



United States
General Accounting Office
Washington, D.C. 20548

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Resources, Community, and
Economic Development Division

B-280148

July 16, 1998

The Honorable Ted Stevens
United States Senate

Subject: Coast Guard: Implementation of Anti-Reflagging Act

Dear Senator Stevens:

The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239), known as the Anti-Reflagging Act, became law on January 11, 1988. In general, this act, implemented by the Coast Guard, was enacted to help ensure control by Americans of the U.S. fishing industry in U.S. coastal waters. The act denies fishing privileges in the U.S. fisheries to vessels that are either (1) rebuilt in foreign shipyards or (2) majority-owned by non-U.S. citizens. Enclosure I describes the act's American control and foreign rebuilding requirements and the "grandfather" provisions that allowed exemptions from the act's requirements.

You asked us to look at certain aspects of the Coast Guard's actions to implement the Anti-Reflagging Act. As agreed with your office, this report provides a timeline describing the Coast Guard's major actions to implement the Anti-Reflagging Act. You asked us to focus on the Coast Guard's actions to use the act's grandfather provisions to exempt from the act's American control and foreign rebuilding requirements 23 fishing industry vessels that were being rebuilt or were planned to be rebuilt overseas when the act was enacted. Enclosure II shows the legislative history of the Anti-Reflagging Act and the Coast Guard's actions to implement the act's provisions. Enclosure III provides a description of each vessel's history.

In summary, the process for determining eligibility for the act's exemptions was as follows. Before regulations were promulgated to implement the act, the Coast Guard issued "letter rulings" to respond to requests from vessel owners about a vessel's eligibility for exemption under the act's rebuilding and

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American control requirements.¹ These letter rulings made determinations, based on evidence provided by vessel owners, on whether the act's eligibility conditions (built in the United States, contracted for purchase prior to July 28, 1987, rebuilt under a contract entered into before July 12, 1988, and redelivered to the owner before July 28, 1990) were met. Once all of the information on eligibility conditions was provided for the 23 vessels, the Coast Guard, through its vessel-documentation function,² licensed the vessels to participate in the U.S. fisheries.³

The rulemaking process leading to the promulgation of regulations for the act occurred in two steps. The first was to develop an interpretative rule, issued October 20, 1988, to amend vessel documentation regulations to ensure consistency with the act's provisions, except for the American control provisions. A second rulemaking to address the American control provisions was completed on December 12, 1990, about 3 years after the act's enactment.

AGENCY COMMENTS

We provided copies of a draft of this report to the Department of Transportation and the Coast Guard for review and comment. We met with officials, including the Director, National Maritime Center, and the Chief,

¹As an administrative practice, the Coast Guard issues letters to answer specific questions about existing regulations and their application, or, as in the case of the act's grandfather provisions, answer questions not covered by regulations or existing rules.

²Documentation of vessels is a type of national registration which, among other things, serves to establish a vessel's nationality and qualification to be employed in a specific trade. The evidence of nationality is the Certificate of Documentation. One or more licenses endorsed on the Certificate of Documentation serves as evidence of the vessel's qualification to engage in a specified trade—registry endorsement for employment in foreign trade, coastwise endorsement for employment in trade on the U.S. coast, Great Lakes endorsement for employment in Great Lakes trade, and fisheries endorsement for employment in the fisheries.

³Fisheries includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the 200-nautical mile exclusive economic zone established by the Magnuson Fishery Conservation and Management Act.

Regulations and Administrative Law Division, Office of the Chief Counsel. The officials agreed with the facts in the report.

To identify the Coast Guard's actions to determine eligibility for the act's grandfather provisions and to develop implementing regulations, we interviewed Coast Guard Office of Chief Counsel officials at headquarters in Washington, D.C., and the Director, National Vessel Documentation Center in Falling Waters, West Virginia. We also discussed issues related to the Coast Guard's implementation of the act with attorneys of private law firms that represent various U.S. fisheries interests. We reviewed files for the 23 vessels grandfathered under the act to identify Coast Guard letter ruling determinations and documentation related to each vessel. These files were provided to us by the National Vessel Document Center, which indicated that the files were the only Coast Guard files available on vessel history. Since information contained in most vessel files dated back over 20 years and because of the time constraints of our review, we did not try to verify the accuracy or completeness of the files. We conducted a legislative history search to identify past bills and hearings related to the Coast Guard's vessel documentation function and reviewed Coast Guard rulemaking dockets related to the development of the act's implementing regulations. Finally, we developed a timeline describing the legislative history of the act and the Coast Guard's regulatory and programmatic actions to implement the act's provisions. We conducted our review from April through July 1998 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Secretary of Transportation; the Commandant, U.S. Coast Guard; the Director, Office of Management and Budget; and other interested parties. We will also make copies available to others on request. Major contributors to this report included Beverly Bendekgey, Tom Collis, Steve Gazda, David Hooper, and Randy Williamson. Please call me on (202) 512-2834 if you or your staff have any questions.

Sincerely yours,



John H. Anderson, Jr.
Director, Transportation Issues

ANTI-REFLAGGING ACT AMERICAN CONTROL
AND FOREIGN REBUILDING REQUIREMENTS

The Anti-Reflagging Act was the culmination of a series of legislative proposals introduced in 1986 and 1987 aimed at preventing the documentation of foreign-built fish processing vessels under the U.S. flag, which would otherwise be afforded the same priorities as a U.S. built, U.S. flag vessel. Under the act, a vessel owned by a corporation is not eligible for a fishery endorsement unless the controlling interest in the vessel, as measured by a majority of voting stock, is owned by U.S. citizens. The act contained grandfather provisions that exempted vessels from the American control requirements if before July 28, 1987, the vessel was (1) documented under U.S. law and operated as a fishing vessel in the navigable waters of the United States or the 200-mile zone established by the Magnuson Fishery Conservation and Management Act or (2) being purchased for such purpose. In addition, the act prohibits owners from participating in the U.S. fishing industry with vessels rebuilt abroad. Vessels are also exempt from the foreign-rebuild requirement if the vessel was (1) built originally in the United States; (2) contracted for purchase before July 28, 1987, for use in the U.S. fisheries; (3) contracted to be rebuilt before July 12, 1988; and (4) redelivered to the owner before July 28, 1990.

