

**2005 REPORT OF THE SECRETARY OF COMMERCE
TO THE CONGRESS OF THE UNITED STATES
CONCERNING U.S. ACTIONS TAKEN ON
FOREIGN LARGE-SCALE HIGH SEAS DRIFTNET FISHING
PURSUANT TO SECTION 206(e) OF THE
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT,
AS AMENDED BY PUBLIC LAW 104-297,
THE SUSTAINABLE FISHERIES ACT OF 1996**

I. INTRODUCTION

Public Law 101-627: The President signed Public Law 101-627, the Fishery Conservation Amendments of 1990, on 28 November 1990. Title I, Section 107, of the law amended Section 206 of the Magnuson-Stevens Fishery Conservation and Management Act (hereafter referred to as the Magnuson-Stevens Act) (16 USC 1826) to incorporate and expand upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

Section 206(b) of the Magnuson-Stevens Act sets forth Congressional findings, including inter alia that "the continued widespread use of large-scale driftnets beyond the exclusive economic zone (EEZ) of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans." It also notes the expansion of large-scale driftnet fishing into other oceans and acknowledges the 30 June 1992 global driftnet moratorium called for by United Nations General Assembly (UNGA) Resolution 44/225. Finally, Section 206(b) recognizes the moratorium on the use of large-scale driftnets agreed through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention.

Section 206(c) sets forth Congress's driftnet policy, specifically that the United States should:

1. implement the moratorium called for by UNGA Resolution 44/225;
- (2) support the Tarawa Declaration and the Wellington Convention; and
- (3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

Section 206(d) directs the Secretary of Commerce, through the Secretary of State and the Secretary of Homeland Security, to seek to secure international agreements to implement immediately the findings, policy, and provisions of Section 206, particularly the international ban on large-scale driftnet fishing.

Section 206(e) directs the Secretary of Commerce, after consultation with the Secretaries of State and Homeland Security, to submit to Congress no later than 1 January an annual report (1) describing the efforts made to carry out Section 206, especially subsection (c); (2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and plans for further action; (3) listing and describing any new high seas driftnet fisheries developed by nations that conduct or authorize their nationals to conduct large-scale high seas driftnet fishing; and (4) listing nations that conduct or authorize their nationals to conduct high seas driftnet fishing in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party. (The number of reporting requirements in Section 206(e) of Public Law 101-627 were reduced in 1996 to those above by Public Law 104-297, the Sustainable Fisheries Act.)

Finally, Section 206(f) provides that, if at any time the Secretary of Commerce, in consultation with the Secretaries of State and Homeland Security, identifies any nation that warrants inclusion in the list described in (4) above, the Secretary shall certify that fact to the President. This certification shall be deemed to be a certification for the purposes of Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582), commonly referred to as the Pelly Amendment. Such a certification gives the President discretion to embargo products imported into the United States from that nation, so long as such action is consistent with U.S. obligations under the General Agreement on Tariffs and Trade.

Public Law 102-582: On 2 November 1992, the President signed Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act. Among other things, this Act is intended to enforce implementation of UNGA Resolution 46/215, which called for a worldwide driftnet moratorium beginning 31 December 1992. Once the Secretary of Commerce identifies a country as a nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the Act, a chain of U.S. actions is triggered. The Secretary of the Treasury must deny entry of that country's large-scale driftnet vessels to U.S. ports and navigable waters. At the same time, the President is required to enter into consultations with the country within 30 days after the identification to obtain an agreement that will effect the immediate termination of high seas large-scale driftnetting by its vessels and nationals. If these consultations are not satisfactorily concluded within 90 days, the President must direct the Secretary of the Treasury to prohibit the importation into the United States of fish, fish products, and sport fishing equipment from the identified country. The Secretary of the Treasury is required to implement such prohibitions within 45 days of the President's direction.

If the above sanctions are insufficient to persuade the identified country to cease large-scale high seas driftnet fishing within six months, or if it retaliates against the United States during that

time period as a result of the sanctions, the Secretary of Commerce is required to certify this fact to the President. Such a certification is deemed to be a certification under Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582).

Public Law 104-43: Public Law 104-43, the Fisheries Act of 1995, was enacted on 3 November 1995. Title VI of this law, the High Seas Driftnet Fishing Moratorium Protection Act, prohibits the United States, or any agency or official acting on behalf of the United States, from entering into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of UNGA Resolution 46/215. Title VI also charges the Secretary of State, on behalf of the United States, to seek to enhance the implementation and effectiveness of the UNGA resolutions and decisions regarding the large-scale high seas driftnet moratorium through appropriate international agreements and organizations. Finally, the act specifies that the President of the United States shall utilize appropriate assets of the Department of Defense, the U.S. Coast Guard (USCG), and other Federal agencies, to detect, monitor, and prevent violations of the UN large-scale high seas driftnet moratorium for all fisheries under the jurisdiction of the United States, and to the fullest extent permitted under international law for fisheries not under U.S. jurisdiction.

The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, in consultation with the Department of State and the Department of Homeland Security, submits the following report for 2005 in fulfillment of the Section 206(e) reporting requirement. Information pertaining to U.S. actions in support of the Act prior to 2005 and after 1988 can be found in the 1990-2004 annual driftnet reports to the Congress available from NMFS.

II. DESCRIPTION AND PROGRESS OF EFFORTS MADE TO CARRY OUT PROVISIONS OF SECTION 206(c) POLICY

A. Implementation of the Driftnet Moratorium called for by UNGA Resolutions 44/225, 45/197, and 46/215:

1. Current Status of the Driftnet Moratorium

As of 31 December 2005, the UNGA global moratorium on large-scale high seas driftnet fishing has been in effect for 13 years. International implementation of the moratorium in the world's oceans and enclosed and semi-enclosed seas continues to be generally successful, although problem areas remain. Of the two major problem areas in recent years, the North Pacific Ocean and the Mediterranean Sea, 18 vessels capable of conducting unauthorized large-scale high

seas driftnet fishing operations were reported in the North Pacific Ocean in 2005. At least four vessels were reported operating on the high seas of the Mediterranean Sea in 2005.¹

a. North Pacific Ocean

No large-scale driftnet fishing vessels were intercepted on the high seas of the North Pacific Ocean by the international community in 2005. However, 18 vessels capable of driftnet fishing were sighted operating in the Northwestern Pacific. Four of these vessels were unidentified, raising the possibility of multiple sightings of the same vessel or vessels.

1. **Regional Driftnet Enforcement Coordination**

North Pacific Anadromous Fish Commission (NPAFC): The NPAFC serves as a forum for promoting the conservation of anadromous stocks and ecologically-related species, including marine mammals, sea birds, and non-anadromous fish, in the high seas area of the North Pacific Ocean. This area, as defined in the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (the Convention that established the NPAFC), is "the waters of the North Pacific Ocean and its adjacent seas, north of 33° North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured." The members of the NPAFC are Canada, Japan, the Republic of Korea (ROK), Russia, and the United States.

