

to regulations which are taken in the regulatory area by fishermen of other countries contrary to the Commission's conservation recommendations;

(iv) Whether or not the country, having put conservation measures into effect, takes reasonable action to enforce such measures;

(v) The number of vessels of the country which conduct fishing operations in the regulatory area;

(vi) The quantity of species subject to regulation taken from the regulatory area by the Country's vessels contrary to the Commission's conservation recommendations and its relationship to (A) the total quantity permitted to be taken by the vessels of all countries participating in the fishery and (B) the quantity of such species sought to be restored to the stocks of fish pursuant to the Commission's conservation recommendations.

(b) Any person who has reason to believe that the vessels of any country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission or that other acts within the purview of the import control provisions of section 6(c) of the Act, are occurring or are likely to occur, may communicate his belief to the Assistant Administrator. Every such communication must contain or be accompanied by a full statement of the reasons for the belief, including a detailed description of such specific acts or events as may indicate a need for instituting an investigation as authorized in this part.

(c) Upon receipt by the Assistant Administrator of any communication submitted pursuant to paragraph (b) of this section and upon a finding that the communication complies with the requirements of that paragraph, the Assistant Administrator will promptly conduct an investigation to be made as appears to be warranted by the circumstances of the case. In conducting such investigations the Assistant Administrator or his designated representative will consider any representations offered by foreign interests, importers, brokers, domestic producers, or other interested persons. Unless

good cause to the contrary exists every such investigation will be completed within 60 days following receipt of the communication.

[41 FR 8352, Feb. 26, 1976. Redesignated at 43 FR 8554, Mar. 2, 1978, and amended at 44 FR 36045, June 20, 1979; 53 FR 24645, June 29, 1988]

§ 285.84 Publication of findings.

If it is determined on the basis of § 285.83 that species of fish subject to regulation or under investigation by the Commission, as the case may be, are ineligible for entry into the United States under section 6(c) of the Act, the Assistant Administrator with the approval of the Secretary of the Commerce and with the concurrence of the Secretary of State, will publish a finding to that effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding in the FEDERAL REGISTER every shipment of fish in any form of the species found to be ineligible will be denied entry unless it is established by satisfactory proof pursuant to § 285.85 that a particular shipment of such fish is not ineligible for entry: *Provided*, That entry will not be denied and no such proof will be required for any such shipment which, on the date of such publication, was in transit to the United States on board a vessel operating as a common carrier.

[41 FR 8352, Feb. 26, 1976. Redesignated at 43 FR 8554, Mar. 2, 1978, and amended at 44 FR 36045, June 20, 1979; 53 FR 24645, June 29, 1988; 53 FR 27798, July 22, 1988]

§ 285.85 Proof of admissibility.

(a) For the purposes of § 285.83 of this part and section 6(c) of the Act a shipment of fish in any form of the species under regulation or under investigation by the Commission offered for entry, directly or indirectly, from a country named in a finding published under § 285.84 is eligible for entry if the shipment is accompanied by a certificate of eligibility certifying as may be appropriate, that the fish in the shipment:

(1) Are not of the species specified in the published finding;

(2) Are of the species named in the published finding but were not taken in the regulatory area; or

(3) Are of the species named in the published finding but are products of

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an American fishery lawfully taken in conformity with applicable conservation laws and regulations and landed in the country named in the published finding solely for transshipment. The certificate shall be attached to the invoice and be in the following form:

CERTIFICATE OF ELIGIBILITY

I, _____, an authorized officer of the Government of _____, certify that the shipment of tuna accompanied by this certificate, consisting of _____ (quantity) of _____ (Species) in _____ (Number and kind of packages or containers bearing the following marks and numbers.)

(a) Contains no tuna of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Atlantic Tunas Convention Act of 1975. (A certificate of authentication executed by a consular officer or a consular agent of the United States must be attached.)

(b) Contains tuna of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Atlantic Tunas Convention Act of 1975, but that such tuna were caught in the waters of _____ (Identify area or areas in which tuna were taken) by vessels subject to the jurisdiction of _____ and that none of the tuna were taken in the Atlantic Ocean or its adjacent seas. (A certificate of authentication executed by a consular officer or consular agent of the United States must be attached.)

(c) Contains tuna of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Atlantic Tunas Convention Act of 1975, but that such tuna, as shown in the attached declaration, were taken in strict conformity with applicable conservation laws and regulations in a fishing enterprise conducted under the American flag by vessels of the United States, are products of an American fishery within the meaning of Schedule 1, Part 15A, Tariff Schedules of the United States, were landed in a foreign country solely for transshipment without change in condition and are eligible for free entry under such Schedule and 19 CFR 10.78-10.79. (Where an entry is to be made pursuant to this paragraph, this certificate must be executed by a consular officer or consular agent of the United States and the declaration(s) required by 19 CFR 10.79 and must be attached.)

