should mean no dolphins were killed during the tuna fishing, rather than no dolphins were encircled. Under the new definition, if even one dolphin is killed in the process, that tuna cannot be labeled dolphin safe. Proponents of the old definition want truth in labeling. I agree with this. But, don't consumers expect that dolphin safe means no dolphins were killed? The Panama Declaration and S. 39 would do just that.

In any event, so as to be absolutely sure that these new encirclement techniques do not adversely affect dolphin stocks in the ETP, the compromise before us today delays the label change until NOAA conducts a preliminary survey of these stocks. This slight delay should not threaten United States participation in the Panama Declaration, allowing its strong conservation requirements to be implemented.

The Panama Declaration also recognizes the importance of protecting nondolphin marine life in the ETP that has been harmed by tuna fishing. The controversy over dolphin mortality has encouraged tuna fishermen to utilize alternative methods to encirclement—namely school sets and log sets. These techniques, while more protective of dolphins, are well known to cause destruction of nondolphin marine life, including sea turtles, billfish, sharks, and juvenile yellowfin tuna.

NOAA scientists have warned repeatedly that the high bycatch of juvenile tuna, associated with these two fishing methods, might actually imperial tuna stocks in the future—to say nothing of their impact on other species. As envisioned by the Panama Declaration, S. 39 requires the United States to implement a program to reduce bycatch of all marine life in the ETP, not just dolphins.

Mr. President, today the United States confronts a choice that must be made soon on how best to conserve marine life in the Pacific Ocean. Negotiators have worked out a compromise that will allow the United States to choose the best option. This option entails joining our neighbors in implementing a binding, carefully crafted international agreement that includes strong mandates that will protect dolphins and other species.

Another option involved going it alone, sacrificing what little leverage we have in an increasingly foreign fishery. Keep in mind that the ETP is completely outside the jurisdiction of the United States. We cannot simply go in and tell others how to fish.

Instead, our best chance of promoting conservation is through a multilateral, rather than a unilateral, forum. But other signatories to the Panama Declaration will not wait forever while the United States Congress continues to debate this issue. The time to act is now.

If we had chosen to go it alone, dolphins would not necessarily have been saved. Indeed, more dolphins may well be killed if the United States rejects the Panama Declaration, as fishermen will likely abandon the voluntary provisions of the La Jolla agreement. What incentive would these fishermen have to conserve if the largest consumer of tuna maintains an embargo on their product and refuses to participate in international conservation efforts?

Because the Panama Declaration offers the best hope for marine conservation in the ETP, S. 39 has been endorsed by Greenpeace, National Wildlife Federation, Center for Marine Conservation, Environmental Defense Fund, and World Wildlife Fund. These groups recognize the merits of this multilateral approach.

I again commend the tireless efforts of the authors of this legislation, and urge my colleagues to support S. 39.

Mr. HOLLINGS. Mr. President, the manager's amendment before us today is the product of many hours of work on the part of a number of my colleagues. I would like to express my personal appreciation to my friend, the chairman of the Commerce Committee, Senator MCCAIN, and the chair of the Subcommittee on Oceans and Fisheries, Senator SNOWE, for their personal efforts and willingness to delay consideration of this legislation until interested parties could work out an agreement.

In addition, I particularly would like to acknowledge the effort of the ranking Democrat on the subcommittee, Senator KERRY for his commitment to reaching a compromise. The Senator from Massachusetts made the mistake at our hearing on this legislation of volunteering to find a middle ground between the proponents and opponents of S. 39. Since that time, he has spent hours listening to and trying to accommodate the concerns of all sides in this contentious issue. Without his tireless effort, we would not be standing here today.

My own interest in this legislation has always been: to ensure sound conservation of marine mammals; to provide consumers with the information they need when purchasing tuna; and to ensure U.S. tuna fishermen a level playing field on which to compete.

The bill before us now is a far better bill. It addresses many of the concerns of Senators BOXER and BIDEN as well as others. These two Senators have been leaders in the area of dolphin protection—they wrote the dolphin-safe labeling law and have legitimate concerns about changing the dolphin-safe label without the scientific research to ensure that the tuna fishing methods allowed by S. 39 are safe for dolpins. The compromise before us today ensures that there will be a study of the effect of chasing and encircling dolpins and bases a change in the meaning of ''dolphin safe'' on the results of that study.

Furthermore, the compromise addresses the concerns of Senator INOUYE. It allows alternative labels on tuna but makes sure that the claims on those labels are true and can be verified.

Again, I thank the primary sponsors of the bill, Senators STEVENS and BREAUX, and all of the parties who worked on the manager's amendment for their efforts to improve this legislation.

Mr. THURMOND. Mr. President, when the President signs the International Dolphin Conservation Program Act, the United States will have joined the rest of the tuna-fishing nations in the Eastern Pacific in pledging that, in the future, no dolphins will be killed in the harvesting of tuna. Further, the transition to better fishing methods will result in a significant reduction in by-catch waste in that portion of the ocean. This is a remarkable achievement.

My colleagues from Alaska and Louisiana, Senators STEVENS and BREAUX, have pressed on for 2 years to see that this agreement is ratified. Their perseverance should be recognized and appreciated. Finally, this bill would likely have never become law had the subcommittee chairman, Senator SNOWE, not gathered the various parties to work out a compromise that would assure passage of this implementing legislation. She is to be commended for her skill and stamina in seeing this measure to its successful conclusion.

I yield the floor.

Mr. BIDEN. Mr. President, I am pleased to rise in support of the compromise amendment to S. 39—the so-called tuna-dolphin bill.