TIMELINE DESCRIBING THE LEGISLATIVE HISTORY OF THE ANTI-REFLAGGING ACT AND THE COAST GUARD'S ACTIONS TO IMPLEMENT THE ACT'S PROVISIONS

The following table chronicles key efforts, both before and after the passage of the Anti-Reflagging Act. It shows legislative actions related to the act, Coast Guard's actions leading to issuance of regulations, and Coast Guard letter rulings and documentation for each of the 23 vessels exempted under the act. For each vessel, we show the date that a Coast Guard letter ruling determination was first made to show intent that the vessel was purchased or contracted for purchase for use in the U.S. fisheries. We do not show the dates for subsequent letter ruling determinations on the vessels because in some cases, there were numerous subsequent letter rulings, and they did not affect the vessels eligibility for the exemptions. We also show the date that the Coast Guard determined that each vessel was eligible for the exemption and documented for a fisheries license.

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
1985			
Dec. 11		Snow King - letter ruling	
1986			
Jul. 11		Northern Eagle - letter ruling	
Oct. 7	H.R. 5658 introduced to amend the definition of "vessel" in the Magnuson Act to exclude foreign-built vessels.		
Oct. 7	H.R. 5662 and S. 2910 introduced to amend maritime laws to prohibit documentation of foreign-built or foreign-owned fish processing vessels.		
Nov. 4		Pacific Navigator - letter ruling	
Nov. 4		Royal King - letter ruling	
Nov. 4		Victoria Ann - letter ruling	
Dec. 12		American Dynasty - letter ruling	
Dec. 12		Saga Sea - letter ruling	

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
1987			
Jan. 6	H.R. 438 introduced to require that fishing vessels cannot be documented unless built in the U.S. and a majority stake is held by U.S. citizens. H.R. 438 contains no limitations on foreign rebuilding of U.S.-flag vessels.		
Jan. 22	S. 377 introduced to disallow any foreign-built vessels documented after January 1, 1987, from commercial fish processing. S. 377 contains no limitation on foreign rebuilding of U.S.-flag vessels.		
Mar. 19		Arctic Fjord - letter ruling	
Mar. 19		American Express - letter ruling	
Mar. 19		Pacific Glacier - letter ruling	
Mar. 19		Claymore Sea - letter ruling	
Mar. 19		Heather Sea - letter ruling	
Apr. 6	H.R. 1956 introduced to amend the definition of "vessel" in the Magnuson Act to exclude foreign built vessels. H.R. 1956 contains no limitation on foreign rebuilding of U.S.-flag vessels.		
Apr. 28-29	Hearings held on pending bills before the Senate Committee on Commerce, Science and Transportation and three subcommittees of the House Merchant Marine and Fisheries Committee.		
Apr. 30		Pacific Explorer - letter ruling	
Apr. 30		Pacific Scout - letter ruling	
Jun. 4	H.R. 438 and H.R. 1956 are merged and re-introduced in the House as H.R. 2598 -- the "Anti-Reflagging Act." H.R. 2598 prohibits the reflagging of foreign-built processing vessels, but contains no ownership or rebuilding restrictions on fishing vessels.		
Jun. 12		Ocean Rover - letter ruling	
Jun. 29		Endurance - letter ruling	

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
Jul. 17		Alaska Ocean - letter ruling	
Jul. 17		Northern Hawk - letter ruling	
Jul. 28	House Committee on Merchant Marine and Fisheries markup on H.R. 2598: bill is amended to (1) require that fishing industry vessels be rebuilt only in the U.S., but explicitly exempting vessels with current plans to rebuild abroad and fish in U.S. waters and (2) require that a controlling interest in corporations owning fishing vessels be held by U.S. citizens, but explicitly exempting currently documented vessels.		
Aug 4	S. 1590 introduced to require U.S. citizen controlling interest in fish processing vessels. The bill's "ownership grandfather" for existing foreign-owned vessels explicitly runs with the owner, not the vessel.		
Nov. 5	House Report on H.R. 2598 issued by House Committee on Merchant Marine and Fisheries. H. Rpt. 100-423		
Nov. 9	House passes H.R. 2598		
Dec. 17	Senate passes amendment in the nature of a substitute to H.R. 2598.		
Dec. 17		Pacific Navigator - documented	
Dec. 21	House passes Senate amendment, but with substantially all of the original House language.		
Dec. 22	Senate agrees to House amendment.		
1988			
Jan.11	Bill signed into law (Pub. L. 100-239).		
Mar. 16			Chief Counsel Office begins process to develop implementing regulations.
Mar. 29		Northern Eagle - documented	
Jun. 28		Pacific Glacier - documented	
Jul. 8		Snow King - documented	

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
Jul. 14		Pacific Scout - documented	
Jul. 21		Endurance - documented	
Aug. 17		Claymore Sea - documented	
Oct. 20			Issued interpretative rule to amend vessel documentation regulations to ensure consistency with Anti-Reflagging Act provisions, except for the American control provision. Effective date: October 20, 1988.
Oct. 20			Issued Notice of Proposed Rulemaking (NPRM) to implement the American control provision of the act.
Oct. 31		Arctic Fjord - documented	
Nov. 28			Chief Counsel's Office of Regulations and Administrative Law requested assistance from the Chief Counsel's Office of Maritime and International Law on issues raised by comments received on the Oct. 20, 1988, NPRM. Specific assistance was requested concerning whether the American control grandfather provision of the act is permanent, that is, runs with the vessel, or whether it terminates upon sale of the vessel.
Dec. 15		Pacific Explorer - documented	
Dec. 19			Office of Maritime and International Law advised, in written memorandum, that permitting the American control grandfather provision to "run with the vessel" would be contrary to the statutory intent and general purpose of the act as stated in H. Rpt. 100-423. Office of Maritime and International Law, Office of Regulations and Administrative Law, and Vessel Documentation Branch held a conference to discuss the issues.
Dec. 20			Office of Maritime and International Law memorandum to Office of Regulations and Administrative Law providing further clarification to reinforce its position that the American control saving provision should terminate when the vessel is sold.

