

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

S. 2484

To implement the Convention on the Conservation and Management of the High Seas Fishery Resources in the South Pacific Ocean, as adopted at Auckland on November 14, 2009, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. SCHATZ

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “South Pacific Fisheries
5 Convention Implementation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADVISORY COMMITTEE.**—The term “Advi-
9 sory Committee” means the advisory committee es-
10 tablished under section 3.

1 (2) COMMISSION.—The term “Commission”
2 means the South Pacific Fisheries Commission es-
3 tablished pursuant to the South Pacific Fisheries
4 Convention.

5 (3) COMMISSIONER.—The term “Commis-
6 sioner” means a U.S. Commissioner appointed under
7 section 3.

8 (4) CONVENTION AREA.—The term “Conven-
9 tion Area” means—

10 (A) the waters of the Pacific Ocean beyond
11 areas of national jurisdiction and in accordance
12 with international law jurisdiction, bounded by
13 the 10° parallel of north latitude and the 20°
14 parallel of south latitude and by the 135° me-
15 ridian of east longitude and the 150° meridian
16 of west longitude; and

17 (B) the waters of the Pacific Ocean beyond
18 areas of national jurisdiction and in accordance
19 with international law jurisdiction—

20 (i) east of a line extending south
21 along the 120° meridian of east longitude
22 from the outer limit of the national juris-
23 diction of Australia off the south coast of
24 Western Australia to the intersection with
25 the 55° parallel of south latitude; then due

1 east along the 55° parallel of south lati-
2 tude to the intersection with the 150° me-
3 ridian of east longitude; then due south
4 along the 150° meridian of east longitude
5 to the intersection with the 60° parallel of
6 south latitude;

7 (ii) north of a line extending east
8 along the 60° parallel of south latitude
9 from the 150° meridian of east longitude
10 to the intersection with the $67^\circ 16'$ merid-
11 ian of west longitude;

12 (iii) west of a line extending north
13 along the $67^\circ 16'$ meridian of west lon-
14 gitude from the 60° parallel of south lati-
15 tude to its intersection with the outer limit
16 of the national jurisdiction of Chile; then
17 along the outer limits of the national juris-
18 dictions of Chile, Peru, Ecuador and Co-
19 lombia to the intersection with the 2° par-
20 allel of north latitude; and

21 (iv) south of a line extending west
22 along the 2° parallel of north latitude (but
23 not including the national jurisdiction of
24 Ecuador (Galapagos Islands)) to the inter-
25 section with the 150° meridian of west lon-

1 gitude; then due north along the 150° me-
2 ridian of west longitude to its intersection
3 with 10° parallel of north latitude; then
4 west along the 10° parallel of north lati-
5 tude to its intersection with the outer lim-
6 its of the national jurisdiction of the Mar-
7 shall Islands; and then generally south and
8 around the outer limits of the national ju-
9 risdictions of Pacific States and territories,
10 New Zealand and Australia until it con-
11 nects to the commencement of the line de-
12 scribed in clause (i).

13 (5) COUNCIL.—The term “Council” means the
14 Western Pacific Regional Fishery Management
15 Council.

16 (6) EXCLUSIVE ECONOMIC ZONE.—The term
17 “exclusive economic zone” means the zone estab-
18 lished by Presidential Proclamation Numbered 5030
19 of March 10, 1983.

20 (7) FISHERY RESOURCES.—

21 (A) IN GENERAL.—The term “fishery re-
22 sources” means all fish within the Convention
23 Area.

24 (B) INCLUSIONS.—The term “fishery re-
25 sources” includes mollusks, crustaceans, and

1 other living marine resources as may be decided
2 by the Commission.

3 (C) EXCLUSIONS.—The term “fishery re-
4 sources” does not include—

5 (i) sedentary species in so far as they
6 are subject to the national jurisdiction of
7 coastal States pursuant to Article 77 para-
8 graph 4 of the 1982 Convention;

9 (ii) highly migratory species listed in
10 Annex I of the 1982 Convention;

11 (iii) anadromous species;

12 (iv) catadromous species;

13 (v) marine mammals;

14 (vi) marine reptiles; or

15 (vii) sea birds.

