

***In the Senate of the United States,***

*July 30, 1997.*

*Resolved*, That the bill from the House of Representatives (H.R. 408) entitled “An Act to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; REFERENCES.***

2       (a) *SHORT TITLE.*—*This Act may be cited as the*  
3 *“International Dolphin Conservation Program Act”.*

4       (b) *REFERENCES TO MARINE MAMMAL PROTECTION*  
5 *ACT.*—*Except as otherwise expressly provided, whenever in*  
6 *this Act an amendment or repeal is expressed in terms of*  
7 *an amendment to, or repeal of, a section or other provision,*  
8 *the reference shall be considered to be made to a section or*  
9 *other provision of the Marine Mammal Protection Act of*  
10 *1972 (16 U.S.C. 1361 et seq.).*

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1 **SEC. 2. PURPOSES AND FINDINGS.**

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

3 (1) *to give effect to the Declaration of Panama,*  
4 *signed October 4, 1995, by the Governments of Belize,*  
5 *Colombia, Costa Rica, Ecuador, France, Honduras,*  
6 *Mexico, Panama, Spain, the United States of Amer-*  
7 *ica, Vanuatu, and Venezuela, including the establish-*  
8 *ment of the International Dolphin Conservation Pro-*  
9 *gram, relating to the protection of dolphins and other*  
10 *species, and the conservation and management of*  
11 *tuna in the eastern tropical Pacific Ocean;*

12 (2) *to recognize that nations fishing for tuna in*  
13 *the eastern tropical Pacific Ocean have achieved sig-*  
14 *nificant reductions in dolphin mortality associated*  
15 *with that fishery; and*

16 (3) *to eliminate the ban on imports of tuna from*  
17 *those nations that are in compliance with the Inter-*  
18 *national Dolphin Conservation Program.*

19 (b) *FINDINGS.*—*The Congress finds that—*

20 (1) *the nations that fish for tuna in the eastern*  
21 *tropical Pacific Ocean have achieved significant re-*  
22 *ductions in dolphin mortality associated with the*  
23 *purse seine fishery from hundreds of thousands annu-*  
24 *ally to fewer than 5,000 annually;*

25 (2) *the provisions of the Marine Mammal Protec-*  
26 *tion Act of 1972 that impose a ban on imports from*

1        *nations that fish for tuna in the eastern tropical Pa-*  
2        *cific Ocean have served as an incentive to reduce dol-*  
3        *phin mortalities;*

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

7            *(4) 12 signatory nations to the Declaration of*  
8        *Panama, including the United States, agreed under*  
9        *that Declaration to require that the total annual dol-*  
10       *phin mortality in the purse seine fishery for yellowfin*  
11       *tuna in the eastern tropical Pacific Ocean not exceed*  
12       *5,000 animals, with the objective of progressively re-*  
13       *ducing dolphin mortality to a level approaching zero*  
14       *through the setting of annual limits and with the goal*  
15       *of eliminating dolphin mortality.*

16 **SEC. 3. DEFINITIONS.**

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

19            *“(28) The term ‘International Dolphin Conserva-*  
20        *tion Program’ means the international program es-*  
21        *tablished by the agreement signed in LaJolla, Califor-*  
22        *nia, in June, 1992, as formalized, modified, and en-*  
23        *hanced in accordance with the Declaration of Pan-*  
24        *ama.*

1           “(29) *The term ‘Declaration of Panama’ means*  
2           *the declaration signed in Panama City, Republic of*  
3           *Panama, on October 4, 1995.*”.

4 **SEC. 4. AMENDMENTS TO TITLE I.**

5           (a) *EXCEPTIONS TO MORATORIUM.*—Section 101(a)(2)  
6 (16 U.S.C. 1371(a)(2)) is amended—

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

13           (2) by striking the semicolon in the second sen-  
14           tence and all that follows through “*practicable*”.

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

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

19                   “(B) *in the case of yellowfin tuna harvested*  
20                   *with purse seine nets in the eastern tropical Pa-*  
21                   *cific Ocean, and products therefrom, to be ex-*  
22                   *ported to the United States, shall require that the*  
23                   *government of the exporting nation provide docu-*  
24                   *mentary evidence that—*

1           “(i)(I) *the tuna or products therefrom*  
2           *were not banned from importation under*  
3           *this paragraph before the effective date of*  
4           *section 4 of the International Dolphin Con-*  
5           *servaion Program Act; or*

6           “(II) *the tuna or products therefrom*  
7           *were harvested after the effective date of sec-*  
8           *tion 4 of the International Dolphin Con-*  
9           *servaion Program Act by vessels of a na-*  
10           *tion which participates in the International*  
11           *Dolphin Conservaion Program, and such*  
12           *harvesting nation is either a member of the*  
13           *Inter-American Tropical Tuna Commission*  
14           *or has initiated (and within 6 months*  
15           *thereafter completed) all steps required of*  
16           *applicant nations, in accordance with arti-*  
17           *cle V, paragraph 3 of the Convention estab-*  
18           *lishing the Inter-American Tropical Tuna*  
19           *Commission, to become a member of that or-*  
20           *ganization;*

21           “(ii) *such nation is meeting the obliga-*  
22           *tions of the International Dolphin Con-*  
23           *servaion Program and the obligations of*  
24           *membership in the Inter-American Tropical*

1           *Tuna Commission, including all financial*  
2           *obligations; and*

3                     “(iii) *the total dolphin mortality lim-*  
4                     *its, and per-stock per-year dolphin mortal-*  
5                     *ity limits permitted for that nation’s vessels*  
6                     *under the International Dolphin Conserva-*  
7                     *tion Program do not exceed the limits deter-*  
8                     *mined for 1997, or for any year thereafter,*  
9                     *consistent with the objective of progressively*  
10                    *reducing dolphin mortality to a level ap-*  
11                    *proaching zero through the setting of annual*  
12                    *limits and the goal of eliminating dolphin*  
13                    *mortality, and requirements of the Inter-*  
14                    *national Dolphin Conservation Program;”;*

15           (2) *by redesignating subparagraphs (C), (D),*  
16           *and (E) as subparagraphs (D), (E), and (F), respec-*  
17           *tively;*

18           (3) *by inserting after subparagraph (B) the fol-*  
19           *lowing:*

20                     “(C) *shall not accept such documentary evi-*  
21                     *dence if—*

22                             “(i) *the government of the harvesting*  
23                             *nation does not provide directly or author-*  
24                             *ize the Inter-American Tropical Tuna Com-*  
25                             *mission to release complete and accurate in-*