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
Dec. 20		American Express - documented	
1989			
Jan. 19		Alaska Victory - letter ruling	
Feb. 3		Victoria Ann - documented	
Feb. 13		Royal King - documented	
Feb. 16		Northern Jaeger - letter ruling	
Apr. 4		American Triumph - letter ruling	
Apr. 6		Heather Sea - documented	
May 31		Seafisher - letter ruling	
Jun. 13		Alaska Spirit - letter ruling	
Jul. 12		American Dynasty - documented	
Oct. 13			Issued Supplemental Notice of Proposed Rulemaking to completely revise the regulations governing citizenship requirements for vessel documentation based on comments to the Oct. 20, 1988, NPRM and Coast Guard experience.
1990			
Jan. 8		Ocean Rover - documented	
Mar. 16		Alaska Spirit - documented	
Mar. 20			Coast Guard policy guidance for determining eligibility for American control savings provisions sent to all Coast Guard districts.
Mar. 27		Northern Jaeger - documented	
May 15		Seafisher - documented	
May 16			Coast Guard's interpretation of American control provision was challenged in the U.S. district court by several U.S. fishing and shipbuilding groups.
Jun. 29		Northern Hawk - documented	
Jul. 1		Saga Sea - documented	
Jul. 2		American Triumph - documented	
Jul. 6		Alaska Victory - documented	

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
Sep. 7		Alaska Ocean - documented	
Oct. 25	GAO issues report on the impact of the Anti-Reflagging Act		
Nov. 16			Coast Guard Operational Law Enforcement Division requested guidance, noting discrepancies between the Maritime Law Division opinion (12-19-88 memo) and correspondence from headquarters (3-20-90 letter).
Nov. 30			Coast Guard Chief of Staff memo responding to Operational Law Enforcement Division's 11-16-90 request. The memo explained that the 1988 Maritime and International Law memo was an internal document that did not reflect the final position adopted by the Coast Guard. In particular, the 1988 memo was a pre-decisional document that was superseded during the clearance process attendant to publication of the Supplemental NPRM of 10-13-89.
Dec. 12			Issued final rule to amend vessel documentation regulations for citizenship requirements for vessel-owning individuals, or entities, applying to document vessels or qualify for certain trade endorsements. Effective date: January 11, 1991.
1991			
Apr. 30			District court decision that the Coast Guard's interpretation of the citizenship savings provision of the act was incorrect and directed the Coast Guard to develop a new interpretation.
1992			
Jan. 24			Commandant indicated to Senator Stevens (R-AK) that an independent review would be conducted of the Coast Guard's interpretation of the rebuilding grandfather clause of the Anti-Reflagging Act.

Date	Legislative history	Coast Guard actions to process applications for exemptions	Coast Guard actions to implement regulations
Feb. 24			Commandant informed Senator Stevens that based on review, the Commandant determined that the Coast Guard's interpretation is valid.
Feb. 27			Coast Guard appeals the district court's 4-30-91 decision.
Sep. 21			Issued Advance Notice of Proposed Rulemaking to solicit information to develop a new interpretation concerning implementation of the ownership grandfather or savings provision of the act
Nov. 24			Court of Appeals reversed the decision of the district court and upheld the Coast Guard's interpretation of the act's citizenship savings provision.
1993			
Mar. 4			Issued Notice of Withdrawal of its action (9-21-92) to develop a new interpretation of the citizenship grandfather or savings provision of the act.

VESSELS EXEMPT FROM THE ANTI-REFLAGGING ACT
AMERICAN CONTROL AND REBUILD REQUIREMENTS

The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 denies fishing privileges in the U.S. fisheries to vessels that are either (1) rebuilt in foreign shipyards or (2) majority-owned by non-U.S. citizens. However, the act contains grandfather provisions that exempted vessels from those restrictions if they met certain conditions. To be exempt from the American control requirement, a vessel had to have been contracted for purchase for use as fishing (fish catching only), fish-processing (processes fish caught by other vessels), or factory trawler (catches fish and processes them onboard) vessels in the U.S. fisheries before July 28, 1987. Furthermore, owners had to demonstrate their intent to use the vessels in the U.S. fisheries through reliable documentation, such as purchase agreements and Coast Guard letter rulings. To be eligible for exemption from the prohibition on foreign rebuilding, a vessel had to be

1. built in the United States;
2. contracted for purchase prior to July 28, 1987, with intent to use in the U.S. fisheries;
3. rebuilt under a contract entered into before July 12, 1988; and
4. redelivered to the owner before July 28, 1990.

The Coast Guard determined that 23 vessels that were rebuilt in foreign shipyards were exempt from the act's rebuilding and American control requirements. The following are summaries for each vessel (identified by the most current vessel name and the Coast Guard's identification number (in parentheses), which remains with the vessel even if the vessel's name changes) exempted from the rebuilding and American control provisions of the act, based on documentation available from the Coast Guard. The summaries focus on the vessel's qualification for exemption from the act's restrictions.

