

In the Senate of the United States,

June 30 (legislative day, June 19), 1995.

Resolved, That the bill from the House of Representatives (H.R. 716) entitled “An Act to amend the Fishermen’s Protective Act”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Fisheries Act of 1995”.*

3 **SEC. 2. TABLE OF CONTENTS.**

4 *The Table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—HIGH SEAS FISHING COMPLIANCE

Sec. 101. Short title.

Sec. 102. Purpose.

Sec. 103. Definitions.

Sec. 104. Permitting.

Sec. 105. Responsibilities of the Secretary.

Sec. 106. Unlawful activities.

Sec. 107. Enforcement provisions.

Sec. 108. Civil penalties and permit sanctions.

Sec. 109. Criminal offenses.

Sec. 110. Forfeitures.

Sec. 111. Effective date.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

- Sec. 201. Short title.*
- Sec. 202. Representation of United States under convention.*
- Sec. 203. Requests for scientific advice.*
- Sec. 204. Authorities of Secretary of State with respect to convention.*
- Sec. 205. Interagency cooperation.*
- Sec. 206. Rulemaking.*
- Sec. 207. Prohibited acts and penalties.*
- Sec. 208. Consultative committee.*
- Sec. 209. Administrative matters.*
- Sec. 210. Definitions.*
- Sec. 211. Authorization of appropriations.*

TITLE III—ATLANTIC TUNAS CONVENTION ACT

- Sec. 301. Short title.*
- Sec. 302. Research and monitoring activities.*
- Sec. 303. Definitions.*
- Sec. 304. Advisory committee procedures.*
- Sec. 305. Regulations and enforcement of Convention.*
- Sec. 306. Fines and permit sanctions.*
- Sec. 307. Authorization of appropriations.*
- Sec. 308. Report and savings clause.*
- Sec. 309. Management and Atlantic yellowfin tuna.*
- Sec. 310. Study of bluefin tuna regulations.*
- Sec. 311. Sense of the Congress with respect to ICCAT negotiations.*

TITLE IV—FISHERMEN'S PROTECTIVE ACT

- Sec. 401. Findings.*
- Sec. 402. Amendment to the Fishermen's Protective Act of 1967.*
- Sec. 403. Reauthorization.*
- Sec. 404. Technical corrections.*

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

- Sec. 501. Short title.*
- Sec. 502. Fishing prohibition.*

TITLE VI—DRIFTNET MORATORIUM

- Sec. 601. Short title.*
- Sec. 602. Findings.*
- Sec. 603. Prohibition.*
- Sec. 604. Negotiations.*
- Sec. 605. Certification.*
- Sec. 606. Enforcement.*

TITLE VII—YUKON RIVER SALMON ACT

- Sec. 701. Short title.*
- Sec. 702. Purposes.*
- Sec. 703. Definitions.*
- Sec. 704. Panel.*

Sec. 705. Advisory committee.
 Sec. 706. Exemption.
 Sec. 707. Authority and responsibility.
 Sec. 708. Continuation of agreement.
 Sec. 709. Administrative matters.
 Sec. 710. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS

Sec. 801. South Pacific tuna amendment.
 Sec. 802. Foreign fishing for Atlantic herring and Atlantic mackerel.

1 TITLE I—HIGH SEAS FISHING COMPLIANCE

2 **SEC. 101. SHORT TITLE.**

3 *This title may be cited as the “High Seas Fishing*
 4 *Compliance Act of 1995”.*

5 **SEC. 102. PURPOSE.**

6 *It is the purpose of this Act—*

7 *(1) to implement the Agreement to Promote*
 8 *Compliance with International Conservation and*
 9 *Management Measures by Fishing Vessels on the High*
 10 *Seas, adopted by the Conference of the Food and Agri-*
 11 *culture Organization of the United Nations on No-*
 12 *vember 24, 1993; and*

13 *(2) to establish a system of permitting, report-*
 14 *ing, and regulation for vessels of the United States*
 15 *fishing on the high seas.*

16 **SEC. 103. DEFINITIONS.**

17 *As used in this Act—*

18 *(1) The term “Agreement” means the Agreement*
 19 *to Promote Compliance with International Conserva-*
 20 *tion and Management Measures by Fishing Vessels on*

1 *the High Seas, adopted by the Conference of the Food*
2 *and Agriculture Organization of the United Nations*
3 *on November 24, 1993.*

4 (2) *The term “FAO” means the Food and Agri-*
5 *culture Organization of the United Nations.*

6 (3) *The term “high seas” means the waters be-*
7 *yond the territorial sea or exclusive economic zone (or*
8 *the equivalent) of any nation, to the extent that such*
9 *territorial sea or exclusive economic zone (or the*
10 *equivalent) is recognized by the United States.*

11 (4) *The term “high seas fishing vessel” means*
12 *any vessel of the United States used or intended for*
13 *use—*

14 (A) *on the high seas;*

15 (B) *for the purpose of the commercial ex-*
16 *ploitation of living marine resources; and*

17 (C) *as a harvesting vessel, as a mother ship,*
18 *or as any other support vessel directly engaged*
19 *in a fishing operation.*

20 (5) *The term “international conservation and*
21 *management measures” means measures to conserve*
22 *or manage one or more species of living marine re-*
23 *sources that are adopted and applied in accordance*
24 *with the relevant rules of international law, as re-*
25 *flected in the 1982 United Nations Convention on the*

1 *Law of the Sea, and that are recognized by the Unit-*
2 *ed States. Such measures may be adopted by global,*
3 *regional, or sub-regional fisheries organizations, sub-*
4 *ject to the rights and obligations of their members, or*
5 *by treaties or other international agreements.*

6 (6) *The term “length” means—*

7 (A) *for any high seas fishing vessel built*
8 *after July 18, 1982, 96 percent of the total length*
9 *on a waterline at 85 percent of the least molded*
10 *depth measured from the top of the keel, or the*
11 *length from the foreside of the stem to the axis*
12 *of the rudder stock on that waterline, if that is*
13 *greater, except that in ships designed with a rake*
14 *of keel the waterline on which this length is*
15 *measured shall be parallel to the designed water-*
16 *line; and*

17 (B) *for any high seas fishing vessel built be-*
18 *fore July 18, 1982, registered length as entered*
19 *on the vessel’s documentation.*

20 (7) *The term “person” means any individual*
21 *(whether or not a citizen or national of the United*
22 *States), any corporation, partnership, association, or*
23 *other entity (whether or not organized or existing*
24 *under the laws of any State), and any Federal, State,*

1 *local, or foreign government or any entity of any such*
2 *government.*

3 *(8) The term “Secretary” means the Secretary of*
4 *Commerce.*

5 *(9) The term “vessel of the United States”*
6 *means—*

7 *(A) a vessel documented under chapter 121*
8 *of title 46, United States Code, or numbered in*
9 *accordance with chapter 123 of title 46, United*
10 *States Code;*

11 *(B) a vessel owned in whole or part by—*

12 *(i) the United States or a territory,*
13 *commonwealth, or possession of the United*
14 *States;*

15 *(ii) a State or political subdivision*
16 *thereof;*

17 *(iii) a citizen or national of the United*
18 *States; or*

19 *(iv) a corporation created under the*
20 *laws of the United States or any State, the*
21 *District of Columbia, or any territory, com-*
22 *monwealth, or possession of the United*
23 *States; unless the vessel has been granted the*
24 *nationality of a foreign nation in accord-*
25 *ance with article 92 of the 1982 United Na-*

1 *tions Convention on the Law of the Sea and*
2 *a claim of nationality or registry for the*
3 *vessel is made by the master or individual*
4 *in charge at the time of the enforcement ac-*
5 *tion by an officer or employee of the United*
6 *States authorized to enforce applicable pro-*
7 *visions of the United States law; and*

8 *(C) a vessel that was once documented*
9 *under the laws of the United States and, in vio-*
10 *lation of the laws of the United States, was ei-*
11 *ther sold to a person not a citizen of the United*
12 *States or placed under foreign registry or a for-*
13 *ign flag, whether or not the vessel has been*
14 *granted the nationality of a foreign nation.*

15 *(10) The terms “vessel subject to the jurisdiction*
16 *of the United States” and “vessel without national-*
17 *ity” have the same meaning as in section 3(c) of the*
18 *Maritime Drug Law Enforcement Act (46 U.S.C.*
19 *1903(c)).*

20 **SEC. 104. PERMITTING.**

21 *(a) IN GENERAL.—No high seas fishing vessel shall en-*
22 *gage in harvesting operations on the high seas unless the*
23 *vessel has on board a valid permit issued under this section.*

24 *(b) ELIGIBILITY.—*

1 (1) Any vessel of the United States is eligible to
2 receive a permit under this section, unless the vessel
3 was previously authorized to be used for fishing on
4 the high seas by a foreign nation, and

5 (A) the foreign nation suspended such au-
6 thorization because the vessel undermined the ef-
7 fectiveness of international conservation and
8 management measures, and the suspension has
9 not expired; or

10 (B) the foreign nation, within the last three
11 years preceding application for a permit under
12 this section, withdrew such authorization because
13 the vessel undermined the effectiveness of inter-
14 national conservation and management meas-
15 ures.

