2007 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 28 November 1990. Title I, Section 107, of the law amended Section 206 of the Magnuson-Stevens Fishery Conservation and Management Act (hereafter referred to as the Magnuson-Stevens Act) (16 USC 1826) to incorporate and expand upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

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

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

(1) implement the moratorium called for by UNGA Resolution 44/225;

(2) support the Tarawa Declaration and the Wellington Convention; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

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

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

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

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

If the above sanctions are insufficient to persuade the identified country to cease large-scale high seas driftnet fishing within six months, or if it retaliates against the United States during that time period as a result of the sanctions, the Secretary of Commerce is required to certify this fact to the President. Such a certification is deemed to be a certification under Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582).

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

The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, in consultation with the Department of State and the Department of Homeland Security, submits the following report for 2007 in fulfillment of the Section 206(e) reporting requirement. Information pertaining to U.S. actions in support of the Act prior to 2007 and after 1988 can be found in the 1990-2006 annual driftnet reports to the Congress available from NMFS. The reports for 2004-2006 are also on the NMFS website at http://www.nmfs.noaa.gov/ia/intlbycatch/rpts_driftnet_fishing.htm.

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 31 December 2007, the UNGA global moratorium on large-scale high seas driftnet fishing has been in effect for 15 years. International implementation of the moratorium in the world's oceans and enclosed and semi-enclosed seas continues to be generally successful, although problem areas remain. Of the two major problem areas in recent years, the North Pacific Ocean and the Mediterranean Sea, 47 vessels capable of conducting unauthorized large-scale high seas driftnet fishing operations were sighted[1] in the North Pacific Ocean in 2007. The United States is aware of eight documented[2] driftnet vessel sightings on the high seas of the Mediterranean in 2007. Anecdotal information from nongovernmental organizations (NGOs) indicates that the number was probably much higher.

North Pacific Ocean

Seven large-scale driftnet fishing vessels were intercepted out of a total of 47 suspected driftnet vessels sighted operating on the high seas of the Northwestern Pacific Ocean by the international community in 2007. This is approximately half of the number of sightings from 2006.

North Pacific Regional Driftnet Enforcement Coordination

North Pacific Anadromous Fish Commission (NPAFC): The NPAFC serves as a forum for promoting the conservation of anadromous stocks and ecologically-related species, including

[1] A number of these vessels were unidentified, raising the possibility of multiple sightings of the same vessel or vessels. For purposes of this report, only those vessels that were visually confirmed as driftnet-capable have been considered sightings.

[2] On a technical level, actions taken pursuant to the High Seas Driftnet Fisheries Enforcement Act are initiated by identifying countries whose nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation. This is a difficult determination if reports of driftnet vessel sightings do not, at a minimum, include vessel names or registration numbers, exact locations, and estimations of the length of netting deployed.

marine mammals, sea birds, and non-anadromous fish, in the high seas area of the North Pacific Ocean. This area, as defined in the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (the Convention that established the NPAFC), is "the waters of the North Pacific Ocean and its adjacent seas, north of 33° North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured." The members of the NPAFC are Canada, Japan, the Republic of Korea (Korea), the Russian Federation (Russia), and the United States.

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

NPAFC Enforcement Evaluation and Coordination Meeting (EECM): Representatives of the NPAFC Parties met in Busan, Korea, on 27 February-1 March 2007, for the annual NPAFC EECM. The primary purpose of the EECM was to discuss the threat of illegal, unreported, and unregulated (IUU) fishing for salmon in the Convention Area and to formulate a joint enforcement plan for the 2007 fishing season. The meeting included updates by each Party on IUU activity in 2006, information on enforcement efforts to date in 2007, and coordination of enforcement plans and resources for the remainder of 2007. The Parties also agreed on standard codes for fish species, vessels, and gear types for use on the NPAFC Integrated Information System (IIS), a protected website developed by Russia to improve information sharing and coordination among the Parties.

At the Busan meeting, the Parties also discussed the efforts of the North Pacific Coast Guard Forum (NPCGF), which is comprised of all of the NPAFC Parties plus the People's Republic of China (PRC). The NPCGF meets semi-annually to discuss North Pacific maritime issues of mutual concern. Although the group's focus is broader than fisheries, it coordinated multi-national IUU fishing patrols in 2006 and 2007 based on the enforcement plans generated by the EECM. The Parties agreed that it would be beneficial for the NPAFC Committee on Enforcement to have closer ties with the NPGCF.

NPAFC Annual Meeting: The 15th Annual Meeting of the NPAFC was held in Vladivostok, Russia, on 8-12 October 2007. Enforcement officials of the Parties met under the auspices of the NPAFC Committee on Enforcement to review enforcement activities in 2007 and begin planning activities for 2008. Representatives of Taiwan observed the proceedings of the meeting.

As a result of the Parties' cooperative enforcement efforts in 2007, seven large-scale high seas driftnet vessels were intercepted in the Convention Area--a record number. One of the seven

was found to have engaged in driftnet fishing for salmon. Sightings, boardings, and fishing vessel seizures from 2003-2007 indicate that the high seas driftnet threat in the North Pacific Ocean is shifting fishing effort from salmon to squid and albacore tuna. Of the 14 driftnet vessels intercepted since 2003, only two had salmon on board. The rest had squid, tuna, sharks, and other species. This shift could be attributed to depressed salmon markets, intense IUU surveillance by North Pacific countries of traditional salmon fishing grounds, or a combination of the two.

A total of 47 vessels suspected of high seas driftnet fishing were sighted in 2007. Approximately 34 percent of these sightings occurred in the September-November time frame. In past years, 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 timeframe and made 11 of the 18 total driftnet vessel sightings for that year. There is some uncertainty as to whether the increased number of sightings in recent years represents a real increase in the occurrence of large-scale high seas driftnet fishing in the North Pacific Ocean or whether enforcement efforts have uncovered an existing IUU fishery. Given that the NPAFC Parties have been patrolling the North Pacific for IUU fishing since 1992, it is likely that the illegal driftnet fleet has learned when and where not to conduct fishing operations.

Although the NPAFC has successfully deterred high seas salmon fishing and served as a forum for joint enforcement planning and coordination in the NPAFC Convention Area, it has limited 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 work multilaterally through enforcement and diplomatic channels to bring pressure on these driftnet fishing vessels and their flag states to end operations in the North Pacific. The NPAFC Parties agreed to send a letter from the Commission to the PRC Government to request it to take preventative measures to ensure that PRC vessels and nationals are not involved in high seas driftnet fishing operations on anadromous fish stocks in the NPAFC Convention Area and to express its concern about the increased number of PRC vessels equipped with driftnet gear. The letter would also invite the PRC to partner with the NPAFC Parties to combat such illegal activity.

Because the North Pacific illegal driftnet fleet is operating in the part of the NPAFC Convention Area that is partially overlapped by the Western and Central Pacific Fisheries Commission (WCPFC) Convention Area, and targeting species of interest to that Commission, the NPAFC is interested in coordinating with the WCPFC to end the illegal fishing. To that end, the NPAFC plans to invite representatives of the WCPFC Technical Committee on Compliance to a meeting in conjunction with the 2008 NPAFC EECM and to observe the NPAFC 16th Annual Meeting in Seattle in November 2008.

In light of the continuing threat of unauthorized high seas salmon fishing in the Convention Area, NPAFC Parties agreed to maintain 2008 enforcement efforts at levels similar to 2007 as a deterrent to unauthorized fishing activity. To coordinate enforcement efforts, the Parties agreed to hold the annual EECM in Vancouver, British Columbia, from 27-28 February 2008. They also agreed to invite representatives of the PRC Fisheries Law Enforcement Command (FLEC)

to observe the EECM meeting. Parties hope that FLEC representatives can provide some insight into the PRC's domestic regulations and enforcement of illegal driftnet fishing.

A summary of high seas driftnet vessel sightings and apprehensions by North Pacific nations from 1998 to 2007 is provided in Table 1.

Table 1. North Pacific high seas driftnet vessel sightings and interceptions from 1998-2007.

Country	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**
Canada	0	3	3	0	0	1	2	1	26	9
Japan	0	2	0	0	3	0	1	17	67	21
Russia	0	1	0	0	0	0	0	0	0	2
China	0	0	0	0	0	0	11	0	0	0
Taiwan	2	3	0	0	0	0	0	1	0	7
United States	8	2	1	0	2	24	8	5	5	8
Total Sightings	**10**	**11**	**4**	**0**	**5**	**25**	**22**	**24**	**98**	**47**
Apprehended*	**4**	**3**	**1**	**0**	**0**	**6**	**1**	**0**	**0**	**7**

* Out of the total number of vessels sighted.