16 (8) FISHING.—

17 (A) IN GENERAL.—The term “fishing”
18 means—

19 (i) the actual or attempted searching
20 for, catching, taking, or harvesting of fish-
21 ery resources;

22 (ii) engaging in any activity that can
23 reasonably be expected to result in the lo-
24 cating, catching, taking, or harvesting of
25 fishery resources for any purpose;

1 (iii) transshipment and any operation
2 at sea in direct support of, or in prepara-
3 tion for, any activity described in this sub-
4 paragraph; or

5 (iv) the use of any vessel, vehicle, air-
6 craft, or hovercraft, in relation to any ac-
7 tivity described in clauses (i) through (iii).

8 (B) EXCLUSIONS.—The term “fishing”
9 does not include any operation related to an
10 emergency involving the health or safety of a
11 crew member or the safety of a fishing vessel.

12 (9) FISHING VESSEL.—The term “fishing ves-
13 sel” means any vessel used or intended for use for
14 the purpose of fishing, including a support ship, a
15 carrier vessel, or any other vessel directly involved in
16 such fishing operations.

17 (10) PANEL.—The term “Panel” means the
18 Council’s Advisory Panel.

19 (11) PERSON.—The term “person” means—

20 (A) any individual, whether or not a citizen
21 or national of the United States;

22 (B) any corporation, partnership, associa-
23 tion, or other entity, whether or not organized
24 or existing under the laws of any State; or

1 (C) any Federal, State, local, tribal, or for-
2 eign government or any entity of such govern-
3 ment.

4 (12) SECRETARY.—The term “Secretary”
5 means the Secretary of Commerce.

6 (13) SOUTH PACIFIC FISHERIES CONVEN-
7 TION.—The term “South Pacific Fisheries Conven-
8 tion” means the Convention on the Conservation and
9 Management of the High Seas Fishery Resources in
10 the South Pacific Ocean (including any annexes,
11 amendments, or protocols that are in force, or have
12 come into force, for the United States), which was
13 adopted at Auckland on November 14, 2009.

14 (14) STATE.—The term “State” means each of
15 the several States of the United States, the District
16 of Columbia, American Samoa, Guam, and any other
17 commonwealth, territory, or possession of the United
18 States.

19 (15) STRADDLING STOCK.—The term “strad-
20 dling stock” means a stock of fishery resources
21 which migrates between, or occurs in, the economic
22 exclusion zone of 1 or more parties to the Conven-
23 tion and the Convention Area.

24 (16) TRANSSHIPMENT.—The term “trans-
25 shipment” means the unloading of all or any of the

1 fishery resources or fishery resources products de-
2 rived from fishing in the Convention Area on board
3 a fishing vessel to another fishing vessel either at
4 sea or in port.

5 (17) 1982 CONVENTION.—The term “1982
6 Convention” means the United Nations Convention
7 on the Law of the Sea of 10 December 1982.

8 **SEC. 3. APPOINTMENT OF U.S. COMMISSIONERS.**

9 (a) APPOINTMENT.—

10 (1) IN GENERAL.—The United States shall be
11 represented on the Commission by not more than 3
12 U.S. Commissioners. In making each appointment,
13 the President shall select a Commissioner from
14 among individuals who are knowledgeable or experi-
15 enced concerning fishery resources in the South Pa-
16 cific Ocean.

17 (2) REPRESENTATION.—At least 1 of the Com-
18 missioners shall be—

19 (A) serving at the pleasure of the Presi-
20 dent, an officer or employee of—

21 (i) the Department of Commerce;

22 (ii) the Department of State; or

23 (iii) the United States Coast Guard;

24 and

1 (B) the chairperson or designee of the
2 Council.

