GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

December 9, 2011

The Honorable Joseph R. Biden, Jr.
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Administration is pleased to forward for your consideration the enclosed draft legislation, entitled the "Port State Measures Agreement Act of 2011." The legislation will implement the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (Agreement), the first binding global instrument focused specifically on combating illegal, unreported and unregulated (IUU) fishing. The Agreement was adopted by the Food and Agriculture Organization of the United Nations at its Thirty-sixth Session on November 23, 2009. The United States was a primary participant in the negotiation of the Agreement and was one of the first countries to sign the Agreement expressing intent to ratify in 2009. On November 14, 2011, President Obama transmitted the Agreement to the United States Senate, recommending that it give its advice and consent to United States accession.

The Agreement has four primary sets of obligations, applicable to foreign-flagged fishing vessels (including support vessels) seeking entry to a Party's port:

- It would require Parties to designate ports to which foreign-flagged vessels may seek entry, and to impose requirements with respect to the information to be considered and process to be followed in granting or denying port entry and/or the use of port services to foreign vessels;
- It would require Parties to maintain the capacity to conduct dockside vessel inspections in the designated ports and sets forth minimum standards for the conduct of inspections and the training of inspectors. A sufficient number of inspections must be conducted to satisfy the objective of the Agreement;
- It would require the denial of port entry and the use of port services to vessels that have been engaged in IUU fishing, with some exceptions including for enforcement; and
- It would require information sharing, including the sharing of inspection results, with the flag States and, as appropriate, other relevant States Parties and entities and follow-up actions by the flag State when evidence of IUU fishing is found during the course of an inspection.

The Administration has reviewed the Agreement and determined that implementation will result in more effective enforcement against vessels engaging in IUU fishing. Our review also indicated that, because it is not self executing, legislation is necessary to implement the Agreement. We have drafted the enclosed legislation to address this need.

The draft legislation provides the United States, primarily through the Department of Commerce, with authority to take enforcement action against vessels engaging in or suspected of engaging in IUU fishing. In particular this draft legislation authorizes the Secretary to deny entry of vessels into U.S. ports or use by vessels of U.S. ports. To assist you in your review of the proposed legislation, we have also enclosed a Statement of Purpose and Need and Sectional Analysis.

The provisions in the Agreement and the proposed implementing legislation advance the United States' goals of combating IUU fishing. For this reason, the Administration recommends that the proposed bill be sent to the appropriate committees for early and favorable consideration and that it be enacted.

The Statutory Pay-As-You-Go Act of 2010 provides that revenue and direct spending legislation cannot, in the aggregate, increase the on-budget deficit. If such legislation increases the on-budget deficit and that increase is not offset by the end of the Congressional session, a sequestration must be ordered. This proposal would affect direct spending and revenues, but the effects of this proposal would net to zero; therefore, it is in compliance with the Statutory PAYGO Act.

The effect of this draft bill on the deficit is:

Fiscal Years (dollars in millions)												
	2011	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**Total**
Revenues	0	0	0	0	0	0	0	0	0	0	0	0
Mandatory Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Net Deficit Impact	0	0	0	0	0	0	0	0	0	0	0	0

The Office of Management and Budget has advised that there is no objection to transmittal of this proposal and that its enactment would be in accord with the program of the President. If you have any questions, please contact me or April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs, at 202-482-3663.

Sincerely,

Cameron F. Kerry

Enclosures

Identical Letters Sent to:

The Honorable Harry Reid
Majority Leader
S-221 Capitol
United States Senate
Washington, D.C. 20510-7010

The Honorable Mitch McConnell
Minority Leader
S-230 Capitol
United States Senate
Washington, D.C. 20510-7020

The Honorable Jay Rockefeller
Chairman, Committee on Commerce,
Science and Transportation
254 Russell
United States Senate
Washington, D.C. 20510-6125

cc: The Honorable Kay Bailey Hutchison
Ranking Member,
560 Dirksen

The Honorable John Kerry
Chairman, Committee on Foreign Relations
444 Dirksen
United States Senate
Washington, D.C. 20510-6225

cc: The Honorable Richard G. Lugar
Ranking Member

The Honorable John Boehner
Speaker of the House
of Representatives
H 232 Capitol
Washington, D.C. 20515 – 6501

The Honorable Eric Cantor
Majority Leader
H-329 Capitol
U.S. House of Representatives
Washington, D.C. 20515-6503

The Honorable Nancy Pelosi
Minority Leader
H-204 Capitol
U.S. House of Representatives
Washington, D.C. 25015-6537

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
1324 Longworth
U.S. House of Representatives
Washington, D.C. 20515-6201

cc: The Honorable Edward J. Markey
Minority Member H2-186 Ford

The Honorable John Mica
Chairman, Committee on Transportation
and Infrastructure
2165 Rayburn Office Building
U.S. House of Representatives
Washington, D.C. 20515-6256

cc: The Honorable Nick Rahall
Ranking Member
2163 Rayburn Office Building

The Honorable Ileana Ros-Lehtinen
Chair, Committee on Foreign Affairs
2170 Rayburn
U.S. House of Representatives
Washington, D.C. 20515-6128

cc: The Honorable Howard L. Berman
Ranking Member,
B360 Rayburn