In addition, the NPAFC serves as the venue for coordinating the collection, exchange, and analysis of scientific data regarding the above species within Convention waters. It also coordinates high seas fishery enforcement activities by member countries. The Convention prohibits directed fishing for salmonids and includes provisions to minimize the incidental take of salmonids in other fisheries in the Convention area. Although it does not specifically ban high seas driftnet fishing, fishing for salmonids on the high seas has historically been carried out in this manner. As a result, the NPAFC and its enforcement activities are primarily targeted against high seas driftnet fishing vessels. All members of the NPAFC have for the last several years jointly planned and coordinated their high seas enforcement operations in order to most efficiently utilize all enforcement resources.

NPAFC Joint Operations Information Coordination Group (JOICG): The NPAFC established the JOICG in 2001 to exchange enforcement-related information via computer and communications technology for the protection of salmon resources in the NPAFC Convention

¹ For purposes of this report, only those vessels that were visually confirmed as driftnet-capable have been considered sightings.

Area. The JOICG is comprised of designated enforcement officials from each of the NPAFC Parties who serve as conduits for the exchange and dissemination of such information to their respective governments. Since November 2001, JOICG points-of-contact have communicated with each other at a minimum of once each month to ensure open lines of communication. The NPAFC Parties effectively used the JOICG to plan and coordinate in-season enforcement activities in 2005 and have agreed to continue the work of the Group in 2006.

NPAFC Enforcement Evaluation and Coordination Meeting (EECM): Representatives from the NPAFC Parties met in Vladivostok, Russia, on 18-19 May 2005, for the annual NPAFC EECM. The meeting included presentations by each Party on enforcement efforts to date in 2005; coordination of enforcement plans and resources for the remainder of 2005; a presentation on the trial use of an Integrated Information System (IIS), a software tool under development by Russia to improve information sharing and coordination; and a discussion on ways to improve and expand enforcement activities to combat illegal, unreported and unregulated (IUU) fishing in the Convention Area.

NPAFC Annual Meeting: The 13th Annual Meeting of the NPAFC was held in Seogwipo City, Jeju Island, ROK, on 24-28 October 2005. Enforcement officials of the Parties met under the auspices of the NPAFC Committee on Enforcement to review enforcement activities in 2005 and begin planning activities for 2006. Representatives of Taiwan observed the proceedings of the meeting.

As a result of the Parties' cooperative enforcement efforts in 2005, no vessels were detected engaged in illegal large-scale driftnet fishing for salmon in the NPAFC Convention Area. However, the Parties reported sighting 17 suspected high seas driftnet vessels operating in the North Pacific. The Parties were unable to investigate and, in some cases, positively identify, many of these vessels because of their remote location. In light of the continuing threat of unauthorized high seas salmon fishing in the Convention Area, Parties agreed to maintain 2006 enforcement efforts at levels similar to 2005 as a deterrent to unauthorized fishing activity. To coordinate enforcement efforts, the Parties agreed to hold the annual EECM in Juneau, Alaska, from 28 February-1 March 2006. A symposium will be held in conjunction with the EECM on 2 March to provide a forum for discussing actual enforcement operations. The Parties also agreed to further refine the IIS website and adopted recommendations for enforcement procedures to be used when stateless vessels or vessels of non-member countries suspected of fishing illegally are encountered in the Convention Area.

The contributions of each NPAFC Party, the People's Republic of China (PRC), and Taiwan to the 2005 high seas driftnet fisheries enforcement effort are summarized below. Table 1 is a summary of high seas driftnet capable vessel sightings in the North Pacific Ocean in 2005.

(2) U.S. Driftnet Enforcement Efforts in the North Pacific

To monitor compliance with the UN driftnet moratorium, the USCG and the NMFS Office for Law Enforcement continued to carry out surveillance activities in North Pacific high seas areas that in the past were routinely fished by large-scale driftnet vessels. Operation North Pacific Watch, the USCG's 2005 high seas driftnet enforcement plan, began in April. From April-July 2005, USCG aircraft from Air Station Barbers Point Hawaii and Air Station Kodiak Alaska flew 5 deployments for a total of 138 surveillance hours in the NPAFC Convention Area (a total of 214 hours, including transit time).

The USCG Cutter *JARVIS* participated in an IUU fishing patrol, which included all of the NPAFC Parties and the PRC, from mid-May through July 2005. The *JARVIS* spent approximately 46 days in the NPAFC Convention Area, made port calls in Japan and the ROK, rendezvoused with Russian Border-Coast Guard and PRC Fisheries Law Enforcement Command (FLEC) patrol vessels, and embarked shipriders from the PRC FLEC and a professional exchange officer from the ROK to observe USCG IUU fisheries enforcement operations.

NMFS Special Agents and Enforcement Officers deployed with Canadian CP-140 and USCG C-130 air patrols in the NPAFC Convention Area spent a total of 159 person-hours engaged in high seas driftnet fisheries enforcement activities in 2005.

Patrol Results: USCG patrols did not detect any vessels actively engaged in fishing contrary to the NPAFC Convention and no vessel boardings were conducted by USCG cutters. However, the United States reported that at least 6 potential high seas driftnet vessels were sighted in the North Pacific in 2005 (included in Table 1). U.S. tuna fishermen in the western North Pacific reported sightings of at least 3 potential high seas driftnet vessels. They also reported 12 radar returns and 2 unconfirmed visual sightings of potential driftnet vessels.

On 16 May, a Canadian CP-140 patrol aircraft operating out of Shemya, Alaska, and coordinating with the 17th Coast Guard District in Juneau, Alaska, sighted the *ZHUU SHAN* at 41°47'N, 166°56'N, equipped with high seas driftnet fishing gear. U.S. albacore tuna fishermen reported sighting the *TUNG YANG 88* on 20 May actively fishing with approximately 12-14 nautical miles of driftnet gear near 35°26'N, 158°06'E. (A vessel with a similar name, the *TONG YANG 88*, was sighted by U.S. tuna fishermen at 39°N, 161°E, in June 2004.) Three days later, on 23 May, they reported sighting two unidentified driftnet vessels and making radar contact

Table 1. Driftnet-capable vessels detected operating in the North Pacific Ocean in 2005.

DATE	Vessel Name	FLAG	POSITION	SOURCE OF REPORT	ACTION
16 May	ZHOU SHAN	?	41°47'N, 166°56'E	Canadian CP-140 Aircraft	Sighting information passed to the NPAFC
20 May	TUNG YANG 88	?	35°26'N, 158°06'E	U.S. Albacore Tuna Fishermen	Sighting information passed to Belize, Taiwan, Indonesia, and the NPAFC
23 May	2* Unidentified	?	34°57'N, 159°01'E	U.S. Albacore Tuna Fishermen	Sighting information passed to the NPAFC
18 June	lu rong yu shui no. 228	PRC?	37°43'N, 160°33'E	Taiwan Coast Guard Patrol Vessel	Sighting information passed to the USCG
12 July	Unidentified	?	41°18'N, 160°07'E	USCG Aircraft	Sighting information passed to the NPAFC
29 July	Unidentified	?	44°44'N, 160°03'E	USCG Aircraft	Sighting information passed to the NPAFC
2 Sept.	LU RONG YU 1327	PRC?	44°40'N, 155°57'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	RONG YUAN YU 808	PRC?	44°46'N, 156°12'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	RONG YUAN YU 809	PRC?	44°46'N, 156°12'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	RONG YUAN YU 810	PRC?	44°43'N, 156°10'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	RONG YUAN YU 807	PRC?	44°40'N, 156°07'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	RONG YUAN YU 801	PRC?	44°36'N, 156°06'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
1 Oct.	VICTORY iii	?	41°52'N, 151°42'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
1 Oct.	ever rich	?	41°57'N, 151°-44'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
1 Oct.	juara untung nO. 6	Indonesia	42°-20'N 151°54'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
5 Oct.	lu mu YU 6007	PRC	41°41'N, 151°48'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
5 Oct.	SHUNFA 8	Georgia	41°45'N, 151°50'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
14 Oct.	9** Unidentified	?	40°40'N 170°E	U.S. Albacore Tuna Fishermen	Sighting information passed to the USCG

Note: Only those vessels visually confirmed to be driftnet-capable were counted in this report. Radar returns alone were not considered adequate confirmation that a vessel was driftnet-capable. In addition, several of the vessels

above were unidentified, making multiple sightings of the same vessel or vessels possible.

