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DEPARTMENT OF STATE

[Public Notice: 7490]

Certifications Pursuant to Public Law That 12 Nations Have Adopted
Programs to Reduce the Incidental Capture of Sea Turtles in Their Shrimp
Fisheries

SUMMARY: On April 22, 2011, the Department of State certified, pursuant to Section 609 of Public Law 101-162, that 12 nations have adopted programs to reduce the incidental capture of sea turtles in their shrimp fisheries comparable to the program in effect in the United States. The Department also certified that the fishing environments in 26 other countries and one economy, Hong Kong, do not pose a threat of the incidental taking of sea turtles protected under Section 609.

EFFECTIVE DATE: On Publication.

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SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101-162 (“Section 609”) prohibits imports of certain categories of shrimp unless the President certifies to the Congress not later than May 1 of each year either: (1) that the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State (“the Department”). Revised State Department guidelines for making the required certifications were published in the Federal Register on July 2, 1999 (Vol. 64, No. 130, Public Notice 3086).

On April 22, 2011, the Department certified 12 nations on the basis that their sea turtle protection programs are comparable to that of the United States: Colombia, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Nigeria, Pakistan, Panama, and Suriname.

The Department also certified 26 shrimp harvesting nations and one economy as having fishing environments that do not pose a danger to sea turtles. Sixteen nations have shrimping grounds only in cold waters where the risk of taking sea turtles is negligible. They are: Argentina, Belgium, Canada, Chile, Denmark, Finland, Germany, Iceland, Ireland, the Netherlands, New Zealand, Norway, Russia, Sweden, the United Kingdom, and Uruguay. Ten nations and one economy only harvest shrimp using small boats with crews of less than five that use manual rather than

mechanical means to retrieve nets, or catch shrimp using other methods that do not threaten sea turtles. Use of such small-scale technology does not adversely affect sea turtles. The 10 nations and one economy are: the Bahamas, Belize, China, the Dominican Republic, Fiji, Hong Kong, Jamaica, Oman, Peru, Sri Lanka, and Venezuela.

The Department certified Belize this year on a different basis than last year. Effective December 31, 2010, the Government of Belize passed a law banning all forms of trawling in its waters, including its exclusive economic zone. The ban remains in effect. As a result, the Department has certified Belize as a nation whose fishing environment does not pose a threat of the incidental taking of sea turtles.

On April 22, 2011, the Department decertified Madagascar. In the absence of a legitimate constitutional government in Madagascar since the 2009 coup d'état, relations between the United States and the de-facto Malagasy authorities have been extremely limited. The Department of State and NOAA have been unable to conduct a Government of Madagascar sea turtle protection program verification visit since September 2008. Without the ability to independently verify whether Madagascar has a sea turtle protection program comparable to that of the United States, the Department is unable to certify Madagascar this year.

The Department of State has communicated the certifications under Section 609 to the Office of Field Operations of U.S. Customs and Border Protection.

In addition, this Federal Register Notice confirms that the requirement for all DS-2031 forms from uncertified nations must be originals and signed by the competent domestic fisheries authority. This policy change was first announced in a Department of State media note released on December 21, 2004. In order for shrimp harvested with Turtle Excluder Devices (TEDs) in an uncertified nation to be eligible for importation into the United States under the exemption: “Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States”, the Department of State must determine in advance that the government of the harvesting nation has put in place adequate procedures to ensure the accurate completion of the DS-2031 forms. At this time, the Department has made such a determination only with respect to Australia, Brazil and France. Thus, the importation of TED-caught shrimp from any other uncertified nation will not be allowed. For Brazil, only shrimp harvested in the northern shrimp fishery are eligible for entry under this exemption. For Australia, shrimp harvested in the Exmouth Gulf Prawn Fishery, the Northern Prawn Fishery, the Queensland East Coast Trawl Fishery, and the Torres Strait Prawn Fishery are eligible for entry under this exemption. For France, shrimp harvested in the French Guiana domestic trawl fishery are eligible for entry under this exemption.

In addition, the Department has already made a determination with regard to wild-harvest shrimp harvested in the Spencer Gulf region in Australia. This product may be exported to the U.S. using a DS-2031 under the exemption for “shrimp harvested in a manner or under circumstances determined by the Department of State not to pose a threat of the incidental

taking of sea turtles.” An official of the Government of Australia still also must certify the DS-2031.

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DATE

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