ALASKA OCEAN (637856)

The Alaska Ocean was built in Warren, Rhode Island, in 1981 and was originally used for oil exploration and towing. The vessel was sold to a new owner on July 8, 1987, converted to a factory trawler in Norway pursuant to a rebuild contract entered into on June 10, 1988. After overseas work was completed, the vessel was redelivered to the owner on June 19, 1990, and documented for fishing on September 7, 1990.

The Coast Guard issued at least five letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated July 17, 1987, the Coast Guard ruled that the vessel would still be able to get a coastwise license even though it was being converted for fishing, in a foreign shipyard, because the vessel would be under 500 gross tons. On March 29, 1988, the Coast Guard noted that it had received evidence of intent to

use the vessel for fishing and ruled that the vessel would be able to get fisheries and coastwise licenses after conversion. On November 15, 1988, the Coast Guard reconfirmed that the vessel would enjoy grandfather rights after conversion. On March 29, 1989, the Coast Guard ruled that the vessel could be redelivered in Norway. On February 15, 1990, the Coast Guard ruled that the vessel could be redelivered before the conversion was complete if completion would be done in an American shipyard. On June 19, 1990, the Coast Guard ruled that the converted vessel could get a fishing license.

ALASKA SPIRIT (554913)

The Alaska Spirit was built in Lockport, Louisiana, in 1974 and was originally used in oil exploration. The vessel was sold through a conditional sales agreement signed on July 27, 1987, and was converted to a factory trawler in Norway under a contract dated July 7, 1988. Subcontracting work was done in Japan. Redelivery of the vessel to its owner occurred on March 8, 1990. Following conversion, the vessel was documented for fishing on March 16, 1990.

The Coast Guard issued at least two letter rulings after the passage of the act concerning the rebuild and ownership qualifications of the vessel. On June 13, 1989, the Coast Guard concluded that the vessel would not be considered new after conversion. The owner's intent to use the vessel in the fisheries industry was evidenced in the conditional sales agreement. Thus, the vessel qualified for exemption from the overseas rebuilding prohibition of the act if it was converted as proposed and redelivered before the statutory deadline. The Coast Guard ruled that although the plans to convert the vessel had been altered since the original contract, neither the amendments nor the planned subcontracting would alter the fact that the contracts would qualify the vessel for protection from loss of its fisheries privileges. The ruling stated that the vessel was exempt from the American control requirements of the act. On March 16, 1990, in response to a request from a marine documentation organization that documentation be issued with a fisheries authorization, the Coast Guard noted that it had advised the owner that sufficient evidence had been provided to allow the vessel to engage in the fisheries trade, but that the Coast Guard could cancel that endorsement if it ceased to be satisfied, as a result of new evidence, that the vessel, which was currently under litigation, was qualified for a fisheries authorization.

ALASKA VICTORY (569752)

The Alaska Victory was built in Houma, Louisiana, in 1975 and was originally used for oil exploration. The vessel was sold to a new owner through a conditional sales agreement signed on July 27, 1987, and was converted to a factory trawler in Norway under a contract dated July 7, 1988. Subcontracting work was done in Japan. Redelivery

of the vessel to its owner occurred on June 22, 1990. The vessel was subsequently documented for fishing on July 6, 1990.

The Coast Guard issued at least three letter rulings after the passage of the act concerning the rebuild and ownership qualification of the vessel. On January 19, 1989, the Coast Guard determined that the vessel complied with the U.S.-origin requirement and the statutory deadlines for the purchase and rebuilding contracts. Thus, the vessel qualified for exemption from the overseas rebuilding prohibition and the American control requirement of the act if the vessel's conversion did not render the vessel new and if the vessel was redelivered before the statutory deadline. The sale of the vessel to a new owner would not affect its eligibility for the fisheries trade. The Coast Guard noted that, as a matter of administrative practice, subject to future rulemaking, if a vessel qualified for exemption from the American control requirement, the exemption would remain with the vessel upon its sale to a new owner. Also, the Coast Guard determined that the assignment of the conversion contract to the new owner would not affect the vessel's eligibility for exemption under the act.

On June 13, 1989, the Coast Guard concluded that the vessel would not be considered new after conversion and that the intent to use the vessel in the fisheries industry was evidenced by the conditional sales agreement. Thus, the vessel qualified for exemption from the overseas rebuilding prohibition of the act if the vessel was converted as proposed and redelivered before the deadline. Although the plans to convert the vessel had been altered since the original contract, the Coast Guard found that neither the amendments nor the planned subcontracting would alter the fact that the contracts would protect the vessel from loss of its fisheries privileges. The ruling stated that the vessel was exempt from the American control requirements of the act. On June 27, 1990, the Coast Guard determined that the vessel qualified for exemption under both the foreign rebuild and American control requirements of the act because the vessel was considered rebuilt rather than new and it was redelivered, according to the owner, on June 22, 1990, more than a month ahead of the statutory deadline.

AMERICAN DYNASTY (951307)

The American Dynasty was built in Houston, Texas, in 1974 and was originally used as a supply vessel. The vessel was sold to a new owner on July 8, 1987, and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on January 28, 1988. After overseas work was completed, records indicate that the vessel was redelivered to the owner in July 1989 and was documented for fishing on July 12, 1989.

The Coast Guard issued at least five letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated December 12, 1986, the Coast Guard ruled that the vessel's fishing rights would be maintained even though it was being

converted overseas. On April 28, 1988, the Coast Guard confirmed that the vessel would be considered rebuilt even though conversion plans had changed. On November 30, 1988, the Coast Guard noted that evidence of intent for use in the fisheries had been demonstrated and confirmed that the vessel would still be able to get a fishing license even though the Anti-Reflagging Act had passed. On June 30, 1989, the Coast Guard made a final determination that the vessel would maintain fishing rights. On October 2, 1991, the Coast Guard confirmed that fishing rights would be maintained even though 5 percent of ownership would be transferred to American Dynasty Fisheries.