* 7 vessels were reported on 23 May 2005, but only 2 were visually confirmed. The remaining 5 were radar returns.

** Of the 9 vessels reported on 14 October 2005, 2 were unconfirmed visual sightings at night and the remaining 7 were radar returns. None of these vessels were counted in the 18 sightings in the North Pacific Ocean in 2005.

with 5 potential driftnet vessels near 34°57'N, 159°01'E. No USCG assets were available to respond to the sightings. The vessels were believed to be targeting squid or tuna rather than salmon, as seawater temperatures in the area were 16°-20°C (the preferred temperature range for salmon is generally 3°-16°C).

USCG aircraft sighted many radar contacts not visually observed, which were believed to be a mixture of high seas driftnet capable vessels, legitimate operators, and vessels in transit. USCG aircraft detected two additional vessels capable of being used for large-scale driftnet fishing in July (12 July at 41°18'N, 160°07'E, and 29 July at 44°44'N, 160°03'E) but were unable to positively identify them. No USCG surface assets were available to investigate further.

In October 2005, the USCG received driftnet sightings from the U.S. tuna fishing industry in the vicinity of 40°40'N, 170°E. A U.S. tuna fishing vessel reported up to nine possible high seas driftnet fishing vessels--two unconfirmed visual sightings at night and seven radar returns. The vessel crew retrieved part of a driftnet. When a USCG aircraft investigated, only legitimate longline fishing operations were observed in the area. However, the USCG aircraft did observe a possible driftnet in the same vicinity of the U.S. tuna fishing vessel report. It is possible that the net was a "ghost" net, i.e., lost or abandoned gear no longer associated with a specific fishing vessel.

Follow-up: From vessel registry databases and sighting information, the United States had indications that the *TUNG YANG 88* was registered in Belize, owned in Taiwan, and homeported in Indonesia. When the United States contacted the countries about the vessel, Belize stated that the vessel had been previously deregistered from its vessel roles and Indonesian authorities stated that the vessel was neither registered nor homeported in Indonesia. Taiwan investigated the ownership link and reported that it could find no relevant information on the *TUNG YANG 88*. It appears that the vessel is stateless, operating independently on the high seas. Its controlling entity remains unknown.

(3) Canadian Driftnet Enforcement Efforts in the North Pacific

Canada conducted 17 aerial patrols for a total of 167 hours of surveillance covering 4 million square kilometers in the North Pacific high seas driftnet fishing area in 2005. Canadian flight operations involved two Department of National Defense (DND) CP-140 Aurora aircraft contracted by the Department of Fisheries and Oceans (DFO), associated flight crews, technicians and ground support, plus one DFO fishery officer and one NMFS special agent. The patrols were conducted from Eareckson Airfield, Shemya Island, Alaska, from late April-mid-May 2005. The general surveillance area was west of 160°W to the Russian EEZ and north of 38°N to the U.S. EEZ off Alaska. The 2005 patrol area was increased slightly over previous

years. Coordinates were chosen based on the high probability of thermoclines used by salmon, USCG threat assessment information, experience, capabilities of the aircraft, and the NPAFC Convention Area. As in past years, a member of the Canadian DND assigned to the operational tasking of the aircraft was located at USCG 17th District Headquarters in Juneau, Alaska, to coordinate information and surface support operations.

Canadian surveillance flights obtained 564 radar targets within the operational area, of which 35 were visually identified. One possible driftnet vessel was sighted (previously described in the U.S. enforcement section) and three transport vessels were observed.

(4) Japan's Driftnet Enforcement Efforts in the North Pacific

Japan's 2005 driftnet fishery enforcement efforts consisted of the deployment in the North Pacific Ocean of 5 Fisheries Agency of Japan (FAJ) patrol vessels for a total of 81 ship days at sea from June-September, 2 Hokkaido local government patrol vessels for 78 ship days at sea from April-July, and 24 Japan Coast Guard vessels for a total of 191 ship days at sea from April-September. Japan Coast Guard and FAJ aircraft flew a total of 124 hours (102 hours for fixed wing and 22 hours for helicopter) and 35 hours, respectively, from April-September 2005, in the North Pacific.

In October 2005, FAJ research vessels sighted a number of vessels suspected to be illegally driftnet fishing in the vicinity of 44°-45°N, 155°-156°E. Japan believes that these vessels were PRC-flagged and has sent an inquiry to the PRC Government. FAJ patrol vessels also sighted what were believed to be Indonesian, PRC, and Georgian-flagged vessels suspected of driftnet fishing at 41°N, 151°E. Information provided by Japan on these vessels is included in Table 1.

At the NPAFC 13th Annual Meeting in Korea, Japan reminded the Parties that a driftnet vessel it boarded in 2004, the *CHUN JIN NO. 1*, was owned by a company in Taiwan and flagged in Georgia. Japan had contacted both Taiwan and Georgia and asked them to take action to prevent any reoccurrence of such fishing activity. However, Japan reported that Georgia still has Taiwan and PRC flag-of-convenience vessels on its registry. The NPAFC agreed to send a letter of complaint to the Georgian Government.

(5) Republic of Korea's Driftnet Enforcement Efforts in the North Pacific

The ROK Government was not able to conduct high seas fisheries enforcement operations in 2005. It has one patrol vessel capable of high seas fisheries enforcement duty, but that vessel is needed to patrol the ROK EEZ. The ROK did send an officer to participate in a professional exchange on board the USCG Cutter *JARVIS* (previously discussed in the U.S. enforcement

section).

(6) Russian Federation's Driftnet Enforcement Efforts in the North Pacific

Russian patrols did not detect any illegal high seas driftnet vessels in 2005. The Border Service of the Federal Security Service of the Russian Federation utilized enforcement assets of the Northeast Regional Border Directorate in Petropavlovsk-Kamchatsky and the Pacific Regional Border Directorate-Coast Guard in Vladivostok to patrol the North Pacific Ocean for driftnet violations. The Border Service deployed two patrol vessels--the *VOROVSKY* and the *OREL*, both equipped with helicopters--from May to August 2005 in the NPAFC Convention Area. During July, the USCG Cutter *JARVIS* and the *VOROVSKY* formulated and executed a joint patrol plan and officer exchange to target high seas driftnet violators in the North Pacific. The Russian Federal Border Service employed AN-72 aircraft for 5 of 10 planned aerial surveillance flights over the Convention Area from May through July. The other 5 flights were cancelled due to adverse weather conditions.