16 (2) The restriction in paragraph (1) does not
17 apply if ownership of the vessel has changed since the
18 vessel undermined the effectiveness of international
19 conservation and management measures, and the new
20 owner has provided sufficient evidence to the Sec-
21 retary demonstrating that the previous owner or oper-
22 ator has no further legal, beneficial or financial inter-
23 est in, or control of, the vessel.

24 (3) The restriction in paragraph (1) does not
25 apply if the Secretary makes a determination that is-

1 *suing a permit would not subvert the purposes of the*
2 *Agreement.*

3 *(4) The Secretary may not issue a permit to a*
4 *vessel unless the Secretary is satisfied that the United*
5 *States will be able to exercise effectively its respon-*
6 *sibilities under the Agreement with respect to that*
7 *vessel.*

8 *(c) APPLICATION.—*

9 *(1) The owner or operator of a high seas fishing*
10 *vessel may apply for a permit under this section by*
11 *completing an application form prescribed by the Sec-*
12 *retary.*

13 *(2) The application form shall contain—*

14 *(A) the vessel's name, previous names (if*
15 *known), official numbers, and port of record;*

16 *(B) the vessel's previous flags (if any);*

17 *(C) the vessel's International Radio Call*
18 *Sign (if any);*

19 *(D) the names and addresses of the vessel's*
20 *owners and operators;*

21 *(E) where and when the vessel was built;*

22 *(F) the type of vessel;*

23 *(G) the vessel's length; and*

1 (H) any other information the Secretary re-
2 quires for the purposes of implementing the
3 Agreement.

4 (d) *CONDITIONS.*—The Secretary shall establish such
5 conditions and restrictions on each permit issued under this
6 section as are necessary and appropriate to carry out the
7 obligations of the United States under the Agreement, in-
8 cluding but not limited to the following:

9 (1) The vessel shall be marked in accordance
10 with the FAO Standard Specifications for the Mark-
11 ing and Identification of Fishing Vessels, or with reg-
12 ulations issued under section 305 of the Magnuson
13 Fishery Conservation and Management Act (16
14 U.S.C. 1855); and

15 (2) The permit holder shall report such informa-
16 tion as the Secretary by regulation requires, includ-
17 ing area of fishing operations and catch statistics.
18 The Secretary shall promulgate regulations concern-
19 ing conditions under which information submitted
20 under this paragraph may be released.

21 (e) *FEES.*—

22 (1) The Secretary shall by regulation establish
23 the level of fees to be charged for permits issued under
24 this section. The amount of any fee charged for a per-
25 mit issued under this section shall not exceed the ad-

1 *ministrative costs incurred in issuing such permits.*
2 *The permitting fee may be in addition to any fee re-*
3 *quired under any regional permitting regime applica-*
4 *ble to high seas fishing vessels.*

5 *(2) The fees authorized by paragraph (1) shall be*
6 *collected and credited to the Operations, Research and*
7 *Facilities account of the National Oceanic and At-*
8 *mospheric Administration. Fees collected under this*
9 *subsection shall be available for the necessary expenses*
10 *of the National Oceanic and Atmospheric Administra-*
11 *tion in implementing this Act, and shall remain*
12 *available until expended.*

13 *(f) DURATION.—A permit issued under this section is*
14 *valid for 5 years. A permit issued under this section is void*
15 *in the event the vessel is no longer eligible for United States*
16 *documentation, such documentation is revoked or denied,*
17 *or the vessel is deleted from such documentation.*

18 **SEC. 105. RESPONSIBILITIES OF THE SECRETARY.**

19 *(a) RECORD.—The Secretary shall maintain an auto-*
20 *mated file or record of high seas fishing vessels issued per-*
21 *mits under section 104, including all information submitted*
22 *under section 104(c)(2).*

23 *(b) INFORMATION TO FAO.—The Secretary, in co-*
24 *operation with the Secretary of State and the Secretary of*

1 *the department in which the Coast Guard is operating,*
2 *shall—*

3 (1) *make available to FAO information con-*
4 *tained in the record maintained under subsection (a);*

5 (2) *promptly notify FAO of changes in such in-*
6 *formation;*

7 (3) *promptly notify FAO of additions to or dele-*
8 *tions from the record, and the reason for any deletion;*

9 (4) *convey to FAO information relating to any*
10 *permit granted under section 104(b)(3), including the*
11 *vessel's identity, owner or operator, and factors rel-*
12 *evant to the Secretary's determination to issue the*
13 *permit;*

14 (5) *report promptly to FAO all relevant infor-*
15 *mation regarding any activities of high seas fishing*
16 *vessels that undermine the effectiveness of inter-*
17 *national conservation and management measures, in-*
18 *cluding the identity of the vessels and any sanctions*
19 *imposed; and*

20 (6) *provide the FAO a summary of evidence re-*
21 *garding any activities of foreign vessels that under-*
22 *mine the effectiveness of international conservation*
23 *and management measures.*

24 (c) *INFORMATION TO FLAG NATIONS.—If the Sec-*
25 *retary, in cooperation with the Secretary of State and the*

1 Secretary of the department in which the Coast Guard is
2 operating, has reasonable grounds to believe that a foreign
3 vessel has engaged in activities undermining the effective-
4 ness of international conservation and management meas-
5 ures, the Secretary shall—

6 (1) provide to the flag nation information, in-
7 cluding appropriate evidentiary material, relating to
8 those activities; and

9 (2) when such foreign vessel is voluntarily in a
10 United States port, promptly notify the flag nation
11 and, if requested by the flag nation, make arrange-
12 ments to undertake such lawful investigatory meas-
13 ures as may be considered necessary to establish
14 whether the vessel has been used contrary to the provi-
15 sions of the Agreement.

16 (d) *REGULATIONS.*—The Secretary, after consultation
17 with the Secretary of State and the Secretary of the depart-
18 ment in which the Coast Guard is operating, may promul-
19 gate such regulations, in accordance with section 553 of title
20 5, United States Code, as may be necessary to carry out
21 the purposes of the Agreement and this title. The Secretary
22 shall coordinate such regulations with any other entities
23 regulating high seas fishing vessels, in order to minimize
24 duplication of permit application and reporting require-
25 ments. To the extent practicable, such regulations shall also

1 *be consistent with regulations implementing fishery man-*
2 *agement plans under the Magnuson Fishery Conservation*
3 *and Management Act (16 U.S.C. 1801 et seq.).*

4 *(e) NOTICE OF INTERNATIONAL CONSERVATION AND*
5 *MANAGEMENT MEASURES.—The Secretary, in consultation*
6 *with the Secretary of State, shall publish in the Federal*
7 *Register, from time to time, a notice listing international*
8 *conservation and management measures recognized by the*
9 *United States.*

10 **SEC. 106. UNLAWFUL ACTIVITIES.**

11 *It is unlawful for any person subject to the jurisdiction*
12 *of the United States—*

13 *(1) to use a high seas fishing vessel on the high*
14 *seas in contravention of international conservation*
15 *and management measures described in section*
16 *105(e);*

17 *(2) to use a high seas fishing vessel on the high*
18 *seas, unless the vessel has on board a valid permit is-*
19 *sued under section 104;*

20 *(3) to use a high seas fishing vessel in violation*
21 *of the conditions or restrictions of a permit issued*
22 *under section 104;*

23 *(4) to falsify any information required to be re-*
24 *ported, communicated, or recorded pursuant to this*
25 *title or any regulation issued under this title, or to*

1 *fail to submit in a timely fashion any required infor-*
2 *mation, or to fail to report to the Secretary imme-*
3 *diately any change in circumstances that has the ef-*
4 *fect of rendering any such information false, incom-*
5 *plete, or misleading;*

6 (5) *to refuse to permit an authorized officer to*
7 *board a high seas fishing vessel subject to such per-*
8 *son's control for purposes of conducting any search or*
9 *inspection in connection with the enforcement of this*
10 *title or any regulation issued under this title;*

11 (6) *to forcibly assault, resist, oppose, impede, in-*
12 *timidate, or interfere with an authorized officer in the*
13 *conduct of any search or inspection described in*
14 *paragraph (5);*

15 (7) *to resist a lawful arrest or detention for any*
16 *act prohibited by this section;*

17 (8) *to interfere with, delay, or prevent, by any*
18 *means, the apprehension, arrest, or detection of an-*
19 *other person, knowing that such person has committed*
20 *any act prohibited by this section;*

21 (9) *to ship, transport, offer for sale, sell, pur-*
22 *chase, import, export, or have custody, control, or pos-*
23 *session of, any living marine resource taken or re-*
24 *tained in violation of this title or any regulation or*
25 *permit issued under this title; or*

1 (10) to violate any provision of this title or any
2 regulation or permit issued under this title.