AMERICAN EXPRESS (942347)

The American Express was built in Seattle, Washington, in 1974 and was originally used as a supply vessel. The vessel was sold to a new owner on June 25, 1987, and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on July 7, 1987. After overseas work was completed, records indicate that the vessel was redelivered to the owner in October 1988 and was documented for fishing on December 20, 1988.

The Coast Guard issued at least three letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated March 19, 1987, the Coast Guard ruled that the vessel's conversion would not result in the loss of its fishing license. On July 28, 1987, the Coast Guard confirmed that the vessel would still be considered rebuilt under revised conversion plans. On June 29, 1988, the Coast Guard confirmed that the vessel would not lose its fishing rights even though the Anti-reflagging Act had passed. The Coast Guard cited a memorandum of agreement transferring title of the vessel as evidence of intent to use the vessel for fishing.

AMERICAN TRIUMPH (646737)

The American Triumph was built in Portland, Oregon, in 1961 and was originally a trawler owned by the U. S. Navy and transferred to an American school district in August 1980 for use as an oceanographic research vessel. The school district sold the vessel on January 9, 1987. The vessel was resold on March 2, 1987, and was converted to a factory trawler in Norway under a contract dated July 10, 1988. Redelivery of the vessel to the owner occurred on May 21, 1990. Following conversion, the vessel was documented for fishing on July 2, 1990.

The Coast Guard issued at least four letter rulings after passage of the act on the rebuild and ownership qualifications of the vessel. On April 4, 1989, the Coast Guard acknowledged that the owner had adequately demonstrated compliance with the requirements for U.S. build, contract for purchase, and contract for rebuilding to warrant exemption from both the rebuild and ownership restrictions of the act. The Coast Guard

noted, however, that the rebuilding would have to be done by the contractor unless the contract was lawfully assigned. As evidence of intent to use the vessel in the fisheries trade, the Coast Guard cited a January 21, 1987, letter of intent to purchase the vessel. If the vessel was converted as proposed and redelivery occurred prior to the July 28, 1990, deadline, the vessel would be exempt. On May 10, 1989, the Coast Guard ruled that a 30-foot extension of the trawler would not alter the vessel's qualification for exemption as long as the extension utilized the parts of the original vessel described in earlier submissions.

Relying on the assertion that the rebuilding shipyard consented to the assignment of the rebuild contract rights to a new owner of the vessel, the Coast Guard ruled on August 17, 1989, that the original contract had not been superseded; thus, the earlier ruling had not been affected by a June 2, 1989, sale of the vessel and would not be affected by another pending sale. Although the Coast Guard had consistently held that the sale or transfer of properly exempted vessels did not affect the vessel's rights under the ownership or rebuilding exemptions of the act, the Coast Guard noted that its interpretation of the law was being challenged. On June 26, 1990, the Coast Guard acknowledged notification that redelivery had occurred on May 21, 1990, and that the overseas work had been completed as described in earlier submissions. It confirmed, therefore, that the vessel qualified for exemption from the rebuilding and American control provisions of the act.

ARCTIC FJORD (940866)

The Arctic Fjord was built in Seattle, Washington, in 1974 and was originally a British supply ship. The vessel was sold to a new owner through a purchase contract dated July 8, 1987. Cancellation of the British registry did not occur until October 31, 1988, 10 days after the October 21, 1988, bill of sale to the purchaser under the purchase contract. The vessel was converted to a factory trawler in Norway under a contract signed on July 2, 1987. On October 31, 1988, the vessel was documented for fishing.

The Coast Guard issued at least four letter rulings on the rebuild and ownership qualifications of the vessel. Prior to passage of the act, the Coast Guard determined on March 19, 1987, that planned work on the vessel and four sister ships would result in the vessels being considered rebuilt rather than new. That ruling was confirmed in another Coast Guard letter on December 23, 1987, which stated that the vessel could be documented for the fisheries trade.

On July 1, 1988, the Coast Guard ruled that under the new act, the vessel would lose its fisheries trade privileges if it were not exempt. Given the date for the purchase contract and the rebuilding contract and the intent for use in the fisheries that was demonstrated in the purchase contract, the vessel was considered eligible for exemption

from the rebuilding prohibition and from the American ownership restriction, if it was redelivered to the owner prior to the July 28, 1990, deadline and if the owner could prove, among other things, that the vessel was originally built in the United States. On September 7, 1988, the Coast Guard was notified that redelivery was expected to occur later that month, although an October 11, 1988, letter indicates redelivery had not yet occurred as of the date of the letter. On October 26, 1988, the Coast Guard confirmed that additional work on the vessel would not change the original ruling of December 23, 1987, that the conversion constituted a rebuilding of the vessel. The Coast Guard also confirmed that the vessel would retain fisheries privileges upon sale to an unrelated party.

CLAYMORE SEA (935475)

The Claymore Sea was built in Seattle, Washington, in 1974 and was originally used as a oil supply vessel. The vessel was sold to a new owner on June 25, 1987, and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on September 7, 1987. After overseas work was completed, the vessel was redelivered to the owner in 1988 and was documented for fishing on August 17, 1988.

The Coast Guard issued at least four letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated March 19, 1987, the Coast Guard ruled that the vessel would be able to get a fishing license even though it would be converted in a foreign shipyard. On July 1, 1987, the Coast Guard ruled that the vessel would still be considered rebuilt even though conversion plans had changed. On February 26, 1988, the Coast Guard ruled that the vessel would maintain fishing rights, although conversion plans had changed. On March 31, 1988, the Coast Guard noted that evidence of intent to use the vessel for fishing had been provided and ruled that fishing rights would be maintained even with the passage of the Anti-Reflagging Act.