(7) People's Republic of China Driftnet Enforcement Efforts in the North Pacific

The People's Republic of China's Fisheries Law Enforcement Command (FLEC) continued to participate in high seas fisheries enforcement in 2005. For the third straight year, the PRC FLEC dispatched at least one patrol vessel to the North Pacific. The *ZHONG GUO YU ZHENG 202*, took part in a multinational IUU patrol, which included all of the NPAFC Parties, from mid-May through July 2005. The *ZHONG GUO YU ZHENG 202* patrolled the North Pacific for over 40 days in support of IUU enforcement and participated with the USCG Cutter *JARVIS* in a 3-day joint high seas driftnet patrol, which included officer exchanges, joint patrol planning, and aircraft law enforcement flights.

In addition to operational coordination and execution with the USCG Cutter *JARVIS*, 15 FLEC mid-level managers were hosted by the USCG in July 2005 in Kodiak, Alaska, and Alameda, California, for training and professional discussions. Additionally, the FLEC rotated four FLEC officers on board *JARVIS* as shipriders under the 1993 US-PRC Fisheries Enforcement MOU. (Both of these exchanges are described in more detail in section II.A.3.a.)

Although the PRC FLEC patrol vessel did not sight or board any PRC high seas driftnet vessels in 2005, its publicized patrol efforts and engagement with the United States and other NPAFC Parties are continuing to pose a strong disincentive for PRC vessels and nationals to engage in large-scale high seas driftnet fishing operations.

(8) Taiwan's Driftnet Enforcement Efforts in the North Pacific

The Taiwan Coast Guard has conducted high seas fisheries enforcement patrols in the North Pacific Ocean since 1993. Taiwan observers at the NPAFC 13th Annual Meeting reported that Taiwan dispatched two patrol vessels to the North Pacific from 29 April-1 November 2005, to monitor the activities of Taiwan fishing vessels. The vessels patrolled the area of 35°-45°N, 145°-175°E, for a total of 170 vessel days. On 18 June, one of the patrol vessels sighted the driftnet vessel *LU RONG YU SHUI NO. 228* at 37°43'N, 160°33'E. Taiwan relayed the sighting information to the USCG, but USCG patrol assets were not in a position to respond. Taiwan officials believe that the vessel was PRC-flagged.

Follow-up: Taiwan took legal action against the captain of the *CHUN JIN NO. 1* in 2005. The vessel was boarded by a Japanese patrol vessel in May 2004 while driftnet fishing for salmon in the NPAFC Convention Area. Japan determined that the vessel was registered in Georgia at the time of the boarding, but the captain and vessel owner were from Taiwan. The captain received a 5-month prison sentence and revocation of his license.

Taiwan determined that the *TUNG YANG 168*, a high seas driftnet vessel sighted by U.S. tuna fishermen in 2004, was likely Indonesian-flagged. Indonesia refuted registry of the vessel and informed the United States that Indonesia does not permit any of its fishing vessels to operate outside of its EEZ. Taiwan will continue to investigate the vessel.

(9) Potential Driftnet Threat in the North Pacific Ocean in 2006

Despite the actions taken by the international community to implement the UN global driftnet moratorium, large-scale high seas driftnet fishing activity persists in the North Pacific Ocean. The high threat areas for illegal large-scale high seas driftnet fishing in 2006 are expected to remain fairly consistent with those areas where such activity was detected in the past, although the target fishery has shifted from salmon to primarily squid and tuna. Driftnet fishing targeting salmon is expected to take place north of 47°N, west of 173°E, and bounded by the U.S. and Russian EEZs. The greatest threat period for salmon is generally from April through June and for other species, May through November. High seas driftnet fishing vessels targeting squid may deploy nets in areas of strong temperature change. Targeted areas primarily include waters with a sea surface temperature (SST) between 14-17° Celsius (C). These waters typically occur in the North Pacific between 38°-48°N and 150°E-165°W. Strong evidence suggests fishing vessels target areas where SST changes rapidly over short distances. Historical evidence shows that Japanese fishing vessels deployed driftnets in areas where SST may differ by 2-3° C from one end of the net to the other. Prime fishing areas may be locations where the SST isotherm dips down to the south and forms a "U" shaped pocket.

U.S. Driftnet Enforcement Efforts for 2006: To support U.S. enforcement efforts in the North Pacific in 2006, the USCG will conduct surveillance and patrols at levels comparable to recent years. USCG high endurance cutters will continue to emphasize fisheries enforcement patrol effort in the U.S. EEZ, giving them the capability to potentially respond to suspected high seas driftnet sightings in the NPAFC Convention Area. Additionally, the USCG intends to continue its policy of issuing *Local Notices to Mariners* prior to and during the high-threat driftnet fishing season requesting information from U.S. fishermen. As shown by 2005 sightings in Table 1, reporting by U.S. fishermen is critical to U.S. and international efforts to stop illegal driftnet fishing.

NMFS will continue to place enforcement officers on Canadian high seas driftnet surveillance flights during 2006 deployments and on USCG HC-130 aircraft deployments when possible.

Canadian Driftnet Enforcement Efforts for 2006: The Canadian Government will commit 180 hours of air surveillance time to high seas driftnet fisheries enforcement in 2006, however no firm dates have been set for aircraft deployments.

Japanese Driftnet Enforcement Efforts for 2006: Japan intends to maintain the same level of enforcement effort in 2006 as in 2005.

ROK Driftnet Enforcement Efforts for 2006: The ROK has no plans for enforcement in the NPAFC Convention Area in 2006, but said it would like to participate in the enforcement activities conducted by the United States, if possible.

Russian Driftnet Enforcement Efforts for 2006: The Russian Coast Guard will utilize *DZERZHISKY* and *BARS* class patrol vessels to patrol the Russian EEZ, including the northern part of the NPAFC Convention Area, from April-September. Russia also plans to conduct 7 surveillance flights over the Convention Area from May to August using AN-72 aircraft.

Multilateral Enforcement Efforts for 2006: The Parties to the NPAFC have agreed to maintain 2006 enforcement efforts at comparable levels to recent years to ensure a sufficient enforcement presence in the area to serve as an effective deterrent. The Parties will coordinate enforcement efforts at the EECM in Juneau, Alaska, from 28 February-1 March 2006.

a. **Mediterranean Sea**

In addition to the UNGA global moratorium on large-scale high seas driftnet fishing, several

other international mechanisms are in place to prohibit large-scale driftnet fishing in the Mediterranean Sea:

European Union (EU) Ban on Driftnets: In 1997, the EU began to consider an EU-wide driftnet ban in the Mediterranean Sea and North Atlantic Ocean as a means of complying with the UN driftnet moratorium. On 8 June 1998, the EU Fisheries Council adopted Council Regulation 1239/98 banning the use of driftnets by 1 January 2002 in all waters falling within the jurisdiction of Member States, as well as outside those waters. The EU driftnet ban entered into force on 1 January 2002.