U.S. Driftnet Enforcement Efforts

Aircraft patrols. The USCG patrolled high threat areas in the North Pacific in support of the U.S. High Seas Driftnet Fisheries Enforcement Act, NPAFC initiatives, and to monitor compliance with the UN moratorium on large-scale high seas driftnet fisheries operations. *Operation North Pacific Watch*, the USCG's 2007 multi-national high seas driftnet fisheries enforcement campaign, began in April. Two phases of Canadian aircraft deployments to Shemya Island, Alaska, began in late May, and the tactical information gathered during these Canadian flights directly supported USCG Cutter HSDN vessel interceptions. The USCG Air Station Kodiak Alaska made one extended deployment from Shemya for a total of 62.6 surveillance hours in the NPAFC Convention Area (121.1 hours total, including transit time). Additional USCG HC-130 aircraft flew in late September in support of an impromptu joint operation in the northwestern Pacific involving USCG Cutters *BOUTWELL* and *MIDGETT*.

On 5 September 2007, a USCG 17th District law enforcement officer participated in a joint Japan Coast Guard Gulf V surveillance aircraft patrol. The purpose of this flight was to patrol for IUU fishing activity and perform communications exercises with the Cutter *BOUTWELL*. This was the second joint Gulf V flight (the first was in 2006). The patrol identified several radar contacts in the high seas driftnet fishing high threat area, but weather conditions precluded specific determination of vessel type and activity. Despite this, the information collected directly facilitated subsequent positioning of *BOUTWELL* for follow-on high seas driftnet fishing vessel interdictions.

Surface patrols. The USCG Cutter *BOUTWELL* participated in a multi-national IUU fisheries enforcement patrol from 22 July-07 November 2007. This operation included NPAFC members,

plus PRC fisheries law enforcement officials. The *BOUTWELL* spent 29 days in the high seas driftnet high threat area, made port calls in Japan, Russia, and China, and embarked a PRC FLEC shiprider. The USCG Cutter *MIDGETT* deployed on short notice from the Bering Sea to the high threat area in late September due to reports of possible driftnet fishing vessel sightings. The *MIDGETT* expanded the surface patrol coverage through coordinated patrolling with the *BOUTWELL*.

Following the joint USCG-Japan Coast Guard surveillance flight mentioned previously, the Cutter *BOUTWELL* investigated the targets and observed the PRC-flagged F/V *LU RONG YU 6007* conducting large scale driftnet fishing operations on the high seas over 530 miles east of Hokkaido, Japan. After an extended chase of the suspect vessel involving evasive maneuvers (the vessel attempted to foul the propellers of *BOUTWELL*'s small boats to avoid being boarded), the *BOUTWELL*'s PRC FLEC shiprider and an eight member USCG team were able to get on board. The team inventoried *LU RONG YU 6007*'s holds and found one cargo hold containing various fish species, including squid, shark, tuna, and swordfish. The PRC FLEC shiprider embarked onboard the BOUTWELL took the *LU RONG YU 6007* into custody. The vessel was subsequently transferred to the PRC FLEC Patrol Vessel *YU ZHENG 118* for further investigation and prosecution under PRC law.

While patrolling on 14 September, the *BOUTWELL*'s embarked helicopter located the Indonesian-flagged F/V *FONG SENG NO. 818* rigged for large-scale driftnet fishing on the high seas (*FONG SENG NO. 818* was also sighted by Canadian aircraft earlier in the season, on 07 June). As the *BOUTWELL* closed position, the crew of *FONG SENG NO. 818* conducted evasive maneuvers and attempted to conceal nets and gear on deck. The *BOUTWELL* documented the vessel configuration and activity, while performing right of approach questioning alongside the vessel to gather register information. The master lowered registry documents to the cutter small boat for examination. The U.S. Department of State has reported this activity to the Government of Indonesia and has initiated diplomatic dialog regarding the *FONG SENG NO. 818*'s observed activities. The *FONG SENG NO. 818* may be a sister ship of, and associated with, the *RONG SHENG NO. 828*, which Russian authorities seized on the high seas in June 2007 (see Russian enforcement section for more information), with a reported 90 metric tons (mt) of salmon on board.

On 24 September, the *BOUTWELL*'s helicopter located several groups of fishing vessels operating in the driftnet high threat area. Closer investigation revealed two PRC-flagged vessels configured for high seas driftnet fishing--the F/V *LU RONG YU 1961* and F/V *ZHE DAI YUAN YU 829*. The PRC FLEC shiprider from the *BOUTWELL* was able to board and seize both vessels for violations of PRC law. The F/V *LU RONG YU 1961* had approximately 10 mt of squid and 1 mt of miscellaneous catch in its holds. The F/V *ZHE DAI YUAN YU 829* had 140 mt of squid, swordfish, and shark fins on board. As with previous cases, the *BOUTWELL* transferred custody to a PRC FLEC patrol vessel for further investigation and prosecution.

On 5 October, the *BOUTWELL* located four PRC-flagged fishing vessels operating on the high seas northeast of the Japanese EEZ--FF/Vs *LU RONG YU 2659*, *2660*, *6105*, and *6106*. The first

three vessels were intercepted; the fourth (*6106*) escaped. While USCG boarding teams did not observe any catch in the holds, the vessels were configured for large-scale high seas driftnet fishing, and the PRC FLEC shiprider from the *BOUTWELL* boarded and seized all three vessels for violations of PRC law. The *BOUTWELL* transferred custody of the three suspected high seas driftnet vessels to the USCG Cutter *MIDGETT* before a rendezvous and final custody transfer to a PRC FLEC patrol vessel. Similar to the previous three PRC-flagged fishing vessels seizures, these vessels are believed to have been targeting squid, based on associated sea surface temperatures.

A summary of the U.S. seizures and sightings of high seas driftnet vessels in 2007 is provided in Table 2.

Table 2. **Driftnet-capable vessels intercepted or sighted by the United States operating in the North Pacific Ocean in 2007.**

DATE	VESSEL NAME	FLAG	POSITION	SOURCE OF REPORT	ACTION
6 Sept.	*LU RONG YU 6007*	PRC	42°50'N, 157°45'E	U.S. Coast Guard Cutter	Seized and transferred custody to a PRC patrol vessel
14 Sept.	*FONG SENG NO. 818*	Indonesia	42°58.15'N, 154°11.82'E	U.S. Coast Guard Cutter	Sighting information passed to the Indonesian Government and the NPAFC
24 Sept.	*LU RONG YU 1961*	PRC	43°55.83'N, 155°46.85’E	U.S. Coast Guard Cutter	Seized and transferred custody to a PRC patrol vessel
24 Sept.	*ZHE DAI YUAN YU 829*	PRC	43°55.83'N, 155°46.85’E	U.S. Coast Guard Cutter	Seized and transferred custody to a PRC patrol vessel
5 Oct.	*LU RONG YU 2659*	PRC	42°30'N, 152°28’E	U.S. Coast Guard Cutter	Seized and transferred custody to a PRC patrol vessel
5 Oct.	*LU RONG YU 2660*	PRC	42°30'N, 152°28’E	U.S. Coast Guard Cutter	Seized and transferred custody to a PRC patrol vessel
5 Oct.	*LU RONG YU 6105*	PRC	42°30'N, 152°28’E	U.S. Coast Guard Cutter	Seized and transferred custody to a PRC patrol vessel
5 Oct.	*LU RONG YU 6106*	PRC	42°30'N, 152°28’E	U.S. Coast Guard Cutter	Sighting information provided to the PRC and the NPAFC

In addition to the enforcement effort associated with seizure of the six PRC-flagged large-scale high seas driftnet vessels, the USCG Cutter *CHASE* rendezvoused with the Russian Federal Security Service patrol vessel *VOROVSKY* for a separate IUU fisheries law enforcement joint patrol, officer exchange, and training engagement in April 2007. The vessels conducted a joint boarding exercise on the Alaska State Trooper vessel *WOLSTAD* in preparations for future North Pacific IUU fishing and Central Bering Sea high seas law enforcement operations.

U.S. Commercial Fleet Cooperation. The USCG continued its practice of requesting sighting information from other vessels on the high seas, including the U.S. tuna fleet operating on the high seas of the North Pacific, via Local Notice to Mariners broadcasts. However, there were no U.S. mariner reports of high seas driftnet vessel sightings in 2007.