1 *formation to the Secretary in a timely*  
2 *manner—*

3 *“(I) to allow determination of*  
4 *compliance with the International Dol-*  
5 *phin Conservation Program; and*

6 *“(II) for the purposes of tracking*  
7 *and verifying compliance with the*  
8 *minimum requirements established by*  
9 *the Secretary in regulations promul-*  
10 *gated under subsection (f) of the Dol-*  
11 *phin Protection Consumer Information*  
12 *Act (16 U.S.C. 1385(f)); or*

13 *“(ii) after taking into consideration*  
14 *such information, findings of the Inter-*  
15 *American Tropical Tuna Commission, and*  
16 *any other relevant information, including*  
17 *information that a nation is consistently*  
18 *failing to take enforcement actions on viola-*  
19 *tions which diminish the effectiveness of the*  
20 *International Dolphin Conservation Pro-*  
21 *gram, the Secretary, in consultation with*  
22 *the Secretary of State, finds that the har-*  
23 *vesting nation is not in compliance with the*  
24 *International Dolphin Conservation Pro-*  
25 *gram.”; and*

1           (4) by striking “subparagraph (E)” in the mat-  
2           ter after subparagraph (F), as redesignated by para-  
3           graph (2) of this subsection, and inserting “subpara-  
4           graph (F)”.

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

8           “(e) *ACT NOT TO APPLY TO INCIDENTAL TAKINGS BY*  
9 *UNITED STATES CITIZENS EMPLOYED ON FOREIGN VES-*  
10 *SELS OUTSIDE THE UNITED STATES EEZ*.—The provi-  
11 sions of this Act shall not apply to a citizen of the United  
12 States who incidentally takes any marine mammal during  
13 fishing operations outside the United States exclusive eco-  
14 nomic zone (as defined in section 3 of the Magnuson-Stevens  
15 Fishery Conservation and Management Act (16 U.S.C.  
16 1802)) when employed on a foreign fishing vessel of a har-  
17 vesting nation which is in compliance with the Inter-  
18 national Dolphin Conservation Program.”.

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

21           “(h) *GENERAL PERMITS*.—

22           “(1) Consistent with the regulations prescribed  
23 pursuant to section 103 of this title and to the re-  
24 quirements of section 101 of this title, the Secretary  
25 may issue an annual permit to a United States purse

1        *seine fishing vessel for the taking of such marine*  
2        *mammals, and shall issue regulations to cover the use*  
3        *of any such annual permits.*

4                *“(2) Such annual permits for the incidental tak-*  
5        *ing of marine mammals in the course of commercial*  
6        *purse seine fishing for yellowfin tuna in the eastern*  
7        *tropical Pacific Ocean shall be governed by section*  
8        *306 of this Act, subject to the regulations issued pur-*  
9        *suant to section 303 of this Act.”.*

10        *(e)        INTERNATIONAL        NEGOTIATIONS.—Section*  
11        *108(a)(2) (16 U.S.C. 1378(a)(2)) is amended—*

12                *(1) by striking “and” at the end of subpara-*  
13        *graph (A);*

14                *(2) by inserting after subparagraph (B) the fol-*  
15        *lowing:*

16                *“(C) negotiations to revise the Convention*  
17        *for the Establishment of an Inter-American*  
18        *Tropical Tuna Commission (1 U.S.T. 230; TIAS*  
19        *2044) which will incorporate—*

20                *“(i) the conservation and management*  
21        *provisions agreed to by the nations which*  
22        *have signed the Declaration of Panama and*  
23        *in the Straddling Fish Stocks and Highly*  
24        *Migratory Fish Stocks Agreement, as*

1                   opened for signature on December 4, 1995;

2                   and

3                   “(ii) a revised schedule of annual con-  
4                   tributions to the expenses of the Inter-Amer-  
5                   ican Tropical Tuna Commission that is eq-  
6                   uitable to participating nations; and

7                   “(D) discussions with those countries par-  
8                   ticipating, or likely to participate, in the Inter-  
9                   national Dolphin Conservation Program, for the  
10                  purpose of identifying sources of funds needed for  
11                  research and other measures promoting effective  
12                  protection of dolphins, other marine species, and  
13                  the marine ecosystem;”.

14               (f) *RESEARCH GRANTS*.—Section 110(a) (16 U.S.C.  
15 1380(a)) is amended—

16                   (1) by striking “(1)” in paragraph (1); and

17                   (2) by striking paragraph (2).

18 **SEC. 5. AMENDMENTS TO DOLPHIN PROTECTION**

19                   **CONSUMER INFORMATION ACT.**

20               (a) *LABELING STANDARD*.— Subsection (d) of the Dol-  
21               phin Protection Consumer Information Act (16 U.S.C.

22 1385(d)) is amended to read as follows:

23                   “(d) *LABELING STANDARD*.—

24                   “(1) It is a violation of section 5 of the Federal  
25               Trade Commission Act (15 U.S.C. 45) for any pro-

1        *ducer, importer, exporter, distributor, or seller of any*  
2        *tuna product that is exported from or offered for sale*  
3        *in the United States to include on the label of that*  
4        *product the term ‘dolphin safe’ or any other term or*  
5        *symbol that falsely claims or suggests that the tuna*  
6        *contained in the product were harvested using a*  
7        *method of fishing that is not harmful to dolphins if*  
8        *the product contains tuna harvested—*

9                *“(A) on the high seas by a vessel engaged in*  
10                *driftnet fishing;*

11                *“(B) outside the eastern tropical Pacific*  
12                *Ocean by a vessel using purse seine nets—*

13                        *“(i) in a fishery in which the Sec-*  
14                        *retary has determined that a regular and*  
15                        *significant association occurs between dol-*  
16                        *phins and tuna (similar to the association*  
17                        *between dolphins and tuna in the eastern*  
18                        *tropical Pacific Ocean), unless such product*  
19                        *is accompanied by a written statement, exe-*  
20                        *cuted by the captain of the vessel and an ob-*  
21                        *server participating in a national or inter-*  
22                        *national program acceptable to the Sec-*  
23                        *retary, certifying that no purse seine net*  
24                        *was intentionally deployed on or used to en-*  
25                        *circle dolphins during the particular voyage*

1            *on which the tuna were caught and no dol-*  
2            *phins were killed or seriously injured in the*  
3            *sets in which the tuna were caught; or*