General Fisheries Commission for the Mediterranean (GFCM): At its 22nd Session in October 1997, the GFCM adopted binding resolution 97/1 concerning the use of large-scale pelagic drift-net gear. The resolution, taking UNGA resolution 44/225 into account and considering that uncontrolled expansion and growth of driftnet fishing may entail serious disadvantages in terms of increased fishing effort and increased bycatches of species other than target species, prohibited vessels flying the flag of a Contracting Party of GFCM from keeping on board, or fishing with, one or more drift-nets whose individual or total length is more than 2.5 km.

At the 20th Session of the GFCM on 21-25 February 2005, the Commission adopted ICCAT Recommendation 03-04 (described below) prohibiting the use of driftnets for fisheries of large pelagics in the Mediterranean Sea as Recommendation GFCM/2005/3(A) (Attachment 1).

International Commission for the Conservation of Atlantic Tuna (ICCAT) Driftnet Recommendation: On 26 November 2003, ICCAT adopted at its 18th Annual Meeting in Dublin, Ireland, Recommendation (03-04) which prohibits the use of driftnets in fisheries for large pelagic species in the Mediterranean by its Contracting Parties, Cooperating Non-Contracting Parties, Entities, and Fishing Entities. Contracting Parties are legally bound by the recommendation. In practical terms, the recommendation closes a driftnet fishing loophole that could be used by countries which are members of ICCAT but not the EU, and therefore are not bound by the EU driftnet ban. Unlike the UN high seas driftnet moratorium, neither the EU ban nor the ICCAT recommendation differentiates between driftnet fishing on the high seas or in territorial waters--driftnet fishing is prohibited in both.

Developments in 2005:

Nongovernmental organizations (NGO) continued to assert that up to 600 vessels with driftnets from 7-9 km in length, are operating throughout the Mediterranean Sea. The United States received press reports documenting at least four sightings of large-scale driftnet vessels operating on the high seas of the Mediterranean in 2005.

Morocco: On 20 November 2003, the World Wildlife Federation (WWF)-International released a report titled “Biodiversity impact of the Moroccan driftnet fleet in the Alboran Sea.” The report claimed that the Moroccan driftnet fleet, with 177 vessels, was killing thousands of dolphins and other vulnerable species, such as sharks and sea turtles, in the Alboran Sea and around the Straits of Gibraltar. The WWF also alleged that Italian, French, Turkish, and most probably other fishing fleets are using driftnets in breach of existing legislation and the United Nations driftnet moratorium. The WWF report came out in advance of the Conference on Mediterranean Fisheries, which was held in Venice, Italy, on 23-25 November 2003. The WWF urged the EU to monitor and prosecute all of the fleets of its member states using driftnets. It also called on the GFCM, and non-EU countries, particularly those in North Africa, to introduce legislation banning the use of driftnets in the Mediterranean Sea.

At the 2003 ICCAT Annual Meeting, Morocco admitted to having a driftnet fleet. At the time ICCAT’s driftnet recommendation was adopted, Morocco made a statement for the record of its intention to devise a national plan to phase out driftnet gear and pledged to work with the EU and others to accomplish this. At the 15-21 November 2004 ICCAT Annual Meeting in New Orleans, Morocco presented a 4-year plan for eliminating the use of driftnets in its fisheries, primarily through public education and assistance to its fishermen. The U.S. ICCAT delegation highlighted the urgency of this action and offered to work with Morocco to help expedite implementation of the plan.

A U.S. delegation traveled to Morocco from 26-28 September 2005 to discuss issues related to ICCAT and large-scale driftnets. Three of the goals of the trip were to learn about driftnet use by Morocco and other countries bordering the Mediterranean, to educate Morocco on U.S. driftnet laws and to explore possible areas of cooperation and capacity building, especially regarding the phaseout of Morocco’s driftnet fleet. Morocco expressed the need for assistance in transitioning its driftnet fleet to other, more selective gears and noted that it is in the second year of its driftnet elimination plan. The plan calls for buying driftnets and disposing of them. Morocco also expressed an interest in working with the United States on analysis of the social and economic impacts of eliminating its driftnet fleet, including the effect on fishermen, the social loss associated with such a change, and the cost of vessel/gear replacement. The United States has earmarked funds to help with some aspects of Morocco’s driftnet elimination program. The United States will be working with Morocco in the near future to determine the best use of the funds to achieve the goal of ending Moroccan driftnet fishing.

On 28 July 2005, the EU and Morocco signed a new fisheries partnership agreement after 6 years of negotiations. Under the new 4-year agreement, which begins in 2006, a total of 119 EU vessels will be allowed to fish in Moroccan waters in exchange for EU compensation

of approximately \$42 million per year. A substantial portion of this compensation will be earmarked for measures specifically designed to fund the conversion of the Moroccan driftnet fleet to more sustainable fishing activities.

Turkey: In regard to NGO charges that Turkey is using large-scale high seas driftnets, Turkey told the United States in a bilateral meeting on 29 September-1 October 2005 that it has fewer than 100 driftnet vessels, each less than 15 meters long. The vessels fish with nets that are 800-1,000 meters long. Turkey claims that these are small-scale operations targeting swordfish in the Mediterranean off the southwest corner of Turkey. Although these vessels may not be violating the UN driftnet moratorium, Turkey is a member of ICCAT and the GFCM and is fishing in violation of ICCAT and GFCM rules. On 3 October 2005, Turkey opened accession negotiations with the EU, which banned the use of all driftnets by EU member nations beginning in 2002. Turkey must agree to adopt the common rules, standards, and policies that make up the body of EU law as a prerequisite to accession. This would include terminating its driftnet fleet.

Italy: The status of the Italian driftnet situation is provided in Section II.B.3.b. below.

2. Interagency Agreements

Fisheries Enforcement Memorandum of Understanding (MOU): On 11 October 1993, the Secretaries of Transportation, Commerce, and Defense entered into the Memorandum of Understanding Between the Secretary of Transportation, the Secretary of Commerce and the Secretary of Defense Relating to the Enforcement of Domestic Laws and International Agreements that Conserve and Manage the Living Marine Resources of the United States. The MOU, required under Section 202 of Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act, established a mechanism for the use of the surveillance capabilities of the Department of Defense for locating and identifying vessels violating U.S. marine conservation laws and international agreements, including UNGA Resolution 46/215. The MOU also set formal procedures for communicating vessel locations to the Secretary of Commerce and the U.S. Coast Guard. A copy of the MOU was attached to the 1993 Driftnet Report to the Congress. There are no other interagency agreements regarding high seas driftnets.

1. Bilateral Driftnet Agreements

a. U.S.-PRC MOU

The United States and the PRC continued to work together in 2005 to ensure effective implementation of UNGA Resolution 46/215 in the North Pacific Ocean pursuant to the terms of the *Memorandum of Understanding Between the Government of the United States of*

America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991, signed in Washington D.C. on 3 December 1993. The MOU (also referred to as the "U.S.-PRC Shiprider Agreement") established boarding procedures for law enforcement officials of either country to board and inspect U.S. or PRC flagged vessels suspected of driftnet fishing. The MOU also established a shiprider program, which allows PRC fisheries enforcement officials to embark on U.S. Coast Guard resources during each driftnet fishing season. Pursuant to this provision, the PRC has provided a total of 38 enforcement officials to the USCG since 1994. As a bilateral enforcement agreement, the MOU facilitates/expedites investigations of suspicious vessels when they are encountered on the high seas. The MOU will expire on 31 December 2009.