Planned Future Efforts: USCG high seas driftnet patrols are based on threat analysis, and operational success is contingent upon international cooperation. USCG operational success in 2007 represents the culmination of coordinated multi-national efforts involving U.S., Canadian, Russian, Japanese, and Chinese surface and air patrols. The USCG plans to continue mission planning coordination in 2008. In supporting enforcement efforts for 2008, the USCG intends to patrol with its HC-130 aircraft at resource levels similar to previous years, and in consideration of all other missions. USCG high endurance cutters are scheduled to patrol in areas of the U.S. EEZ in the North Pacific, providing the USCG the capability to respond to potential violators within the NPAFC Convention Area. The USCG intends to continue issuing Local Notices to Mariners prior to and during the high threat season and partner with members of the NPAFC and NPCGF when possible.

NMFS will continue to place enforcement officers on Canadian high seas driftnet surveillance flights during 2008 deployments and on USCG HC-130 aircraft deployments when possible.

Canadian Driftnet Enforcement Efforts

Canada conducted 11 aerial patrols in 2007 for a total of 166 hours of surveillance covering 4 million square kilometers in the North Pacific high seas driftnet fishing area. As in past years, Canadian flight operations involved two Department of National Defense (DND) CP-140 Aurora aircraft contracted by the Department of Fisheries and Oceans (DFO), associated flight crews, technicians and ground support, plus one DFO fishery officer and a NMFS enforcement officer per each flight. The patrols were conducted from Eareckson Airfield on Shemya Island, Alaska, and were divided into two time periods--31 May and 7-15 September. Canadian aircraft were able to establish direct lines of real-time tactical communications with U.S. Coast Guard Cutters, which proved to be important in the interception of several PRC-flagged HSDN vessels.

In general, the surveillance area was west of 175°W to the Russian EEZ and north of 38ºN to the U.S. EEZ off Alaska. The 2007 patrol area coordinates were chosen based on the high probability of thermoclines used by salmon, USCG threat assessment information, experience, capabilities of the aircraft, and the NPAFC Convention Area.

One member of the Canadian DND assigned to the operational tasking of the aircraft was located at USCG 17th District Headquarters in Juneau, Alaska, to coordinate information and surface support operations.

Patrol Results: Canadian patrols sighted nine high seas driftnet-rigged vessels and one supply vessel. Details on the sightings are provided in Table 3. Two of the vessels sighted on 14 September had 5 nautical miles of driftnet in the water.

Table 3. Driftnet-capable vessels sighted by Canada operating in the North Pacific Ocean in 2007.

DATE	VESSEL NAME	FLAG	POSITION	SOURCE OF REPORT	ACTION
7 June	*FONG SENG 828*	Unidentified	47°08'N, 158°40'E, 3 nm inside the Russian EEZ	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
7 June	*FONG SENG 818*	Unidentified	47°05'N, 158°00'E, 1 nm inside the Russian EEZ	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
7 June	*HENGYE NO. 17*	Unidentified	Not Available	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
9 Sept.	*TIRTARYA 02*	Indonesia?*	44°04'N, 158°17'E	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
14 Sept.	*UNIDENTIFIED 6215**	Unidentified	44°16'N, 158.02'E	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
14 Sept.	*UNIDENTIFIED 6216**	Unidentified	44°16'N, 158°02'E	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
14 Sept.	*UNIDENTIFIED 0577**	Unidentified	43°19'N, 157°44'E	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
14 Sept.	*UNIDENTIFIED 6726**	Unidentified	43°19'N, 154°44'E	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC
14 Sept.	Unidentified (no markings)	Unidentified	43°18'N, 157°43'E	Canadian DND CP-140 Aircraft	Sighting information provided to the NPAFC

* "Banten" was painted on the stern. (Banten is an Indonesian province located in west Java.)
** The "*UNIDENTIFIED*" vessels' names consisted of 3 Chinese characters followed by the numbers indicated. We are unable to represent the characters here.

Canadian Driftnet Enforcement Efforts for 2008: The Canadian Government will commit 180 hours of air surveillance time to high seas driftnet fisheries enforcement in 2008. However, no firm dates have been set for aircraft deployments at this time.

Japan's Driftnet Enforcement Efforts

Japan's 2007 driftnet fishery enforcement efforts consisted of the deployment in the North Pacific Ocean of 4 Fisheries Agency of Japan (FAJ) patrol vessels for a total of 41 ship days at sea from July-October. Japan Coast Guard and FAJ aircraft flew a total of 85 hours (24 and 61 hours, respectively) from July-October. A Japan Coast Guard Gulf V aircraft was also deployed in a joint operation with the USCG on 5 September.

A Japanese patrol vessel sighted the driftnet vessel *BAHARITIMUL 134* ON 13 July 2007 at 40°09.5'N, 155°55'E. When hailed by the Japanese patrol vessel, the *BAHARITIMUL 134* responded in Chinese. However, the vessel had "Banten" (an Indonesian province located in west Java) painted on its stern and was flying the Indonesian flag upside down.

Japan's air patrols reported a total of six unidentified vessels rigged with high seas driftnets to the NPAFC and NPCGF.

On 21 July, Japanese squid jigging vessels sighted an unidentified driftnet vessel operating at 39°11'N, 162°15'E. A second driftnet vessel, the *MERINA*, was sighted on 24 July at 40°21'N, 157°01'E. Both vessels were reported actively fishing.

A Japanese Fisheries Research Agency vessel, the *58 TOMI MARU*, sighted 12 driftnet vessels on 20-25 August 2007 in the vicinity of 40°48'N-41°13'N, 156°10'E-158°22'E. These included vessels named *WANG* and *NICKY*.

Japan's 2007 driftnet vessel sightings are summarized in Table 4.

Table 4. **Driftnet-capable vessels sighted by Japan operating in the North Pacific Ocean in 2007.**

DATE	VESSEL NAME	FLAG	POSITION	SOURCE OF REPORT	ACTION
13 July	*BAHARITIMUL 134*	Indonesia?	40°09.5'N, 150°41'E	Japan Fisheries Agency Patrol Vessel	Sighting information provided to the NPAFC
28 June, 9 July	6 Unidentified	Unidentified	Not Available	Japan Coast Guard Aircraft	Sighting information provided to the NPAFC and NPCGF
21 July	Unidentified	Unidentified	39°11'N, 162°15'E	Japanese Squid Jigging Vessels	Sighting information provided to the NPAFC
24 July	*MERINA*	Unidentified	40°21'N, 157°01'E	Japanese Squid Jigging Vessels	Sighting information provided to the NPAFC
20-25 Aug.	10 Unidentified	Unidentified	40°48'N-41°13'N, 156°10'E-158°22'E	Japan Fisheries Research Agency Vessel	Sighting information provided to the NPAFC
20-25 Aug.	*WANG*	Unidentified	40°48'N-41°13'N, 156°10'E-158°22'E	Japan Fisheries Research Agency Vessel	Sighting information provided to the NPAFC
20-25 Aug.	*NICKY**	Unidentified	40°48'N-41°13'N, 156°10'E-158°22'E	Japan Fisheries Research Agency Vessel	Sighting information provided to the NPAFC

* *NICKY* was also sighted by a Canadian air patrol in September 2006.

Japanese Driftnet Enforcement Efforts for 2008: Japan intends to maintain the same level of enforcement effort in 2008 as in 2007.

Korea's Driftnet Enforcement Efforts

The Korean Government did not participate in any high seas fisheries driftnet enforcement activities in 2007 and does not plan to conduct any pursuant to the NPAFC enforcement effort in 2008. However, as a member of the WCPFC, Korea plans to participate in the WCPFC boarding and inspection program in the WCPFC Convention Area, which partially overlaps the NPAFC

Convention Area. Korea hopes to take part in NPAFC enforcement activities in the near future. Two Korean observers were aboard the USCG Cutter *BOUTWELL* in September and October 2007.

Russian Federation's Driftnet Enforcement Efforts

The Russian Federal Security Service's Northeast Regional Border Directorate in Petropavlovsk-Kamchatsky and Sakhalin Border Service in Yuzno-Sakhalinsk patrolled the North Pacific Ocean bordering the Russian EEZ from 2 June-15 August, 2007. Five patrol vessels--*BUG, AMUR, VOROVSKY, DUNAI,* and *818* spent a total of 77 days in the NPAFC Convention Area. The Border Directorate also deployed AN-72P aircraft for 18 surveillance flights totaling 100 hours from late May through early September 2007.