4            *“(ii) in any other fishery (other than*  
5            *a fishery described in subparagraph (D))*  
6            *unless the product is accompanied by a*  
7            *written statement executed by the captain of*  
8            *the vessel certifying that no purse seine net*  
9            *was intentionally deployed on or used to en-*  
10           *circle dolphins during the particular voyage*  
11           *on which the tuna was harvested;*

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

16           *“(D) by a vessel in a fishery other than one*  
17           *described in subparagraph (A), (B), or (C) that*  
18           *is identified by the Secretary as having a regu-*  
19           *lar and significant mortality or serious injury of*  
20           *dolphins, unless such product is accompanied by*  
21           *a written statement executed by the captain of*  
22           *the vessel and an observer participating in a na-*  
23           *tional or international program acceptable to the*  
24           *Secretary that no dolphins were killed or seri-*  
25           *ously injured in the sets or other gear deploy-*

1           *ments in which the tuna were caught, provided*  
2           *that the Secretary determines that such an ob-*  
3           *server statement is necessary.*

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

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

13                   “(B)(i) *the product is accompanied by a*  
14                   *written statement executed by the captain pro-*  
15                   *viding the certification required under subsection*  
16                   *(h);*

17                   “(ii) *the product is accompanied by a writ-*  
18                   *ten statement executed by—*

19                           “(I) *the Secretary or the Secretary’s*  
20                           *designee;*

21                           “(II) *a representative of the Inter-*  
22                           *American Tropical Tuna Commission; or*

23                           “(III) *an authorized representative of*  
24                           *a participating nation whose national pro-*

1            *gram meets the requirements of the Inter-*  
2            *national Dolphin Conservation Program,*  
3            *which states that there was an observer approved*  
4            *by the International Dolphin Conservation Pro-*  
5            *gram on board the vessel during the entire trip*  
6            *and that such observer provided the certification*  
7            *required under subsection (h); and*

8            *“(iii) the statements referred to in clauses*  
9            *(i) and (ii) are endorsed in writing by each ex-*  
10           *porter, importer, and processor of the product;*  
11           *and*

12           *“(C) the written statements and endorse-*  
13           *ments referred to in subparagraph (B) comply*  
14           *with regulations promulgated by the Secretary*  
15           *which provide for the verification of tuna prod-*  
16           *ucts as dolphin safe.*

17           *“(3)(A) The Secretary of Commerce shall develop*  
18           *an official mark that may be used to label tuna prod-*  
19           *ucts as dolphin safe in accordance with this Act.*

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

24           *“(C) It is a violation of section 5 of the Federal*  
25           *Trade Commission Act (15 U.S.C. 45) to label a tuna*

1     *product with any label or mark that refers to dol-*  
2     *phins, porpoises, or marine mammals other than the*  
3     *mark developed under subparagraph (A) unless—*

4             *“(i) no dolphins were killed or seriously in-*  
5             *jured in the sets or other gear deployments in*  
6             *which the tuna were caught;*

7             *“(ii) the label is supported by a tracking*  
8             *and verification program which is comparable in*  
9             *effectiveness to the program established under*  
10            *subsection (f); and*

11            *“(iii) the label complies with all applicable*  
12            *labeling, marketing, and advertising laws and*  
13            *regulations of the Federal Trade Commission, in-*  
14            *cluding any guidelines for environmental label-*  
15            *ing.*

16            *“(D) If the Secretary determines that the use of*  
17            *a label referred to in subparagraph (C) is substan-*  
18            *tially undermining the conservation goals of the*  
19            *International Dolphin Conservation Program, the*  
20            *Secretary shall report that determination to the Unit-*  
21            *ed States Senate Committee on Commerce, Science,*  
22            *and Transportation and the United States House of*  
23            *Representatives Committees on Resources and on*  
24            *Commerce, along with recommendations to correct*  
25            *such problems.*

1           “(E) *It is a violation of section 5 of the Federal*  
2           *Trade Commission Act (15 U.S.C. 45) willingly and*  
3           *knowingly to use a label referred to in subparagraph*  
4           *(C) in a campaign or effort to mislead or deceive con-*  
5           *sumers about the level of protection afforded dolphins*  
6           *under the International Dolphin Conservation Pro-*  
7           *gram.*”.

8           (b) *TRACKING REGULATIONS.—Subsection (f) of the*  
9           *Dolphin Protection Consumer Information Act (16 U.S.C.*  
10          *1385(f)) is amended to read as follows:*

11          “(f) *REGULATIONS.—The Secretary, in consultation*  
12          *with the Secretary of the Treasury, shall issue regulations*  
13          *to implement this Act, including regulations to establish a*  
14          *domestic tracking and verification program that provides*  
15          *for the effective tracking of tuna labeled under subsection*  
16          *(d). In the development of these regulations, the Secretary*  
17          *shall establish appropriate procedures for ensuring the con-*  
18          *fidentiality of proprietary information the submission of*  
19          *which is voluntary or mandatory. The regulations shall ad-*  
20          *dress each of the following items:*

21                  “(1) *The use of weight calculation for purposes*  
22                  *of tracking tuna caught, landed, processed, and ex-*  
23                  *ported.*

24                  “(2) *Additional measures to enhance current ob-*  
25                  *server coverage, including the establishment of criteria*

1       *for training, and for improving monitoring and re-*  
2       *porting capabilities and procedures.*

3               “(3) *The designation of well location, procedures*  
4       *for sealing holds, procedures for monitoring and cer-*  
5       *tifying both above and below deck, or through equally*  
6       *effective methods, the tracking and verification of*  
7       *tuna labeled under subsection (d).*

8               “(4) *The reporting, receipt, and database storage*  
9       *of radio and facsimile transmittals from fishing ves-*  
10       *sels containing information related to the tracking*  
11       *and verification of tuna, and the definition of set.*

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

16               “(6) *The use of periodic audits and spot checks*  
17       *for caught, landed, and processed tuna products la-*  
18       *beled in accordance with subsection (d).*

19               “(7) *The provision of timely access to data re-*  
20       *quired under this subsection by the Secretary from*  
21       *harvesting nations to undertake the actions required*  
22       *in paragraph (6) of this paragraph.*

23       *The Secretary may make such adjustments as may be ap-*  
24       *propriate to the regulations promulgated under this sub-*  
25       *section to implement an international tracking and ver-*

1 *ification program that meets or exceeds the minimum re-*  
2 *quirements established by the Secretary under this sub-*  
3 *section.”.*