A total of four PRC shipriders were deployed on the USCG Cutter *JARVIS* or at the USCG North Pacific Regional Fisheries Training Center (NPRFTC) in Kodiak, Alaska, from 11 April-31 August during the 2005 high seas driftnet fishing season. These officials were instrumental in facilitating communications between the USCG and the PRC FLEC. The USCG, with continued funding support from NMFS, hopes to host a similar number of PRC officials during the 2006 fishing season.

The NPRFTC hosted 15 officials from the PRC FLEC for 5 days of training on 11-16 April 2005. The training was given by USCG, NOAA Fisheries, and Department of Justice personnel and focused on the U.S. management of living marine resources covering a range of topics from the overarching legislation that governs U.S. domestic fisheries management and enforcement to the details of how the U.S. conducts domestic and high seas enforcement operations. The PRC officials also visited Kodiak's waterfront, and toured local canneries and fishing vessels, as well as USCG patrol assets. The visit, funded by NOAA, built upon an already-strong enforcement partnership between PRC and U.S. fisheries enforcement agencies. The training directly supported USCG efforts aimed at combating IUU fishing in the Pacific by partnering with the PRC to educate members of its FLEC on this subject. The training also complemented the U.S.-PRC Shiprider Agreement. It is further evidence of the PRC's desire to improve its law enforcement capabilities and to eliminate illegal fishing from its waters and by PRC vessels on the high seas.

b. **U.S.-Italy Driftnet Agreement**

Background: Following an order of the U.S. Court of International Trade, the United States on 19 March 1999 identified Italy as a nation for which there was reason to believe its nationals or vessels were conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the U.S. High Seas Driftnet Fisheries Enforcement Act (the Act). This marked the second time

the United States identified Italy pursuant to the Act (the first identification was in 1996). As a result of the identification, the United States began consultations with the Government of Italy on 17 April 1999 to obtain an agreement to effect the immediate termination of such activities.

Agreement was formally reached by the two countries on 15 July 1999 via an exchange of diplomatic notes. Complete details of the agreement can be found in the NMFS 1999 Driftnet Report to the Congress.

The 1999 driftnet agreement reiterated the Government of Italy's commitment to full implementation of the measures to combat large-scale high seas driftnet fishing contained in the 1996 U.S.-Italy driftnet agreement. As a result of Italy's driftnet vessel conversion program (a product of the 1996 agreement), about 85 percent of Italy's driftnet fleet of 679 vessels were converted to other fishing methods or scrapped by March 2000. The Government of Italy expected the remaining vessels to continue to fish in Italian waters until the EU driftnet ban entered into force in 2002 (Italy is a member of the EU).

Italy took a number of measures in addition to the driftnet vessel conversion program to strengthen the enforcement of its laws relating to driftnet fishing. It publicized a March 1999 court decision prohibiting the possession, as well as use of, driftnets longer than 2.5 kilometers. Italy increased boarding and inspections of driftnet vessels at dockside. The Italian Government implemented a detailed 1999 enforcement action plan involving joint enforcement efforts with European Union fisheries inspectors and proposed bilateral enforcement agreements with other EU Mediterranean countries. The Italian Coast Guard committed to increase at-sea monitoring by regional Coast Guard districts and spot checks of seized driftnets, until such netting can be destroyed.

In 2003, the Italian Government took the following additional steps to bring any remaining driftnet fishing activity to an end:

1. Enacted legislation in December 2002 that required "compulsory dismissal or conversion" (boats could be scrapped or convert to another gear type) of the driftnet fishing licenses of the remaining 89 licensed driftnet vessels that did not participate in Italy's earlier driftnet conversion program. The legislation allocated a total of €5 million, half to be distributed as compensation to vessel owners and the other half to crew members. This sum included funds provided by the Sicilian and Calabrian regional governments.
2. Identified crew members and vessel owners who would be compensated under the compulsory retirement scheme.

3. Cancelled the driftnet portions of the fishing licenses of all of the 89 remaining vessels.
4. Deleted the names of those vessels from the EU Vessel Registry, which contains a unique registration number for each vessel.
5. Seized and sealed the driftnets from all 89 vessels. According to the law, the driftnets can be "recycled or transformed" and the owners will get to keep the profits from recycling operations.
6. Received European Commission approval for Italy's compensation plan in February 2003. Part of the Commission's review included a finding that the buyback funds were not a "market-distorting measure."
7. Sought to initiate a uniform sanction scheme among all EU member states in order to reduce disparities in the level of sanctions applied for fisheries violations.
8. Considered the use of marine reserves and marine sanctuaries to protect spawning and nursery areas for marine species.

2004: Pursuant to a meeting on 22 January 2004 between representatives of the U.S. Department of State, U.S. Embassy in Rome, and Italy's Under Secretary of Agriculture, Paolo Scarpa Bonazza Buora, Italian enforcement officials provided 2003 enforcement data to the U.S. Embassy in Rome. The data showed that all of Italy's 2003 driftnet violations occurred in Italian national waters (i.e., not in the high seas portion of the Mediterranean Sea). A total of 92 nets with a combined length of 359 km were seized by Italian authorities.

2005: Environmental groups continued to claim that Italian vessels were still fishing with driftnets in Mediterranean waters in 2005. In March 2005, the Royal Society for the Prevention of Cruelty to Animals (RSPCA) and the Humane Society International (HSI) reported on an investigation by the Italian cetacean organization, DELPHIS, into the use of driftnets by Italy off the coast of the island of Ischia in 2004. Over a 67-day period, DELPHIS observers detected 9 driftnet vessels fishing illegally (3 of which may have been fishing in international waters). The lengths of the nets were not reported. RSPCA and HSI observers identified 15 Italian vessels equipped with driftnets estimated to range in length from 9 to 84 kilometers in Ischia harbor in 2004. Of all of the vessels detected, five had the same registration numbers as vessels that had accepted the EU conversion buyout funds prior to the EU ban on driftnet fishing. The RSPCA, HSI, and DELPHIS turned over their findings to the EU, prompting EU Fisheries Commissioner

Joe Borg to state that he intended to take action against Italy for the violations identified in the monitoring project.

During the summer of 2005, the *RANGER*, a research vessel belonging to the conservation group Oceana, identified 37 Italian fishing vessels in 6 Italian ports and at sea with driftnets on board. Oceana reported that 18 of the 37 had previously received subsidies from the Government of Italy to stop using driftnet gear.