3 **SEC. 107. ENFORCEMENT PROVISIONS.**

4 (a) *DUTIES OF SECRETARIES.*—This title shall be en-
5 forced by the Secretary of Commerce and the Secretary of
6 the department in which the Coast Guard is operating.
7 Such Secretaries may by agreement utilize, on a reimburs-
8 able basis or otherwise, the personnel, services, equipment
9 (including aircraft and vessels), and facilities of any other
10 Federal agency, or of any State agency, in the performance
11 of such duties. Such Secretaries shall, and the head of any
12 Federal or State agency that has entered into an agreement
13 with either such Secretary under this section may (if the
14 agreement so provides), authorize officers to enforce the pro-
15 visions of this title or any regulation or permit issued under
16 this title.

17 (b) *DISTRICT COURT JURISDICTION.*—The district
18 courts of the United States shall have exclusive jurisdiction
19 over any case or controversy arising under the provisions
20 of this title. In the case of Guam, and any Commonwealth,
21 territory, or possession of the United States in the Pacific
22 Ocean, the appropriate court is the United States District
23 Court for the District of Guam, except that in the case of
24 American Samoa, the appropriate court is the United
25 States District Court for the District of Hawaii.

1 (c) *POWERS OF ENFORCEMENT OFFICERS.*—

2 (1) *Any officer who is authorized under sub-*
3 *section (a) to enforce the provisions of this title*
4 *may—*

5 (A) *with or without a warrant or other*
6 *process—*

7 (i) *arrest any person, if the officer has*
8 *reasonable cause to believe that such person*
9 *has committed an act prohibited by para-*
10 *graph (6), (7), (8), or (9) of section 106;*

11 (ii) *board, and search or inspect, any*
12 *high seas fishing vessel;*

13 (iii) *seize any high seas fishing vessel*
14 *(together with its fishing gear, furniture,*
15 *appurtenances, stores, and cargo) used or*
16 *employed in, or with respect to which it*
17 *reasonably appears that such vessel was*
18 *used or employed in, the violation of any*
19 *provision of this title or any regulation or*
20 *permit issued under this title;*

21 (iv) *seize any living marine resource*
22 *(wherever found) taken or retained, in any*
23 *manner, in connection with or as a result*
24 *of the commission of any act prohibited by*
25 *section 106;*

1 (v) seize any other evidence related to
2 any violation of any provision of this title
3 or any regulation or permit issued under
4 this title;

5 (B) execute any warrant or other process is-
6 sued by any court of competent jurisdiction; and

7 (C) exercise any other lawful authority.

8 (2) Subject to the direction of the Secretary, a
9 person charged with law enforcement responsibilities
10 by the Secretary who is performing a duty related to
11 enforcement of a law regarding fisheries or other ma-
12 rine resources may make an arrest without a warrant
13 for an offense against the United States committed in
14 his presence, or for a felony cognizable under the laws
15 of the United States, if he has reasonable grounds to
16 believe that the person to be arrested has committed
17 or is committing a felony.

18 (d) *ISSUANCE OF CITATIONS.*—If any authorized offi-
19 cer finds that a high seas fishing vessel is operating or has
20 been operated in violation of any provision of this title, such
21 officer may issue a citation to the owner or operator of such
22 vessel in lieu of proceeding under subsection (c). If a permit
23 has been issued pursuant to this title for such vessel, such
24 officer shall note the issuance of any citation under this
25 subsection, including the date thereof and the reason there-

1 *for, on the permit. The Secretary shall maintain a record*
2 *of all citations issued pursuant to this subsection.*

3 *(e) LIABILITY FOR COSTS.—Any person assessed a*
4 *civil penalty for, or convicted of, any violation of this Act*
5 *shall be liable for the cost incurred in storage, care, and*
6 *maintenance of any living marine resource or other prop-*
7 *erty seized in connection with the violation.*

8 **SEC. 108. CIVIL PENALTIES AND PERMIT SANCTIONS.**

9 *(a) CIVIL PENALTIES.—*

10 *(1) Any person who is found by the Secretary,*
11 *after notice and opportunity for a hearing in accord-*
12 *ance with section 554 of title 5, United States Code,*
13 *to have committed an act prohibited by section 106*
14 *shall be liable to the United States for a civil penalty.*
15 *The amount of the civil penalty shall not exceed*
16 *\$100,000 for each violation. Each day of a continuing*
17 *violation shall constitute a separate offense. The*
18 *amount of such civil penalty shall be assessed by the*
19 *Secretary by written notice. In determining the*
20 *amount of such penalty, the Secretary shall take into*
21 *account the nature, circumstances, extent, and gravity*
22 *of the prohibited acts committed and, with respect to*
23 *the violation, the degree of culpability, any history of*
24 *prior offenses, and such other matters as justice may*
25 *require.*

1 (2) *The Secretary may compromise, modify, or*
2 *remit, with or without conditions, any civil penalty*
3 *that is subject to imposition or that has been imposed*
4 *under this section.*

5 **(b) PERMIT SANCTIONS.—**

6 (1) *In any case in which—*

7 (A) *a vessel of the United States has been*
8 *used in the commission of an act prohibited*
9 *under section 106;*

10 (B) *the owner or operator of a vessel or any*
11 *other person who has been issued or has applied*
12 *for a permit under section 104 has acted in vio-*
13 *lation of section 106; or*

14 (C) *any amount in settlement of a civil for-*
15 *feiture imposed on a high seas fishing vessel or*
16 *other property, or any civil penalty or criminal*
17 *fine imposed on a high seas fishing vessel or on*
18 *an owner or operator of such a vessel or on any*
19 *other person who has been issued or has applied*
20 *for a permit under any fishery resource statute*
21 *enforced by the Secretary, has not been paid and*
22 *is overdue, the Secretary may—*

23 (i) *revoke any permit issued to or ap-*
24 *plied for by such vessel or person under this*

1 title, with or without prejudice to the issu-
2 ance of subsequent permits;

3 (ii) suspend such permit for a period
4 of time considered by the Secretary to be
5 appropriate;

6 (iii) deny such permit; or

7 (iv) impose additional conditions and
8 restrictions on such permit.

9 (2) In imposing a sanction under this sub-
10 section, the Secretary shall take into account—

11 (A) the nature, circumstances, extent, and
12 gravity of the prohibited acts for which the sanc-
13 tion is imposed; and

14 (B) with respect to the violator, the degree
15 of culpability, any history of prior offenses, and
16 such other matters as justice may require.

17 (3) Transfer of ownership of a high seas fishing
18 vessel, by sale or otherwise, shall not extinguish any
19 permit sanction that is in effect or is pending at the
20 time of transfer of ownership. Before executing the
21 transfer of ownership of a vessel, by sale or otherwise,
22 the owner shall disclose in writing to the prospective
23 transferee the existence of any permit sanction that
24 will be in effect or pending with respect to the vessel
25 at the time of the transfer. The Secretary may waive

1 or compromise a sanction in the case of a transfer
2 pursuant to court order.

3 (4) In the case of any permit that is suspended
4 under this subsection for nonpayment of a civil pen-
5 alty or criminal fine, the Secretary shall reinstate the
6 permit upon payment of the penalty or fine and in-
7 terest thereon at the prevailing rate.

8 (5) No sanctions shall be imposed under this sub-
9 section unless there has been prior opportunity for a
10 hearing on the facts underlying the violation for
11 which the sanction is imposed, either in conjunction
12 with a civil penalty proceeding under this section or
13 otherwise.