ENDURANCE (592206)

The Endurance was built in Amelia, Louisiana, in 1978 and was originally used in oil exploration. Ownership was transferred (to a noncitizen, under the statutory definition) on June 27, 1987, and the vessel was converted in Korea to a fisheries vessel under a contract dated December 4, 1987. The vessel, which had been documented for fishing on July 27, 1987, prior to conversion, was re-documented for fishing on July 21, 1988.

The Coast Guard issued at least two letter rulings on the rebuild and ownership qualifications of the vessel. On June 29, 1987, the Coast Guard confirmed that planned work on the vessel overseas would result in the vessel's being considered rebuilt rather than new on the basis of an inference from the submitted drawings that a considerable portion of the hull would remain intact. Following passage of the act, the Coast Guard ruled on February 26, 1988, that replacement of an additional 11 meters on the vessel

would not negate the rebuild status. But the Coast Guard also noted that U.S.-built vessels rebuilt abroad lose their fisheries privileges. A follow up letter in April 1988 from the owner's attorney noted that he was still awaiting a response on whether the vessel was exempt from the act's foreign rebuilding provisions, noting that this vessel met the same exemption requirements that qualified another vessel for exemption. The vessel was documented for fishing on July 21, 1988, and on November 9, 1990, a new documentation was issued that included exemption from the American ownership restrictions of the act.

HEATHER SEA (946773)

The Heather Sea was built in Seattle, Washington, in 1975 and was originally a Norwegian supply ship. The vessel was sold through a purchase contract dated June 26, 1987, and was converted to a factory trawler in Norway under a contract dated September 7, 1987. The vessel was deleted from the Norwegian registry, and by letter of April 3, 1989, the Coast Guard was notified that the vessel was crewed and ready to sail. On April 6, 1989, the vessel was documented for fishing.

The Coast Guard issued at least four letter rulings on the rebuild and ownership qualifications of the vessel. The first ruling, which preceded passage of the act, related primarily to the vessel's ability to qualify for a fisheries authorization after having been rebuilt overseas. On March 19, 1987, the Coast Guard determined that the planned work would render the vessel rebuilt rather than new, and thus the vessel would be eligible for full fisheries privileges. A second ruling on February 26, 1988, confirmed that revised conversion plans would still render the vessel rebuilt rather than new.

A third ruling related specifically to the vessel's eligibility after passage of the act. On March 31, 1988, the Coast Guard ruled that the owner had provided evidence to meet several of the requirements for exemption, in particular, a purchase contract signed prior to July 28, 1987, a satisfactory rebuild contract, and evidence of intent for use in the fisheries. Therefore, the Coast Guard ruled that the vessel would retain fisheries privileges if it was redelivered to the owner before July 28, 1990, and upon evidence that the vessel was originally built in the United States. A transfer of stock does not cause loss of the grandfather rights, the Coast Guard added, and thus a restructuring of the owner that gave controlling interest to non-U.S. citizens would not cause loss of fisheries privileges. On September 27, 1988, the Coast Guard again ruled that additional conversion work would not change previous rulings that the vessel would be rebuilt, not new.

NORTHERN EAGLE (506694)

The Northern Eagle was built in Beaumont, Texas, in 1966 and originally served as a freight vessel. The most recent change of ownership prior to July 28, 1987, occurred on December 6, 1986. The vessel was converted to a factory trawler in Norway. On the basis of the redelivery date, the Coast Guard concluded that the conversion contract was entered into prior to the statutory deadline of July 12, 1988. The Coast Guard's records indicate the vessel was redelivered to the owner on March 29, 1988, and was documented for fishing on the same date.

The Coast Guard issued at least two letter rulings for this vessel on its rebuild and ownership status. On July 11, 1986, prior to enactment of the law, the Coast Guard confirmed that planned changes to the vessel would render the vessel rebuilt rather than new, thereby protecting the vessel from loss of fisheries privileges. After passage of the act, the Coast Guard ruled on July 26, 1988, that the redelivery, and hence the signing of the contract for overseas work, had occurred prior to the statutory deadlines to qualify for exemption and that the intent to use the vessel in the U.S. fisheries trade had been clearly indicated in the prior ruling. Since it was clear that the vessel was rebuilt and not new, the Coast Guard ruled that the vessel was eligible for a fisheries license even though it was rebuilt outside the United States. The ruling also noted that vessel documentation should state that the vessel was exempt from the American control provisions of the act.

NORTHERN HAWK (643771)

The Northern Hawk was built in Warren, Rhode Island, in 1981 and was originally used for oil exploration and towing. The vessel was sold to a new owner on July 8, 1987, and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on May 20, 1988. After overseas work was completed, the vessel was redelivered to the owner on June 29, 1990, and was documented for fishing on June 29, 1990.

The Coast Guard issued at least six letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated July 17, 1987, the Coast Guard ruled that as long as the vessel remained under 500 gross tons after the conversion, its coastwise license would not be lost. On March 29, 1988, the Coast Guard noted that it had received evidence of intent to use the vessel for fishing and ruled that the vessel would maintain its fishing license after conversion even though the Anti-Reflagging Act had passed, provided sufficient information was sent. On January 18, 1989, the Coast Guard ruled that the vessel would maintain grandfather rights as long as it was converted pursuant to provisions of the "Sunmar/Ulstein" conversion contract. On February 10, 1989, the Coast Guard confirmed that the converted vessel would not be new and would have grandfather rights. On May 16, 1989, the Coast Guard confirmed that the vessel would be able to get a fishing license even though conversion plans had changed and the

vessel had a new owner. On June 25, 1990, the Coast Guard ruled that the vessel would maintain fishing rights and preferred ship mortgage even though it had a new owner and was mortgaged with a foreign bank. On June 29, 1990, the Coast Guard ruled that the vessel qualified for exemption from the foreign rebuild prohibition of the act.