Based on information provided by the above environmental groups, the United States embarked on a series of bilateral and multilateral efforts to address this issue. Ambassador David Balton, Deputy Assistant Secretary of State for Oceans and Fisheries, sent a letter to Italy's Under Secretary for Fisheries, Paolo Scarpa Bonazza Buora, on 9 June 2005 urging the Italian Government "to take all necessary actions to ensure that large-scale driftnet fishing is not occurring, and, if it is occurring, that it be stopped promptly." The letter was delivered by the Minister Counselor for Agricultural Affairs at the U.S. Embassy in Rome. Ambassador Balton reminded Under Secretary Scarpa Bonazza that, in addition to the 1992 United Nations global moratorium on large-scale high seas driftnet fishing, both ICCAT and the GFCM have prohibited the use of all driftnets to catch large pelagic fish in the Mediterranean Sea. He informed the Under Secretary that the United States would be seeking information on Italy's implementation of the ICCAT driftnet resolution at the 2005 ICCAT Annual Meeting. In addition, Ambassador Balton requested information on Italian driftnet violations and enforcement action taken by the Italian Government in 2004 and 2005.

In response to Ambassador Balton's letter, Under Secretary Scarpa Bonazza told U.S. Embassy officials that the Italian Government strongly opposes illegal driftnet activities and that it is working with the GFCM to ban the use of driftnets in the Mediterranean Sea by non-European countries. He instructed Italy's Deputy Director of Fisheries, Elisabetta Giannocari, to provide the United States with 2004 and 2005 enforcement data.

On 26 July, the U.S. Embassy in Rome received a summary of the enforcement activity from the Port Captaincies of Catania, Palermo, Cagliari, Reggio Calabria, Rome, and Naples for 2004. The Captaincies reported a total of 189 driftnet violations and seized 267.7 km of nets. According to the Italian Fisheries Directorate, 402 km of driftnets were seized through the end of July 2005. Because the 2004 and 2005 driftnet enforcement statistics did not specify whether the violations occurred in territorial or international waters, the United States requested clarification. In addition to seizure of their catch and gear, violators may be fined from €500-€3000 (approximately \$600-\$3,500). The United States believes that Italy's enforcement statistics support statements by the Italian Government that it is making an effort to ensure compliance with relevant international agreements, as well as Italian and European Commission

(EC) rules, related to driftnet fishing.

Italy's Port Captaincy General Command sent out two circular letters, dated 23 June and 30 June 2005, requesting that southern port authorities increase monitoring and enforcement for driftnet violations. The first letter reminded them that "driftnets cause uncountable damage to the marine ecosystem" and asked them to report enforcement action plans and results to the General Command. The second circular letter reminded port authorities to check if any illegal driftnet vessel owners had received compensation money from Italy's driftnet conversion plan. If so, they were asked to notify the courts, as this would be considered an act of fraud (a violation of Italy's penal code). Italian authorities identified 40 such cases.

The Italian press has also reported that Italian Port Captaincies actively enforced Italian and EC driftnet laws in 2005. Several examples follow:

- 4-5 June 2005: The Sicilian press reported that Customs police caught a vessel fishing with driftnets near the Eolic Islands. They seized the net, fined the fishermen, and reported the vessel's owner to the courts for committing fraud against the Government of Italy and the EC.
- 25 June 2005: The "Gazzetta del Sud," a Sicilian newspaper, reported that port authorities caught four vessels fishing illegally in international waters outside the Eolic Islands and seized 30 km of nets.
- 29 July 2005: The "La Sicilia," a Sicilian newspaper, reported an enforcement action by Carabinieri against illegal driftnet fishermen. Carabinieri caught 3 vessels in the port of Porticello (Palermo) with illegal driftnets on board, seized 24 km of nets (8 km of nets per vessel) and fined the owner. The article also mentioned that Carabinieri had begun to specifically monitor driftnet violations along the coast of Sicily near Palermo a few weeks prior to this particular enforcement action.

On the multilateral level, the United States appealed to the EC to take appropriate steps to strengthen enforcement of its driftnet ban. A copy of Ambassador Balton's letter was provided to the EC's Directorate-General for Fisheries and Maritime Affairs in June 2005. At the U.S.-EC high level fisheries bilateral meeting in Washington, D.C., on 27 June, the representative of the Directorate-General assured the U.S. delegation that the EC is actively engaged on this issue.

The EC Directorate for Fisheries and Maritime Affairs began an "infringement procedure" against Italy in November 2004, after monitoring the driftnet situation in Italy for several years and concluding that Italy was not complying with EC driftnet legislation. Article 226 of the EC Treaty gives the Commission power to take legal action against a member country that

has not complied with EU law. The process may take considerable time to complete, and, if the Commission concludes that there has been an infringement of EU law, it may call upon the member country to comply within a specified period of time (this is known as a “reasoned opinion”). In the event that the country fails to comply with the Commission’s ruling, the Commission may bring the case before the European Court of Justice. If the Court of Justice upholds the Commission’s ruling, the member country is required to take all necessary measures to conform. Failure of the member country to comply with the Court’s judgment could ultimately result in a financial penalty. The penalties for noncompliance by a member country can be significant. The Directorate’s Office of Legal Services is currently reviewing Italy’s response to the Commission’s second reasoned opinion. The results will determine whether the case is turned over to the European Court of Justice. The United States is following the infringement proceedings closely.

According to the EC fisheries official responsible for monitoring and enforcement, the EC sent enforcement inspectors to southern Italian ports in summer 2005. The U.S. Embassy in Rome learned from a report provided by the Port Captaincy of Cagliari (southern Sardinia) that two EU inspectors visited the Captaincy on 4-6 July 2005. They examined driftnet regulation documents and enforcement statistics; visited the ports of Sant’ Antioco and Calasetta; inspected the warehouse where seized driftnets are kept sealed; and conducted a night inspection by aircraft, but found no problems to report. According to the Port Captaincy’s report, the inspectors expressed appreciation for the Captaincy’s cooperation and for taking driftnet enforcement actions which resulted in the seizure of 28.7 km of driftnets.

There have been concerns that the Italian Government is passing national laws allowing driftnet-like gear to be employed by Italian fishermen to circumvent the various driftnet bans. An Italian ministerial decree was published in Italy’s Official Gazette in April 2005 permitting Italian fishermen to use modified large-scale anchored gillnets from 15 April-31 July 2005 within Italian territorial waters around a number of islands. The decree met with opposition from several non-governmental organizations and the Lazio Region Administrative Court ultimately rejected it on 20 June 2005. Under Secretary Paolo Scarpa Bonazza Buora issued another ministerial decree on 1 July withdrawing the April decree in order to be consistent with the EU policy. The Under Secretary’s decision was strongly influenced by the EU Fisheries Commission’s opinion that this type of gear is considered a driftnet and is therefore prohibited under EU law.

On 16 December 2005, Dr. William Hogarth, Assistant Administrator for Fisheries, NMFS, sent a letter to Mr. Joe Borg, EC Commissioner for Fisheries and Maritime Affairs, urging the EC to take all necessary actions to ensure that EU members are not fishing with driftnets or driftnet – like gear in the Mediterranean Sea. He also urged the EC to be proactive on the driftnet issue in

ICCAT and the GFCM. He offered to work closely with the EC to ensure that the driftnet issue is effectively addressed in the Mediterranean Sea.