3 (b) ALTERNATE COMMISSIONERS.—The Secretary of
4 State, in consultation with the Secretary, may designate
5 from time to time and for periods of time considered ap-
6 propriate an alternate Commissioner to the Commission.
7 An alternate Commissioner may exercise all powers and
8 duties of a Commissioner in the absence of a Commis-
9 sioner appointed under subsection (a).

10 (c) ADMINISTRATIVE MATTERS.—

11 (1) EMPLOYMENT STATUS.—An individual serv-
12 ing as a Commissioner, or as an alternate Commis-
13 sioner, other than an officer or employee of the U.S.
14 Government, shall not be considered a Federal em-
15 ployee, except for the purposes of injury compensa-
16 tion or tort claims liability as provided in chapter 81
17 of title 5, United States Code and chapter 171 of
18 title 28, United States Code.

19 (2) COMPENSATION.—An individual serving as
20 a Commissioner or an alternate Commissioner, al-
21 though an officer of the United States while so serv-
22 ing, shall receive no compensation for the individ-
23 ual's services as such Commissioner or alternate
24 Commissioner.

25 (3) TRAVEL EXPENSES.—

1 (A) IN GENERAL.—The Secretary of State
2 shall pay the necessary travel expenses of a
3 Commissioner or an alternate Commissioner in
4 accordance with the Federal Travel Regulations
5 and sections 5701, 5702, 5704 through 5708,
6 and 5731 of title 5, United States Code.

7 (B) REIMBURSEMENT.—The Secretary
8 may reimburse the Secretary of State for
9 amounts expended by the Secretary of State
10 under this paragraph.

11 (d) ADVISORY COMMITTEE.—

12 (1) ESTABLISHMENT OF PERMANENT ADVISORY
13 COMMITTEE.—

14 (A) MEMBERSHIP.—There is established
15 an advisory committee which shall be composed
16 of 7 members appointed by the Secretary, in-
17 cluding—

18 (i) a member engaging in commercial
19 fishing in the management area of the
20 Council;

21 (ii) 2 members from the indigenous
22 population of the Pacific including a Na-
23 tive Hawaiian and a native-born inhabitant
24 of any possession of the United States in
25 the Pacific;

1 (iii) a member that is a marine fish-
2 eries scientist and a member of the Coun-
3 cil's Scientific and Statistical Committee;

4 (iv) a member representing a non-gov-
5 ernmental organization active in fishery
6 issues in the Pacific;

7 (v) a member nominated by the Gov-
8 ernor of the State of Hawaii; and

9 (vi) a member designated by the
10 Council.

11 (B) TERMS AND PRIVILEGES.—Each mem-
12 ber of the Advisory Committee shall serve for a
13 term of 2 years and shall be eligible for re-
14 appointment for not more than 3 consecutive
15 terms. The Commissioners shall notify the Ad-
16 visory Committee in advance of each meeting of
17 the Commissioners. The Advisory Committee
18 may attend each meeting and may examine and
19 be heard on all proposed programs, investiga-
20 tions, reports, recommendations, and regula-
21 tions of the Commissioners.

22 (C) PROCEDURES.—The Advisory Com-
23 mittee shall determine its organization and pre-
24 scribe its practices and procedures for carrying
25 out its functions under this Act, the South Pa-

1 cific Fisheries Convention, and the Magnuson-
2 Stevens Fishery Conservation and Management
3 Act (16 U.S.C. 1801 et seq.). The Advisory
4 Committee shall publish and make available to
5 the public a statement of its organization, prac-
6 tices, and procedures. A majority of the mem-
7 bers of the Advisory Committee shall constitute
8 a quorum to conduct business. Meetings of the
9 Advisory Committee, except when in executive
10 session, shall be open to the public. Prior notice
11 of each non-executive meeting shall be made
12 public in a timely fashion. The Advisory Com-
13 mittee shall not be subject to the Federal Advi-
14 sory Committee Act (5 U.S.C. App.).