In forging this bipartisan agreement, we have struck a proper balance between resolving the market access problems now faced by other countries and keeping the faith with American consumers. It is a fair deal.

In short, the bill implements an international dolphin protection regime—known as the Panama Declaration—while maintaining the current dolphin-safe label during the pendency of a study on the impacts on dolphins from purse net tuna fishing.

In March 1999—after scientists have preliminary determined whether purse net tuna fishing harms dolphin stocks—the Secretary of Commerce is to make a determination as to the appropriate dolphin-safe label, whether that be the current one that Senator BOXER and I wrote into law in 1990, or another protective version. This decision will be reviewed in the year 2001.

Also included in the bill are provisions requiring Latin and South American countries tuna fishing the Eastern Tropical Pacific Ocean to enroll in an expanded dolphin protection program, which includes on-board observers. This will enable us to lock-in and improve upon the tremendous gains that we have already made in decreasing dolphin mortalities.

This amendment represents a compromise on process, not a cave-in on principles. Again, we retain for every letter of the current dolphin-safe label. In 2 years' time the question will be if the label should be changed—not when it should be changed.

I would also note that I do have some reservations regarding the adequacy of the data that will form the basis of the March 1999 label review. Only one population survey will be available at that time; this will not be an abundance of information upon which to make an informed and unbiased decision. I urge the Secretary of Commerce to err on the side of caution during the preliminary review and not make science conform to political will.

I would like to recognize and publicly thank my colleagues who worked so hard in crafting this agreement, particularly Senator BOXER, Senator KERRY, Senator BREAUX, Senator SNOWE, Senator MCCAIN, and Senator STEVENS. Each spent a great deal of personal time trying to bridge the gap in this debate, and I am grateful for their efforts.

In closing, this agreement continues to protect dolphins while keeping our faith with the American people. It is environmentally and economically the right thing to do, and I urge its passage.

FUNDING FOR DOLPHIN RESEARCH

Mr. STEVENS. Mr. President, an agreement has been reached to address concerns with S. 39, the International Dolphin Conservation Program Act. The agreement is contained in the manager's amendment to S. 39 offered by Senator SNOWE. Under the agreement, the Secretary of Commerce is required to conduct a multi-year study on dolphin and dolphin stocks taken incidentally in the eastern tropical Pacific Ocean (ETP) purse seine fishery. The Secretary will use the information from this study to make two separate findings that will determine whether or not tuna caught in the ETP by intentionally encircling dolphins can be labeled as dolphin safe in the United States. Senator SNOWE's amendment authorizes appropriations of $4 million in fiscal year 1998, $3 million in fiscal year 1999, $4 million in fiscal year 2000, and $1 million in fiscal year 2001 to complete the study. These amounts are based on National Marine Fisheries Service estimates for the costs for the study. I have received a letter from the White House indicating that the administration will request funds for the study in fiscal years 1999, 2000, and 2001. If the administration follows through on its commitment to request these funds, I will do everything I can to ensure they are appropriated.

Mr. BYRD. Mr. President, I am supportive of the effort to appropriate the funds necessary for the study outlined in the manager's amendment to S. 39, beginning in fiscal year 1998. In fact, it is my understanding that the manager's amendment is written so that a number of sections in S. 39 will become effective only after funding for the first year of the study has been provided. It is clear to me that full funding for this research is a critical element of the agreement on S. 39.

Mr. GREGG. Recognizing the importance of this study to the compromise reached on S. 39, funds were added to the fiscal year 1998 Commerce, Justice, State appropriations bill in the Senate to complete the first year of work. We will work together to protect this appropriation in conference. I, too, encourage the administration to follow through on its commitment to include the funds for fiscal year 1999, 2000, and 2001 in its budget requests, and will work to include the funds in appropriations if they are requested.

Mr. HOLLINGS. Mr. President, I join my colleagues in supporting appropriations for the completion of the dolphin study. The manager's amendment to S. 39 developed by the Commerce Committee is written so that most of the operative provisions of bill will become effective only if funding for the fist year of the study has been provided. The White House has expressed support for the appropriation mentioned by Senator GREGG for fiscal year 1998, and has indicated that funding will be requested to complete the study in fiscal year 1999, 2000, and 2001. Together with Senators STEVENS, BYRD, and GREGG, I support the fiscal year 1998 appropriation for the first year of the study, and will support funds in years to come to complete the study.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Democratic leader.

Mr. DASCHLE. Mr. President, I appreciate very much your recognizing me prior to the time we go to third reading. I will be very brief. I am not sure we have any time left. If we don't, I will just use leader time.

I just want to say how much I appreciate the effort made by the Senators who are on the floor to bring us to this point. This has been a 2-year-long debate. Obviously, there have been good intentions on both sides, and negotiations have resulted in a compromise that brings us to a point that will allow us to address this issue in a meaningful way.

I congratulate the administration and those who worked with us to accomplish this within the administration. But I particularly want to thank

Senators BOXER and BIDEN who pioneered the establishment of the dolphin safe label all the way back to 1990, who recognized the importance of this issue and dedicated themselves to solving it as they did back then.

I thank Senator HOLLINGS, the ranking member of the Commerce Committee, Senator SNOWE, the chair of the Oceans and Fisheries Subcommittee, for her work, Senator MCCAIN, Senator STEVENS, and Senator BREAUX, who developed and introduced the legislation to implement the Panama Declaration, and perhaps a special thanks goes to Senator JOHN KERRY, the ranking member of the Oceans and Fisheries Subcommittee whose patience and guidance and leadership was critical to bringing all sides together in reaching this agreement.

