

**2014 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**

**Compiled by the National Marine Fisheries Service
Pursuant to Section 206(e) of the
Magnuson-Stevens Fishery Conservation and Management Act,
as Amended by Public Law 104-297,
the Sustainable Fisheries Act of 1996**

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INTRODUCTION

Public Law 101-627: The President signed Public Law 101-627, the Fishery Conservation Amendments of 1990, on November 28, 1990. Title I, Section 107, of the law amended Section 206 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 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 June 30, 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' 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 (EEZ) 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 January 1 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 November 2, 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 December 31, 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 immediately end high seas large-scale driftnet fishing 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 6 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 November 3, 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 2014 in fulfillment of the Section 206(e) reporting requirement. Information pertaining to U.S. actions in support of the Act prior to 2014 and after 1988 can be found in the 1990–2013 annual driftnet reports to the Congress available from NMFS (e-mail paul.niemeier@noaa.gov or call 301-427-8371).

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

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

Current Status of the Driftnet Moratorium

As of December 31, 2014, the UNGA global moratorium on large-scale high seas driftnet fishing has been in effect for 22 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.

North Pacific Ocean

In 2014, one vessel conducting unauthorized large-scale high seas driftnet fishing operations was intercepted by the USCG in the North Pacific Ocean.

North Pacific Regional Driftnet Enforcement Coordination

North Pacific Anadromous Fish Commission (NPAFC): The NPAFC serves as a forum for promoting the conservation of anadromous fish stocks 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 (Korea), the Russian Federation (Russia), and the United States.

The NPAFC serves as the venue for coordinating the collection, exchange, and analysis of scientific data regarding anadromous fish stocks 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 the Convention does not specifically ban large-scale high seas driftnet fishing, fishing for salmonids on the high seas has historically been conducted using this fishing gear. Consequently, the NPAFC and its enforcement activities primarily target high seas driftnet fishing vessels. The Parties to the NPAFC jointly plan and coordinate their high seas enforcement operations in order to most

efficiently utilize enforcement resources, although the operational capabilities of each member vary.

NPAFC Enforcement Evaluation and Coordination Meeting (EECM): Enforcement representatives of the NPAFC Parties met virtually, via e-mail communications, on March 11–14, 2014, for the annual NPAFC EECM. The primary purpose of the EECM was to review and agree on the 2014 joint patrol plan for the North Pacific Ocean. The plan was adopted by the Committee on Enforcement at the 22nd NPAFC Annual Meeting in May 2014. The Committee also agreed to rename the EECM the Joint Patrol Schedule Meeting. The 2015 Joint Patrol Schedule Meeting will be held virtually in late February/March 2015.

NPAFC Annual Meeting: The United States hosted the 22nd Annual Meeting of the NPAFC in Portland, Oregon, on May 12–16, 2014. Previously, the NPAFC held its annual meetings in the fall. Due to the shift in the annual meeting timing, this report describes both 2013 and 2014 enforcement information from NPAFC Parties based on various reporting sources available to the USCG.

Sightings, boardings, and fishing vessel seizures from 2003–2014 indicate that the high seas driftnet threat in the North Pacific Ocean has shifted fishing effort from a primary focus on salmon to squid, sharks, and/or albacore tuna. Of the 21 driftnet vessels intercepted since 2003, only three had salmon on board; the rest had squid, tuna, sharks, and other fish species. This shift is attributed to a combination of factors, including favorable squid markets, effective surveillance of traditional high seas salmon fishing grounds, and more effective control of fishing fleets by North Pacific countries.