15 (D) PROVISION OF INFORMATION.—The
16 Secretary and the Secretary of State shall fur-
17 nish the Advisory Committee with relevant in-
18 formation concerning fishery resources and
19 international fishery agreements.

20 (2) ADMINISTRATIVE MATTERS.—

21 (A) SUPPORT SERVICES.—The Secretary
22 shall provide to the Advisory Committee in a
23 timely manner such administrative and tech-
24 nical support services as are necessary to func-
25 tion effectively.

1 (B) COMPENSATION; STATUS; EX-
2 PENSES.—An individual appointed to serve as a
3 member of the Advisory Committee—

4 (i) shall serve without pay; and

5 (ii) shall not be considered a Federal
6 employee, except for the purposes of injury
7 compensation or tort claims liability as
8 provided in chapter 81 of title 5, United
9 States Code, and chapter 171 of title 28,
10 United States Code.

11 (e) MEMORANDUM OF UNDERSTANDING.—For fish-
12 ery resources in the Convention Area, the Secretary, in
13 coordination with the Secretary of State, shall develop a
14 memorandum of understanding with the Council that
15 clarifies the role of the Council with respect to—

16 (1) participation in U.S. delegations to inter-
17 national fishery organizations in the Pacific Ocean,
18 including government-to-government consultations;

19 (2) providing formal recommendations to the
20 Secretary and the Secretary of State regarding nec-
21 essary measures for both domestic and foreign fish-
22 ing vessels;

23 (3) coordinating positions with the U.S. delega-
24 tion for presentation to the appropriate international
25 fishery organization; and

1 (4) recommending those domestic fishing regu-
2 lations that are consistent with the actions of the
3 international fishery organization, for approval and
4 implementation under the Magnuson-Stevens Fish-
5 ery Conservation and Management Act (16 U.S.C.
6 1801 et seq.).

7 **SEC. 4. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
8 **RETARY OF STATE.**

9 The Secretary of State may—

10 (1) receive and transmit, on behalf of the
11 United States, reports, requests, recommendations,
12 proposals, decisions, and other communications of
13 and to the Commission;

14 (2) in consultation with the Secretary, approve,
15 disapprove, object to, or withdraw objections to by-
16 laws and rules, or amendments thereof, adopted by
17 the Commission;

18 (3) with the concurrence of the Secretary, ap-
19 prove or disapprove the general annual program of
20 the Commission with respect to conservation and
21 management measures and other measures proposed
22 or adopted in accordance with the South Pacific
23 Fisheries Convention; and

24 (4) act upon, or refer to other appropriate au-
25 thority, any communication under paragraph (1).

1 **SEC. 5. AUTHORITY OF THE SECRETARY OF COMMERCE.**

2 (a) PROMULGATION OF REGULATIONS.—The Sec-
3 retary, in consultation with the Secretary of State and,
4 with respect to enforcement measures, the Secretary of the
5 department in which the Coast Guard is operating, is au-
6 thorized to promulgate such regulations as may be nec-
7 essary to carry out U.S. international obligations under
8 the South Pacific Fisheries Convention and this Act, in-
9 cluding recommendations and decisions adopted by the
10 Commission. If the Secretary has discretion in the imple-
11 mentation of 1 or more measures adopted by the Commis-
12 sion that would govern a straddling stock under the au-
13 thority of the Council, the Secretary shall promulgate, to
14 the extent practicable within the implementation schedule
15 of the South Pacific Fisheries Convention and any rec-
16 ommendations and decisions adopted by the Commission,
17 such regulations in accordance with the procedures estab-
18 lished by the Magnuson-Stevens Fishery Conservation and
19 Management Act (16 U.S.C. 1801 et seq.).

20 (b) RULE OF CONSTRUCTION.—Regulations promul-
21 gated under subsection (a) shall be applicable only to a
22 person or a fishing vessel that is or has engaged in fishing,
23 or fishery resources covered by the South Pacific Fisheries
24 Convention under this Act.