So this is a very good moment for us. It is another opportunity to demonstrate the commitment that we have in working together to face these serious questions in a meaningful way. So, to all of those involved, especially Senators BOXER, BIDEN, and KERRY, my thanks. I hope we can address this matter now by an overwhelming vote here in the Senate.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—99

Abraham	Craig	Hollings
Akaka	D'Amato	Hutchinson
Allard	Daschle	Hutchison
Ashcroft	DeWine	Inhofe
Baucus	Dodd	Inouye
Bennett	Domenici	Jeffords
Biden	Dorgan	Johnson
Bingaman	Durbin	Kempthorne
Bond	Enzi	Kennedy
Boxer	Feingold	Kerrey
Breaux	Feinstein	Kerry
Brownback	Ford	Kohl
Bryan	Frist	Kyl
Bumpers	Glenn	Landrieu
Burns	Gorton	Lautenberg
Byrd	Graham	Leahy
Campbell	Gramm	Levin
Chafee	Grams	Lieberman
Cleland	Grassley	Lott
Coats	Gregg	Lugar
Cochran	Hagel	Mack
Collins	Harkin	McCain
Conrad	Hatch	McConnell
Coverdell	Helms	Mikulski
Moseley-Braun	Rockefeller	Specter
Moynihan	Roth	Stevens
Murkowski	Santorum	Thomas
Murray	Sarbanes	Thompson
Nickles	Sessions	Thurmond
Reed	Shelby	Torricelli
Reid	Smith (NH)	Warner
Robb	Smith (OR)	Wellstone
Roberts	Snowe	Wyden

NOT VOTING—1

Faircloth

The bill (S. 39), as amended, was passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''International Dolphin Conservation Program Act''.

(b) REFERENCES TO MARINE MAMMAL PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 2. PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this Act are—

(1) to give effect to the Declaration of Panama, signed October 4, 1995, by the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, the United States of America, Vanuatu, and Venezuela, including the establishment of the International Dolphin Conservation Program, relating to the protection of dolphins and other species, and the conservation and management of tuna in the eastern tropical Pacific Ocean;

(2) to recognize that nations fishing for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with that fishery; and

(3) to eliminate the ban on imports of tuna from those nations that are in compliance with the International Dolphin Conservation Program.

(b) FINDINGS.—The Congress finds that—

(1) the nations that fish for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with the purse seine fishery from hundreds of thousands annually to fewer than 5,000 annually;

(2) the provisions of the Marine Mammal Protection Act of 1972 that impose a ban on imports from nations that fish for tuna in the eastern tropical Pacific Ocean have served as an incentive to reduce dolphin mortalities;

(3) tuna canners and processors of the United States have led the canning and processing industry in promoting a dolphin-safe tuna market; and

(4) 12 signatory nations to the Declaration of Panama, including the United States, agreed under that Declaration to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000 animals, with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and with the goal of eliminating dolphin mortality.

SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

''(28) The term 'International Dolphin Conservation Program' means the international program established by the agreement signed in LaJolla, California, in June, 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama.

''(29) The term 'Declaration of Panama' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.''.

SEC. 4. AMENDMENTS TO TITLE I.

(a) EXCEPTIONS TO MORATORIUM.—Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) by inserting after the first sentence ''Such authorizations may be granted under title III with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103.''; and

(2) by striking the semicolon in the second sentence and all that follows through ''practicable''.

(b) DOCUMENTATION REQUIRED.—Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is further amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

''(i)(I) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of section 4 of the International Dolphin Conservation Program Act; or

''(II) the tuna or products therefrom were harvested after the effective date of section 4 of the International Dolphin Conservation Program Act by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

''(ii) such nation is meeting the obligations of the International Dolphin Conservation Program and the obligations of membership in the Inter-American Tropical Tuna Commission, including all financial obligations; and

''(iii) the total dolphin mortality limits, and per-stock per-year dolphin mortality limits permitted for that nation's vessels under the International Dolphin Conservation Program do not exceed the limits determined for 1997, or for any year thereafter, consistent with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and the goal of eliminating dolphin mortality, and requirements of the International Dolphin Conservation Program;'';

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(3) by inserting after subparagraph (B) the following:

''(C) shall not accept such documentary evidence if—

''(i) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna Commission to release complete and accurate information to the Secretary in a timely manner—

''(I) to allow determination of compliance with the International Dolphin Conservation Program; and

''(II) for the purposes of tracking and verifying compliance with the minimum requirements established by the Secretary in regulations promulgated under subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)); or

''(ii) after taking into consideration such information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, finds that the harvesting nation is not in compliance with the International Dolphin Conservation Program.''; and

(4) by striking ''subparagraph (E)'' in the matter after subparagraph (F), as redesignated by paragraph (2) of this subsection, and inserting ''subparagraph (F)''.

(c) CERTAIN INCIDENTAL TAKINGS.—Section 101 (16 U.S.C. 1371) is further amended by adding at the end the following new subsection:

''(e) ACT NOT TO APPLY TO INCIDENTAL TAKINGS BY UNITED STATES CITIZENS EMPLOYED ON FOREIGN VESSELS OUTSIDE THE UNITED STATES EEZ.—The provisions of this Act shall not apply to a citizen of the United States who incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.''.

(d) PERMITS.—Section 104(h) (16 U.S.C. 1374(h)) is amended to read as follows:

''(h) GENERAL PERMITS.—

''(1) Consistent with the regulations prescribed pursuant to section 103 of this title and to the requirements of section 101 of this title, the Secretary may issue an annual permit to a United States purse seine fishing vessel for the taking of such marine mammals, and shall issue regulations to cover the use of any such annual permits.

''(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 306 of this Act, subject to the regulations issued pursuant to section 303 of this Act.''.