As a result of a Russian surveillance flight on 5 July, the patrol ship *VOROVSKI* intercepted the driftnet vessel *RONG SHENG 828* drifting at 47°21N, 159°25'E on 6 July. The *RONG SHENG 828* tried to evade the Russian patrol vessel for almost 2.5 hours. Once the Russian inspection team was on board, it discovered that the vessel's home port was Angor, Indonesia, and the crew was Indonesian. The inspection team found 90 tons of fresh and frozen pink, sockeye, and coho salmon in the holds. Pink salmon comprised nearly 70 percent of the total and Russian fisheries scientists at KamchatNIRO later determined that the salmon were of Russian origin. *VOROVSKI* escorted the driftnet vessel to Petropavlovsk-Kamchatski and the Russian Ministry of Foreign Affairs notified the Indonesian Government. Russia asked Indonesia's permission to prosecute the skipper under Russian law. The case was not resolved at the time of this report. (Note: The *RONG SHENG 828* may be the *FONG SENG 828* sighted by Canada on 7 June.)

On 18 July, one of the Russian air patrols sighted an unidentified vessel capable of driftnet fishing underway at 45°57N, 159°29'E.

Taiwan's Driftnet Enforcement Efforts

The Taiwan Coast Guard has conducted high seas fisheries enforcement patrols in the North Pacific Ocean since 1993 to deter Taiwan fishing vessels from engaging in large-scale high seas driftnet fishing. Although Taiwan is not a Party to the NPAFC, it shared information with the NPAFC Secretariat on its 2007 patrol plans in advance of the fishing season. Taiwan observers at the NPAFC 15th Annual Meeting reported that Taiwan sent three patrol vessels to the North Pacific from 21 May-2 November 2007 to monitor the activities of domestic fishing vessels. The vessels patrolled the area of 38°-45°N, 145°-180°E, for a total of 240 vessel days.

On 29 July 2007, the Taiwan patrol vessel *HSUN HU NO.1* sighted the driftnet vessel *MERINA* at 40°47'N, 156°35.6'E in the North Pacific Ocean. The patrol vessel chased the *MERINA* for 3 hours, until poor sea conditions forced it to break off at 40°22'N, 156°44.3'E. The patrol vessel was unable to determine its flag state.

On 25 August 2007, the Taiwan patrol vessel *HSUN HU NO.3* sighted four driftnet fishing vessels. All four were fishing and three abandoned their nets when the patrol vessel approached.

The *HSUN HU NO.3* sighted two more driftnet vessels on 26 August 2007. These vessels also abandoned their gear and fled.

Taiwan's sightings are summarized in Table 5. None of the vessels were identified to flag state, however the Chinese words "shi-dao" were sighted on the stern of the *WANG* or *WAN9*. The Taiwan patrol vessel obtained photographs of all of the vessels.

Table 5. **Driftnet-capable vessels sighted by Taiwan operating in the North Pacific Ocean in 2007.**

DATE	VESSEL NAME	FLAG	POSITION	SOURCE OF REPORT	ACTION
29 July	*MERINA**	Unidentified	40°47'N, 156°35.6'E	Taiwan Coast Guard	Sighting information passed to the NPAFC
25 Aug.	*WANG* or *WAN9***	Unidentified	42°43.04'N, 155°07'E	Taiwan Coast Guard	Sighting information passed to the NPAFC
25 Aug.	*AOHERD*	Unidentified	42°43.12'N, 155°55.98'E	Taiwan Coast Guard	Sighting information passed to the NPAFC
25 Aug.	Unidentified	Unidentified	42°38'N, 155°47'E	Taiwan Coast Guard	Sighting information passed to the NPAFC
25 Aug.	Unidentified	Unidentified	42°38'N, 155°47'E	Taiwan Coast Guard	Sighting information passed to the NPAFC
26 Aug	Unidentified	Unidentified	42°48'N, 155°41'E	Taiwan Coast Guard	Sighting information passed to the NPAFC
26 Aug.	*HENGYE NO. 17****	Unidentified	42°51'N, 155°31'E	Taiwan Coast Guard	Sighting information passed to the NPAFC

* The *MERINA* was sighted by Japanese squid jigging vessels on 24 July 2007in roughly the same area.
** A driftnet vessel named *WANG* was sighted by a Japanese Fisheries Research Agency vessel in the 20-25 August 2007 timeframe. See Table 2.
*** The *HENGYE NO. 17* was sighted by Canada on 7 June 2007 (see Table 2). A U.S. tuna vessel first sighted the vessel in June 2004.

Taiwan's Driftnet Enforcement Efforts for 2008: Taiwan will continue to dispatch patrol vessels to the North Pacific to prevent Taiwan-flagged vessels and nationals from engaging in large-scale high seas driftnet fishing. It will also continue to cooperate and exchange enforcement information with the NPAFC.

Chinese Driftnet Enforcement Efforts

Although driftnet fishing for salmon on the high seas is illegal under PRC law, PRC fishing vessels and nationals have continued to engage in large-scale high seas driftnet fishing in the North Pacific Ocean in recent years. The encouraging news is that the cooperative efforts of U.S. and PRC fisheries law enforcement authorities are achieving some success toward eliminating the problem. With the cooperation of the PRC Government, the USCG was able to intercept six PRC-flagged high seas driftnet vessels in the northwestern Pacific Ocean in 2007 (Table 2). These vessels were turned over to the PRC FLEC for investigation and prosecution under PRC law. Thus far for 2007, the PRC has taken enforcement action against 13 illegal high seas driftnet vessels and one transfer vessel operating in the North Pacific. In seven cases, the

vessel and catch was seized and the owners fined. Four cases were still under investigation at the time of this report. This follows on the heels of investigations and enforcement FLEC took based on driftnet vessel sightings reported in 2006. The PRC investigated 18 high seas fishing boats, culminating in 7 catch seizures and owner fines and 4 vessel confiscations for violations of illegal high seas driftnet fishing.

Potential Driftnet Threat in the North Pacific Ocean in 2008

Historical sightings and this year's driftnet vessel seizures indicate that the high seas driftnet threat continues to exist in the North Pacific Ocean. This year's observations support a shift of fishing effort, both towards the later parts of the fishing season, and to a primary target species of squid. Additionally, evidence shows that anadromous and highly migratory species (e.g. swordfish and shark) are still being captured by high seas driftnet vessels as a target species and 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, 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.

Mediterranean Sea

In addition to the UNGA global moratorium on large-scale high seas driftnet fishing, several other international mechanisms are in place to prohibit large-scale driftnet fishing in the Mediterranean Sea.

European Union (EU) Ban on Driftnets: In 1997, the EU began to consider an EU-wide driftnet ban in the Mediterranean Sea and North Atlantic Ocean as a means of complying with the UN driftnet moratorium. From 1997 to 2004, the EU adopted a series of regulations leading to this goal:

- Regulation No. 894/97, adopted on 29April 1997, stated that no vessel could keep on board, or use for fishing, one or more driftnets whose individual or total length is more than 2.5 km.

- Regulation No. 1239/98, adopted on 8 June 1998, banned the use of all driftnets for catching tunas, billfish, sharks, dolphinfishes, sea bream, sauries, and cephalopods by 1 January 2002 in all waters falling within the jurisdiction of Member States, as well as outside those waters, with the exception of the Baltic Sea. The EU driftnet ban entered into force on 1 January 2002.

- Regulation No. 812/2004, adopted on 30 April 2004, expanded the ban to the Baltic Sea on 1 January 2008.

One of the major problems in enforcing the European Commission's (EC) driftnet regulations is that the EC never legally defined what a driftnet is. This allowed the French and Italian Governments to exploit loopholes in EC Regulation 1239/98 by redefining driftnet gear and continuing to fish. Conventional large-scale driftnets--nets that fish passively, drift with ocean currents, and are often more than 20 km long--are called "spadare" driftnets in Italy. In 1998, after the EU driftnet ban was adopted, the Italian Government approved a new type of driftnet fishing gear called "ferrettara." Ferrettara driftnets could legally measure up to 2 km long, have a mesh size up to 100 mm, and had to be fished within 3 nm from the coast. In April 2005, the Government amended the law to allow fishermen to use ferrettara up to 5 km long, 20m deep, and with mesh up to 180 mm. These nets could be fished up to 12 nm from the coastline. Over the years, many of the spadare driftnet fishermen hid behind the name "ferrettara," without modifying their spadare nets.