A total of 33 vessels suspected of high seas driftnet fishing were sighted from 2008–2014. Approximately one-half of these sightings occurred in the September–November time frame. Prior to 2005, the Parties concentrated most of their enforcement efforts in the summer months in the North Pacific Ocean. In 2005, however, Japan patrolled the far northwestern part of the Convention Area in the September–October time frame and reported 11 of the 18 total driftnet vessel sightings for that year. There is some uncertainty as to whether the increased number of sightings in 2006 and 2007 represented a real increase in the occurrence of large-scale high seas driftnet fishing in the North Pacific Ocean or whether enforcement efforts simply uncovered an ongoing autumn illegal, unreported, and unregulated (IUU) fishery. Given that the NPAFC Parties have patrolled the North Pacific for IUU fishing since 1992, it is likely that the illegal driftnet fleet has learned how to modify their fishing operations to avoid detection. Since Parties have focused enforcement efforts on the Northwest Pacific, the number of sightings has dropped significantly—to the point of no sightings in 2013 and only one sighting in 2014. Large-scale high seas IUU driftnet operations may adapt by shifting effort geographically or temporally, but those operations utilizing IUU gear will likely continue to try to mask their operations on the edges of legitimate fishing fleets targeting the same species.

Although the NPAFC has served as a forum for joint enforcement planning and coordination in the NPAFC Convention Area, it has no enforcement authority against non-salmon non-Party high seas driftnet fishing threats. Because of the different target species and vessel flags

involved, the NPAFC will continue to work multilaterally through enforcement and diplomatic channels to bring pressure on these driftnet fishing vessels and the flag states these vessels are operating under to end operations in the North Pacific.

The North Pacific illegal driftnet fleet has historically operated in the part of the NPAFC Convention Area that is partially overlapped by the Western and Central Pacific Fisheries Commission (WCPFC) Convention Area, and is expected to target species of interest to that Commission. Consequently, the NPAFC coordinates with the WCPFC with the desire to eliminate the illegal fishing. Under the leadership of the United States, in 2008 the WCPFC adopted a conservation and management measure prohibiting the use of large-scale driftnets on the high seas of the WCPFC Convention Area. The NPAFC established closer relations with the WCPFC in November 2010 by concluding a Memorandum of Understanding between the two organizations, *inter alia* for the exchange of information on North Pacific large-scale driftnet fishing activities.

A summary of high seas driftnet vessel sightings and apprehensions by North Pacific nations from 2003 to 2014 is provided in Table 1.

Table 1. North Pacific high seas driftnet vessel sightings and apprehensions from 2003–2014.

Country	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Canada	1	2	1	26	9	7	0	0	0	0	0	0
Japan	0	1	17	67	21	5	0	1	2	0	0	0
Russia	0	0	0	0	2	0	0	0	0	0	0	0
China	0	11	0	0	0	0	1	1	0	0	0	0
Taiwan	0	0	1	0	7	2	1	0	0	0	0	0
United States	24	8	5	5	8	10	0	1	0	1	0	1
Total Sightings*	25	22	24	98	47	24	2	3	2	1	0	1
Apprehended**	6	1	0	0	7	2	1	1	1	1	0	1

* May include multiple sightings of the same vessel or vessels.

** Out of the total number of vessels sighted.

U.S. Driftnet Enforcement Efforts in 2013 and 2014

For both 2013 and 2014, the USCG implemented Operation North Pacific Guard, the USCG’s annual fisheries enforcement operation to detect, deter, and eliminate IUU fishing activity on the high seas of the North Pacific Ocean. The primary focus of Operation North Pacific Guard includes identifying large-scale high seas driftnet fishing activity and any high seas capture of anadromous species. Operation North Pacific Guard 2013 and 2014 was planned and executed by the Commander of USCG District 17 in coordination with the multilateral enforcement focus of the NPAFC’s Enforcement Coordination Committee. In addition, Operation North Pacific Guard implemented the *Memorandum of Understanding between the Government of the United States of America and the Government of the People's Republic of China [China] on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991.*

2013: Operation North Pacific Guard 2013 began in June 2013 with USCG HC-130 maritime surveillance aircraft deployed from Shemya, Alaska. The USCG conducted 26 HC-130 surveillance flights for a total of 202 hours. In addition, USCG Cutter *MUNRO* patrolled the NPAFC Convention Area from June through September 2013, for a total of 56 days. North Pacific Guard 2013 was also supported by deployments of Canadian CP-140 patrol aircraft from Hakodate, Japan, in late August and early September under the tactical control of USCG District 17 in Juneau, Alaska. Two Canadian Department of National Defense officers and one Department of Fisheries and Oceans officer were assigned to District 17 to help coordinate these CP-140 aircraft missions. The CP-140 aircraft provided air reconnaissance with real-time sighting reports of commercial merchant vessel and high seas fishing fleet activity.