Signature

Title

Address

(b) If the tuna are offered for entry under paragraph (a) or (b) of the Certificate of Eligibility, the certificate must be executed by a duly authorized official of the country named in the published finding and the certificate must be authenticated with respect to the signature and official position of the person executing the same by a consular officer or consular agent of the United States. Such certificate of authentication shall be attached to the Certificate of Eligibility and be substantially in the following form:

I, _____ (Name of the consular officer or consular agent) _____ (Title) of the United States of America at _____ (Place), duly commissioned and qualified, do hereby certify that _____ (Name of foreign official), whose true signature and official seal are, respectively subscribed and affixed to the annexed certificate, was, on the _____ day of _____, 19____, the date thereof, _____ (Title of foreign official), duly commissioned and qualified, to whose official acts faith and credit are due.

In witness whereof I have hereunto set my hand and affixed the seal of the _____ this day of _____ 19____.

Signature

(Name and full title of officer)

(c) If the tuna are offered for entry under paragraph (c) of the Certificate of Eligibility, the certificate must be executed by a consular officer or consular agent of the United States and be accompanied by the declaration(s) required by 19 CFR 10.79. The "Declaration of Master and Two Members of Crew on Entry of Products of American Fisheries", required by 19 CFR 10.79 must contain a further statement as follows: "We further declare that the said tuna were caught by us in full compliance with part 285, title 50, Code of Federal Regulations, and such other conservation laws and regulations as

were applicable at the time the fishing operation was in progress.”

[41 FR 8352, Feb. 26, 1976. Redesignated at 43 FR 8554, Mar. 2, 1978; and amended at 53 FR 24645, June 29, 1988]

§ 285.86 Removal of import restrictions.

Upon a determination by the Assistant Administrator that the conditions no longer exist which warranted the imposition of import restrictions in the finding published pursuant to § 285.84 the Assistant Administrator, with the approval of the Secretary and the concurrence of the Secretary of State, will publish a finding to such effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding, the prior existing import restrictions against the country designated therein will terminate: *Provided*, That for a period of 1 year from such date of publication every shipment of fish in any form that was subject to the finding published pursuant to § 285.84 will continue to be denied entry unless the shipment is accompanied by a certification executed by an authorized official of the country of export and authenticated by a consular officer or consular agent of the United States, certifying that no portion of the shipment is comprised of fish taken prior to or during the import restriction.

[41 FR 8352, Feb. 26, 1976. Redesignated at 43 FR 8554, Mar. 2, 1978, and amended at 44 FR 36045, June 20, 1979; 53 FR 24645, June 29, 1988]

§ 285.87 Import restrictions for Belize, Honduras, and Panama.

(a) Effective August 20, 1997 all shipments of Atlantic bluefin tuna or Atlantic bluefin tuna products in any form harvested by a vessel of Honduras or Belize will be denied entry into the United States, unless a validated Bluefin Statistical Document required under subpart F of this part, §§ 285.200 through 285.205, shows that a particular shipment of such bluefin tuna was exported prior to August 20, 1997.

(b) Effective January 1, 1998, all shipments of Atlantic bluefin tuna or Atlantic bluefin tuna products in any form harvested by a vessel of Panama will be denied entry into the United States, unless a validated Bluefin Statistical Document required under sub-

part F of this part, §§ 285.200 through 285.205, shows that a particular shipment of such bluefin tuna was exported prior to January 1, 1998.

[62 FR 44423, Aug. 21, 1997]

Subpart E—International Port Inspection

SOURCE: 48 FR 53564, Nov. 28, 1983, unless otherwise noted.

§ 285.100 Basis and purpose.

At its sixth regular meeting, the International Commission for the Conservation of Atlantic Tunas (Commission) adopted an international port inspection scheme to assist in the enforcement of the Commission's recommendations. The following regulations have been adopted by the United States to implement the port inspection scheme.

§ 285.101 Authorized officer.

For the purposes of this subpart, an authorized officer is a person appointed by a contracting party (the United States and the countries listed in § 285.102(a)) as an authorized inspector for the Commission, who possesses an identification card so stating.

§ 285.102 Vessels subject to inspection.

(a) All United States tuna vessels or vessels carrying tuna and their catch, gear, and records are subject to inspection under this subpart by an authorized officer when landing or transshipping tuna or when making a port call at a port of the following countries, which are defined as the contracting parties. The names of any subsequent additional contracting parties may be added to the list by FEDERAL REGISTER notice. United States tuna vessels or vessels carrying tuna are also subject to the requirements of subparts A through C as appropriate.

- (1) Brazil
- (2) Cuba
- (3) France
- (4) Gabon
- (5) Ivory Coast
- (6) Portugal
- (7) Senegal
- (8) South Africa
- (9) Spain