The French Government, on the other hand, redefined its fishermen's large-scale driftnet gear as "thonaille," or set surface gear. The thonaille is a type of driftnet up to 9.2 km long with mesh size measuring from 10-20 cm. Rather than drifting freely, the net incorporates a floating anchor, or sea anchor, at one end. This has allowed the French Government to claim that the net is an anchored gillnet, not a driftnet. Acoustic deterrent devices, or pingers, are also incorporated in thonaille to help minimize the bycatch of marine mammals.

The thonaille fishery was outlawed under French law in August 2005, due to a successful court case brought by three French conservation organizations--France Nature Environnement, the Cetacean Research Group (GREC), and SOS Grand Bleu. Despite this, the French Minister for Fisheries and Agriculture restated his support for the use of thonaille in a ministerial notification in September 2005. He defined thonaille as anchored driftnets. In 2006, the Ministry of Agriculture and Fisheries allocated a bluefin tuna quota to 47 thonaillers. This was repeated in 2007, when special fishing permits for bluefin tuna were granted by decree to 67 thonaillers.

To remove any confusion about what a driftnet is, the EC adopted a new definition of driftnets on 20 September 2006. The Commission believes that this single definition will simplify and increase transparency in EU legislation governing this fishing gear and facilitate the control and enforcement of current restrictions on the use of driftnets. The Commission's driftnet definition follows:

> "Drift net means any gillnet held on the sea surface or at a certain distance below it by floating devices, 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 and/or to limit its drifting."

The EC adopted on 28 June 2007 Regulation No. 809/2007, which amended the EC regulations that relate to the use of driftnets (No. 894/97, as amended by No. 1239/98, No. 812/2004, and

No. 2187/2005, the regulation on technical measures in the Baltic Sea) by applying the new driftnet definition.

On 26 September 2007, the EC opened infringement procedures against seven Member States which fish for bluefin tuna in the eastern Atlantic Ocean and the Mediterranean Sea. Letters of notice were sent to Cyprus, France, Greece, Italy, Malta, Portugal and Spain for failing to submit catch data to the Commission. In the case of France and Italy, the infringement procedure also concerns their failure to monitor and control the activities of their fishermen in the bluefin fishery. Hopefully, this action will bring greater pressure to bear on French illegal driftnet fishing for bluefin tuna in the Mediterranean.

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

At the 29th Session of the GFCM on 21-25 February 2005, the Commission adopted ICCAT Recommendation 03-04 (described below) prohibiting the use of driftnets for fisheries of large pelagics in the Mediterranean Sea as Recommendation GFCM/2005/3(A).

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

Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area (ACCOBAMS): At the third meeting of the Parties to ACCOBAMS held in Dubrovnik, Croatia, on 22-25 October 2007, the ACCOBAMS Scientific Committee urged Parties to take immediate action to ensure compliance by their nationals with the EU ban on driftnets and to encourage similar actions by relevant non-member states. The Scientific Committee stressed that cetacean bycatch in driftnets is by far the primary cause of anthropogenic mortality for most pelagic cetacean populations in the Mediterranean Sea. Consequently, the Parties agreed to include in the text of the Agreement the prohibition on the possession and use of driftnets on board fishing vessels to bring the Agreement into line with other international agreements. France, Italy, Morocco, Tunisia, and Turkey are all members of ACCOBAMS.

2007 Developments:

NGOs, including Oceana and Greenpeace, continued to assert that 500 vessels from Algeria, France, Italy, Morocco, and Tunisia with driftnets from 7-13 km in length are operating throughout the Mediterranean Sea in 2007. The United States is aware of at least eight documented sightings of large-scale driftnet vessels operating on the high seas of the Mediterranean in 2007 (Table 6).

France: On 21 May 2007, the Oceana research catamaran *OCEANA RANGER* was surrounded by seven French thonaillers about 25 miles south of Saint Raphael, France, on the high seas inside the area of the Pelagos Marine Mammal Sanctuary. The *OCEANA RANGER* had been filming the activities of a fleet of about 80 French fishing boats using 5-8 km driftnets to catch tuna and swordfish in the Gulf of León. The thonaillers fired a flare at the *RANGER* and entangled its propellers with ropes. They eventually tied up to the *RANGER* and threatened to board unless its crew turned over the camera film. French authorities were notified of the situation and dispatched two helicopters to the area. The driftnet vessels fled when the helicopters arrived. Oceana documented eight of the French thonaillers in Table 6.

Oceana claims to have documented 66 French driftnet vessels out of a fleet total of 83 in 2007. Oceana submitted an updated report titled *The use of driftnets in the Mediterranean: 2007 update on the state of Italian and French fleets* to the ACCOBAMS Permanent Secretariat on 29 August 2007.

Table 6. French thonaillers sighted by the *OCEANA RANGER* fishing on the high seas inside the Pelagos Sanctuary south of the French port of Saint Raphael in May 2007.

Date	Vessel Name	Registration Number	Position
20 May	*LE MARCO*	MT 314953	43°01.7'N, 07°10.6’E
20 May	*LES COPAINS*	MT 269859	43°01.9'N, 07°08.3’E
21 May	*GALLUS*	TL 653113	43°02'N, 07°01.03’E
21 May	*ORCHIDEE II*	MT 917408	42°57.6'N, 07°03.1’E
21 May	*ADELINE KEVIN*	MT 866254	43°00.1'N, 07°02.9’E
21 May	*JOSEPH HENRI*	ST 314953	42°58.6'N, 07°03.7’E
21 May	*LA SANTA II*	MA 595970	42°57.6'N, 07°03.1’E
21 May	*SHARK IV*	MA 924205	42°57.6'N, 07°03.1’E

The EC launched an infringement procedure against France in the European Court of Justice on 28 June 2007 for compliance violations. The infringement resulted from a hearing on bluefin tuna in the Fisheries Committee of the European Parliament in which it came to light that 81 French vessels were reported to be fishing illegally for bluefin tuna with thonaille. The Director for Control and Enforcement, EU Directorate-General for Fisheries and Maritime Affairs, stated

that the EC can engage in infringement procedures, but they will have little concrete effect on the water unless EU Member States take responsibility for control and enforcement of EU legislation.

Italy: Despite the many driftnet measures Italy has taken since 2002, Italian vessels and nationals have continued to fish with large-scale driftnets in the Mediterranean Sea in 2007. From 2005-2006, a total of 16 Italian vessels were documented using large-scale driftnets on the high seas of the Mediterranean and over a hundred more were sighted fishing in Italian territorial waters and docked in Italian ports. The United States is not aware of any documented sightings of Italian high seas driftnet vessels in 2007.

Italy's Minister for Agriculture, Food and Forestry Policies, Paolo De Castro, addressed the opening session of the 31st Session of the GFCM on 9 January 2007 in Rome. Among other things, he reiterated the commitment of Italy to promote responsible fisheries and referred to the efforts taken by the Italian Government to address illegal fishing using driftnets. He called upon the GFCM to take measures for full eradication of such practices across the whole Mediterranean Sea.

The U.S. Embassy in Rome reported that on 10 January 2007 the Italian Government adopted a provision aimed at confiscating driftnets illegally held by Italian vessels in the Mediterranean. Minister De Castro published a national decree allowing Italian enforcement officials to confiscate driftnets in ports. Previously, driftnets could only be confiscated if their use was verified on the high seas.

U.S.-Italy Driftnet Meeting: U.S. Department of State, NOAA, and USCG officials met with Italian Ministry of Agriculture and Coast Guard officials on 9 March 2007 to discuss the issue of continuing allegations of illegal driftnet use by Italian vessels in the Mediterranean. The U.S. delegation reviewed the history of U.S.-Italy driftnet relations, recent reports from NGOs on illegal driftnet fishing by Italian vessels and nationals, and U.S. legislation regarding large-scale high seas driftnet fishing. Italy noted the long history of driftnet gear in Italian fisheries and lamented that the problem could not be eliminated overnight. Italian officials stated that regulations alone won't solve the problem. They said that in 2006, over 800 km of driftnets were seized--enough to make a 1 km-high mountain of netting. They emphasized that enforcement efforts are improving and that the use of vessel monitoring systems is helping in that respect (VMS is required on 100% of all vessels greater than 15 m in length). In addition, Italy is introducing in 2007 a campaign to sensitize all buyers and sellers along the marketing chain, including consumers, to not purchase illegally caught fish, although it was not clear to the U.S. side how illegally-caught fish could be identified. The Italian side said that Italy is studying the new EC definition of driftnets to see if it would be helpful in enforcing EC laws.