In July 2013, *MUNRO* conducted a 3-day joint patrol with the Russian Border Guard patrol vessel *VOLGA*. In addition, Japan Coast Guard (JCG) aircraft patrolled the NPAFC Convention Area and coordinated surveillance efforts with *MUNRO* in late August 2013. The USCG sent an officer to Japan to participate in the JCG flights as a technical advisor. These flights continued joint U.S.-Japan aircraft patrol operations that have been conducted since 2006. While operations in 2013 did not result in the detection of any fishing vessels suspected of employing large-scale high seas driftnets, the coordinated multilateral enforcement efforts covered a significant portion of the high seas of the North Pacific Ocean and visually identified 581 vessels determined to be operating in compliance with international standards.

Also, for both 2013 and 2014, the USCG issued Local Notices to Mariners prior to and during the summer fishing season, encouraging mariners and fishing fleets to report sightings of suspected high seas driftnet fishing activity. The United States encouraged other Parties to establish similar systems for educating mariners and encouraging the submission of informative sighting reports of suspected large-scale high seas driftnet fishing activity. In August 2014, a U.S. fishing industry representative contacted the USCG to report an increased amount of albacore tuna catch with apparent scars from gillnets. Subsequent USCG and NOAA interactions with U.S. albacore harvesters resulted in information that added to the concerns of potential illegal high seas driftnet activity in the eastern North Pacific Ocean. In response, the USCG directed Air Station Sacramento to conduct a C-130 flight in the area of concern identified by U.S. albacore harvesters. The 9-hour flight, with an embarked NOAA Fisheries Enforcement agent, covered approximately 4,000 square nautical miles within the area of concern with no suspicious activity observed.

2014: Operation North Pacific Guard 2014 began in April with the first ever deployment of USCG aircraft temporarily based out of Japan. Two deployments by a USCG HC-130 maritime surveillance aircraft from USCG Air Station Kodiak to U.S. Air Base Yokota in Japan took place, the first between April 27 and May 10, 2014, and the second between June 28 and July 12, 2014. The USCG conducted a total of 17 maritime air sorties in the North Pacific Ocean amounting to a total of 202 patrol hours. For well over a decade, the USCG had been trying to deploy aircraft out of Japan in support of Operation North Pacific Guard. When deployed out of Shemya, Alaska, patrol aircraft frequently encountered poor weather and limited ability to patrol deep into the high seas of the North Pacific due to range and fuel limitations. Staging USCG aircraft out of U.S. bases in Japan greatly enhanced the ability to maximize the amount of time

spent patrolling the high seas areas most conducive to identifying large-scale high seas fishing operations. In addition, USCG Cutter *MORGENTHAU* patrolled the NPAFC Convention Area from April through July 2014, for a total of 64 days. Operation North Pacific Guard 2014 was once again supported by deployments of Canadian CP-140 patrol aircraft from Hakodate, Japan, from May 11 to June 1, 2014, under the tactical control of USCG District 17 in Juneau, Alaska. Two Canadian Department of National Defense officers and one Department of Fisheries and Oceans officer were assigned to District 17 to help coordinate the CP-140 aircraft missions. The CP-140 conducted 11 patrol missions for a total of 95 hours and provided air reconnaissance with real-time sighting reports of commercial merchant vessel and high seas fishing fleet activity.

On May 18, 2014, *MORGENTHAU* intercepted two suspected IUU fish transshipment vessels 35 nautical miles outside the Russian EEZ—*SUNGARI*, flying a Sierra Leone flag, and *SOVEREIGN*, flying a Russian flag. U.S. Coast Guard C-130 aircraft first identified these two vessels and vectored in *MORGENTHAU* for further investigation. The Government of Sierra Leone denied that *SUNGARI* was registered in Sierra Leone. While the investigation was underway, *SUNGARI* changed its name to *STELLAR* and raised the Cambodian flag. In addition to direct reporting from the U.S. Coast Guard to North Pacific partner countries, the United States issued its first ever INTERPOL Purple Notice on the *SUNGARI* to help alert international enforcement authorities to the suspected IUU transshipment activity that this vessel was believed to be engaged in.