14 (c) *HEARING.*—For the purposes of conducting any
15 hearing under this section, the Secretary may issue subpoe-
16 nas for the attendance and testimony of witnesses and the
17 production of relevant papers, books, and documents, and
18 may administer oaths. Witnesses summoned shall be paid
19 the same fees and mileage that are paid to witnesses in the
20 courts of the United States. In case of contempt or refusal
21 to obey a subpoena served upon any person pursuant to
22 this subsection, the district court of the United States for
23 any district in which such person is found, resides, or
24 transacts business, upon application by the United States
25 and after notice to such person, shall have jurisdiction to

1 *issue an order requiring such person to appear and give*
2 *testimony before the Secretary or to appear and produce*
3 *documents before the Secretary, or both, and any failure*
4 *to obey such order of the court may be punished by such*
5 *court as a contempt thereof.*

6 (d) *JUDICIAL REVIEW.*—Any person against whom a
7 *civil penalty is assessed under subsection (a) or against*
8 *whose vessel a permit sanction is imposed under subsection*
9 *(b) (other than a permit suspension for nonpayment of pen-*
10 *alty or fine) may obtain review thereof in the United States*
11 *district court for the appropriate district by filing a com-*
12 *plaint against the Secretary in such court within 30 days*
13 *from the date of such penalty or sanction. The Secretary*
14 *shall promptly file in such court a certified copy of the*
15 *record upon which such penalty or sanction was imposed,*
16 *as provided in section 2112 of title 28, United States Code.*
17 *The findings and order of the Secretary shall be set aside*
18 *by such court if they are not found to be supported by sub-*
19 *stantial evidence, as provided in section 706(2) of title 5,*
20 *United States Code.*

21 (e) *COLLECTION.*—

22 (1) *If any person fails to pay an assessment of*
23 *a civil penalty after it has become a final and*
24 *unappealable order, or after the appropriate court has*
25 *entered final judgment in favor of the Secretary, the*

1 *matter shall be referred to the Attorney General, who*
2 *shall recover the amount assessed in any appropriate*
3 *district court of the United States. In such action the*
4 *validity and appropriateness of the final order impos-*
5 *ing the civil penalty shall not be subject to review.*

6 *(2) A high seas fishing vessel (including its fish-*
7 *ing gear, furniture, appurtenances, stores, and cargo)*
8 *used in the commission of an act prohibited by sec-*
9 *tion 106 shall be liable in rem for any civil penalty*
10 *assessed for such violation under subsection (a) and*
11 *may be proceeded against in any district court of the*
12 *United States having jurisdiction thereof. Such pen-*
13 *alty shall constitute a maritime lien on such vessel*
14 *that may be recovered in an action in rem in the dis-*
15 *trict court of the United States having jurisdiction*
16 *over the vessel.*

17 **SEC. 109. CRIMINAL OFFENSES.**

18 *(a) OFFENSES.—A person is guilty of an offense if the*
19 *person commits any act prohibited by paragraph (6), (7),*
20 *(8), or (9) of section 106.*

21 *(b) PUNISHMENT.—Any offense described in subsection*
22 *(a) is a class A misdemeanor punishable by a fine under*
23 *title 18, United States Code, or imprisonment for not more*
24 *than one year, or both; except that if in the commission*
25 *of any offense the person uses a dangerous weapon, engages*

1 *in conduct that causes bodily injury to any authorized offi-*
2 *cer, or places any such officer in fear of imminent bodily*
3 *injury, the offense is a felony punishable by a fine under*
4 *title 18, United States Code, or imprisonment for not more*
5 *than 10 years, or both.*

6 **SEC. 110. FORFEITURES.**

7 (a) *IN GENERAL.*—Any high seas fishing vessel (in-
8 *cluding its fishing gear, furniture, appurtenances, stores,*
9 *and cargo) used, and any living marine resources (or the*
10 *fair market value thereof) taken or retained, in any man-*
11 *ner, in connection with or as a result of the commission*
12 *of any act prohibited by section 106 (other than an act for*
13 *which the issuance of a citation under section 107 is a suffi-*
14 *cient sanction) shall be subject to forfeiture to the United*
15 *States. All or part of such vessel may, and all such living*
16 *marine resources (or the fair market value thereof) shall,*
17 *be forfeited to the United States pursuant to a civil proceed-*
18 *ing under this section.*

19 (b) *JURISDICTION OF DISTRICT COURTS.*—Any dis-
20 *trict court of the United States shall have jurisdiction, upon*
21 *application of the Attorney General on behalf of the United*
22 *States, to order any forfeiture authorized under subsection*
23 *(a) and any action provided for under subsection (d).*

24 (c) *JUDGMENT.*—If a judgment is entered for the Unit-
25 *ed States in a civil forfeiture proceeding under this section,*

1 *the Attorney General may seize any property or other inter-*
2 *est declared forfeited to the United States, which has not*
3 *previously been seized pursuant to this title or for which*
4 *security has not previously been obtained. The provisions*
5 *of the customs laws relating to—*

6 *(1) the seizure, forfeiture, and condemnation of*
7 *property for violation of the customs law;*

8 *(2) the disposition of such property or the pro-*
9 *ceeds from the sale thereof; and*

10 *(3) the remission or mitigation of any such for-*
11 *feiture;*

12 *shall apply to seizures and forfeitures incurred, or alleged*
13 *to have been incurred, under the provisions of this title, un-*
14 *less such provisions are inconsistent with the purposes, pol-*
15 *icy, and provisions of this title.*

16 *(d) PROCEDURE.—*

17 *(1) Any officer authorized to serve any process in*
18 *rem that is issued by a court under section 107(b)*
19 *shall—*

20 *(A) stay the execution of such process; or*

21 *(B) discharge any living marine resources*
22 *seized pursuant to such process;*

23 *upon receipt of a satisfactory bond or other security*
24 *from any person claiming such property. Such bond*
25 *or other security shall be conditioned upon such per-*

1 son delivering such property to the appropriate court
2 upon order thereof, without any impairment of its
3 value, or paying the monetary value of such property
4 pursuant to an order of such court. Judgment shall
5 be recoverable on such bond or other security against
6 both the principal and any sureties in the event that
7 any condition thereof is breached, as determined by
8 such court.

9 (2) Any living marine resources seized pursuant
10 to this title may be sold, subject to the approval of the
11 appropriate court, for not less than the fair market
12 value thereof. The proceeds of any such sale shall be
13 deposited with such court pending the disposition of
14 the matter involved.

15 (e) *REBUTTABLE PRESUMPTION.*—For purposes of this
16 section, all living marine resources found on board a high
17 seas fishing vessel and which are seized in connection with
18 an act prohibited by section 106 are presumed to have been
19 taken or retained in violation of this title, but the presump-
20 tion can be rebutted by an appropriate showing of evidence
21 to the contrary.

22 **SEC. 111. EFFECTIVE DATE.**

23 This title shall take effect 120 days after the date of
24 enactment of this Act.

1 *TITLE II—IMPLEMENTATION OF CONVENTION ON*
2 *FUTURE MULTILATERAL COOPERATION IN*
3 *THE NORTHWEST ATLANTIC FISHERIES*

4 **SEC. 201. SHORT TITLE.**

5 *This title may be cited as the “Northwest Atlantic*
6 *Fisheries Convention Act of 1995”.*

7 **SEC. 202. REPRESENTATION OF UNITED STATES UNDER**
8 **CONVENTION.**

9 *(a) COMMISSIONERS.—*

10 *(1) APPOINTMENTS, GENERALLY.—The Secretary*
11 *shall appoint not more than 3 individuals to serve as*
12 *the representatives of the United States on the Gen-*
13 *eral Council and the Fisheries Commission, who shall*
14 *each—*

15 *(A) be known as a “United States Commis-*
16 *sioner to the Northwest Atlantic Fisheries Orga-*
17 *nization”; and*

18 *(B) serve at the pleasure of the Secretary.*

19 *(2) REQUIREMENTS FOR APPOINTMENTS.—*

20 *(A) The Secretary shall ensure that of the*
21 *individuals serving as Commissioners—*

22 *(i) at least 1 is appointed from among*
23 *representatives of the commercial fishing in-*
24 *dustry;*

1 (ii) 1 (but no more than 1) is an offi-
2 cial of the Government; and

3 (iii) 1, other than the individual ap-
4 pointed under clause (ii), is a voting mem-
5 ber of the New England Fishery Manage-
6 ment Council.

7 (B) The Secretary may not appoint as a
8 Commissioner an individual unless the individ-
9 ual is knowledgeable and experienced concerning
10 the fishery resources to which the Convention ap-
11 plies.

12 (3) TERMS.—

13 (A) The term of an individual appointed as
14 a Commissioner—

15 (i) shall be specified by the Secretary
16 at the time of appointment; and

17 (ii) may not exceed 4 years.

18 (B) An individual who is not a Government
19 official may not serve more than 2 consecutive
20 terms as a Commissioner.