1. **Resolutions and Letters in Support of UNGA Resolution 44/225**

a. **UNGA Driftnet Resolutions and Decisions**

Details on UNGA Resolutions 44/225 (1989), 45/197 (1990), 46/215 (1991), 50/25 (1995), 51/36 (1996), 52/29 (1997), 53/33 (1998), 54/32 (1999), 55/8 (2000), 57/142 (2002), 58/14 (2003), 59/25 (2004) and UNGA Driftnet Decisions 47/443 (1992), 48/445 (1993), and 49/436 (1994), and supporting resolutions and actions taken by the United States in other fora prior to 2005 have been provided in previous driftnet reports to the Congress available from NMFS.

On 17 November 2005, at its 60th session, the UNGA adopted Resolution 60/L.23, *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments* (Attachment 2). Section VI of the Resolution reaffirms the importance the General Assembly attaches to continued compliance with Resolution 46/215 and other subsequent resolutions on large-scale pelagic driftnet fishing. It urges States and other entities identified in Article I, paragraph 2(b) of the Agreement to enforce fully the measures recommended in those resolutions. Finally, it requests that the Secretary-General bring the Resolution to the attention of the international community, relevant intergovernmental organizations, the organizations and bodies of the UN system, regional and subregional fisheries management organizations or arrangements, and relevant nongovernmental organizations and invite them to provide him with information relevant to the implementation of the Resolution.

The Resolution requests the Secretary-General to submit to the General Assembly at its 62nd session a report on *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments*, taking into account information provided by States and other entities on the relevant paragraphs in Resolution 60/L.23. In addition, a sub-item with the same title as Resolution 60/L.23 will be placed under the item “Oceans and the law of the sea” on the agenda of the sixty-first session of the UN General Assembly in 2006.

a. **UN Driftnet Reports**

Since December 1992, the United States has been instrumental in ensuring that implementation

of the high seas driftnet moratorium remains a priority of the UNGA. The United States will continue to support UNGA resolutions and decisions requesting that the UN Secretary-General submit to the General Assembly biennial reports on developments relevant to the implementation of the UN driftnet moratorium.

UNGA Resolution 59/25 adopted in November 2004, requested that the Secretary-General submit to the General Assembly at its sixtieth session in 2005 a report relating to the implementation of the resolution entitled *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments*. The relevant portions (Section IV.E. paragraphs 112.-115.) of the Secretary-General's 2005 report are provided in Attachment 3.

A. **Support for the Wellington Convention**

The United States took no specific actions in support of the Wellington Convention in 2005. The Wellington Convention, formally known as the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, prohibits driftnet fishing within the Convention Area which includes both EEZs of South Pacific countries and territories, and adjacent high seas areas. Details on U.S. actions taken prior to 2005 are provided in previous driftnet reports to the Congress. No large-scale pelagic driftnet fishing activities have been reported in the Wellington Convention area since 1991.

I. **EVALUATION OF THE IMPACTS ON LIVING MARINE RESOURCES**

A detailed evaluation of the impacts of large-scale high seas driftnet fishing on salmonids, marine mammals and birds, tuna and non-salmonid fishes, and marine turtles was provided in the 1992 report to the Congress. The evaluation was based on catch data from the 1989-1992 scientific driftnet monitoring programs with Japan, Taiwan and the Republic of Korea. However, an enormous amount of North Pacific ecosystem data resulted from the driftnet scientific monitoring programs. Analyses and interpretation of these data continued through 1994 and descriptions of such research were included in the 1993 and 1994 driftnet reports. With the advent of the UN moratorium on large-scale high seas driftnet fishing, legal sources for scientific data on this type of fishing gear disappeared. Only Japan continues to conduct research on the distribution and abundance and status of stocks of salmonids and non-salmonid pelagic fishes in the North Pacific Ocean using small scale driftnets (driftnets less than 2.5 km).

IV. **LIST AND DESCRIPTION OF ANY NEW FISHERIES DEVELOPED BY**

NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION

We are not aware of any new fisheries that have been developed by nations that conduct, or authorize their nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation.

V. LIST OF NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION IN A MANNER THAT DIMINISHES THE EFFECTIVENESS OF OR IS INCONSISTENT WITH ANY INTERNATIONAL AGREEMENT GOVERNING LARGE-SCALE DRIFTNET FISHING TO WHICH THE UNITED STATES IS A PARTY OR OTHERWISE SUBSCRIBES.

The Secretary has not identified, pursuant to the High Seas Driftnet Fisheries Enforcement Act, any other nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the EEZ of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

Italy: As detailed in Section II.A.3.b. of this report, the Secretary of Commerce identified Italy on 19 March 1999 pursuant to the High Seas Driftnet Fisheries Enforcement Act as a nation that conducts, or authorizes its nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation. On 15 July 1999, the United States and Italy formally agreed on measures to effect the immediate termination of Italian large-scale high seas driftnet fishing. For this reason, the United States did not impose trade sanctions on Italian fish, fish products and sport fishing equipment pursuant to the Act. However, the United States has continued to apply the provision of the High Seas Driftnet Fisheries Enforcement Act that denies entry of Italian large-scale driftnet vessels to U.S. ports and navigable waters. Since 29 May 1996, it has also required Italy to provide documentary evidence pursuant to the Dolphin Protection Consumer Information Act (16 U.S.C. 1371(a)(2)(E)) that certain fish and fish products it wishes to export to the United States are not harvested with large-scale driftnets on the high seas.

The U.S. Government remains concerned by reports from conservation organizations in 2004 and 2005 that some Italian vessels and nationals may still be engaged in large-scale high seas driftnet fishing. The United States is working diligently with the Government of Italy, the

EC, and ICCAT to address this situation. The United States believes that the efforts now in progress need some time to come to fruition and that the ultimate result of these efforts will be the complete elimination of any residual large-scale high seas driftnet fishing by Italian vessels and

nationals that may still be occurring in the Mediterranean Sea. The United States will continue to apply the High Seas Driftnet Fisheries Enforcement Act provisions described above to Italy until such time that it is satisfied that all driftnet fishing has ceased.

Morocco: The United States did not receive any confirmed sightings of Moroccan large-scale driftnet vessels operating on the high seas of the Mediterranean in 2005. However, Morocco has verified that it has a driftnet fleet and that it intends to phase out this fleet over a 4-year period. The United States has offered to assist Morocco in implementing this program and in 2005 identified funding for this purpose. Representatives from NMFS met with Moroccan officials in September 2005 to discuss what form this assistance might take. (More complete details are provided in II.A.1.b of this report.)

PRC: The United States remains concerned that PRC fishing vessels were potentially engaged in large-scale high seas squid or tuna driftnet fishing in the North Pacific Ocean in 2005. The names of some of the identified vessels suggest that they may be associated with the PRC. The United States is working with the PRC to investigate these vessels.

The United States continues to be encouraged with the enforcement actions taken by the PRC Government in 2005--particularly the commitment of one FLEC vessel to patrol the high seas driftnet threat area for over 40 days in summer 2005 to deter illegal driftnet fishing activity. The U.S. Government will continue to work with the PRC Government to improve PRC enforcement efforts and presence in the North Pacific. The U.S.-PRC shiprider agreement pursuant to the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991* continues to function successfully and is in force until 31 December 2009. The United States will take into consideration the excellent enforcement cooperation received from the PRC Government in determining any actions to take pursuant to the High Seas Driftnet Fisheries Enforcement Act.