25 (c) ADDITIONAL AUTHORITY.—The Secretary may
26 conduct, and may request and utilize on a reimbursed or

1 non-reimbursed basis the assistance, services, personnel,
2 equipment, and facilities of other Federal departments
3 and agencies in—

4 (1) scientific, research, and other programs
5 under this Act;

6 (2) fishing operations and biological experi-
7 ments for purposes of scientific investigation or
8 other purposes necessary to implement the South
9 Pacific Fisheries Convention;

10 (3) the collection, utilization, and disclosure of
11 such information as may be necessary to implement
12 the South Pacific Fisheries Convention, subject to
13 sections 552 and 552a of title 5, United States
14 Code, and section 402(b) of the Magnuson-Stevens
15 Fishery Conservation and Management Act (16
16 U.S.C. 1881a(b));

17 (4) if recommended by the Commissioners, the
18 assessment and collection of fees, not to exceed 3
19 percent of the ex-vessel value of fishery resources
20 harvested by vessels of the United States in fisheries
21 conducted in the Convention Area, to recover the ac-
22 tual costs to the United States of management and
23 enforcement under this Act, which shall be deposited
24 as an offsetting collection in, and credited to, the ac-

1 count providing appropriations to carry out the func-
2 tions of the Secretary under this Act; and

3 (5) the issuance of permits to owners and oper-
4 ators of U.S. vessels to engage in fishing in the Con-
5 vention Area seaward of the U.S. exclusive economic
6 zone, under such terms and conditions as the Sec-
7 retary may prescribe, including the period of time
8 that a permit is valid.

9 (d) CONSISTENCY WITH OTHER LAWS.—The Sec-
10 retary shall ensure the consistency, to the extent prac-
11 ticable, of fishery management programs administered
12 under this Act, the Magnuson-Stevens Fishery Conserva-
13 tion and Management Act (16 U.S.C. 1801 et seq.), the
14 Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.),
15 the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et
16 seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821
17 note) (relating to Pacific albacore tuna), the Atlantic
18 Tunas Convention Act (16 U.S.C. 971 et seq.), and the
19 Western and Central Pacific Fisheries Convention Imple-
20 mentation Act (16 U.S.C. 6901 et seq.).

21 (e) JUDICIAL REVIEW OF REGULATIONS.—

22 (1) IN GENERAL.—Regulations promulgated by
23 the Secretary under this Act shall be subject to judi-
24 cial review to the extent authorized by, and in ac-
25 cordance with, chapter 7 of title 5, United States

1 Code, if a petition for such review is filed not later
2 than 30 days after the date on which the regulations
3 are promulgated or the action is published in the
4 Federal Register, as applicable.

5 (2) RESPONSES.—Notwithstanding any other
6 provision of law, the Secretary shall file a response
7 to any petition filed in accordance with paragraph
8 (1), not later than 30 days after the date the Sec-
9 retary is served with that petition, except that the
10 appropriate court may extend the period for filing
11 such a response upon a showing by the Secretary of
12 good cause for that extension.

13 (3) COPIES OF ADMINISTRATIVE RECORD.—A
14 response of the Secretary under paragraph (2) shall
15 include a copy of the administrative record for the
16 regulations that are the subject of the petition.

17 (4) EXPEDITED HEARINGS.—Upon a motion by
18 the person who files a petition under this subsection,
19 the appropriate court shall assign the matter for
20 hearing at the earliest possible date.

21 **SEC. 6. ENFORCEMENT.**

22 (a) IN GENERAL.—The Secretary and the Secretary
23 of the department in which the Coast Guard is oper-
24 ating—

1 (1) shall administer and enforce this Act and
2 any regulations issued under this Act, except to the
3 extent otherwise provided for in the Magnuson-Ste-
4 vens Fishery Conservation and Management Act (16
5 U.S.C. 1801 et seq.); and

6 (2) may request and utilize on a reimbursed or
7 non-reimbursed basis the assistance, services, per-
8 sonnel, equipment, and facilities of other Federal de-
9 partments and agencies in the administration and
10 enforcement of this Act.