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

8 *“(g) SECRETARIAL FINDINGS.—(1) Between March 1,*  
9 *1999, and March 31, 1999, the Secretary shall, on the basis*  
10 *of the research conducted before March 1, 1999, under sec-*  
11 *tion 304(a) of the Marine Mammal Protection Act of 1972,*  
12 *information obtained under the International Dolphin Con-*  
13 *servation Program, and any other relevant information,*  
14 *make an initial finding regarding whether the intentional*  
15 *deployment on or encirclement of dolphins with purse seine*  
16 *nets is having a significant adverse impact on any depleted*  
17 *dolphin stock in the eastern tropical Pacific Ocean. The ini-*  
18 *tial finding shall be published immediately in the Federal*  
19 *Register and shall become effective upon a subsequent date*  
20 *determined by the Secretary.*

21 *“(2) Between July 1, 2001, and December 31, 2002,*  
22 *the Secretary shall, on the basis of the completed study con-*  
23 *ducted under section 304(a) of the Marine Mammal Protec-*  
24 *tion Act of 1972, information obtained under the Inter-*  
25 *national Dolphin Conservation Program, and any other*

1 *relevant information, make a finding regarding whether the*  
2 *intentional deployment on or encirclement of dolphins with*  
3 *purse seine nets is having a significant adverse impact on*  
4 *any depleted dolphin stock in the eastern tropical Pacific*  
5 *Ocean. The finding shall be published immediately in the*  
6 *Federal Register and shall become effective upon a subse-*  
7 *quent date determined by the Secretary.*

8       “(h) *CERTIFICATION BY CAPTAIN AND OBSERVER.—*

9               “(1) *Unless otherwise required by paragraph (2),*  
10 *the certification by the captain under subsection*  
11 *(d)(2)(B)(i) and the certification provided by the ob-*  
12 *server as specified in subsection (d)(2)(B)(ii) shall be*  
13 *that no dolphins were killed or seriously injured dur-*  
14 *ing the sets in which the tuna were caught.*

15               “(2) *The certification by the captain under sub-*  
16 *section (d)(2)(B)(i) and the certification provided by*  
17 *the observer as specified under subsection (d)(2)(B)(ii)*  
18 *shall be that no tuna were caught on the trip in*  
19 *which such tuna were harvested using a purse seine*  
20 *net intentionally deployed on or to encircle dolphins,*  
21 *and that no dolphins were killed or seriously injured*  
22 *during the sets in which the tuna were caught, if the*  
23 *tuna were caught on a trip commencing—*

24                       “(A) *before the effective date of the initial*  
25 *finding by the Secretary under subsection (g)(1);*

1           “(B) after the effective date of such initial  
2           finding and before the effective date of the find-  
3           ing of the Secretary under subsection (g)(2),  
4           where the initial finding is that the intentional  
5           deployment on or encirclement of dolphins is  
6           having a significant adverse impact on any de-  
7           pleted dolphin stock; or

8           “(C) after the effective date of the finding  
9           under subsection (g)(2), where such finding is  
10          that the intentional deployment on or encircle-  
11          ment of dolphins is having a significant adverse  
12          impact on any such depleted stock.”.

13 **SEC. 6. AMENDMENTS TO TITLE III.**

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

16                 “*TITLE III—INTERNATIONAL DOLPHIN*  
17                         *CONSERVATION PROGRAM*”.

18          (b) *ADDITIONAL FINDINGS.*—Section 301 (16 U.S.C.  
19 *1411*) is amended—

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

22                         “(4) Nations harvesting yellowfin tuna in the  
23                         eastern tropical Pacific Ocean have demonstrated  
24                         their willingness to participate in appropriate multi-  
25                         lateral agreements to reduce dolphin mortality pro-

1 *gressively to a level approaching zero through the set-*  
2 *ting of annual limits, with the goal of eliminating*  
3 *dolphin mortality in that fishery. Recognition of the*  
4 *International Dolphin Conservation Program will as-*  
5 *sure that the existing trend of reduced dolphin mor-*  
6 *tality continues; that individual stocks of dolphins*  
7 *are adequately protected; and that the goal of elimi-*  
8 *nating all dolphin mortality continues to be a prior-*  
9 *ity.”; and*

10 *(2) by striking paragraphs (2) and (3) of sub-*  
11 *section (b) and inserting the following:*

12 *“(2) support the International Dolphin Con-*  
13 *servaion Program and efforts within the Program to*  
14 *reduce, with the goal of eliminating, the mortality re-*  
15 *ferred to in paragraph (1);*

16 *“(3) ensure that the market of the United States*  
17 *does not act as an incentive to the harvest of tuna*  
18 *caught with driftnets or caught by purse seine vessels*  
19 *in the eastern tropical Pacific Ocean not operating in*  
20 *compliance with the International Dolphin Conserva-*  
21 *tion Program;”.*

22 *(c) Title III (16 U.S.C. 1411 et seq.) is amended by*  
23 *striking sections 302 through 306 (16 U.S.C. 1412 through*  
24 *1416) and inserting the following:*

1 **“SEC. 302. INTERNATIONAL DOLPHIN CONSERVATION PRO-**  
2 **GRAM.**

3 *“The Secretary of State, in consultation with the Sec-*  
4 *retary, shall seek to secure a binding international agree-*  
5 *ment to establish an International Dolphin Conservation*  
6 *Program that requires—*

7 *“(1) that the total annual dolphin mortality in*  
8 *the purse seine fishery for yellowfin tuna in the east-*  
9 *ern tropical Pacific Ocean shall not exceed 5,000 ani-*  
10 *mals with a commitment and objective to progres-*  
11 *sively reduce dolphin mortality to a level approaching*  
12 *zero through the setting of annual limits;*

13 *“(2) the establishment of a per-stock per-year*  
14 *dolphin mortality limit, to be in effect through cal-*  
15 *endar year 2000, at a level between 0.2 percent and*  
16 *0.1 percent of the minimum population estimate, as*  
17 *calculated, revised, or approved by the Secretary;*

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

23 *“(4) that if a dolphin mortality limit is exceeded*  
24 *under—*

25 *“(A) paragraph (1), all sets on dolphins*  
26 *shall cease for the applicable fishing year; and*

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

5           “(5) a scientific review and assessment to be con-  
6           ducted in calendar year 1998 to—

7           “(A) assess progress in meeting the objec-  
8           tives set for calendar year 2000 under paragraph  
9           (2); and

10           “(B) as appropriate, consider recommenda-  
11           tions for meeting these objectives;

12           “(6) a scientific review and assessment to be con-  
13           ducted in calendar year 2000—

14           “(A) to review the stocks covered under  
15           paragraph (3); and

16           “(B) as appropriate to consider rec-  
17           ommendations to further the objectives set under  
18           that paragraph;

19           “(7) the establishment of a per vessel maximum  
20           annual dolphin mortality limit consistent with the es-  
21           tablished per-year mortality limits, as determined  
22           under paragraphs (1) through (3); and

23           “(8) the provision of a system of incentives to  
24           vessel captains to continue to reduce dolphin mortal-  
25           ity, with the goal of eliminating dolphin mortality.