21 (b) ALTERNATE COMMISSIONERS.—

22 (1) APPOINTMENT.—The Secretary may, for any
23 anticipated absence of a duly appointed Commis-
24 sioner at a meeting of the General Council or the

1 *Fisheries Commission, designate an individual to*
2 *serve as an Alternate Commissioner.*

3 (2) *FUNCTIONS.—An Alternate Commissioner*
4 *may exercise all powers and perform all duties of the*
5 *Commissioner for whom the Alternate Commissioner*
6 *is designated, at any meeting of the General Council*
7 *or the Fisheries Commission for which the Alternate*
8 *Commissioner is designated.*

9 (c) *REPRESENTATIVES.—*

10 (1) *APPOINTMENT.—The Secretary shall appoint*
11 *not more than 3 individuals to serve as the represent-*
12 *atives of the United States on the Scientific Council,*
13 *who shall each be known as a “United States Rep-*
14 *resentative to the Northwest Atlantic Fisheries Orga-*
15 *nization Scientific Council”.*

16 (2) *ELIGIBILITY FOR APPOINTMENT.—*

17 (A) *The Secretary may not appoint an in-*
18 *dividual as a Representative unless the individ-*
19 *ual is knowledgeable and experienced concerning*
20 *the scientific issues dealt with by the Scientific*
21 *Council.*

22 (B) *The Secretary shall appoint as a Rep-*
23 *resentative at least 1 individual who is an offi-*
24 *cial of the Government.*

1 (3) *TERM.*—An individual appointed as a Rep-
2 representative—

3 (A) shall serve for a term of not to exceed
4 4 years, as specified by the Secretary at the time
5 of appointment;

6 (B) may be reappointed; and

7 (C) shall serve at the pleasure of the Sec-
8 retary.

9 (d) *ALTERNATE REPRESENTATIVES.*—

10 (1) *APPOINTMENT.*—The Secretary may, for any
11 anticipated absence of a duly appointed Representa-
12 tive at a meeting of the Scientific Council, designate
13 an individual to serve as an Alternate Representative.

14 (2) *FUNCTIONS.*—An Alternate Representative
15 may exercise all powers and perform all duties of the
16 Representative for whom the Alternate Representative
17 is designated, at any meeting of the Scientific Council
18 for which the Alternate Representative is designated.

19 (e) *EXPERTS AND ADVISERS.*—The Commissioners, Al-
20 ternate Commissioners, Representatives, and Alternate Rep-
21 resentatives may be accompanied at meetings of the Organi-
22 zation by experts and advisers.

23 (f) *COORDINATION AND CONSULTATION.*—

24 (1) *IN GENERAL.*—In carrying out their func-
25 tions under the Convention, Commissioners, Alternate

1 Commissioners, Representatives, and Alternate Rep-
2 resentatives shall—

3 (A) coordinate with the appropriate Re-
4 gional Fishery Management Councils established
5 by section 302 of the Magnuson Act (16 U.S.C.
6 1852); and

7 (B) consult with the committee established
8 under section 208.

9 (2) *RELATIONSHIP TO OTHER LAW.*—The Fed-
10 eral Advisory Committee Act (5 U.S.C. App.) shall
11 not apply to coordination and consultations under
12 this subsection.

13 **SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.**

14 (a) *RESTRICTION.*—The Representatives may not
15 make a request or specification described in subsection (b)
16 (1) or (2), respectively, unless the Representatives have
17 first—

18 (1) consulted with the appropriate Regional
19 Fishery Management Councils; and

20 (2) received the consent of the Commissioners for
21 that action.

22 (b) *REQUESTS AND TERMS OF REFERENCE DE-*
23 *SCRIBED.*—The requests and specifications referred to in
24 subsection (a) are, respectively—

1 (1) any request, under Article VII(1) of the Con-
2 vention, that the Scientific Council consider and re-
3 port on a question pertaining to the scientific basis
4 for the management and conservation of fishery re-
5 sources in waters under the jurisdiction of the United
6 States within the Convention Area; and

7 (2) any specification, under Article VIII(2) of
8 the Convention, of the terms of reference for the con-
9 sideration of a question referred to the Scientific
10 Council pursuant to Article VII(1) of the Convention.

11 **SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RE-**
12 **SPECT TO CONVENTION.**

13 The Secretary of State may, on behalf of the Govern-
14 ment of the United States—

15 (1) receive and transmit reports, requests, rec-
16 ommendations, proposals, and other communications
17 of and to the Organization and its subsidiary organs;

18 (2) object, or withdraw an objection, to the pro-
19 posal of the Fisheries Commission;

20 (3) give or withdraw notice of intent not to be
21 bound by a measure of the Fisheries Commission;

22 (4) object or withdraw an objection to an amend-
23 ment to the Convention; and

1 (5) act upon, or refer to any other appropriate
2 authority, any other communication referred to in
3 paragraph (1).

4 **SEC. 205. INTERAGENCY COOPERATION.**

5 (a) *AUTHORITIES OF SECRETARY.*—In carrying out
6 the provisions of the Convention and this title, the Secretary
7 may arrange for cooperation with other agencies of the
8 United States, the States, the New England and the Mid-
9 Atlantic Fishery Management Councils, and private insti-
10 tutions and organizations.

11 (b) *OTHER AGENCIES.*—The head of any Federal agen-
12 cy may—

13 (1) cooperate in the conduct of scientific and
14 other programs, and furnish facilities and personnel,
15 for the purposes of assisting the Organization in car-
16 rying out its duties under the Convention; and

17 (2) accept reimbursement from the Organization
18 for providing such services, facilities, and personnel.

19 **SEC. 206. RULEMAKING.**

20 The Secretary shall promulgate regulations as may be
21 necessary to carry out the purposes and objectives of the
22 Convention and this title. Any such regulation may be
23 made applicable, as necessary, to all persons and all vessels
24 subject to the jurisdiction of the United States, wherever lo-
25 cated.

1 **SEC. 207. PROHIBITED ACTS AND PENALTIES.**

2 (a) *PROHIBITION.*—It is unlawful for any person or
3 vessel that is subject to the jurisdiction of the United
4 States—

5 (1) to violate any regulation issued under this
6 title or any measure that is legally binding on the
7 United States under the Convention;

8 (2) to refuse to permit any authorized enforce-
9 ment officer to board a fishing vessel that is subject
10 to the person's control for purposes of conducting any
11 search or inspection in connection with the enforce-
12 ment of this title, any regulation issued under this
13 title, or any measure that is legally binding on the
14 United States under the Convention;

15 (3) forcibly to assault, resist, oppose, impede, in-
16 timidate, or interfere with any authorized enforce-
17 ment officer in the conduct of any search or inspec-
18 tion described in paragraph (2);

19 (4) to resist a lawful arrest for any act prohib-
20 ited by this section;

21 (5) to ship, transport, offer for sale, sell, pur-
22 chase, import, export, or have custody, control, or pos-
23 session of, any fish taken or retained in violation of
24 this section; or

25 (6) to interfere with, delay, or prevent, by any
26 means, the apprehension or arrest of another person,

1 *knowing that the other person has committed an act*
2 *prohibited by this section.*

3 (b) *CIVIL PENALTY.*—Any person who commits any
4 *act that is unlawful under subsection (a) shall be liable to*
5 *the United States for a civil penalty, or may be subject to*
6 *a permit sanction, under section 308 of the Magnuson Act*
7 *(16 U.S.C. 1858).*

8 (c) *CRIMINAL PENALTY.*—Any person who commits an
9 *act that is unlawful under paragraph (2), (3), (4), or (6)*
10 *of subsection (a) shall be guilty of an offense punishable*
11 *under section 309(b) of the Magnuson Act (16 U.S.C.*
12 *1859(b)).*

13 (d) *CIVIL FORFEITURES.*—

14 (1) *IN GENERAL.*—Any vessel (including its gear,
15 *furniture, appurtenances, stores, and cargo) used in*
16 *the commission of an act that is unlawful under sub-*
17 *section (a), and any fish (or the fair market value*
18 *thereof) taken or retained, in any manner, in connec-*
19 *tion with or as a result of the commission of any act*
20 *that is unlawful under subsection (a), shall be subject*
21 *to seizure and forfeiture as provided in section 310 of*
22 *the Magnuson Act (16 U.S.C. 1860).*

23 (2) *DISPOSAL OF FISH.*—Any fish seized pursu-
24 *ant to this title may be disposed of pursuant to the*
25 *order of a court of competent jurisdiction or, if per-*

1 ishable, in a manner prescribed by regulations issued
2 by the Secretary.

3 (e) *ENFORCEMENT.*—The Secretary and the Secretary
4 of the department in which the Coast Guard is operating
5 shall enforce the provisions of this title and shall have the
6 authority specified in sections 311 (a), (b)(1), and (c) of
7 the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)) for
8 that purpose.