MORGENTHAU broke off its investigation of the two vessels on May 20, 2014, to pursue a suspected high seas driftnet fishing vessel, *YIN YUAN*, located by a Canadian CP-140 patrol aircraft about 250 nautical miles south of *MORGENTHAU*'s position. The *YIN YUAN* was flying a Japanese flag; however, Japanese fisheries observers on board the CP-140 stated that the vessel was not a Japanese-registered vessel. When the *YIN YUAN* became aware of the aircraft, a crew member struck the Japanese flag. A large net, net tube, and net spreader were clearly visible on deck, and a large number of buoys were located throughout the vessel—all typical of a driftnet vessel.

MORGENTHAU pursued *YIN YUAN* for several days in sea and wind conditions that were not conducive for at-sea boarding and inspection. On May 25, when the ship's master finally responded to Coast Guard radio hails, he made a verbal claim of Chinese registry. The China Coast Guard (CCG) Fisheries Enforcement officials aboard *MORGENTHAU* directed *YIN YUAN* to heave-to for inspection. During an initial interview, the master said the vessel was not fishing, only transporting gear to another fishing vessel. When shown previous days pictures of *YIN YUAN*'s nets, net tube, and net spreader on board, he admitted to having dumped them overboard the night of May 23. In all, he admitted to dumping 3.3 kilometers (km) of driftnet over the side. During an inspection of the vessel, the USCG boarding team found approximately a half ton of net marked salmon in an onboard freezer.

On June 3, 2014, *MORGENTHAU* escorted *YIN YUAN* to a location in the East China Sea and transferred custody of the vessel to the CCG for further investigation and prosecution. The CCG reported back to the USCG that a detailed investigation identified that the vessel had been leased

by a third-party Chinese company. In accordance with China's domestic laws, the master was fined 100,000 RMB (currently about \$16,300) for violations of making false statements, the highest fine permitted under Chinese law under the circumstances. The half ton of net marked salmon was ultimately discarded because it was deemed unfit for human consumption. CCG officials also relayed the results of their investigation to the China Ministry of Agriculture, Bureau of Fisheries, and reported to the USCG that the Ministry is currently pursuing further fishery enforcement investigations against the Chinese participants involved.

Canada's Driftnet Enforcement Efforts in 2013 and 2014

Canada staged CP-140 patrol flights out of Hakodate, Japan, from August 18 through September 8, 2013, and conducted nine patrol flights totaling 76.2 hours. Officers from the Fisheries Agency of Japan participated in one of the patrols. No surface assets were deployed. A total of 134 vessels were visually identified in the driftnet high threat area in 2013. None were confirmed to be large-scale driftnet vessels.

In 2014, Canadian enforcement activities included 95 hours of CP-140 aircraft patrols between May 11 and June 1. Canada continued to use radar satellite imagery in support of its aerial patrols for both 2013 and 2014. A total of 114 fishing vessels were visually identified in the driftnet high threat area by Canada, including one high seas driftnet vessel and two suspected IUU transshipment vessels.

Japan's Driftnet Enforcement Efforts in 2013 and 2014

Japanese enforcement activities were conducted by the Fisheries Agency of Japan (FAJ) and Japan Coast Guard (JCG) during the 2013 and 2014 seasons. FAJ Citation V aircraft patrolled the NPAFC Convention Area for 124 hours from May through December 2013. An FAJ patrol vessel patrolled for 8 days from late August to September 2013. In addition, JCG Gulf V aircraft patrolled for 16 hours in late August 2013. A total of 58 vessels were sighted during the Japan patrols in 2013, but no driftnet fishing vessels were observed.

In 2014, Japan officials reported to the USCG that the combined efforts of the FAJ and JCG conducted 10 air patrol flights between May 12 and August 1, 2014. During these maritime patrols 18 fishing vessels were visually identified, with no sightings of illegal fishing activity.

Korea's Driftnet Enforcement Efforts in 2013 and 2014

Korea patrolled the NPAFC Convention Area in 2013 with one Korea Coast Guard patrol vessel (3012) and one patrol helicopter (B-513) for 3 days, from May through June 2013. No suspected high seas driftnet fishing activity was sighted.