(e) INTERNATIONAL NEGOTIATIONS.—Section 108(a)(2) (16 U.S.C. 1378(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by inserting after subparagraph (B) the following:

''(C) negotiations to revise the Convention for the Establishment of an Inter-American Tropical Tuna Commission (1 U.S.T. 230; TIAS 2044) which will incorporate—

''(i) the conservation and management provisions agreed to by the nations which have signed the Declaration of Panama and in the Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement, as opened for signature on December 4, 1995; and

''(ii) a revised schedule of annual contributions to the expenses of the Inter-American Tropical Tuna Commission that is equitable to participating nations; and

''(D) discussions with those countries participating, or likely to participate, in the International Dolphin Conservation Program, for the purpose of identifying sources of funds needed for research and other measures promoting effective protection of dolphins, other marine species, and the marine ecosystem;''.

(f) RESEARCH GRANTS.—Section 110(a) (16 U.S.C. 1380(a)) is amended—

(1) by striking ''(1)'' in paragraph (1); and

(2) by striking paragraph (2).

SEC. 5. AMENDMENTS TO DOLPHIN PROTECTION CONSUMER INFORMATION ACT.

(a) LABELING STANDARD.— Subsection (d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)) is amended to read as follows:

''(d) LABELING STANDARD.—

''(1) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term 'dolphin safe' or any other term or symbol that falsely claims or suggests that the tuna contained in the product were harvested using a method of fishing that is not harmful to dolphins if the product contains tuna harvested—

''(A) on the high seas by a vessel engaged in driftnet fishing;

''(B) outside the eastern tropical Pacific Ocean by a vessel using purse seine nets—

''(i) in a fishery in which the Secretary has determined that a regular and significant association occurs between dolphins and tuna (similar to the association between dolphins and tuna in the eastern tropical Pacific Ocean), unless such product is accompanied by a written statement, executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary, certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna were caught and no dolphins were killed or seriously injured in the sets in which the tuna were caught; or

''(ii) in any other fishery (other than a fishery described in subparagraph (D)) unless the product is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna was harvested;

''(C) in the eastern tropical Pacific Ocean by a vessel using a purse seine net unless the tuna meet the requirements for being considered dolphin safe under paragraph (2); or

''(D) by a vessel in a fishery other than one described in subparagraph (A), (B), or (C) that is identified by the Secretary as having a regular and significant mortality or serious injury of dolphins, unless such product is accompanied by a written statement executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught, provided that the Secretary determines that such an observer statement is necessary.

''(2) For purposes of paragraph (1)(C), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets is dolphin safe if—

''(A) the vessel is of a type and size that the Secretary has determined, consistent with the International Dolphin Conservation Program, is not capable of deploying its purse seine nets on or to encircle dolphins; or

''(B)(i) the product is accompanied by a written statement executed by the captain providing the certification required under subsection (h);

''(ii) the product is accompanied by a written statement executed by—

''(I) the Secretary or the Secretary's designee;

''(II) a representative of the Inter-American Tropical Tuna Commission; or

''(III) an authorized representative of a participating nation whose national program meets the requirements of the International Dolphin Conservation Program,

which states that there was an observer approved by the International Dolphin Conservation Program on board the vessel during the entire trip and that such observer provided the certification required under subsection (h); and

''(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product; and

''(C) the written statements and endorsements referred to in subparagraph (B) comply with regulations promulgated by the Secretary which provide for the verification of tuna products as dolphin safe.

''(3)(A) The Secretary of Commerce shall develop an official mark that may be used to label tuna products as dolphin safe in accordance with this Act.

''(B) A tuna product that bears the dolphin safe mark developed under subparagraph (A) shall not bear any other label or mark that refers to dolphins, porpoises, or marine mammals.

''(C) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to label a tuna product with any label or mark that refers to dolphins, porpoises, or marine mammals other than the mark developed under subparagraph (A) unless—

''(i) no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught;

''(ii) the label is supported by a tracking and verification program which is comparable in effectiveness to the program established under subsection (f); and

''(iii) the label complies with all applicable labeling, marketing, and advertising laws and regulations of the Federal Trade Commission, including any guidelines for environmental labeling.

''(D) If the Secretary determines that the use of a label referred to in subparagraph (C) is substantially undermining the conservation goals of the International Dolphin Conservation Program, the Secretary shall report that determination to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committees on Resources and on Commerce, along with recommendations to correct such problems.

''(E) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) willingly and knowingly to use a label referred to in subparagraph (C) in a campaign or effort to mislead or deceive consumers about the level of protection afforded dolphins under the International Dolphin Conservation Program.''.

(b) TRACKING REGULATIONS.—Subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)) is amended to read as follows:

''(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this Act, including regulations to establish a domestic tracking and verification program that provides for the effective tracking of tuna labeled under subsection (d). In the development of these regulations, the Secretary shall establish appropriate procedures for ensuring the confidentiality of proprietary information the submission of which is voluntary or mandatory. The regulations shall address each of the following items:

''(1) The use of weight calculation for purposes of tracking tuna caught, landed, processed, and exported.

''(2) Additional measures to enhance current observer coverage, including the establishment of criteria for training, and for improving monitoring and reporting capabilities and procedures.

''(3) The designation of well location, procedures for sealing holds, procedures for monitoring and certifying both above and below deck, or through equally effective methods, the tracking and verification of tuna labeled under subsection (d).

''(4) The reporting, receipt, and database storage of radio and facsimile transmittals from fishing vessels containing information related to the tracking and verification of tuna, and the definition of set.