1 **“SEC. 303. REGULATORY AUTHORITY OF THE SECRETARY.**

2 “(a) REGULATIONS.—

3 “(1) *The Secretary shall issue regulations, and*  
4 *revise those regulations as may be appropriate, to im-*  
5 *plement the International Dolphin Conservation Pro-*  
6 *gram.*

7 “(2)(A) *The Secretary shall issue regulations to*  
8 *authorize and govern the taking of marine mammals*  
9 *in the eastern tropical Pacific Ocean, including any*  
10 *species of marine mammal designated as depleted*  
11 *under this Act but not listed as endangered or threat-*  
12 *ened under the Endangered Species Act (16 U.S.C.*  
13 *1531 et seq.), by vessels of the United States partici-*  
14 *parting in the International Dolphin Conservation*  
15 *Program.*

16 “(B) *Regulations issued under this section shall*  
17 *include provisions—*

18 “(i) *requiring observers on each vessel;*

19 “(ii) *requiring use of the backdown proce-*  
20 *dure or other procedures equally or more effective*  
21 *in avoiding mortality of, or serious injury to,*  
22 *marine mammals in fishing operations;*

23 “(iii) *prohibiting intentional sets on stocks*  
24 *and schools in accordance with the International*  
25 *Dolphin Conservation Program;*

1           “(iv) requiring the use of special equipment,  
2           including dolphin safety panels in nets, monitor-  
3           ing devices as identified by the International  
4           Dolphin Conservation Program to detect unsafe  
5           fishing conditions that may cause high inciden-  
6           tal dolphin mortality before nets are deployed by  
7           a tuna vessel, operable rafts, speedboats with  
8           towing bridles, floodlights in operable condition,  
9           and diving masks and snorkels;

10           “(v) ensuring that the backdown procedure  
11           during sets of purse seine net on marine mam-  
12           mals is completed and rolling of the net to sack  
13           up has begun no later than 30 minutes before  
14           sundown;

15           “(vi) banning the use of explosive devices in  
16           all purse seine operations;

17           “(vii) establishing per vessel maximum an-  
18           nual dolphin mortality limits, total dolphin  
19           mortality limits and per-stock per-year mortal-  
20           ity limits in accordance with the International  
21           Dolphin Conservation Program;

22           “(viii) preventing the making of intentional  
23           sets on dolphins after reaching either the vessel  
24           maximum annual dolphin mortality limits, total

1           *dolphin mortality limits, or per-stock per-year*  
2           *mortality limits;*

3           “(ix) *preventing the fishing on dolphins by*  
4           *a vessel without an assigned vessel dolphin mor-*  
5           *tality limit;*

6           “(x) *allowing for the authorization and con-*  
7           *duct of experimental fishing operations, under*  
8           *such terms and conditions as the Secretary may*  
9           *prescribe, for the purpose of testing proposed im-*  
10          *provements in fishing techniques and equipment*  
11          *that may reduce or eliminate dolphin mortality*  
12          *or serious injury do not require the encirclement*  
13          *of dolphins in the course of commercial yellowfin*  
14          *tuna fishing;*

15          “(xi) *authorizing fishing within the area*  
16          *covered by the International Dolphin Conserva-*  
17          *tion Program by vessels of the United States*  
18          *without the use of special equipment or nets if*  
19          *the vessel takes an observer and does not inten-*  
20          *tionally deploy nets on, or encircle, dolphins,*  
21          *under such terms and conditions as the Sec-*  
22          *retary may prescribe; and*

23          “(xii) *containing such other restrictions and*  
24          *requirements as the Secretary determines are*  
25          *necessary to implement the International Dol-*

1            *phin Conservation Program with respect to ves-*  
2            *sels of the United States.*

3            “(C) *ADJUSTMENTS TO REQUIREMENTS.*—*The*  
4            *Secretary may make such adjustments as may be ap-*  
5            *propriate to requirements of subparagraph (B) that*  
6            *pertain to fishing gear, vessel equipment, and fishing*  
7            *practices to the extent the adjustments are consistent*  
8            *with the International Dolphin Conservation Pro-*  
9            *gram.*

10          “(b) *CONSULTATION.*—*In developing any regulation*  
11          *under this section, the Secretary shall consult with the Sec-*  
12          *retary of State, the Marine Mammal Commission, and the*  
13          *United States Commissioners to the Inter-American Tropi-*  
14          *cal Tuna Commission appointed under section 3 of the*  
15          *Tuna Conventions Act of 1950 (16 U.S.C. 952).*

16          “(c) *EMERGENCY REGULATIONS.*—

17                  “(1) *If the Secretary determines, on the basis of*  
18                  *the best scientific information available (including re-*  
19                  *search conducted under section 304 and information*  
20                  *obtained under the International Dolphin Conserva-*  
21                  *tion Program) that the incidental mortality and seri-*  
22                  *ous injury of marine mammals authorized under this*  
23                  *title is having, or is likely to have, a significant ad-*  
24                  *verse impact on a marine mammal stock or species,*  
25                  *the Secretary shall—*

1           “(A) notify the Inter-American Tropical  
2           Tuna Commission of his or her determination,  
3           along with recommendations to the Commission  
4           as to actions necessary to reduce incidental mor-  
5           tality and serious injury and mitigate such ad-  
6           verse impact; and

7           “(B) prescribe emergency regulations to re-  
8           duce incidental mortality and serious injury and  
9           mitigate such adverse impact.

10          “(2) Before taking action under subparagraph  
11          (A) or (B) of paragraph (1), the Secretary shall con-  
12          sult with the Secretary of State, the Marine Mammal  
13          Commission, and the United States Commissioners to  
14          the Inter-American Tropical Tuna Commission.

15          “(3) Emergency regulations prescribed under  
16          this subsection—

17                 “(A) shall be published in the Federal Reg-  
18                 ister, together with an explanation thereof;

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

21                 “(C) may be terminated by the Secretary at  
22                 an earlier date by publication in the Federal  
23                 Register of a notice of termination if the Sec-  
24                 retary determines that the reasons for the emer-  
25                 gency action no longer exist.