When questioned about the disposition of seized driftnets, Italian officials said that the Italian Government can only store the nets until judicial proceedings are completed, and if the Government loses, the nets are returned to the fishermen. Unfortunately, information was not available about what share of the cases the Italian Government was winning. The Italians noted that the composition of the nets made them difficult to destroy.

There was a discussion of the difference between "ferrattara" and "spadare" nets. The Italians complained that NGOs are spreading misleading information because they are claiming that a ferrattara net is a driftnet. The Italian Coast Guard participant noted that ferrattara nets are legal under EC rules with a limit on length to 2.5 km, mesh up to 108 mm, and a certain structure on the top and bottom of the net. He said that NGO representatives in Italy understood this.

EC Infringement Procedure against Italy: The EC Directorate for Fisheries and Maritime Affairs began an infringement procedure against Italy in November 2004, after monitoring the driftnet situation in Italy for several years and concluding that Italy was not complying with EC driftnet legislation. Article 226 of the EC Treaty gives the Commission power to take legal action against a member country that has not complied with EU law. The process may take considerable time to complete, and, if the Commission concludes that there has been an infringement of EU law, it may call upon the member country to comply within a specified period of time (this is known as a "reasoned opinion"). In the event that the country fails to comply with the Commission's ruling, the Commission may bring the case before the European Court of Justice. Finally, if the Court of Justice upholds the Commission's ruling, the member country is required to take all necessary measures to conform. Failure of the member country to comply with the Court's judgment could ultimately result in a financial penalty and the penalties for noncompliance can be significant.

In late 2007, the United States learned that the Directorate's Office of Legal Services had completed its review of Italy's response to the Commission's second reasoned opinion. The Commission decided to refer Italy's infringement case to the European Court of Justice and, at the time of this report, was drafting an application to be presented to the Court.

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

At the 2003 ICCAT Annual Meeting, Morocco admitted to having a driftnet fleet. At the time ICCAT's driftnet recommendation was adopted, Morocco made a statement for the record of its intention to devise a national plan to phase out driftnet gear and pledged to work with the EU and others to accomplish this. At the 15-21 November 2004 ICCAT Annual Meeting in New Orleans, Morocco presented a 4-year plan for eliminating the use of driftnets in its fisheries,

primarily through public education and assistance to its fishermen. The U.S. ICCAT delegation highlighted the urgency of this action and offered to work with Morocco to help expedite implementation of the plan.

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

2007 Developments: Moroccan driftnet vessels continued to fish in the Alboran Sea and the Straits of Gibraltar with driftnets up to 12 km long in 2007. The United States is not aware of any documented sightings of Moroccan driftnet vessels in 2007. However, there were anecdotal reports from NGOs that at least 150 vessels continue to operate.

On 28 Feb 2007, Morocco ratified the EU-Morocco Fisheries Partnership Agreement. The 4-year Agreement will allow 119 European vessels, mostly Spanish, to fish in Moroccan waters in exchange for an annual €36.1 million (approximately $46 million) compensation package. A portion of this compensation package, €1.25 million (or $1.8 million) will fund the conversion of the Moroccan driftnet fleet to more sustainable fishing activities. The Agreement was signed on 28 July 2005, after 6 years of negotiations, and ratified by the EU on 29 May 2006.

Morocco passed a new law on 23 July 2007 to punish fishermen who continue to use driftnets in Moroccan waters. Under the new measure, fishermen caught using driftnet gear will face up to a year's imprisonment or heavy fines. Confiscated nets will be destroyed, ensuring that the banned gear will not be sold in other countries. Compensation will be provided to Moroccan fishermen who voluntarily give up their nets, and will enable them to invest in more sustainable activities. Morocco expects to complete the elimination of driftnet fishing gear by the beginning of 2009. Morocco provided an update on the phase-out of its driftnet fishery at the ICCAT 20th Annual Meeting on 9-18 November 2007 in Antalya, Turkey. The United States will continue its bilateral work with Morocco on this issue in 2008, including conducting workshops on the use of circle hooks.

Tunisia: The Greenpeace vessel *RAINBOW WARRIOR* reported sighting at least seven Tunisian driftnet vessels fishing for bluefin tuna off the Libyan coast on 27 May 2007.

Turkey: In regard to NGO charges that Turkey is using large-scale high seas driftnets, Turkey told the United States in a bilateral meeting on 29 September-1 October 2005 that it has fewer than 100 driftnet vessels, each less than 15 meters long. Turkey claims that these are small-scale operations targeting swordfish in the Mediterranean off the southwest corner of Turkey. The

fishing season lasts two months--May through June. The driftnet mesh size is 240-260 mm and the net is made of nylon polyfilament. The total length of the net is 1,000-1,500 m on average, with a depth of 4 m. The fishing areas are 300-2500 m deep and 5-9 nm from the coast. The driftnet is usually set in the evening at a depth of 6-7 m and is retrieved the next the morning.

Although Turkish vessels may not be violating the UN driftnet moratorium, Turkey is a member of ICCAT and the GFCM and is fishing in violation of ICCAT and GFCM rules. On 3 October 2005, Turkey opened accession negotiations with the EU, which banned the use of all driftnets by EU member nations beginning in 2002. Turkey must agree to adopt the common rules, standards, and policies that make up the body of EU law as a prerequisite to accession. This would include terminating its driftnet fleet. NMFS is not aware of any new driftnet developments for Turkey in 2007.

Antarctic Waters

Of the 24 vessels currently included on the 2003-2007 IUU Vessel List for the Commission for the Conservation of Antarctic Living Marine Resources (CCAMLR), at least 7, and possibly 13, of the vessels are reported to have converted from longlines to gillnets in the CCAMLR Convention Area. Five of the vessels are reported to have deployed gillnets in the CCAMLR Convention Area in 2006. Three of the five are flagged in Equatorial Guinea, one in North Korea, and one Panama.

It is unclear whether the “gillnets” being deployed are, by definition, driftnets, although there are references in CCAMLR documentation to two unknown vessels sighted recovering “driftnet-type fishing gear for catching toothfish” in Division 58.4.2 of the Convention Area. These vessels typically fish with nets that are 2.5-3 miles long with a mesh size of 250 mm. The catch reportedly consisted primarily of sharks and other pelagic fish.

At its 25th Annual Meeting in Hobart, Tasmania, on 23 October-3 November 2006, CCAMLR adopted Conservation Measure 22-04. The measure prohibits the use of deep sea gillnets for purposes other than scientific research in the CCAMLR Convention Area until the Commission's Scientific Committee has investigated and reported on the potential impacts of the gear and the Commission has agreed on the basis of advice from the Scientific Committee that such gear may be used in the Convention Area. In addition, the measure requires that any vessel seeking to transit the Convention Area carrying gillnets must give advance notice, including expected dates of transit, to the CCAMLR Secretariat. The measure was advanced by Australia and supported by the United States. The Commission agreed that gillnets are non-selective fishing gear with the potential to fish indiscriminately and to "ghost" fish over long time periods when lost or discarded.

The Durban, South Africa, press reported in August 2007 that a North Korean-flagged fishing vessel, the *INA MAKA*, was arrested in Durban Harbor and the owner fined R400,000 (about $60,000) after fishery and wildlife officers raided the vessel and found approximately 60 km of illegal gillnets on board. The owner, Meteora Developments Incorporated, was based in

Panama. Investigators learned that the *INA MAKA* had undergone several name changes and flag re-registrations in recent years. Its previous name was the *BLACK MOON*. Before that, it was known as *DORITA*, *MAGNUS*, *THULA*, *NICCA*, and *NOVA TUNA*. The *INA MAKA* is currently list on CCAMLR's IUU vessel list. When it arrived in Durban, it was reportedly carrying a cargo of nurse sharks.

It was noted at the 2007 CCAMLR Annual Meeting that current levels of IUU fishing had exceeded the legitimate catch level several times in the last three years. This included the increased incidence of gillnets by vessels fishing illegally in the CCAMLR Convention Area. Gillnetting compounds the IUU issue as it causes ecosystem damage and complicates CCAMLR's work. Since 2003-2004, the available information indicates that IUU fishing activities in the CCAMLR Convention Area have moved to the high-latitude regions of the Indian Ocean sector of the Southern Ocean (Subarea 58.4), and have increased in intensity. For the last two years, this has included a significant amount of IUU catch from gillnet vessels. The estimated total catch of toothfish species taken by IUU fishing in 2006-2007 was 3,615 mt, 2,293 mt of which was taken in Division 58.4.3b. This year marks the third consecutive year of high and unsustainable IUU catches in Subarea 58.4.