NORTHERN JAEGER (521069)

The Northern Jaeger was built in Orange, Texas, in 1969 and was originally used for freight. The vessel was sold to a new owner on June 10, 1988, which qualified it under the act for eligibility for exemptions pursuant to section 4 (a) (4) (B) of the act. The vessel was converted to a factory trawler in Germany pursuant to a rebuild contract dated August 28, 1987. After overseas work was completed, the vessel was redelivered to the owner on March 27, 1990, and also was documented for fisheries on March 27, 1990.

The Coast Guard issued at least six letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated February 3, 1989, the Coast Guard ruled that the vessel's conversion contract was for another vessel and that on August 28, 1987, this vessel was substituted. This was not in accordance with the intent of the savings provisions and the vessel would not be able to get a fishing license. On February 16, 1989, the Coast Guard decided that after reconsideration based on new information, grandfather rights would be maintained. On June 8, 1989, the Coast Guard ruled that new ownership would be able to get a fishing license. On March 8, 1990, the Coast Guard ruled that under another new management arrangement, the new owners could not get a fishing license. On March 27, 1990, the Coast Guard ruled that, after more changes to the management arrangement, the vessel would be able to get a fishing license. On April 3, 1990, the Coast Guard confirmed that the vessel could get a fishing license.

OCEAN ROVER (552100)

The Ocean Rover was built in Amelia, Louisiana, in 1973 and was originally used for oil exploration. The vessel was sold to a new owner on December 31, 1986, and was converted to a fishing/processing vessel in Norway pursuant to a rebuild contract entered into on June 28, 1988. After overseas work was completed, the vessel was redelivered to the owner on December 9, 1989, and was documented for fishing on January 8, 1990.

The Coast Guard issued at least six letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated June 12, 1987, the Coast Guard ruled that a planned conversion of the vessel would make it rebuilt. On March 16, 1988, the Coast Guard confirmed that if the vessel was rebuilt at a foreign shipyard and was sold to foreign owners, it would still be eligible for U.S. fishing rights. In this ruling, the Coast Guard cited a previous letter ruling as evidence of intent to use for fishing. On June 20, 1988, the Coast Guard again reconfirmed that the vessel would be considered rebuilt after

the conversion. On November 30, 1988, the Coast Guard ruled that a change in vessel conversion plans would not make the vessel new. On March 16, 1989, the Coast Guard again confirmed that additional changes in conversion plans would not affect its fishing rights. On January 2, 1990, the Coast Guard ruled that the vessel remained eligible for fishing.

PACIFIC EXPLORER (942592)

The Pacific Explorer was built in Houston, Texas, in 1982 and was originally a supply ship operating under Panamanian registry. Ownership was transferred from a Panamanian corporation to a new owner on July 27, 1987. The vessel was converted to a factory trawler in Norway under a contract, dated July 17, 1987, which was assigned to the new owner on July 27, 1987. On December 15, 1988, the vessel was documented for fishing.

The Coast Guard issued at least two letter rulings on the rebuild and ownership qualifications of the vessel. On April 30, 1987, the Coast Guard confirmed that the conversion plans for the vessel would cause the vessel to be considered rebuilt rather than new. After passage of the act, the Coast Guard issued another letter ruling on July 12, 1988, stating that the vessel met the requirements for exemption from the overseas rebuilding prohibition. The Coast Guard stated that the vessel would be eligible for the fisheries trade if the owner could establish that the vessel was built in the United States and that it was redelivered to the owner before July 28, 1990. The Coast Guard referred to its April 30, 1987, ruling as evidence of the intent to engage in the fisheries trade.

PACIFIC GLACIER (933627)

The Pacific Glacier was built in Seattle, Washington, in 1974 and was originally used as a supply vessel. The vessel was sold to a new owner on July 8, 1987, and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on July 8, 1987. After overseas work was completed, records indicated that the vessel was redelivered to the owner on June 25, 1988, and documented for fishing on June 28, 1988.

The Coast Guard issued at least three letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated March 19, 1987, the Coast Guard ruled that conversion work overseas would not result in the loss of fishing rights. On July 1, 1987, the Coast Guard confirmed that the vessel would still be rebuilt despite a change in conversion plans. On June 17, 1988, the Coast Guard ruled that fishing rights would be maintained even though the scope of conversion work had changed again. The Coast Guard cited the contract for sale and prior rulings as evidence of intent to use the vessel for fishing.

PACIFIC NAVIGATOR (592204)

The Pacific Navigator was built in Amelia, Louisiana, in 1978 and was originally used in oil exploration. The vessel was sold to a new owner under a contract for purchase dated November 12, 1986, and was converted to a factory trawler in Norway under a contract dated December 15, 1986. The vessel was redelivered before December 16, 1987, and was documented for fishing on December 17, 1987.

The Coast Guard issued at least three letter rulings on the rebuild and ownership qualifications of the vessel. Prior to passage of the act, the Coast Guard ruled on November 4, 1986, that overseas work in Norway to convert three sister vessels, including the Pacific Navigator, into factory trawlers would constitute a rebuilding of the vessels, allowing the vessels to retain their fisheries privileges since they would not be considered new vessels. On December 16, 1987, the Coast Guard ruled again that the vessel would be considered rebuilt and thus eligible for fisheries privileges. After passage of the act, the Coast Guard noted on July 5, 1988, that since the prior rulings, the law had changed but the vessel met all four criteria for exemption under the rebuilding provisions of the new act. Intent for use in the fisheries trade was evidenced by issuance of a certificate of documentation dated November 12, 1986. Thus, the Coast Guard ruled that the vessel could continue to be documented for fisheries and would continue to enjoy exemption from the American control provisions of the act despite the transfer of stock to individuals or entities that had not met the American control requirements.

PACIFIC SCOUT (934772)

The Pacific Scout was built in Houston, Texas, in 1982 and was originally used as a supply vessel. The vessel was sold to a new owner on July 27, 1987, and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on July 17, 1987. After overseas work was completed, records indicated that the vessel was redelivered to the owner on July 14, 1988, and was also documented for fishing on July 14, 1988.