Korea was unable to provide enforcement support in 2014 with enforcement patrols on the high seas of the North Pacific. However, Ministry of Oceans and Fisheries of the Republic of Korea did conduct port inspections on two suspected IUU transshipment vessels based on information received from the USCG. As previously discussed, the fishing vessel *STELLAR* was sighted

twice in May 2014 operating on the high seas of the North Pacific Ocean by the USCG. It appears to change its name, national registration, and other identifying characteristics in order to hide illegal activity. *STELLAR* was suspected of engaging in illicit fisheries transshipment activities near the Russian EEZ and had conveyed to USCG forces that it intended to arrive at the port of Busan, Korea, in June 2014. The USCG provided this information to the Korean authorities and recommended the vessel be inspected for potential IUU activity.

The *STELLAR* and the *SOVEREIGN* entered the port of Busan on June 3, 2014. The Busan Regional Office of the National Fishery Products Quality Management Service (NFQS) conducted port inspections on the two vessels on June 4–5, 2014. Both vessels indicated that the purpose of entry into Busan was "repair and maintenance." At the time of inspection, there was no catch or gear retained on board either vessel. However, the fish hold of *STELLAR* was modified to store king and snow crabs with brine water. The master stated the vessel had received two metric tons of frozen pollock as the bait for crabs on March 21, 2014, and then transshipped the pollock to the *SOVEREIGN* on May 28, 2014. The master stated the vessel had not engaged in any other transshipment since May 28.

Russia's Driftnet Enforcement Efforts in 2013 and 2014

The Russian Federal Security Service Coast Guard Directorates in Kamchatka and Sakhalin are responsible for large-scale driftnet fishing enforcement in the NPAFC Convention Area. The Kamchatka Directorate in 2013 conducted a total of six AN-72 aircraft patrols for a total of 26 hours and the Sakhalin Directorate conducted four AN-72 aerial patrols for six hours, both in the May–September time frame. A total of four patrol vessels were deployed in the NPAFC Convention Area for 28 days in 2013 by Russia. No vessels engaged in illegal driftnet fishing were detected by Russian patrol assets.

In 2014, Russia conducted five air patrols totaling 19 hours, concentrating their patrols on the northern part of the NPAFC Convention Area. A total of five patrol vessels were deployed in the NPAFC Convention Area for 14 days. No vessels engaged in illegal driftnet fishing were reported detected by Russian patrol assets to the USCG in 2014.

Potential Driftnet Threat in the North Pacific Ocean in 2015

Historical sightings indicate that the high seas driftnet threat continues to exist in the North Pacific Ocean. Past years' observations support a shift of fishing effort, both toward the beginning and again in later parts of the fishing season, and to a primary target species of squid. In addition, evidence indicates that anadromous and other highly migratory species (e.g., albacore tuna) may continue to be captured by high seas driftnet vessels as target species and/or as bycatch.

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 from 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 11–17° Celsius (C). These waters typically occur in the North Pacific between 35°–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.

Western and Central Pacific Ocean

At the 5th Regular Session of the WCPFC held in Busan, Korea, December 8–12, 2008, the Commission adopted Conservation and Management Measure (CMM) 2008-04, prohibiting the use of large-scale driftnets (greater than 2.5 km in length) on the high seas within the WCPFC Convention Area. CCM 2008-4 charges Commission Members, Cooperating Non-Members, and participating territories to take all measures necessary to prohibit their fishing vessels from using large-scale driftnets while on the high seas in the Convention Area. The measure provides greater authority for at-sea boarding and investigation of possible high seas driftnet vessels in the western and central Pacific, and the WCPFC High Seas Boarding and Inspection Scheme is available to help investigate potential violations and ensure compliance.

Mediterranean Sea

The United States is not aware of any documented sightings of Italian or Moroccan vessels fishing with large-scale driftnets on the high seas of the Mediterranean in 2014. However, the non-governmental environmental community continues to believe that Italy and Morocco conduct large-scale driftnet fishing.