9 (f) *JURISDICTION OF COURTS.*—The district courts of
10 the United States shall have exclusive jurisdiction over any
11 case or controversy arising under this section and may, at
12 any time—

13 (1) enter restraining orders or prohibitions;

14 (2) issue warrants, process in rem, or other proc-
15 ess;

16 (3) prescribe and accept satisfactory bonds or
17 other security; and

18 (4) take such other actions as are in the interests
19 of justice.

20 **SEC. 208. CONSULTATIVE COMMITTEE.**

21 (a) *ESTABLISHMENT.*—The Secretary of State and the
22 Secretary, shall jointly establish a consultative committee
23 to advise the Secretaries on issues related to the Convention.

24 (b) *MEMBERSHIP.*—

1 (1) *The membership of the Committee shall in-*
2 *clude representatives from the New England and Mid-*
3 *Atlantic Fishery Management Councils, the States*
4 *represented on those Councils, the Atlantic States Ma-*
5 *rine Fisheries Commission, the fishing industry, the*
6 *seafood processing industry, and others knowledgeable*
7 *and experienced in the conservation and management*
8 *of fisheries in the Northwest Atlantic Ocean.*

9 (2) *TERMS AND REAPPOINTMENT.—Each mem-*
10 *ber of the consultative committee shall serve for a*
11 *term of two years and shall be eligible for reappoint-*
12 *ment.*

13 (c) *DUTIES OF THE COMMITTEE.—Members of the con-*
14 *sultative committee may attend—*

15 (1) *all public meetings of the General Council or*
16 *the Fisheries Commission;*

17 (2) *any other meetings to which they are invited*
18 *by the General Council or the Fisheries Commission;*
19 *and*

20 (3) *all nonexecutive meetings of the United*
21 *States Commissioners.*

22 (d) *RELATIONSHIP TO OTHER LAW.—The Federal Ad-*
23 *visory Committee Act (5 U.S.C. App.) shall not apply to*
24 *the consultative committee established under this section.*

1 **SEC. 209. ADMINISTRATIVE MATTERS.**

2 (a) *PROHIBITION ON COMPENSATION.*—A person shall
3 not receive any compensation from the Government by rea-
4 son of any service of the person as—

5 (1) a Commissioner, Alternate Commissioner,
6 Representative, or Alternative Representative;

7 (2) an expert or adviser authorized under section
8 202(e); or

9 (3) a member of the consultative committee es-
10 tablished by section 208.

11 (b) *TRAVEL AND EXPENSES.*—The Secretary of State
12 shall, subject to the availability of appropriations, pay all
13 necessary travel and other expenses of persons described in
14 subsection (a)(1) and of not more than six experts and ad-
15 visers authorized under section 202(e) with respect to their
16 actual performance of their official duties pursuant to this
17 title, in accordance with the Federal Travel Regulations
18 and sections 5701, 5702, 5704 through 5708, and 5731 of
19 title 5, United States Code.

20 (c) *STATUS AS FEDERAL EMPLOYEES.*—A person shall
21 not be considered to be a Federal employee by reason of
22 any service of the person in a capacity described in sub-
23 section (a), except for purposes of injury compensation and
24 tort claims liability under chapter 81 of title 5, United
25 States Code, and chapter 17 of title 28, United States Code,
26 respectively.

1 **SEC. 210. DEFINITIONS.**

2 *In this title the following definitions apply:*

3 (1) *AUTHORIZED ENFORCEMENT OFFICER.*—The
4 term “authorized enforcement officer” means a person
5 authorized to enforce this title, any regulation issued
6 under this title, or any measure that is legally bind-
7 ing on the United States under the Convention.

8 (2) *COMMISSIONER.*—The term “Commissioner”
9 means a United States Commissioner to the North-
10 west Atlantic Fisheries Organization appointed under
11 section 202(a).

12 (3) *CONVENTION.*—The term “Convention”
13 means the Convention on Future Multilateral Co-
14 operation in the Northwest Atlantic Fisheries, done at
15 Ottawa on October 24, 1978.

16 (4) *FISHERIES COMMISSION.*—The term “Fish-
17 eries Commission” means the Fisheries Commission
18 provided for by Articles II, XI, XII, XIII, and XIV
19 of the Convention.

20 (5) *GENERAL COUNCIL.*—The term “General
21 Council” means the General Council provided for by
22 Article II, III, IV, and V of the Convention.

23 (6) *MAGNUSON ACT.*—The term “Magnuson Act”
24 means the Magnuson Fishery Conservation and Man-
25 agement Act (16 U.S.C. 1801 et seq.).

1 (7) *ORGANIZATION.*—The term “Organization”
2 *means the Northwest Atlantic Fisheries Organization*
3 *provided for by Article II of the Convention.*

4 (8) *PERSON.*—The term “person” means any in-
5 *dividual (whether or not a citizen or national of the*
6 *United States), and any corporation, partnership, as-*
7 *sociation, or other entity (whether or not organized or*
8 *existing under the laws of any State).*

9 (9) *REPRESENTATIVE.*—The term “Representa-
10 *tive” means a United States Representative to the*
11 *Northwest Atlantic Fisheries Scientific Council ap-*
12 *pointed under section 202(c).*

13 (10) *SCIENTIFIC COUNCIL.*—The term “Scientific
14 *Council” means the Scientific Council provided for by*
15 *Articles II, VI, VII, VIII, IX, and X of the Conven-*
16 *tion.*

17 (11) *SECRETARY.*—The term “Secretary” means
18 *the Secretary of Commerce.*

19 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

20 *There are authorized to be appropriated to carry out*
21 *this title, including use for payment as the United States*
22 *contribution to the Organization as provided in Article XVI*
23 *of the Convention, \$500,000 for each of the fiscal years*
24 *1995, 1996, 1997, and 1998.*

1 **TITLE III—ATLANTIC TUNAS CONVENTION ACT**

2 **SEC. 301. SHORT TITLE.**

3 *This title may be cited as the “Atlantic Tunas Conven-*
4 *tion Authorization Act of 1995”.*

5 **SEC. 302. RESEARCH AND MONITORING ACTIVITIES.**

6 **(a) REPORT TO CONGRESS.**—*The Secretary of Com-*
7 *merce shall, within 90 days after the date of enactment of*
8 *this Act, submit a report to the Committee on Commerce,*
9 *Science, and Transportation of the Senate and the Commit-*
10 *tee on Resources of the House of Representatives—*

11 **(1)** *identifying current governmental and non-*
12 *governmental research and monitoring activities on*
13 *Atlantic bluefin tuna and other highly migratory spe-*
14 *cies;*

15 **(2)** *describing the personnel and budgetary re-*
16 *sources allocated to such activities; and*

17 **(3)** *explaining how each activity contributes to*
18 *the conservation and management of Atlantic bluefin*
19 *tuna and other highly migratory species.*

20 **(b) RESEARCH AND MONITORING PROGRAM.**—*Section*
21 *3 of the Act of September 4, 1980 (16 U.S.C. 971i) is*
22 *amended—*

23 **(1)** *by amending the section heading to read as*
24 *follows:*

1 **“SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPE-**
2 **CIES.”;**

3 (2) *by striking the last sentence;*

4 (3) *by inserting “(a) BIENNIAL REPORT ON*
5 *BLUEFIN TUNA.—” before “The Secretary of Com-*
6 *merce shall”; and*

7 (4) *by adding at the end the following:*

8 **“(b) HIGHLY MIGRATORY SPECIES RESEARCH AND**
9 **MONITORING.—**

10 *“(1) Within 6 months after the date of enactment*
11 *of the Atlantic Tunas Convention Authorization Act*
12 *of 1995, the Secretary of Commerce, in cooperation*
13 *with the advisory committee established under section*
14 *4 of the Atlantic Tunas Convention Act of 1975 (16*
15 *U.S.C. 971b) and in consultation with the United*
16 *States Commissioners on the International Commis-*
17 *sion for the Conservation of Atlantic Tunas (referred*
18 *to elsewhere in this section as the ‘Commission’) and*
19 *the Secretary of State, shall develop and implement*
20 *a comprehensive research and monitoring program to*
21 *support the conservation and management of Atlantic*
22 *bluefin tuna and other highly migratory species that*
23 *shall—*

24 *“(A) identify and define the range of stocks*
25 *of highly migratory species in the Atlantic*
26 *Ocean, including Atlantic bluefin tuna; and*

1 “(B) provide for appropriate participation
2 by nations which are members of the Commis-
3 sion.