1           “(4) If the Secretary finds that the incidental  
2 mortality and serious injury of marine mammals in  
3 the yellowfin tuna fishery in the eastern tropical Pa-  
4 cific Ocean is continuing to have a significant ad-  
5 verse impact on a stock or species, the Secretary may  
6 extend the emergency regulations for such additional  
7 periods as may be necessary.

8           “(5) Within 120 days after the Secretary notifies  
9 the United States Commissioners to the Inter-Amer-  
10 ican Tropical Tuna Commission of the Secretary’s de-  
11 termination under paragraph (1)(A), the United  
12 States Commissioners shall call for a special meeting  
13 of the Commission to address the actions necessary to  
14 reduce incidental mortality and serious injury and  
15 mitigate the adverse impact which resulted in the de-  
16 termination. The Commissioners shall report the re-  
17 sults of the special meeting in writing to the Sec-  
18 retary and to the Secretary of State. In their report,  
19 the Commissioners shall—

20           “(A) include a description of the actions  
21 taken by the harvesting nations or under the  
22 International Dolphin Conservation Program to  
23 reduce the incidental mortality and serious in-  
24 jury and measures to mitigate the adverse im-  
25 pact on the marine mammal species or stock;

1           “(B) indicate whether, in their judgment,  
2           the actions taken address the problem adequately;  
3           and

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

8   **“SEC. 304. RESEARCH.**

9           “(a) *REQUIRED RESEARCH.*—

10           “(1) *IN GENERAL.*—The Secretary shall, in con-  
11           sultation with the Marine Mammal Commission and  
12           the Inter-American Tropical Tuna Commission, con-  
13           duct a study of the effect of intentional encirclement  
14           (including chase) on dolphins and dolphin stocks in-  
15           cidentally taken in the course of purse seine fishing  
16           for yellowfin tuna in the eastern tropical Pacific  
17           Ocean. The study, which shall commence on October  
18           1, 1997, shall consist of abundance surveys as de-  
19           scribed in paragraph (2) and stress studies as de-  
20           scribed in paragraph (3), and shall address the ques-  
21           tion of whether such encirclement is having a signifi-  
22           cant adverse impact on any depleted dolphin stock in  
23           the eastern tropical Pacific Ocean.

24           “(2) *POPULATION ABUNDANCE SURVEYS.*—The  
25           abundance surveys under this subsection shall survey

1     *the abundance of such depleted stocks and shall be*  
2     *conducted during each of the calendar years 1998,*  
3     *1999, and 2000.*

4             “(3) *STRESS STUDIES.*—*The stress studies under*  
5     *this subsection shall include—*

6                     “(A) *a review of relevant stress-related re-*  
7                     *search and a 3-year series of necropsy samples*  
8                     *from dolphins obtained by commercial vessels;*

9                     “(B) *a 1-year review of relevant historical*  
10                    *demographic and biological data related to dol-*  
11                    *phins and dolphin stocks referred to in para-*  
12                    *graph (1); and*

13                    “(C) *an experiment involving the repeated*  
14                    *chasing and capturing of dolphins by means of*  
15                    *intentional encirclement.*

16             “(4) *REPORT.*—*No later than 90 days after pub-*  
17     *lishing the finding under subsection (g)(2) of the Dol-*  
18     *phin Protection Consumer Information Act, the Sec-*  
19     *retary shall complete and submit a report containing*  
20     *the results of the research described in this subsection*  
21     *to the United States Senate Committee on Commerce,*  
22     *Science, and Transportation and the United States*  
23     *House of Representatives Committees on Resources*  
24     *and on Commerce, and to the Inter-American Tropi-*  
25     *cal Tuna Commission.*

1       “(b) *OTHER RESEARCH.*—

2               “(1) *IN GENERAL.*—*In addition to conducting*  
3 *the research described in subsection (a), the Secretary*  
4 *shall, in consultation with the Marine Mammal Com-*  
5 *mission and in cooperation with the nations partici-*  
6 *peating in the International Dolphin Conservation*  
7 *Program and the Inter-American Tropical Tuna*  
8 *Commission, undertake or support appropriate sci-*  
9 *entific research to further the goals of the Inter-*  
10 *national Dolphin Conservation Program.*

11              “(2) *SPECIFIC AREAS OF RESEARCH.*—*Research*  
12 *carried out under paragraph (1) may include—*

13                   “(A) *projects to devise cost-effective fishing*  
14 *methods and gear so as to reduce, with the goal*  
15 *of eliminating, the incidental mortality and seri-*  
16 *ous injury of marine mammals in connection*  
17 *with commercial purse seine fishing in the east-*  
18 *ern tropical Pacific Ocean;*

19                   “(B) *projects to develop cost-effective meth-*  
20 *ods of fishing for mature yellowfin tuna without*  
21 *setting nets on dolphins or other marine mam-*  
22 *mals;*

23                   “(C) *projects to carry out stock assessments*  
24 *for those marine mammal species and marine*  
25 *mammal stocks taken in the purse seine fishery*

1           *for yellowfin tuna in the eastern tropical Pacific*  
2           *Ocean, including species or stocks not within wa-*  
3           *ters under the jurisdiction of the United States;*  
4           *and*

5           “(D) *projects to determine the extent to*  
6           *which the incidental take of nontarget species,*  
7           *including juvenile tuna, occurs in the course of*  
8           *purse seine fishing for yellowfin tuna in the east-*  
9           *ern tropical Pacific Ocean, the geographic loca-*  
10          *tion of the incidental take, and the impact of*  
11          *that incidental take on tuna stocks and nontar-*  
12          *get species.*

13          “(c) *AUTHORIZATION OF APPROPRIATIONS.—*

14           “(1) *There are authorized to be appropriated to*  
15          *the Secretary the following amounts, to be used by the*  
16          *Secretary to carry out the research described in sub-*  
17          *section (a):*

18           “(A) *\$4,000,000 for fiscal year 1998.*

19           “(B) *\$3,000,000 for fiscal year 1999.*

20           “(C) *\$4,000,000 for fiscal year 2000.*

21           “(D) *\$1,000,000 for fiscal year 2001.*

22           “(2) *In addition to the amount authorized to be*  
23          *appropriated under paragraph (1), there are author-*  
24          *ized to be appropriated to the Secretary for carrying*