A complete discussion of European Union (EU) driftnet regulations and measures, rulings of the European Court of Justice pertaining to driftnet fishing, regional fisheries management organization binding driftnet measures in the Mediterranean Sea, and background information on Italian and Moroccan large-scale driftnet fishing can be found in the 2011 and 2012 driftnet reports to the Congress available online at:

http://www.nmfs.noaa.gov/ia/iuu/driftnet_reports/driftnet_reports.html

Based on European Court of Justice rulings, it does not appear that member country compliance with the EU driftnet regulatory framework in place has been very good. The small-scale nature of the fishing vessels involved, and the fact that they do not operate together in the same areas, has made it easier for them to escape monitoring, control, and proper enforcement. Illegal driftnet activities, including large-scale driftnet fishing within territorial waters of EU member countries, carried out by EU fishing vessels continue to be reported and have been the cause of criticism regarding EU compliance with applicable international obligations.

2014 Developments: On May 14, 2014, the European Commission published a draft regulation (COM(2014)265) on the prohibition of driftnets, a technical measure that is part of the legal framework for implementing the reform of the Common Fisheries Policy agreed in 2013. The

draft regulation would apply a blanket ban on driftnet fisheries in EU waters irrespective of the mesh size, net length, and configuration of net. It would address enforcement difficulties by closing loopholes in current EU legislation. The proposed regulation would enter into force on January 1, 2015, pending approval by the European Parliament and the Council of EU Fisheries Ministers. Once in force, it would prohibit the capture of any living marine resource using driftnets. It would also prohibit the possession of any kind of driftnet on board EU member fishing vessels, thus circumventing the possibility of fishermen illegally using driftnets to catch prohibited species while declaring that the species have been caught with another gear type. According to the regulation, a driftnet is “a net made up of one or more walls of netting, hung jointly in parallel on the headline(s), held on the water surface or at a certain distance below it by floating devices and drifting with the current, either independently or with the boat to which it may be attached. It may be equipped with devices aiming to stabilize the net or to limit its drift such as a sea anchor or an anchor on the bottom attached at one single end of the net.”

The European Commission estimates that 887 small-scale fishing vessels from Bulgaria, France, Italy, Portugal, Romania, Slovenia, and the United Kingdom will be affected by the proposed regulation. The United Kingdom has mounted opposition to the proposal. The European Commission suggested that the European Maritime Fisheries Fund could be used to support the transition toward a total ban, such as changing the fishing gear as long as a fishing license allows it, the new gear is more selective, and the change is made before the entry into force of the ban.

As of December 14, 2014, it appears that the proposed regulation will not enter into force on January 1, 2015, as it has not yet been voted on by the European Parliament. During the meeting of the European Parliament Fisheries Committee held on October 16, 2014, the majority of Ministers expressed disapproval of the driftnet ban. They noted that the draft regulation does not take into account possible socio-economic impacts on fishermen and coastal communities and the impact assessment and data available is insufficient to give a clear picture of the situation. The Minister from Poland proposed to reject the proposal immediately and asked the Committee to put pressure on the Commission to draft a new one.

The Fisheries Committee has not taken up the draft regulation since its October meeting. Given the reaction of Fisheries Committee members to it at the October meeting, it is unlikely that the regulation will pass in its current form. The current schedule for consideration of the regulation is as follows:

February 23, 2015—Vote scheduled in the Committee, 1st reading/single reading

March 25, 2015—Indicative plenary sitting date, 1st reading/single reading

Indian Ocean

Background: Gillnet (driftnet) vessels from Iran and Pakistan have fished on the high seas since the late 1980s, initially in waters of the Arabian Sea but covering a larger area in recent years, as they moved to operate also in tropical waters of the western Indian Ocean and Mozambique Channel. Pakistani gillnetters now regularly travel into the high seas at least as far as Madagascar, routinely deploying 10–12 km driftnets. Some larger vessels are reported to use

driftnets as long as 26 km. According to the International Seafood Sustainability Foundation (ISSF), the northern Indian Ocean driftnet fleets land as much fish as other gears in the area combined. Although data are scarce, these fleets appear to have bycatch of ecologically sensitive species, like sharks and sea turtles, at a level that is orders of magnitude higher than other gear types in the region. In addition, ISSF maintains that none of the fleets are in conformity with the UNGA ban on the use of large-scale driftnets on the high seas.