4 “(2) The program shall provide for, but not be
5 limited to—

6 “(A) statistically designed cooperative tag-
7 ging studies;

8 “(B) genetic and biochemical stock analyses;

9 “(C) population censuses carried out
10 through aerial surveys of fishing grounds and
11 known migration areas;

12 “(D) adequate observer coverage and port
13 sampling of commercial and recreational fishing
14 activity;

15 “(E) collection of comparable real-time data
16 on commercial and recreational catches and
17 landings through the use of permits, logbooks,
18 landing reports for charter operations and fish-
19 ing tournaments, and programs to provide reli-
20 able reporting of the catch by private anglers;

21 “(F) studies of the life history parameters of
22 Atlantic bluefin tuna and other highly migratory
23 species;

1 “(G) integration of data from all sources
2 and the preparation of data bases to support
3 management decisions; and

4 “(H) other research as necessary.

5 “(3) In developing a program under this section,
6 the Secretary shall—

7 “(A) ensure that personnel and resources of
8 each regional research center shall have substan-
9 tial participation in the stock assessments and
10 monitoring of highly migratory species that
11 occur in the region;

12 “(B) provide for comparable monitoring of
13 all United States fishermen to which the Atlantic
14 Tunas Convention Act applies with respect to ef-
15 fort and species composition of catch and dis-
16 cards;

17 “(C) consult with relevant Federal and
18 State agencies, scientific and technical experts,
19 commercial and recreational fishermen, and
20 other interested persons, public and private, and
21 shall publish a proposed plan in the Federal
22 Register for the purpose of receiving public com-
23 ment on the plan; and

1 “(D) through the Secretary of State, encour-
2 age other member nations to adopt a similar
3 program.”.

4 **SEC. 303. DEFINITIONS.**

5 Section 2 of the Atlantic Tunas Convention Act of
6 1975 (16 U.S.C. 971) is amended—

7 (1) by designating paragraphs (3) through (10)
8 as (4) through (11), respectively, and inserting after
9 paragraph (2) the following;

10 “(3) The term ‘conservation recommendation’
11 means any recommendation of the Commission made
12 pursuant to article VIII of the Convention and acted
13 upon favorably by the Secretary of State under sec-
14 tion 5(a) of this Act.”;

15 (2) by striking paragraph (5), as redesignated,
16 and inserting the following:

17 “(4) The term ‘exclusive economic zone’ means
18 an exclusive economic zone as defined in section 3 of
19 the Magnuson Fishery Conservation and Management
20 Act (16 U.S.C. 1802).”; and

21 (3) by striking “fisheries zone” wherever it ap-
22 pears in the Atlantic Tunas Convention Act of 1975
23 (16 U.S.C. 971 et seq.) and inserting “exclusive eco-
24 nomic zone”.

1 **SEC. 304. ADVISORY COMMITTEE PROCEDURES.**

2 Section 4 of the Atlantic Tunas Convention Act of
3 1975 (16 U.S.C. 971b) is amended—

4 (1) by inserting “(a)” before “There”; and

5 (2) by adding at the end the following:

6 “(b)(1) A majority of the members of the advisory com-
7 mittee shall constitute a quorum, but one or more such
8 members designated by the advisory committee may hold
9 meetings to provide for public participation and to discuss
10 measures relating to the United States implementation of
11 Commission recommendations.

12 “(2) The advisory committee shall elect a Chairman
13 for a 2-year term from among its members.

14 “(3) The advisory committee shall meet at appropriate
15 times and places at least twice a year, at the call of the
16 Chairman or upon the request of the majority of its voting
17 members, the United States Commissioners, the Secretary,
18 or the Secretary of State. Meetings of the advisory commit-
19 tee, except when in executive session, shall be open to the
20 public, and prior notice of meetings shall be made public
21 in a timely fashion.

22 “(4)(A) The Secretary shall provide to the advisory
23 committee in a timely manner such administrative and
24 technical support services as are necessary for the effective
25 functioning of the committee.

1 “(B) The Secretary and the Secretary of State shall
2 furnish the advisory committee with relevant information
3 concerning fisheries and international fishery agreements.

4 “(5) *The advisory committee shall determine its orga-*
5 *nization, and prescribe its practices and procedures for car-*
6 *rying out its functions under this Act, the Magnuson Fish-*
7 *ery Conservation and Management Act (16 U.S.C. 1801 et*
8 *seq.), and the Convention. The advisory committee shall*
9 *publish and make available to the public a statement of its*
10 *organization, practices, and procedures.*

11 “(6) The advisory committee shall, to the maximum
12 extent practicable, consist of an equitable balance among
13 the various groups concerned with the fisheries covered by
14 the Convention and shall not be subject to the Federal Advi-
15 sory Committee Act (5 U.S.C. App.).”.

16 SEC. 305. REGULATIONS AND ENFORCEMENT OF CONVEN-
17 TION.

18 Section 6(c) of the Atlantic Tunas Convention Act of
19 1975 (16 U.S.C. 971d(c)) is amended—

20 (1) by inserting “AND OTHER MEASURES” after
21 “REGULATIONS” in the section caption;

22 (2) by inserting “or fishing mortality level” after
23 “quota of fish” in the last sentence of paragraph (3);
24 and

1 (3) by inserting the following after paragraph
2 (5):

3 “(6) IDENTIFICATION AND NOTIFICATION.—

4 “(A) Not later than July 1, 1996, and an-
5 nually thereafter, the Secretary, in consultation
6 with the Secretary of State, the Commissioners,
7 and the advisory committee, shall—

8 “(i) identify those nations whose fish-
9 ing vessels are fishing, or have fished during
10 the preceding calendar year, within the con-
11 vention area in a manner or under cir-
12 cumstances that diminish the effectiveness of
13 a conservation recommendation;

14 “(ii) notify the President and the na-
15 tion so identified, including an explanation
16 of the reasons therefor; and

17 “(iii) publish a list of those Nations
18 identified under subparagraph (A).

19 In identifying those Nations, the Secretary shall
20 consider, based on the best available information,
21 whether those Nations have measures in place for
22 reporting, monitoring, and enforcement, and
23 whether those measures diminish the effectiveness
24 of any conservation recommendation.

1 “(7) *CONSULTATION.*—Not later than 30 days
2 *after a Nation is notified under paragraph (6), the*
3 *President may enter into consultations with the gov-*
4 *ernment of that Nation for the purpose of obtaining*
5 *an agreement that will—*

6 “(A) *effect the immediate termination and*
7 *prevent the resumption of any fishing operation*
8 *by vessels of that Nation within the Convention*
9 *area which is conducted in a manner or under*
10 *circumstances that diminish the effectiveness of*
11 *the conservation recommendation;*

12 “(B) *when practicable, require actions by*
13 *that Nation, or vessels of that Nation, to mitigate*
14 *the negative impacts of fishing operations on the*
15 *effectiveness of the conservation recommendation*
16 *involved, including but not limited to, the im-*
17 *position of subsequent-year deductions for quota*
18 *overages; and*

19 “(C) *result in the establishment, if nec-*
20 *essary, by such nation of reporting, monitoring,*
21 *and enforcement measures that are adequate to*
22 *ensure the effectiveness of conservation rec-*
23 *ommendations.”.*

1 **SEC. 306. FINES AND PERMIT SANCTIONS.**

2 Section 7(e) of the Atlantic Tunas Convention Act of
3 1975 (16 U.S.C. 971(e)) is amended to read as follows:

4 “(e) The civil penalty and permit sanctions of section
5 308 of the Magnuson Fishery Conservation and Manage-
6 ment Act (16 U.S.C. 1858) are hereby made applicable to
7 violations of this section as if they were violations of section
8 307 of that Act.”.

9 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 10 of the Atlantic Tunas Convention Act of
11 1975 (16 U.S.C. 971h) is amended to read as follows:

12 **“AUTHORIZATION OF APPROPRIATIONS**

13 **“SEC. 10.** There are authorized to be appropriated to
14 carry out this Act, including use for payment of the United
15 States share of the joint expenses of the Commission as pro-
16 vided in article X of the Convention, the following sums:

17 “(1) For fiscal year 1995, \$4,103,000, of which
18 \$50,000 are authorized in the aggregate for the advi-
19 sory committee established under section 4 and the
20 species working groups established under section 4A,
21 and \$2,890,000 are authorized for research activities
22 under this Act and the Act of September 4, 1980 (16
23 U.S.C. 971i).

24 “(2) For fiscal year 1996, \$5,453,000, of which
25 \$50,000 are authorized in the aggregate for such advi-

1 sory committee and such working groups, and
 2 \$4,240,000 are authorized for such research activities.

3 “(3) For fiscal year 1997, \$5,465,000 of which
 4 \$62,000 are authorized in the aggregate for such advi-
 5 sory committee and such working groups, and
 6 \$4,240,000 are authorized for such research activities.

7 “(4) For fiscal year 1998, \$5,465,000 of which
 8 \$75,000 are authorized in the aggregate for such advi-
 9 sory committee and such working groups, and
 10 \$4,240,000 are authorized for such research activi-
 11 ties.”.