''(5) The shore-based verification and tracking throughout the fishing, transshipment, and canning process by means of Inter-American Tropical Tuna Commission trip records or otherwise.

''(6) The use of periodic audits and spot checks for caught, landed, and processed tuna products labeled in accordance with subsection (d).

''(7) The provision of timely access to data required under this subsection by the Secretary from harvesting nations to undertake the actions required in paragraph (6) of this paragraph.

The Secretary may make such adjustments as may be appropriate to the regulations promulgated under this subsection to implement an international tracking and verification program that meets or exceeds the minimum requirements established by the Secretary under this subsection.''.

(c) FINDINGS CONCERNING IMPACT ON DEPLETED STOCKS.—The Dolphin Protection Consumer Information Act (16 U.S.C. 1385) is amended by striking subsections (g), (h), and (i) and inserting the following:

''(g) SECRETARIAL FINDINGS.—(1) Between March 1, 1999, and March 31, 1999, the Secretary shall, on the basis of the research conducted before March 1, 1999, under section 304(a) of the Marine Mammal Protection Act of 1972, information obtained under the International Dolphin Conservation Program, and any other relevant information, make an initial finding regarding whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. The initial finding shall be published immediately in the Federal Register and shall become effective upon a subsequent date determined by the Secretary.

''(2) Between July 1, 2001, and December 31, 2002, the Secretary shall, on the basis of the completed study conducted under section 304(a) of the Marine Mammal Protection Act of 1972, information obtained under the International Dolphin Conservation Program, and any other relevant information, make a finding regarding whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. The finding shall be published immediately in the Federal Register and shall become effective upon a subsequent date determined by the Secretary.

''(h) CERTIFICATION BY CAPTAIN AND OBSERVER.—

''(1) Unless otherwise required by paragraph (2), the certification by the captain under subsection (d)(2)(B)(i) and the certification provided by the observer as specified in subsection (d)(2)(B)(ii) shall be that no dolphins were killed or seriously injured during the sets in which the tuna were caught.

''(2) The certification by the captain under subsection (d)(2)(B)(i) and the certification provided by the observer as specified under subsection (d)(2)(B)(ii) shall be that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphins, and that no dolphins were killed or seriously injured during the sets in which the tuna were caught, if the tuna were caught on a trip commencing—

''(A) before the effective date of the initial finding by the Secretary under subsection (g)(1);

''(B) after the effective date of such initial finding and before the effective date of the finding of the Secretary under subsection (g)(2), where the initial finding is that the intentional deployment on or encirclement of dolphins is having a significant adverse impact on any depleted dolphin stock; or

''(C) after the effective date of the finding under subsection (g)(2), where such finding is that the intentional deployment on or encirclement of dolphins is having a significant adverse impact on any such depleted stock.''.

SEC. 6. AMENDMENTS TO TITLE III.

(a) CHANGE OF TITLE HEADING.—The heading of title III is amended to read as follows:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM''.

(b) ADDITIONAL FINDINGS.—Section 301 (16 U.S.C. 1411) is amended—

(1) by striking paragraph (4) of subsection (a) and inserting the following:

''(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce dolphin mortality progressively to a level approaching zero through the setting of annual limits, with the goal of eliminating dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will assure that the existing trend of reduced dolphin mortality continues; that individual stocks of dolphins are adequately protected; and that the goal of eliminating all dolphin mortality continues to be a priority.''; and

(2) by striking paragraphs (2) and (3) of subsection (b) and inserting the following:

''(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, with the goal of eliminating, the mortality referred to in paragraph (1);

''(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets or caught by purse seine vessels in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;''.

(c) Title III (16 U.S.C. 1411 et seq.) is amended by striking sections 302 through 306 (16 U.S.C. 1412 through 1416) and inserting the following:

''SEC. 302. INTERNATIONAL DOLPHIN CONSERVATION PROGRAM.

''The Secretary of State, in consultation with the Secretary, shall seek to secure a binding international agreement to establish an International Dolphin Conservation Program that requires—

''(1) that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean shall not exceed 5,000 animals with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits;

''(2) the establishment of a per-stock per-year dolphin mortality limit, to be in effect through calendar year 2000, at a level between 0.2 percent and 0.1 percent of the minimum population estimate, as calculated, revised, or approved by the Secretary;

''(3) the establishment of a per-stock per-year dolphin mortality limit, beginning with the calendar year 2001, at a level less than or equal to 0.1 percent of the minimum population estimate as calculated, revised, or approved by the Secretary;

''(4) that if a dolphin mortality limit is exceeded under—

''(A) paragraph (1), all sets on dolphins shall cease for the applicable fishing year; and

''(B) paragraph (2) or (3), all sets on the stocks covered under paragraph (2) or (3) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

''(5) a scientific review and assessment to be conducted in calendar year 1998 to—

''(A) assess progress in meeting the objectives set for calendar year 2000 under paragraph (2); and

''(B) as appropriate, consider recommendations for meeting these objectives;

''(6) a scientific review and assessment to be conducted in calendar year 2000—

''(A) to review the stocks covered under paragraph (3); and

''(B) as appropriate to consider recommendations to further the objectives set under that paragraph;

''(7) the establishment of a per vessel maximum annual dolphin mortality limit consistent with the established per-year mortality limits, as determined under paragraphs (1) through (3); and

''(8) the provision of a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

''SEC. 303. REGULATORY AUTHORITY OF THE SECRETARY.

''(a) REGULATIONS.—

''(1) The Secretary shall issue regulations, and revise those regulations as may be appropriate, to implement the International Dolphin Conservation Program.