1        *out this section \$3,000,000 for each of the fiscal years*  
2        *1998, 1999, 2000, and 2001.*

3        **“SEC. 305. REPORTS BY THE SECRETARY.**

4        *“Notwithstanding section 103(f), the Secretary shall*  
5        *submit annual reports to the Congress which include—*

6                *“(1) results of research conducted pursuant to*  
7        *section 304;*

8                *“(2) a description of the status and trends of*  
9        *stocks of tuna;*

10               *“(3) a description of the efforts to assess, avoid,*  
11        *reduce, and minimize the bycatch of juvenile yellow-*  
12        *fin tuna and bycatch of nontarget species;*

13               *“(4) a description of the activities of the Inter-*  
14        *national Dolphin Conservation Program and of the*  
15        *efforts of the United States in support of the Pro-*  
16        *gram’s goals and objectives, including the protection*  
17        *of dolphin stocks in the eastern tropical Pacific*  
18        *Ocean, and an assessment of the effectiveness of the*  
19        *Program;*

20               *“(5) actions taken by the Secretary under section*  
21        *101(a)(2)(B) and section 101(d);*

22               *“(6) copies of any relevant resolutions and deci-*  
23        *sions of the Inter-American Tropical Tuna Commis-*  
24        *sion, and any regulations promulgated by the Sec-*  
25        *retary under this title; and*

1           “(7) any other information deemed relevant by  
2           the Secretary.

3   **“SEC. 306. PERMITS.**

4           “(a) *IN GENERAL.*—

5           “(1) Consistent with the regulations issued pur-  
6           suant to section 303, the Secretary shall issue a per-  
7           mit to a vessel of the United States authorizing par-  
8           ticipation in the International Dolphin Conservation  
9           Program and may require a permit for the person ac-  
10          tually in charge of and controlling the fishing oper-  
11          ation of the vessel. The Secretary shall prescribe such  
12          procedures as are necessary to carry out this sub-  
13          section, including requiring the submission of—

14                  “(A) the name and official number or other  
15                  identification of each fishing vessel for which a  
16                  permit is sought, together with the name and ad-  
17                  dress of the owner thereof; and

18                  “(B) the tonnage, hold capacity, speed,  
19                  processing equipment, and type and quantity of  
20                  gear, including an inventory of special equip-  
21                  ment required under section 303, with respect to  
22                  each vessel.

23           “(2) The Secretary is authorized to charge a fee  
24           for granting an authorization and issuing a permit  
25           under this section. The level of fees charged under this

1 paragraph may not exceed the administrative cost in-  
2 curred in granting an authorization and issuing a  
3 permit. Fees collected under this paragraph shall be  
4 available to the Under Secretary of Commerce for  
5 Oceans and Atmosphere for expenses incurred in  
6 granting authorizations and issuing permits under  
7 this section.

8 “(3) After the effective date of the International  
9 Dolphin Conservation Program Act, no vessel of the  
10 United States shall operate in the yellowfin tuna fish-  
11 ery in the eastern tropical Pacific Ocean without a  
12 valid permit issued under this section.

13 “(b) PERMIT SANCTIONS.—

14 “(1) In any case in which—

15 “(A) a vessel for which a permit has been  
16 issued under this section has been used in the  
17 commission of an act prohibited under section  
18 307;

19 “(B) the owner or operator of any such ves-  
20 sel or any other person who has applied for or  
21 been issued a permit under this section has acted  
22 in violation of section 307; or

23 “(C) any civil penalty or criminal fine im-  
24 posed on a vessel, owner or operator of a vessel,  
25 or other person who has applied for or been is-

1           sued a permit under this section has not been  
2           paid or is overdue,  
3       *the Secretary may—*

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

7                   “(ii) suspend such permit for a period  
8                   of time considered by the Secretary to be  
9                   appropriate;

10                   “(iii) deny such permit; or

11                   “(iv) impose additional conditions or  
12                   restrictions on any permit issued to, or ap-  
13                   plied for by, any such vessel or person  
14                   under this section.

15           “(2) In imposing a sanction under this sub-  
16       *section, the Secretary shall take into account—*

17                   “(A) the nature, circumstances, extent, and  
18                   gravity of the prohibited acts for which the sanc-  
19                   tion is imposed; and

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

23           “(3) Transfer of ownership of a vessel, by sale or  
24       *otherwise, shall not extinguish any permit sanction*  
25       *that is in effect or is pending at the time of transfer*

1        *of ownership. Before executing the transfer of owner-*  
2        *ship of a vessel, by sale or otherwise, the owner shall*  
3        *disclose in writing to the prospective transferee the ex-*  
4        *istence of any permit sanction that will be in effect*  
5        *or pending with respect to the vessel at the time of*  
6        *transfer.*

7                *“(4) In the case of any permit that is suspended*  
8        *for the failure to pay a civil penalty or criminal fine,*  
9        *the Secretary shall reinstate the permit upon pay-*  
10        *ment of the penalty or fine and interest thereon at the*  
11        *prevailing rate.*

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

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

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

21                *“(1) for any person to sell, purchase, offer for*  
22        *sale, transport, or ship, in the United States, any*  
23        *tuna or tuna product unless the tuna or tuna product*  
24        *is either dolphin safe or has been harvested in compli-*  
25        *ance with the International Dolphin Conservation*

1        *Program by a country that is a member of the Inter-*  
2        *American Tropical Tuna Commission or has initi-*  
3        *ated and within 6 months thereafter completed all*  
4        *steps required of applicant nations in accordance*  
5        *with Article V, paragraph 3 of the Convention estab-*  
6        *lishing the Inter-American Tropical Tuna Commis-*  
7        *sion, to become a member of that organization;*

8                *“(2) except as provided for in subsection 101(d),*  
9        *for any person or vessel subject to the jurisdiction of*  
10        *the United States intentionally to set a purse seine*  
11        *net on or to encircle any marine mammal in the*  
12        *course of tuna fishing operations in the eastern tropi-*  
13        *cal Pacific Ocean except in accordance with this title*  
14        *and regulations issued pursuant to this title; and*

15                *“(3) for any person to import any yellowfin*  
16        *tuna or yellowfin tuna product or any other fish or*  
17        *fish product in violation of a ban on importation im-*  
18        *posed under section 101(a)(2);”;*

19                *(2) by inserting “(a)(5) or” before “(a)(6)” in*  
20        *subsection (b)(2); and*