11 (b) SECRETARIAL ACTIONS.—Except as provided
12 under subsection (c), the Secretary and the Secretary of
13 the department in which the Coast Guard is operating
14 shall prevent any person from violating this Act with re-
15 spect to fishing or the conservation of fishery resources
16 in the Convention Area in the same manner, by the same
17 means, and with the same jurisdiction, powers, and duties
18 as though sections 308 through 311 of the Magnuson-Ste-
19 vens Fishery Conservation and Management Act (16
20 U.S.C. 1858, 1859, 1860, 1861) were incorporated into
21 and made a part of this Act. Any person that violates any
22 provision of this Act is subject to the penalties and entitled
23 to the privileges and immunities provided in the Magnu-
24 son-Stevens Fishery Conservation and Management Act
25 (16 U.S.C. 1801 et seq.) in the same manner, by the same

1 means, and with the same jurisdiction, power, and duties
2 as though sections 308 through 311 of that Act (16
3 U.S.C. 1858, 1859, 1860, 1861) were incorporated into
4 and made a part of this Act.

5 (c) JURISDICTION OF THE COURTS.—

6 (1) IN GENERAL.—Subject to paragraphs (2)
7 and (3), the district courts of the United States
8 shall have exclusive jurisdiction over any case or
9 controversy arising under the provisions of this Act,
10 and any such court may at any time—

11 (A) enter restraining orders or prohibi-
12 tions;

13 (B) issue warrants, process in rem, or
14 other process;

15 (C) prescribe and accept satisfactory bonds
16 or other security; and

17 (D) take such other actions as are in the
18 interest of justice.

19 (2) HAWAII AND PACIFIC INSULAR AREAS.—In
20 the case of Hawaii or any possession of the United
21 States in the Pacific Ocean, the appropriate court is
22 the United States District Court for the District of
23 Hawaii, except that—

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

4 (B) in the case of the Northern Mariana
5 Islands, the appropriate court is the United
6 States District Court for the District of the
7 Northern Mariana Islands.

8 (3) CONSTRUCTION.—Each violation shall be a
9 separate offense and the offense shall be deemed to
10 have been committed not only in the district where
11 the violation first occurred, but also in any other
12 district authorized by law. Any offense not com-
13 mitted in any district is subject to the venue provi-
14 sions of section 3238 of title 18, United States
15 Code.

16 (d) CONFIDENTIALITY.—

17 (1) IN GENERAL.—Any information submitted
18 to the Secretary in compliance with any requirement
19 under this Act shall be confidential and may not be
20 disclosed, except—

21 (A) to a Federal employee who is respon-
22 sible for administering, implementing, or en-
23 forcing this Act;

24 (B) to the Commission, in accordance with
25 requirements in the South Pacific Fisheries

1 Convention and decisions of the Commission,
2 and, insofar as possible, in accordance with an
3 agreement with the Commission that prevents
4 public disclosure of the identity or business of
5 any person;

6 (C) to a State or Council employee pursu-
7 ant to an agreement with the Secretary that
8 prevents public disclosure of the identity or
9 business of any person;

10 (D) when required by court order; or

11 (E) when the Secretary has obtained writ-
12 ten authorization from the person submitting
13 such information to release such information to
14 another person for a reason not otherwise pro-
15 vided for in this paragraph, and such release
16 does not violate other requirements of this Act.

17 (2) USE OF INFORMATION.—

18 (A) IN GENERAL.—Except as provided
19 under subparagraph (B), the Secretary shall
20 promulgate regulations regarding the proce-
21 dures the Secretary considers necessary to pre-
22 serve the confidentiality of information under
23 this Act.