''(2)(A) The Secretary shall issue regulations to authorize and govern the taking of marine mammals in the eastern tropical Pacific Ocean, including any species of marine mammal designated as depleted under this Act but not listed as endangered or threatened under the Endangered Species Act (16 U.S.C. 1531 et seq.), by vessels of the United States participating in the International Dolphin Conservation Program.

''(B) Regulations issued under this section shall include provisions—

''(i) requiring observers on each vessel;

''(ii) requiring use of the backdown procedure or other procedures equally or more effective in avoiding mortality of, or serious injury to, marine mammals in fishing operations;

''(iii) prohibiting intentional sets on stocks and schools in accordance with the International Dolphin Conservation Program;

''(iv) requiring the use of special equipment, including dolphin safety panels in nets, monitoring devices as identified by the International Dolphin Conservation Program to detect unsafe fishing conditions that may cause high incidental dolphin mortality before nets are deployed by a tuna vessel, operable rafts, speedboats with towing bridles, floodlights in operable condition, and diving masks and snorkels;

''(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than 30 minutes before sundown;

''(vi) banning the use of explosive devices in all purse seine operations;

''(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits in accordance with the International Dolphin Conservation Program;

''(viii) preventing the making of intentional sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits, or per-stock per-year mortality limits;

''(ix) preventing the fishing on dolphins by a vessel without an assigned vessel dolphin mortality limit;

''(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or serious injury do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing;

''(xi) authorizing fishing within the area covered by the International Dolphin Conservation Program by vessels of the United States without the use of special equipment or nets if the vessel takes an observer and does not intentionally deploy nets on, or encircle, dolphins, under such terms and conditions as the Secretary may prescribe; and

''(xii) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to vessels of the United States.

''(C) ADJUSTMENTS TO REQUIREMENTS.—The Secretary may make such adjustments as may be appropriate to requirements of subparagraph (B) that pertain to fishing gear, vessel equipment, and fishing practices to the extent the adjustments are consistent with the International Dolphin Conservation Program.

''(b) CONSULTATION.—In developing any regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

''(c) EMERGENCY REGULATIONS.—

''(1) If the Secretary determines, on the basis of the best scientific information available (including research conducted under section 304 and information obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this title is having, or is likely to have, a significant adverse impact on a marine mammal stock or species, the Secretary shall—

''(A) notify the Inter-American Tropical Tuna Commission of his or her determination, along with recommendations to the Commission as to actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact; and

''(B) prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

''(2) Before taking action under subparagraph (A) or (B) of paragraph (1), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission.

''(3) Emergency regulations prescribed under this subsection—

''(A) shall be published in the Federal Register, together with an explanation thereof;

''(B) shall remain in effect for the duration of the applicable fishing year; and

''(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines that the reasons for the emergency action no longer exist.

''(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.

''(5) Within 120 days after the Secretary notifies the United States Commissioners to the Inter-American Tropical Tuna Commission of the Secretary's determination under paragraph (1)(A), the United States Commissioners shall call for a special meeting of the Commission to address the actions necessary to reduce incidental mortality and serious injury and mitigate the adverse impact which resulted in the determination. The Commissioners shall report the results of the special meeting in writing to the Secretary and to the Secretary of State. In their report, the Commissioners shall—

''(A) include a description of the actions taken by the harvesting nations or under the International Dolphin Conservation Program to reduce the incidental mortality and serious injury and measures to mitigate the adverse impact on the marine mammal species or stock;

''(B) indicate whether, in their judgment, the actions taken address the problem adequately; and

''(C) if they indicate that the actions taken do not address the problem adequately, include recommendations of such additional action to be taken as may be necessary.

''SEC. 304. RESEARCH.

''(a) REQUIRED RESEARCH.—

''(1) IN GENERAL.—The Secretary shall, in consultation with the Marine Mammal Commission and the Inter-American Tropical Tuna Commission, conduct a study of the effect of intentional encirclement (including chase) on dolphins and dolphin stocks incidentally taken in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The study, which shall commence on October 1, 1997, shall consist of abundance surveys as described in paragraph (2) and stress studies as described in paragraph (3), and shall address the question of whether such encirclement is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean.

''(2) POPULATION ABUNDANCE SURVEYS.—The abundance surveys under this subsection shall survey the abundance of such depleted stocks and shall be conducted during each of the calendar years 1998, 1999, and 2000.

''(3) STRESS STUDIES.—The stress studies under this subsection shall include—

''(A) a review of relevant stress-related research and a 3-year series of necropsy samples from dolphins obtained by commercial vessels;

''(B) a 1-year review of relevant historical demographic and biological data related to dolphins and dolphin stocks referred to in paragraph (1); and

''(C) an experiment involving the repeated chasing and capturing of dolphins by means of intentional encirclement.

''(4) REPORT.—No later than 90 days after publishing the finding under subsection (g)(2) of the Dolphin Protection Consumer Information Act, the Secretary shall complete and submit a report containing the results of the research described in this subsection to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committees on Resources and on Commerce, and to the Inter-American Tropical Tuna Commission.

''(b) OTHER RESEARCH.—

''(1) IN GENERAL.—In addition to conducting the research described in subsection (a), the Secretary shall, in consultation with the Marine Mammal Commission and in cooperation with the nations participating in the International Dolphin Conservation Program and the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program.

''(2) SPECIFIC AREAS OF RESEARCH.—Research carried out under paragraph (1) may include—

''(A) projects to devise cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

''(B) projects to develop cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals;

''(C) projects to carry out stock assessments for those marine mammal species and marine mammal stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks not within waters under the jurisdiction of the United States; and

''(D) projects to determine the extent to which the incidental take of nontarget species, including juvenile tuna, occurs in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, the geographic location of the incidental take, and the impact of that incidental take on tuna stocks and nontarget species.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) There are authorized to be appropriated to the Secretary the following amounts, to be used by the Secretary to carry out the research described in subsection (a):

''(A) $4,000,000 for fiscal year 1998.