The Coast Guard issued at least two letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated April 30, 1987, the Coast Guard ruled that the vessel would be able to get a fishing license even though it was being rebuilt. On July 12, 1988, the Coast Guard reconfirmed that the vessel could be documented for fishing. According to the Coast Guard, intent to use the vessel for fishing was established in a prior letter ruling.

ROYAL KING (592205)

The Royal King was built in Amelia, Louisiana, in 1978 and was originally used for oil exploration. The vessel was sold to a new owner in 1986 and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on December 15, 1986. After overseas work was completed, the vessel was redelivered to the owner on April 20, 1988 and was documented for fishing on February 13, 1989.

The Coast Guard issued at least two letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated November 4, 1986, the Coast Guard ruled that overseas conversion work would not result in loss of fishing privileges. On April 19, 1988, the Coast Guard ruled again that the vessel's conversion would not cause the vessel to lose its fishing rights. In this ruling, the Coast Guard cited an October 30, 1986, request for ruling and its subsequent ruling in November 4, 1986, as evidence of intent to use the vessel for fishing.

SAGA SEA (965039)

The Saga Sea was built in Houston, Texas, in 1974 and was originally a Panamanian tug/supply vessel. The vessel was sold through a purchase contract dated July 8, 1987, and was converted to a factory trawler in Norway under a contract dated July 7, 1988. Redelivery of the vessel to the owner occurred on June 29, 1990. On July 1, 1990, the vessel was documented for fishing.

The Coast Guard issued at least five letter rulings on the rebuild and ownership qualifications of the vessel. Prior to the passage of the act, the Coast Guard ruled on December 12, 1986, that the proposed conversion of the vessel in Norway, although extensive, would nevertheless render the vessel rebuilt rather than new. After passage of the act, the Coast Guard again ruled, on January 27, 1989, that the vessel would be considered rebuilt, not new, after conversion work abroad. The Coast Guard determined that the information it had received adequately demonstrated compliance with the statutory requirements for the purchase and rebuilding contract deadlines. Intent was evidenced by a letter ruling that preceded July 28, 1987, and by a request for a ruling dated December 10, 1986. Assuming that the vessel had been built in the United States, the Coast Guard concluded that if the vessel were converted as planned and was redelivered to the owner prior to the July 28, 1990, statutory deadline, the vessel would be exempt from both the overseas rebuilding prohibition and the American control restriction. On June 21, 1989, evidence that the vessel was built in the United States was provided to the Coast Guard along with a request for a ruling on whether additional conversion work would alter the finding that the vessel was being rebuilt. The Coast Guard ruled on June 30, 1989, that the modification would not result in the vessel's being new.

A fourth letter ruling was issued on May 22, 1990, which found that a vessel would be considered redelivered to the owner after conversion if the owner has unequivocally regained custody, possession, and control of the vessel, even though the planned conversion work had not been completed. Although a foreign shipyard could no longer work on the vessel, work could be completed at a U. S. shipyard without loss of fisheries privileges. On June 29, 1990, the Coast Guard found that since certification that the overseas work had been done according to submissions for earlier letter rulings and timely redelivery to the owner had occurred, the vessel qualified for exemption from the foreign rebuild prohibition of the act.

SEAFISHER (575587)

The Seafisher was built in Moss Point, Mississippi, in 1976 and was originally used in oil exploration. The vessel changed owners on June 17, 1987, and was converted to a factory trawler in Norway under a contract dated July 5, 1988. Subcontracting work was done in Japan. Redelivery of the vessel to the owner occurred on May 2, 1990. On May 15, 1990, the vessel was documented for fishing.

The Coast Guard issued at least two letter rulings, after passage of the act, on the rebuild and ownership qualifications of the vessel. On May 31, 1989, the Coast Guard determined that the vessel met most of the conditions necessary to qualify for the rebuilding and American control exemptions of the act. The only criterion not yet met was timely redelivery of the vessel to the owner. After notification that redelivery had occurred, the Coast Guard determined on May 10, 1990, that the vessel was entitled to be documented for the fisheries trade and that the authorization was not affected by the sale of the vessel.

SNOW KING (534721)

The Snow King was built in San Diego, California, in 1971 and was originally used for fishing. The vessel was sold to a new owner in 1986 and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into April 20, 1986. After overseas work was completed, the vessel was redelivered to the owner in 1987 and was documented for fishing on July 8, 1988.

The Coast Guard issued at least two letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated December 11, 1985, the Coast Guard ruled that the vessel's conversion in a foreign shipyard would not affect its fishing rights. On June 22, 1988, the Coast Guard ruled that the vessel would maintain fishing rights even though the Anti-Reflagging Act had been passed. In this ruling, the Coast Guard referred to its December 11, 1985, letter ruling as evidence of intent to use the vessel for fishing.

VICTORIA ANN (592207)

The Victoria Ann was built in Amelia, Louisiana, in 1978 and was originally used for oil exploration. The vessel was sold to a new owner in November 1986 and was converted to a factory trawler in Norway pursuant to a rebuild contract entered into on December 15, 1986. After overseas work was completed, the vessel was redelivered to the owner in April 1988 and was documented for fishing on February 3, 1989.

The Coast Guard issued at least two letter rulings on the rebuild and ownership qualifications of the vessel. In its letter ruling dated November 4, 1986, the Coast Guard ruled that certain conversion work proposed to be accomplished in Norway would not result in loss of fisheries or coastwise entitlement. On April 19, 1988, the Coast Guard ruled that the vessel's fishing license would be maintained even though the vessel was recently converted in Norway and the Anti-Reflagging Act had been passed. The Coast Guard cited an October 30, 1986, request and its subsequent ruling of November 4, 1986, as evidence of intent to use the vessel for fishing.

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