24 (B) EXCEPTION.—The Secretary may re-
25 lease or make public information submitted

1 under this Act if the information is in any ag-
2 gregate or summary form that does not directly
3 or indirectly disclose the identity or business of
4 any person.

5 (3) **RULE OF CONSTRUCTION.**—Nothing in this
6 subsection shall be interpreted or construed to pre-
7 vent the use for conservation and management pur-
8 poses by the Secretary of any information submitted
9 under this Act.

10 **SEC. 7. PROHIBITED ACTS.**

11 It is unlawful for any person—

12 (1) to violate any provision of this Act or any
13 regulation or permit issued pursuant to this Act;

14 (2) to use any fishing vessel to engage in fish-
15 ing without, or after the revocation or during the pe-
16 riod of suspension of, an applicable permit issued
17 under this Act;

18 (3) to refuse to permit any officer authorized to
19 enforce the provisions of this Act to board a fishing
20 vessel subject to such person's control for the pur-
21 poses of conducting any search, investigation, or in-
22 spection in connection with the enforcement of this
23 Act or the South Pacific Fisheries Convention;

24 (4) to assault, resist, oppose, impede, intimi-
25 date, or interfere with any such authorized officer in

1 the conduct of any search, investigation, or inspec-
2 tion in connection with the enforcement of this Act
3 or the South Pacific Fisheries Convention;

4 (5) to resist a lawful arrest for any act prohib-
5 ited by this Act or any regulation promulgated or
6 permit issued under this Act;

7 (6) to knowingly and willfully ship, transport,
8 offer for sale, sell, purchase, import, export, or have
9 custody, control, or possession of, any fishery re-
10 sources taken or retained in violation of this Act or
11 any regulation or permit referred to in paragraph
12 (1) or (2);

13 (7) to interfere with, delay, or prevent, by any
14 means, the apprehension or arrest of another person,
15 knowing that such other person has committed any
16 act prohibited by this section;

17 (8) to knowingly and willfully submit to the
18 Secretary false information (including false informa-
19 tion regarding the capacity and extent to which a
20 United States fish processor, on an annual basis,
21 will process a portion of the optimum yield of a fish-
22 ery that will be harvested by fishing vessels of the
23 United States), regarding any matter that the Sec-
24 retary is considering in the course of carrying out
25 this Act;

1 (9) to assault, resist, oppose, impede, intimi-
2 date, sexually harass, bribe, or interfere with any ob-
3 server on a vessel under this Act, or any data col-
4 lector employed by or under contract to any person
5 to carry out responsibilities under this Act;

6 (10) to engage in fishing in violation of any
7 regulation adopted pursuant to this Act;

8 (11) to knowingly and willfully ship, transport,
9 purchase, sell, offer for sale, import, export, or have
10 in custody, possession, or control any fishery re-
11 sources taken or retained in violation of such regula-
12 tions;

13 (12) to fail to make, keep, or furnish any catch
14 returns, statistical records, or other reports required
15 to be made, kept, or furnished under this Act;

16 (13) to fail to stop a vessel upon being hailed
17 and instructed to stop by a duly authorized official
18 of the United States;

19 (14) to import, in violation of any regulation
20 adopted pursuant to this Act, any fishery resources
21 in any form of those species subject to regulation
22 pursuant to a recommendation, resolution, or deci-
23 sion of the Commission, or any fishery resources in
24 any form not under regulation but under investiga-
25 tion by the Commission, during the period the fish-

1 ery resources have been denied entry in accordance
2 with the provisions of this Act;

3 (15) to make or submit any false record, ac-
4 count, or label for, or any false identification of, any
5 fishery resources which have been, or are intended to
6 be imported, exported, transported, sold, offered for
7 sale, purchased, or received in interstate or foreign
8 commerce; or

9 (16) to refuse to authorize and accept boarding
10 by a duly authorized inspector pursuant to proce-
11 dures adopted by the Commission for the boarding
12 and inspection of fishing vessels in the Convention
13 Area.