Interagency Agreements

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

Bilateral Driftnet Agreements

U.S.-China MOU

The United States and China continued to work together in 2007 to ensure effective implementation of UNGA Resolution 46/215 in the North Pacific Ocean pursuant to the terms of the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991*, signed in Washington D.C. on 3 December 1993. The MOU (also referred to as the "U.S.-PRC Shiprider Agreement") established boarding procedures for law enforcement officials of either country to board and inspect U.S. or Chinese flagged vessels suspected of driftnet fishing. The

MOU also established a shiprider program, which allows FLEC officials to embark on U.S. Coast Guard resources during each driftnet fishing season. Pursuant to this provision, China has provided a total of 46 enforcement officials to the USCG since 1994. As a bilateral enforcement agreement, the MOU facilitates/expedites investigations of suspicious vessels when they are encountered on the high seas. The MOU will expire on 31 December 2009.

Pursuant to the provisions of the MOU, China's FLEC continued to participate in high seas fisheries enforcement in 2007. As in past years, this participation was financially supported by NOAA, which facilitated logistics and travel needs of PRC officials. In May 2007, the USCG hosted familiarization visits to PRC FLEC enforcement officers, as well as hosted an operational planning meeting for the 2007 enforcement season. Two FLEC officers rotated through the North Pacific Regional Fishery Training Center in Kodiak, Alaska, from April-August 2007. In addition, two PRC FLEC shipriders were deployed on the USCG Cutter *BOUTWELL* during its IUU Patrol. The FLEC officials in Kodiak passed up-to-date operational information to their colleagues on board the Coast Guard cutter at sea. These officials were instrumental in facilitating communications between the USCG and the PRC FLEC and effectively expanded the jurisdictional reach of both enforcement agencies allowing for the largest number of HSDN vessel seizures in the North Pacific since the implementation of the MOU. The USCG hopes to host a similar number of PRC officials during the 2008 fishing season.

U.S.-Italy Driftnet Agreements

Background: Details on the history of the U.S.-Italy driftnet agreements can be found in previous NMFS driftnet reports to the Congress. The 1999 U.S.-Italy driftnet agreement expired on 1 January 2002 with the entry of the EU driftnet ban into force.

Resolutions and Letters in Support of UNGA Resolution 44/225

UNGA Driftnet Resolutions and Decisions

Details on UNGA Resolutions 44/225 (1989), 45/197 (1990), 46/215 (1991), 50/25 (1995), 51/36 (1996), 52/29 (1997), 53/33 (1998), 54/32 (1999), 55/8 (2000), 57/142 (2002), 58/14 (2003), 59/25 (2004), 60/31 (2005), 61/105 (2006) and UNGA Driftnet Decisions 47/443 (1992), 48/445 (1993), and 49/436 (1994), and supporting resolutions and actions taken by the United States in other fora prior to 2007 have been provided in previous driftnet reports to the Congress available from NMFS.

On 18 December 2007, at its 62nd session, the UNGA adopted Resolution A/62/L.24 *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 Resolution reaffirms the importance the General Assembly attaches to continued compliance with Resolution 46/215 and other subsequent UNGA resolutions on large-scale pelagic driftnet fishing. UNGA Resolution A/62/L.24

also expresses the concern that the practice of large-scale pelagic driftnet fishing remains a threat to marine living resources, although the incidence of this practice has continued to be low in most regions of the world's oceans and seas. It urges States and other entities to enforce fully the measures recommended in the UNGA Resolutions in order to eliminate the use of large-scale pelagic driftnets and emphasizes that efforts should be made to ensure that the implementation of Resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of driftnets that contravene the Resolution. Finally, it requests that the Secretary-General bring the Resolution to the attention of the international community, relevant intergovernmental organizations, the organizations and bodies of the UN system, regional and subregional fisheries management organizations or arrangements, and relevant nongovernmental organizations and invite them to provide him with information relevant to the implementation of the Resolution.

Resolution A/62/L.24 decided to include in the provisional agenda of the 63rd Session of UNGA, 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."

UN Driftnet Reports

Since December 1992, the United States has been instrumental in ensuring that implementation of the high seas driftnet moratorium remains a priority of the UNGA. The United States will continue to support UNGA resolutions and decisions requesting that the UN Secretary-General submit to the General Assembly biennial reports on developments relevant to the implementation of the UN driftnet moratorium.

UNGA Resolution 61/105 requested that the Secretary-General submit to the General Assembly at its 62nd session in 2007 a report relating to the implementation of the resolution entitled *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments*. Paragraph 105 of the report (A/62/260, dated 15 August 2007) stated that "more than a decade following the adoption of UNGA Resolution 46/215 implementing a global moratorium on the use of large-scale pelagic driftnet fishing on the high seas, because of its adverse impacts on marine living resources, there are still reports from relevant non-governmental organizations of the use of large driftnets in some regions of the world." Paragraph 150 reports, among other things, on the driftnet measures the United States undertook in the context of the NPAFC and the U.S.-PRC driftnet MOU in 2006.

Resolution A/62/L.24 requests the Secretary-General to submit to the General Assembly at its 63rd session in 2008 a report on *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and*

Highly Migratory Fish Stocks, and related instruments, taking into account information provided by States and other entities on the relevant paragraphs in Resolution A/62/L.24.

Support for the Wellington Convention

The United States took no specific actions in support of the Wellington Convention in 2007. 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 2007 are provided in previous driftnet reports to the Congress. No large-scale pelagic driftnet fishing activities have been reported in the Wellington Convention area since 1991.

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 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.

U.S. Actions

China: As a follow-up to the 2006 driftnet report, representatives from the U.S. Embassy in Beijing met with officials from the Ministry of Agriculture's Bureau of Fisheries, FLEC, and the Ministry of Foreign Affairs on 9 March 2007. The U.S. side was interested in receiving a detailed response to the 2005/2006 North Pacific driftnet sightings, learning what measures China intended to take to prevent its vessels and nationals from conducting large-scale driftnet fishing operations in the region in 2007, and to explore new ways to cooperate with China to help eliminate its IUU driftnet fleet.

The PRC participants emphasized that China is aware of the increased number of suspected PRC fishing vessels conducting illegal high seas driftnet fishing in the North Pacific and is taking strong, tangible steps to stamp out the activity. They explained that the vessels engaged in illegal high seas driftnet fishing are primarily targeting squid, whose fishing season begins in the fall. For logistical reasons (size of the patrol vessels, reprovisioning and refueling issues, etc.), FLEC patrol vessels are currently unable to conduct enforcement actions on the high seas during the squid driftnet fishing season. Therefore, PRC enforcement efforts have focused on targeting and catching PRC vessels and crews engaged in illegal high seas driftnet fishing activity when the vessels are in port.

To accomplish this goal, the PRC is employing some novel approaches. Because high seas driftnet fishing activity occurs outside the PRC EEZ, the catch is considered a duty-free import. Fishermen are required by law to register and clear their catches with PRC Customs in order to sell them on the PRC market. When registering their catches, they are required to use their registered vessel names. FLEC officials are working with customs officials, fish distributors, and fish markets to inspect the catches. Squid found with the telltale marks caused by driftnets are traced back to the fishing vessels through the distributors.

One problem with this strategy is that driftnet fishing is not illegal within the PRC EEZ. There are separate licenses for fishing on either the high seas or in domestic waters, but not both. Occasionally, a vessel that has engaged in illegal high seas driftnet fishing will try to secretly transfer its catch to a domestic fishing vessel and that vessel will try to sell the catch as domestically-caught fish. However, the species of squid found in the high seas driftnet area is distinctly different from that found in domestic waters. As a result, those fishermen trying to "sneak in" the catch as domestically-caught are usually caught. When high seas driftnet-caught squid are found in domestic supply chains, Customs and FLEC officials have persuaded fish distributors to inform on fishermen by threatening them with seizure of their business for smuggling, since they would be aiding the illegal fishermen in evading Customs.

In addition, the PRC posted a list of potential driftnet vessels sighted in 2006 in the China Fisheries News and offered a $2,500 reward for information on their whereabouts and their illegal activities. Over 10,000 flyers were posted in fishing ports throughout China. DVDs containing the list of sightings and photos of the suspected drift net vessels were also distributed to port authorities. Driftnet vessels can easily be identified by the modifications that are necessary to allow them to handle the netting. Such modifications on vessels licensed to operate on the high seas are sufficient evidence for vessel seizures.