In 2009, EU purse seiners observed dense concentrations of Iranian driftnet vessels and networks of large driftnets (estimated by EU skippers to be 3.5–5.5 nm long) north of the Equator between 2° N and 14° N. Iran identified a fleet of 752 driftnet vessels operating outside Iran's EEZ to the Indian Ocean Tuna Commission (IOTC) in 2009. These vessels ranged from 14 to 33 meters long. There is little information available about the activities of this fleet (fishing effort, the length of nets, fishing zones, bycatch, etc.). In response, the IOTC adopted *Resolution 09/05: To Prohibit the Use of Large-scale Driftnets on the High Seas in the IOTC Area*. Resolution 09/05 charged each IOTC contracting party and cooperating non-contracting party to take all measures necessary to prohibit their fishing vessels from using large-scale driftnets (greater than 2.5 km in length) while on the high seas in the IOTC Convention Area. It also stated that, in 2012, the IOTC would assess whether additional measures should be adopted and implemented to ensure that large-scale driftnets are not employed in the Convention Area.

At the 16th Session of the IOTC held in Fremantle, Australia, on April 22–26, 2012, the Commission agreed to delay the assessment of Resolution 09/05 for an additional year. The Commission adopted *Resolution 12/12: To Prohibit the Use of Large-scale Driftnets on the High Seas in the IOTC Area*. Resolution 12/12 superseded Resolution 09/05 and is nearly identical with the exception that it states that the first large scale driftnet assessment will take place in 2013.

At the 16th Session of the IOTC Scientific Committee held in Busan, ROK, on December 2–6, 2013, the Scientific Committee reiterated its previous recommendation that the Commission consider allocating funds to support a regional review of the current and historical data available for gillnet fleets operating in the Indian Ocean. As an essential contribution to this review, scientists from all contracting and cooperating non-contracting parties having gillnet fleets in the Indian Ocean—in particular those from Iran, Oman, Pakistan, and Sri Lanka—should collate the known information on bycatch in their gillnet fisheries (including sharks, marine turtles, and marine mammals) with estimates of the likely order of magnitude where more detailed data are not available. The Committee also recommended that a consultant be hired for 30 days to assist with this task.

2014 Update: The United States did not receive any reports of illegal large-scale high seas driftnet fishing in the Indian Ocean in 2014. We are aware that the driftnet assessment referenced in IOTC Resolution 12/12 and recommended by the IOTC Scientific Committee in 2013 did not take place in 2014. Apparently, the project was not funded because it was not proposed to the IOTC Standing Committee on Administration and Finance in the IOTC's Program of Work. As a result, the IOTC Working Party on Ecosystems and Bycatch requested that each individual contracting and cooperating non-contracting party begin work on collecting

driftnet fisheries information at a national level through data mining and research activities. This project has been incorporated into the work plan for the IOTC's new Fishery Officer.

The United States is not a member of the IOTC.

Interagency Agreements

Fisheries Enforcement Memorandum of Understanding (MOU): On October 11, 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 USCG. 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.

Bilateral Driftnet Agreements

U.S.-China MOU

For more than two decades, the USCG, in conjunction with NOAA, has embarked fisheries enforcement officers from China on Coast Guard assets patrolling in the North Pacific Ocean for illegal high seas driftnet fishing pursuant to the terms of the *Memorandum of Understanding [MOU] 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, DC, on December 3, 1993. These patrols support the global large-scale high seas driftnet moratorium called for by UNGA Resolution 46/215, provisions of the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, and conservation and management measures of the Western and Central Pacific Fishery Convention. They also enable China to more effectively enforce domestic laws that prohibit high seas driftnet fishing by Chinese-flagged vessels in the North Pacific. The current MOU expires on December 31, 2014, although the United States has proposed for a renewal of the MOU for another 5 years. Preliminary discussions with Chinese officials have provided indications of a favorable reply.