21                *(3) by striking subsection (d).*

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

23        *(f) CLERICAL AMENDMENTS.—The table of contents in*  
24        *the first section of the Marine Mammal Protection Act of*

1 1972 is amended by striking the items relating to title III  
2 and inserting in lieu thereof the following:

*“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM*

*“Sec. 301. Findings and policy.*

*“Sec. 302. International Dolphin Conservation Program.*

*“Sec. 303. Regulatory authority of the Secretary.*

*“Sec. 304. Research.*

*“Sec. 305. Reports by the Secretary.*

*“Sec. 306. Permits.*

*“Sec. 307. Prohibitions.”.*

3 **SEC. 7. AMENDMENTS TO THE TUNA CONVENTIONS ACT.**

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

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

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

11 **“SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC**  
12 **ADVISORY SUBCOMMITTEE.**

13 “(a) APPOINTMENTS; PUBLIC PARTICIPATION; COM-  
14 PENSATION.—The Secretary, in consultation with the Unit-  
15 ed States Commissioners, shall—

16 “(1) appoint a General Advisory Committee  
17 which shall be composed of not less than 5 nor more  
18 than 15 persons with balanced representation from  
19 the various groups participating in the fisheries in-  
20 cluded under the conventions, and from nongovern-  
21 mental conservation organizations;

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

6           “(3) establish procedures to provide for appro-  
7           priate public participation and public meetings and  
8           to provide for the confidentiality of confidential busi-  
9           ness data; and

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

14           “(b) FUNCTIONS.—

15           “(1) GENERAL ADVISORY COMMITTEE.—The Gen-  
16           eral Advisory Committee shall be invited to have rep-  
17           resentatives attend all nonexecutive meetings of the  
18           United States sections and shall be given full oppor-  
19           tunity to examine and to be heard on all proposed  
20           programs of investigations, reports, recommendations,  
21           and regulations of the Commission. The General Ad-  
22           visory Committee may attend all meetings of the  
23           international commissions to which they are invited  
24           by such commissions.

25           “(2) SCIENTIFIC ADVISORY SUBCOMMITTEE.—

1           “(A) *ADVICE.—The Scientific Advisory*  
2           *Subcommittee shall advise the General Advisory*  
3           *Committee and the Commissioners on matters*  
4           *including—*

5                     “(i) *the conservation of ecosystems;*

6                     “(ii) *the sustainable uses of living ma-*  
7                     *rine resources related to the tuna fishery in*  
8                     *the eastern Pacific Ocean; and*

9                     “(iii) *the long-term conservation and*  
10                    *management of stocks of living marine re-*  
11                    *sources in the eastern tropical Pacific*  
12                    *Ocean.*

13           “(B) *OTHER FUNCTIONS AND ASSIST-*  
14           *ANCE.—The Scientific Advisory Subcommittee*  
15           *shall, as requested by the General Advisory Com-*  
16           *mittee, the United States Commissioners, or the*  
17           *Secretary, perform functions and provide assist-*  
18           *ance required by formal agreements entered into*  
19           *by the United States for this fishery, including*  
20           *the International Dolphin Conservation Pro-*  
21           *gram. These functions may include—*

22                     “(i) *the review of data from the Pro-*  
23                     *gram, including data received from the*  
24                     *Inter-American Tropical Tuna Commission;*

1           “(ii) recommendations on research  
2 needs, including ecosystems, fishing prac-  
3 tices, and gear technology research, includ-  
4 ing the development and use of selective, en-  
5 vironmentally safe and cost-effective fishing  
6 gear, and on the coordination and facilita-  
7 tion of such research;

8           “(iii) recommendations concerning sci-  
9 entific reviews and assessments required  
10 under the Program and engaging, as appro-  
11 priate, in such reviews and assessments;

12           “(iv) consulting with other experts as  
13 needed; and

14           “(v) recommending measures to assure  
15 the regular and timely full exchange of data  
16 among the parties to the Program and each  
17 nation’s National Scientific Advisory Com-  
18 mittee (or its equivalent).

19           “(3) ATTENDANCE AT MEETINGS.—The Scientific  
20 Advisory Subcommittee shall be invited to have rep-  
21 resentatives attend all nonexecutive meetings of the  
22 United States sections and the General Advisory Sub-  
23 committee and shall be given full opportunity to ex-  
24 amine and to be heard on all proposed programs of  
25 scientific investigation, scientific reports, and sci-

1        *entific recommendations of the commission. Rep-*  
2        *resentatives of the Scientific Advisory Subcommittee*  
3        *may attend meetings of the Inter-American Tropical*  
4        *Tuna Commission in accordance with the rules of*  
5        *such Commission.”.*

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

9        **“SEC. 15. REDUCTION OF BYCATCH IN THE EASTERN TROPICAL**  
10        **PACIFIC OCEAN.**

11        *“The Secretary of State, in consultation with the Sec-*  
12        *retary of Commerce and acting through the United States*  
13        *Commissioners, shall seek, in cooperation with other na-*  
14        *tions whose vessel fish for tuna in the eastern tropical Pa-*  
15        *cific Ocean, to establish standards and measures for a*  
16        *bycatch reduction program for vessels fishing for yellowfin*  
17        *tuna in the eastern tropical Pacific Ocean. The bycatch re-*  
18        *duction program shall include measures—*

19                *“(1) to require, to the maximum extent prac-*  
20                *ticable, that sea turtles and other threatened species*  
21                *and endangered species are released alive;*

22                *“(2) to reduce, to the maximum extent prac-*  
23                *ticable, the harvest of nontarget species;*

24                *“(3) to reduce, to the maximum extent prac-*  
25                *ticable, the mortality of nontarget species; and*

1           “(4) to reduce, to the maximum extent prac-  
2           ticable, the mortality of juveniles of the target spe-  
3           cies.”.

4 **SEC. 8. EFFECTIVE DATES.**

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

9           (1) certification by the Secretary of Commerce  
10          that—

11                 (A) sufficient funding is available to com-  
12                 plete the first year of the study required under  
13                 section 304(a) of the Marine Mammal Protection  
14                 Act of 1972, as so added; and

15                 (B) the study has commenced; and

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

22           (b) *SPECIAL EFFECTIVE DATE.*—Notwithstanding  
23          subsection (a), the Secretary of Commerce may issue regula-  
24          tions under—

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

4           (2) *section 303(a) of the Marine Mammal Pro-*  
5           *tection Act of 1972 (16 U.S.C. 1413(a)), as added by*  
6           *section 6(c) of this Act,*

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

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 408**

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**AMENDMENT**

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