From the list of 98 vessels sighted in 2006, PRC officials said that sufficient evidence was available to investigate only 53. Of this number, 7 were unidentifiable, 3 were determined to be registered in other countries, and the remaining 43 were likely PRC vessels. Unfortunately, the PRC was unable to locate 25 of the 43 due to the vessels disguising their identity--the vessels and marking schemes were consistent with PRC-registered fishing vessels, but the names and registration numbers were not in FLEC databases, or the vessel simply could not be found. Of the remaining 18 vessels, 7 were found to be illegally engaged in driftnet fishing on the high seas As a result, their owners were fined and catches seized. Four of the vessels were also confiscated. PRC officials said there was insufficient evidence in the remaining 11 cases to take any actions, largely due to receiving the sighting reports so late.

Thus far for 2007, the PRC has taken enforcement action against 13 illegal high seas driftnet vessels and one transfer vessel operating in the North Pacific. In seven cases, the vessel and catch was seized and the owners fined. Four cases were still under investigation at the time of this report.

The United States is encouraged with the substantial increase in enforcement actions taken by the PRC Government in 2007. The PRC has given its assurances that it will investigate every PRC vessel named on the vessel sighting lists and that vessels that are found to have engaged in illegal high seas driftnet fishing will be seized and auctioned. This is a powerful deterrent. The United States will continue to assist, where possible, the PRC to improve its enforcement presence on the squid fishing grounds in the North Pacific Ocean with the ultimate goal of the PRC patrolling its own high seas fishing fleet. In addition, the United States will explore with other countries the possibility of targeting future enforcement efforts at areas and time periods that showed increased driftnet activity in 2006 and 2007, and will investigate the role that other multilateral organizations, such as the WCPFC, might play in enforcement efforts in the future.

Italy and France: Regarding Italy, the Secretary of Commerce identified it on 19 March 1999 pursuant to the High Seas Driftnet Fisheries Enforcement Act as a nation that conducts, or authorizes its nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation. On 15 July 1999, the United States and Italy formally agreed on measures to effect the immediate termination of Italian large-scale high seas driftnet fishing. For this reason, the United States did not impose trade sanctions on Italian fish, fish products and sport fishing equipment pursuant to the Act. Although the 1999 agreement has expired, the United States has continued to apply the provision of the High Seas Driftnet Fisheries Enforcement Act that denies entry of Italian large-scale driftnet vessels to U.S. ports and navigable waters. Since 29 May 1996 it has also required Italy to provide documentary evidence

pursuant to the Dolphin Protection Consumer Information Act (16 U.S.C. 1371(a)(2)(E)) that certain fish and fish products it wishes to export to the United States are not harvested with large-scale driftnets on the high seas.

The U.S. Government remains concerned by reports from NGOs in 2007 that both French and Italian vessels and nationals continue to engage in large-scale high seas driftnet fishing, despite the many measures taken by the EC, ICCAT, and the GFCM to address this problem. We are hopeful that the EC's application on 28 June 2007 of a new definition of driftnets to EC driftnet regulations will eliminate loopholes which have allowed both countries to circumvent them.

Two developments in the European Union late in 2007 may prove to be valuable catalysts for the overhaul of the EU fisheries enforcement program and the elimination of IUU fishing, including large-scale driftnets, by EU Member States in the Mediterranean Sea:

1) The European Commission unveiled on 17 October 2007 a proposal for a Council Regulation establishing a Community system to prevent, deter, and eliminate illegal, unreported and unregulated fishing**.** Proposed measures would allow access to the EU market only to fishery products that have been certified as legal by the flag state or the exporting state concerned. A European black list of IUU vessels and states which turn a blind eye to IUU activities would be set up, as would deterrent sanctions against IUU activities in EU waters and against EU operators engaged in IUU activities anywhere in the world. In a communication explaining the new proposal, the Commission identified the causes, scale and damages of IUU fishing, its impact on the EU, efforts made to date, and the need for further action. The Commission identified the three main challenges to be addressed: (1) how to identify, prevent and sanction the imports of IUU products into the EU; (2) how to enact more efficient measures to identify and sanction not only IUU operators but also the states engaged in or supporting IUU fishing activities; and (3) how to improve the level of compliance with the fisheries rules in EU waters by EU nationals. To address the third challenge, of which illegal driftnet fishing is a significant part, the Commission proposed to use all means at its disposal to encourage member states and nationals to properly implement the current Common Fisheries Policy (CFP) framework, impose maximum sanctions corresponding to serious infringements of CFP laws, and impose stricter control and enforcement measures against Community nationals responsible for IUU fishing beyond Community waters.

2) On 4 December 2007, the European Court of Auditors[3] released *Special Report No. 7/2007 on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources*. The Court of Auditors chose to examine the specific areas of data collection, and inspection and enforcement under the CFP, because it had identified them as essential to the proper functioning of any fisheries management policy based on catch limitations. The audit covered these elements in the context of the Commission's own functions and the way in which CFP rules are implemented by the fisheries management authorities in Denmark, France, Italy, the Netherlands, Spain, and the United Kingdom. (These countries

[3] The European Court of Auditors audits the revenue and expenditures of the European Union. It aims to contribute to improving the financial management of European Union funds, so as to ensure maximum value for money for all citizens of the Union.

account for 70 percent of the 4.4 million mt of fish and crustaceans landed in the EU annually.) The Commission and EU Member States that were "spot checked" failed the audit miserably. The Court concluded that (1) fishing data collected in EU Member States are unreliable and incomplete, and the real level of catches is unknown; (2) national inspection procedures to detect and prevent infringements are ineffective; and the penalties imposed by national authorities when infringements are detected are not sufficiently onerous to act as a deterrent; (3) the Commission lacks the power to bring timely and persuasive pressure to bear on Member States when they fail to respect their CFP obligations, and the means to effectively verify the data provided by the Member States or evaluate their inspection performances; and that (4) without proper functioning of data collection, control and enforcement, it is impossible to implement an effective policy based on catch limitations.

To correct this situation, the Court recommended that:

- Member States should carry out systematic compliance checks on all fishing operations, including checks on operations across national boundaries, to improve the quality of the catch data.

- The Commission should ensure that an electronic system for recording and reporting fishing activity be implemented as soon as possible.

- Member States should develop analytical, programming and follow-up tools for their inspection activities to ensure that there is adequate overall control pressure and optimal deployment of resources.

- Member States should remind the competent authorities of the need to impose deterrent sanctions.

- The Community legislator should specify in the regulations the various elements essential to an effective inspection and sanction system.

- The Community legislator should enforce the Commission's ability to put pressure on defaulting Member States.

- The Commission and Member States should adopt active measures to reduce the structural overcapacity in the fishing industry.

As a result of these developments, the Commission has decided that the review of the CFP control legal framework is a strategic priority of its 2008 Work Program and the Court’s report strengthens the case for a major reform of control policy under the CFP. The Commission's October 2007 proposal for a Council Regulation establishing a system to prevent, deter, and eliminate IUU fishing addresses some of the problems highlighted by the Court. Implementation of the Court's recommendations and the continued existence of illegal driftnet fishing in the Mediterranean Sea are mutually exclusive. The EC and EU Member States have all of the right

driftnet regulations in place; they don't need any more. What they do need is a way to enforce compliance. The adverse publicity generated by the Auditor's report appears to have set reform in motion, but the big question is how long it will take to complete. In the meantime, the United States will continue to monitor the driftnet situation in the Mediterranean Sea and encourage the EU to include a solution to eliminate large-scale driftnets in reforming its control policy. The United States will continue to apply the High Seas Driftnet Fisheries Enforcement Act provisions (previously described) to Italy until such time that it is satisfied that all driftnet fishing has ceased.

Morocco: Morocco verified in 2004 that it had a large-scale high seas driftnet fleet and that it intended to phase out this fleet over a 4-year period, ending in 2008. This year Morocco has modified the time frame for the phase-out to January 2009. Part of the reason for this delay is that it enacted its new driftnet law in July 2007 and it will take some time for the law to be effective. Morocco's ratification of the EU-Morocco Fisheries Partnership Agreement in late February 2007 will also give it access to funds to help expedite the retirement of its driftnet fleet. The United States will continue to assist Morocco in implementing its phase-out program in 2008 with a goal of eliminating the fleet in 2009.