The United States and China continued joint operations in the North Pacific Ocean in 2013 and 2014 pursuant to the terms of this MOU. The MOU established boarding procedures for law enforcement officials of either country to board and inspect U.S. or Chinese-flagged vessels suspected of high seas driftnet fishing. The MOU also established a "shiprider" program, which permits Chinese enforcement officials to embark on USCG vessels or aircraft. The USCG has had a strong working relationship with China fisheries enforcement officials for 20 years. This

working relationship increases opportunities for cooperation on high seas fisheries enforcement efforts. China has provided a total of 91 enforcement officials to the USCG since the MOU first entered into force in 1993. This cooperation has led to 18 interdictions and enforcement actions against vessels engaged in large-scale high seas driftnet fishing activity.

The USCG hosted six fisheries enforcement officials during its patrols in both 2013 and 2014. These officials are generally instrumental in facilitating communications between the USCG and China's Coast Guard, as well as with Chinese fishing vessels encountered on the high seas of the North Pacific Ocean. Having fisheries enforcement shipriders from China onboard USCG patrol vessels effectively expands the jurisdictional reach of both enforcement agencies.

UNGA Driftnet Resolutions and Decisions

Since December 1992, the United States has ensured that implementation of the high seas driftnet moratorium remains a priority of the UNGA. 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), 60/31 (2005), 61/105 (2006), 62/177 (2007), 63/112 (2008), 64/72 (2009), 65/38 (2010), 66/68 (2011), 67/79 (2012), 68/71 (2013), 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 2014 were provided in previous driftnet reports to the Congress available from NMFS.

At the time this report was written, the UN General Assembly had not adopted the 2014 Resolution 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*. However, the draft Resolution of November 18, 2014, preserves the driftnet language in previous resolutions. It recognizes the efforts of States, individually and through regional fisheries management organizations and arrangements, to implement UNGA Resolution 46/215 of December 20, 1991, which called for a global moratorium on all large-scale pelagic driftnet fishing.

The 2014 draft resolution also expresses concern that, despite the adoption of UNGA Resolution 46/215, the practice of large-scale pelagic driftnet fishing still exists and remains a threat to living marine resources. It urges States, individually and through regional fisheries management organizations and arrangements, to adopt effective measures, or strengthen existing measures, to implement and enforce the provisions of Resolution 46/215 and subsequent resolutions on large-scale pelagic driftnet fishing in order to eliminate the use of large-scale pelagic driftnets in all seas and oceans. Specifically, efforts to implement Resolution 46/215 should not result in the transfer of illegal driftnets to other parts of the world. Finally, the draft resolution calls upon States to ensure that vessels flying their flags that are duly authorized to use large-scale drift nets in waters under their national jurisdiction do not use such gear for fishing while on the high seas.

The draft resolution requests the Secretary-General to bring the present resolution to the attention of relevant intergovernmental organizations, the organizations and bodies of the United Nations

system, subregional and regional fisheries management organizations, and relevant non-governmental organizations.

The provisional agenda of the UNGA 70th session will include under the item entitled “Oceans and the law of the sea” the sub-item 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 70th session will consider the possibility of including this sub-item in future provisional agendas on a biennial basis.

Support for the Wellington Convention

The United States took no specific actions in support of the Wellington Convention in 2014. 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 2014 are provided in previous driftnet reports to Congress.

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 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).

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.

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 nation that conducts, or authorizes its 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.

U.S. Actions

Italy: Following European Court of Justice rulings in 2009 and actions taken by the EU in 2012, there has been a significant decline in documented sightings of Italian fishing vessels employing large-scale driftnets on the high seas of the Mediterranean in recent years and none from 2009–2014. If the European Commission is successful in passing a regulation (COM(2014)265) on the total prohibition of all driftnets, regardless of length, mesh size, or configuration, in EU waters, on January 1, 2015, possession of any kind of driftnet will be illegal. The regulation would close any remaining loopholes in EU legislation regarding driftnet fishing.

The Secretary of Commerce identified Italy on March 19, 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 July 15, 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. Although the 1999 agreement expired, as a deterrent 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 May 29, 1996, the United States requires 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

United States intends to keep these measures in force as long as Italian vessels continue to fish with large-scale driftnets in Italy's territorial waters in violation of RFMO conservation measures.