''(B) $3,000,000 for fiscal year 1999.

''(C) $4,000,000 for fiscal year 2000.

''(D) $1,000,000 for fiscal year 2001.

''(2) In addition to the amount authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Secretary for carrying out this section $3,000,000 for each of the fiscal years 1998, 1999, 2000, and 2001.

''SEC. 305. REPORTS BY THE SECRETARY.

''Notwithstanding section 103(f), the Secretary shall submit annual reports to the Congress which include—

''(1) results of research conducted pursuant to section 304;

''(2) a description of the status and trends of stocks of tuna;

''(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;

''(4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the Program's goals and objectives, including the protection of dolphin stocks in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

''(5) actions taken by the Secretary under section 101(a)(2)(B) and section 101(d);

''(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this title; and

''(7) any other information deemed relevant by the Secretary.

''SEC. 306. PERMITS.

''(a) IN GENERAL.—

''(1) Consistent with the regulations issued pursuant to section 303, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program

and may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including requiring the submission of—

''(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof; and

''(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 303, with respect to each vessel.

''(2) The Secretary is authorized to charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

''(3) After the effective date of the International Dolphin Conservation Program Act, no vessel of the United States shall operate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

''(b) PERMIT SANCTIONS.—

''(1) In any case in which—

''(A) a vessel for which a permit has been issued under this section has been used in the commission of an act prohibited under section 307;

''(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 307; or

''(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel, or other person who has applied for or been issued a permit under this section has not been paid or is overdue,

the Secretary may—

''(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

''(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

''(iii) deny such permit; or

''(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

''(2) In imposing a sanction under this subsection, the Secretary shall take into account—

''(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

''(B) with respect to the violator, the degree of culpability, any history of prior offenses, and other such matters as justice requires.

''(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

''(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

''(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this title or otherwise.''.

(d) Section 307 (16 U.S.C. 1417) is amended—

(1) by striking paragraphs (1), (2), and (3) of subsection (a) and inserting the following:

''(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is a member of the Inter-American Tropical Tuna Commission or has initiated and within 6 months thereafter completed all steps required of applicant nations in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

''(2) except as provided for in subsection 101(d), for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this title and regulations issued pursuant to this title; and

''(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101(a)(2);'';

(2) by inserting ''(a)(5) or'' before ''(a)(6)'' in subsection (b)(2); and

(3) by striking subsection (d).

(e) Section 308 (16 U.S.C. 1418) is repealed.

(f) CLERICAL AMENDMENTS.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the items relating to title III and inserting in lieu thereof the following:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

''Sec. 301. Findings and policy.
''Sec. 302. International Dolphin Conservation Program.
''Sec. 303. Regulatory authority of the Secretary.
''Sec. 304. Research.
''Sec. 305. Reports by the Secretary.
''Sec. 306. Permits.
''Sec. 307. Prohibitions.''.

SEC. 7. AMENDMENTS TO THE TUNA CONVENTIONS ACT.

(a) Section 3(c) of the Tuna Conventions Act (16 U.S.C. 952(c)) is amended to read as follows:

''(c) at least one shall be either the Administrator, or an appropriate officer, of the National Marine Fisheries Service; and''.

(b) Section 4 of the Tuna Conventions Act (16 U.S.C. 953) is amended to read as follows:

''SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

''(a) APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.—The Secretary, in consultation with the United States Commissioners, shall—

''(1) appoint a General Advisory Committee which shall be composed of not less than 5 nor more than 15 persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations;

''(2) appoint a Scientific Advisory Subcommittee which shall be composed of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations;

''(3) establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data; and

''(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members.

''(b) FUNCTIONS.—

''(1) GENERAL ADVISORY COMMITTEE.—The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions.

''(2) SCIENTIFIC ADVISORY SUBCOMMITTEE.—

''(A) ADVICE.—The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including—

''(i) the conservation of ecosystems;

''(ii) the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and

''(iii) the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

''(B) OTHER FUNCTIONS AND ASSISTANCE.—The Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the United States Commissioners, or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include—

''(i) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission;

''(ii) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research;

''(iii) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments;

''(iv) consulting with other experts as needed; and

''(v) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or its equivalent).

''(3) ATTENDANCE AT MEETINGS.—The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission.''.

(c) BYCATCH REDUCTION.—The Tuna Conventions Act (16 U.S.C. 951 et seq.) is amended by adding at the end thereof the following:

''SEC. 15. REDUCTION OF BYCATCH IN THE EASTERN TROPICAL PACIFIC OCEAN.

''The Secretary of State, in consultation with the Secretary of Commerce and acting through the United States Commissioners, shall seek, in cooperation with other nations whose vessel fish for tuna in the eastern

tropical Pacific Ocean, to establish standards and measures for a bycatch reduction program for vessels fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The bycatch reduction program shall include measures—

''(1) to require, to the maximum extent practicable, that sea turtles and other threatened species and endangered species are released alive;

''(2) to reduce, to the maximum extent practicable, the harvest of nontarget species;

''(3) to reduce, to the maximum extent practicable, the mortality of nontarget species; and

''(4) to reduce, to the maximum extent practicable, the mortality of juveniles of the target species.''.

SEC. 8. EFFECTIVE DATES.