14 **SEC. 8. COOPERATION IN CARRYING OUT CONVENTION.**

15 (a) **FEDERAL AND STATE AGENCIES; PRIVATE INSTI-**
16 **TUTIONS AND ORGANIZATIONS.**—The Secretary may co-
17 operate with any Federal agency, any public or private in-
18 stitution or organization within the United States or
19 abroad, and, through the Secretary of State, a duly au-
20 thorized official of the government of any party to the
21 South Pacific Fisheries Convention, in carrying out re-
22 sponsibilities under this Act.

23 (b) **SCIENTIFIC AND OTHER PROGRAMS; FACILITIES**
24 **AND PERSONNEL.**—Each Federal agency is authorized,
25 upon the request of the Secretary, to cooperate in the con-

1 duct of scientific and other programs and to furnish facili-
2 ties and personnel for the purpose of assisting the Com-
3 mission in carrying out its duties under the South Pacific
4 Fisheries Convention.

5 (c) SANCTIONED FISHING OPERATIONS AND BIO-
6 LOGICAL EXPERIMENTS.—Nothing in this Act, or in the
7 laws of any State, prevents the Secretary or the Commis-
8 sion from—

9 (1) conducting or authorizing the conduct of
10 fishing operations and biological experiments at any
11 time for purposes of scientific investigation; or

12 (2) discharging any other duties prescribed by
13 the South Pacific Fisheries Convention.

14 (d) STATE JURISDICTION NOT AFFECTED.—Nothing
15 in this Act shall be construed to diminish or to increase
16 the jurisdiction of any State in the territorial sea of the
17 United States.

18 **SEC. 9. TERRITORIAL PARTICIPATION.**

19 The Secretary of State shall ensure participation in
20 the Commission and its subsidiary bodies by American
21 Samoa, Guam, and the Commonwealth of the Northern
22 Mariana Islands to the same extent provided to the terri-
23 tories of other nations.

1 **SEC. 10. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

2 Masters of commercial fishing vessels of nations fish-
3 ing under the management authority of the South Pacific
4 Fisheries Convention that do not carry vessel monitoring
5 systems capable of communicating with U.S. enforcement
6 authorities shall, prior to, or as soon as reasonably pos-
7 sible after, entering and transiting the exclusive economic
8 zone seaward of the Convention Area—

9 (1) notify the U.S. Coast Guard of the name,
10 flag state, location, route, and destination of the ves-
11 sel and of the circumstances under which it will
12 enter U.S. waters;

13 (2) ensure that all fishing gear on board the
14 vessel is stowed below deck or otherwise removed
15 from the place it is normally used for fishing and
16 placed where it is not readily available for fishing;
17 and

18 (3) if requested by an enforcement officer, pro-
19 ceed to a specified location so that a vessel inspec-
20 tion can be conducted.

21 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) IN GENERAL.—There are authorized to be appro-
23 priated to the Secretary and the Secretary of State such
24 sums as may be necessary to carry out this Act and to
25 pay the United States contribution to the Commission

1 under Article 15 of the South Pacific Fisheries Conven-
2 tion.

3 (b) INTERNATIONAL COOPERATION AND ASSIST-
4 ANCE.—

5 (1) IN GENERAL.—Subject to the limits of
6 available appropriations and consistent with applica-
7 ble law, the Secretary or the Secretary of State shall
8 provide appropriate assistance, including grants, to
9 developing nations and international organizations of
10 which such nations are members to assist those na-
11 tions in meeting their obligations under the Conven-
12 tion.

13 (2) TRANSFER OF FUNDS.—Subject to the lim-
14 its of available appropriations and consistent with
15 other applicable law, the Secretary and the Secretary
16 of State are authorized to transfer funds to any for-
17 eign government, international, non-governmental,
18 or international organization, including the Commis-
19 sion, for purposes of carrying out the international
20 responsibilities under paragraph (1).