(a) AMENDMENTS TO TAKE EFFECT WHEN IDCP IN FORCE.—Sections 3 through 7 of this Act (except for section 304 of the Marine Mammal Protection Act of 1972 as added by section 6 of this Act) shall become effective upon—

(1) certification by the Secretary of Commerce that—

(A) sufficient funding is available to complete the first year of the study required under section 304(a) of the Marine Mammal Protection Act of 1972, as so added; and

(B) the study has commenced; and

(2) certification by the Secretary of State to Congress that a binding resolution of the Inter-American Tropical Tuna Commission or other legally binding instrument establishing the International Dolphin Conservation Program has been adopted and is in force.

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding subsection (a), the Secretary of Commerce may issue regulations under—

(1) subsection (f)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)(2)), as added by section 5(b) of this Act;

(2) section 303(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1413(a)), as added by section 6(c) of this Act,

at any time after the date of enactment of this Act.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 2169.

The assistant legislative clerk read as follows:

A bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, included in the fiscal year 1998 Transportation appropriations bill is an amendment that directs the Federal Aviation Administration [FAA] to work with one segment of the aviation industry to develop an expeditious way to comply with the pilot record sharing legislation, enacted last year.

When we passed the pilot record sharing legislation as part of the FAA Reauthorization Act, ''air carriers'' were required to obtain certain records, including FAA records, on pilots. The term air carrier includes more than just airlines. It also includes, for example, on-demand non-scheduled carriers. These carriers tend to hire pilots on an as-needed basis, and need the information from the FAA in a more timely manner than airlines.

The FAA is aware that these carriers need to be able to respond quickly to information requests from the on-demand segment of the industry, and are striving to get the required information to them within 15 days. Ultimately, the information should be available on a real time basis through desk top computers. The amendment recognizes that the FAA must work with industry to figure out a means to comply with the law, and then implement those changes.

There are many ways for the FAA to facilitate the passing of the information, and discussions should commence with the industry. Compliance is critical, but we cannot ask the impossible of the industry or the FAA. I also want to note that the directive in the Appropriations bill does not authorize any new program, but merely directs the FAA to work with the industry to implement last year's legislation. As a result, I do not believe that we are legislating on an Appropriations bill.

I want to thank the chairman, Senator SHELBY, and the ranking member, Senator LAUTENBERG, for their acceptance of the amendment.

Mr. D'AMATO. Mr. President, the Senate has accepted an amendment that Senator MOYNIHAN and I offered to the fiscal year 1998 Transportation appropriations bill that I believe will help provide a measure of financial relief to the working men and women of Nassau, Suffolk, Westchester, Putnam and Dutchess counties. Residents of these counties pay a premium price to commute each day into New York City by commuter railroad. Roughly half of these commuters then have to pay another fare to get to their final destination by bus or subway. Our amendment will require the New York Metropolitan Transportation Authority [MTA] to conduct a study to determine the feasibility of providing a free subway or bus transfer to those persons who use the Long Island Rail Road [LIRR] or Metro North commuter railroad so that these daily riders may decrease their commuting costs.

Recently, the New York Metropolitan Transportation Authority [MTA] announced its MetroCard Gold program. This program for the first time provides free transfers for those who transfer between New York City buses and subways. In essence, the commuter who until now commuted from a two-fare zone now pays only one fare. This program will greatly benefit city commuters, saving them approximately $750 per year. It will also have a positive impact on the local economy and the environment.

In addition, at my urging, the MTA will extend this single fare policy for similar bus-to-bus and bus-to-subway transfers for the MTA's 40,000 Long Island Bus commuters traveling between Long Island and New York City. It is estimated that these commuters will realize an average yearly savings of approximately $900 based on current fare structures.

The intended goal of this policy is to create a seamless, integrated transportation system that will benefit commuters in the most transit-dependent region of our country and, indeed, the world. I commend Governor George Pataki and MTA Chairman Virgil Conway for this forward thinking initiative. What now needs to be determined is if this policy can be expanded. My amendment will require the Metropolitan Transportation Authority [MTA] to conduct a feasibility study, from funds made available to the MTA from the Federal Transit Administration, on extending this policy to New York's two commuter railroads.

New York is home to the two largest commuter railroads in the Nation—the Long Island Rail Road [LIRR] and the Metro North railroad. Each day, approximately 235,000 commuters depend on these two railroads to get to work and back home again. Almost half of these commuters—108,000 or 46 percent—transfer to subways and buses once they arrive in New York City. They also repeat the trip in the evening as they head back to the train station. These are commuters who may pay $125, $175, $225 or more per month to take these two commuter railroads. On top of that, they can pay an additional $750 over the course of a year for that portion of their commute that occurs on the city's subways and buses.

If we really want to create a seamless transit system, one that encourages more people to take the train and leave their cars at home, then Metro North and Long Island Rail Road commuters should be offered a free transfer to the City's subways and buses. In addition to the financial savings for commuters, the benefits to public health, the environment and the preservation of natural resources as well as the enhancements to the quality of life for these commuters should be powerful incentives to extend this single-fare policy.

More than 100,000 Long Island Rail Road and Metro North rail commuters use New York's subway and bus systems daily. If it is feasible—and taking into consideration all factors—then the commuters who use Long Island Rail Road [LIRR] or Metro North and the New York City subway or bus systems should receive similar benefits as are available under the MTA's single-fare policy. This amendment will move us one step closer to that goal.

Mrs. BOXER. Mr. President, I would like to ask the distinguished chairman of the Subcommittee on Transportation appropriations if he would respond to questions that I have regarding the bill.

Mr. SHELBY. I would be happy to respond to the questions from the Senator from California.

Mrs. BOXER. I first want to thank the chairman for his work in developing this major appropriations bill that