12 **SEC. 308. REPORT AND SAVINGS CLAUSE.**

13 *The Atlantic Tuna Convention Act of 1975 (16 U.S.C.*
 14 *971 et seq.) is amended by adding at the end thereof the*
 15 *following:*

16 **“§ 11. Annual report**

17 “Not later than April 1, 1996, and annually thereafter,
 18 the Secretary shall prepare and transmit to the Committee
 19 on Resources of the House of Representatives and the Com-
 20 mittee on Commerce, Science, and Transportation of the
 21 Senate a report, that—

22 “(1) details for the previous 10-year period the
 23 catches and exports to the United States of highly mi-
 24 gratory species (including tunas, swordfish, marlin
 25 and sharks) from nations fishing on Atlantic stocks of

1 *such species that are subject to management by the*
2 *Commission;*

3 *“(2) identifies those fishing nations whose har-*
4 *vests are inconsistent with conservation and manage-*
5 *ment recommendations of the Commission;*

6 *“(3) describes reporting requirements established*
7 *by the Secretary to ensure that imported fish products*
8 *are in compliance with all international management*
9 *measures, including minimum size requirements, es-*
10 *tablished by the Commission and other international*
11 *fishery organizations to which the United States is a*
12 *party; and*

13 *“(4) describes actions taken by the Secretary*
14 *under section 6.*

15 **“§ 12. Savings clause**

16 *“Nothing in this Act shall have the effect of diminish-*
17 *ing the rights and obligations of any Nation under Article*
18 *VIII(3) of the Convention.”.*

19 **SEC. 309. MANAGEMENT OF ATLANTIC YELLOWFIN TUNA.**

20 *(a) Not later than 90 days after the date of the enact-*
21 *ment of this Act, the Secretary of Commerce in accordance*
22 *with this section shall publish a preliminary determination*
23 *of the level of the United States recreational and commer-*
24 *cial catch of Atlantic yellowfin tuna on an annual basis*
25 *since 1980. The Secretary shall publish a preliminary de-*

1 *termination in the Federal Register for comment for a pe-*
2 *riod not to exceed 60 days. The Secretary shall publish a*
3 *final determination not later than 140 days from the date*
4 *of the enactment of this section.*

5 **(b)** *Not later than July 1, 1996, the Secretary of Com-*
6 *merce shall implement the recommendations of Inter-*
7 *national Commission for the Conservation of Atlantic*
8 *Tunas regarding yellowfin tuna made pursuant to article*
9 *VIII of the International Convention for the Conservation*
10 *of Atlantic Tunas and acted upon favorably by the Sec-*
11 *retary of State under section 5(a) of the Atlantic Tunas*
12 *Convention Act of 1975 (16 U.S.C. 971c(a)).*

13 **SEC. 310. STUDY OF BLUEFIN TUNA REGULATIONS.**

14 *Not later than 270 days after the date of enactment*
15 *of this Act, the Secretary of Commerce shall submit to the*
16 *Committee on Commerce, Science and Transportation of the*
17 *Senate and to the Committee on Resources of the House of*
18 *Representatives a report on the historic rationale, effective-*
19 *ness, and biological and economic efficiency of existing*
20 *bluefin tuna regulations for United States Atlantic fish-*
21 *eries. Specifically, the biological rationale for each regional*
22 *and category allocation, including directed and incidental*
23 *categories, should be described in light of the average size,*
24 *age, and maturity of bluefin tuna caught in each fishery*
25 *and the effect of this harvest on stock rebuilding and sus-*

1 *tainable yield. The report should examine the history and*
2 *evaluate the level of wasteful discarding, and evaluate the*
3 *effectiveness of non-quota regulations at constraining har-*
4 *vests within regions. Further, comments should be provided*
5 *on levels of participation in specific fisheries in terms of*
6 *vessels and trips, enforcement implications, and the impor-*
7 *tance of monitoring information provided by these alloca-*
8 *tions on the precision of the stock assessment estimates.*

9 **SEC. 311. SENSE OF THE CONGRESS WITH RESPECT TO**
10 **ICCAT NEGOTIATIONS.**

11 (a) *SHARING OF CONSERVATION BURDEN.—It is the*
12 *sense of the Congress that in future negotiations of the Inter-*
13 *national Commission for the Conservation of Atlantic*
14 *Tunas (hereafter in this section referred to as “ICCAT”),*
15 *the Secretary of Commerce shall ensure that the conserva-*
16 *tion actions recommended by international commissions*
17 *and implemented by the Secretary for United States com-*
18 *mercial and recreational fishermen provide fair and equi-*
19 *table sharing of the conservation burden among all con-*
20 *tracting harvesters in negotiations with those commissions.*

21 (b) *ENFORCEMENT PROVISIONS.—It is further the*
22 *sense of the Congress that, during 1995 ICCAT negotiations*
23 *on swordfish and other Highly Migratory Species managed*
24 *by ICCAT, the Congress encourages the United States Com-*

1 *missioners to add enforcement provisions similar to those*
2 *applicable to bluefin tuna.*

3 (c) *ENHANCED MONITORING.—It is further the sense*
4 *of the Congress that the National Oceanic and Atmospheric*
5 *Administration and the United States Customs Service*
6 *should enhance monitoring activities to ascertain what spe-*
7 *cific stocks are being imported into the United States and*
8 *the country of origin.*

9 (d) *MULTILATERAL ENFORCEMENT PROCESS.—It is*
10 *further the sense of the Congress that the United States*
11 *Commissioners should pursue as a priority the establish-*
12 *ment and implementation prior to December 31, 1996, an*
13 *effective multilateral process that will enable ICCAT na-*
14 *tions to enforce the conservation recommendations of the*
15 *Commission.*

16 **TITLE IV—FISHERMEN’S PROTECTIVE ACT**

17 **SEC. 401. FINDINGS.**

18 *The Congress finds that—*

19 (1) *customary international law and the United*
20 *Nations Convention on the Law of the Sea guarantee*
21 *the right of passage, including innocent passage, to*
22 *vessels through the waters commonly referred to as the*
23 *“Inside Passage” off the Pacific Coast of Canada;*

24 (2) *in 1994 Canada required all commercial*
25 *fishing vessels of the United States to pay 1,500 Ca-*

1 *nadian dollars to obtain a “license which authorizes*
2 *transit” through the Inside Passage;*

3 *(3) this action was inconsistent with inter-*
4 *national law, including the United Nations Conven-*
5 *tion on the Law of the Sea, and, in particular, Arti-*
6 *cle 26 of that Convention, which specifically prohibits*
7 *such fees, and threatened the safety of United States*
8 *commercial fishermen who sought to avoid the fee by*
9 *traveling in less protected waters;*

10 *(4) the Fishermen’s Protective Act of 1967 pro-*
11 *vides for the reimbursement of vessel owners who are*
12 *forced to pay a license fee to secure the release of a*
13 *vessel which has been seized, but does not permit re-*
14 *imbursement of a fee paid by the owner in advance*
15 *in order to prevent a seizure;*

16 *(5) Canada required that the license fee be paid*
17 *in person in 2 ports on the Pacific Coast of Canada,*
18 *or in advance by mail;*

19 *(6) significant expense and delay was incurred*
20 *by commercial fishing vessels of the United States*
21 *that had to travel from the point of seizure back to*
22 *one of those ports in order to pay the license fee re-*
23 *quired by Canada, and the costs of that travel and*
24 *delay cannot be reimbursed under the Fishermen’s*
25 *Protective Act;*

1 (7) the Fishermen's Protective Act of 1967 should
2 be amended to permit vessel owners to be reimbursed
3 for fees required by a foreign government to be paid
4 in advance in order to navigate in the waters of that
5 foreign country if the United States considers that fee
6 to be inconsistent with international law;

7 (8) the Secretary of State should seek to recover
8 from Canada any amounts paid by the United States
9 to reimburse vessel owners who paid the transit li-
10 cense fee;

11 (9) the United States should review its current
12 policy with respect to anchorage by commercial fish-
13 ing vessels of Canada in waters of the United States
14 off Alaska, including waters in and near the Dixon
15 Entrance, and should accord such vessels the same
16 treatment that commercial fishing vessels of the Unit-
17 ed States are accorded for anchorage in the waters of
18 Canada off British Columbia;

19 (10) the President should ensure that, consistent
20 with international law, the United States Coast
21 Guard has available adequate resources in the Pacific
22 Northwest and Alaska to provide for the safety of
23 United States citizens, the enforcement of United
24 States law, and to protect the rights of the United

1 *States and keep the peace among vessels operating in*
2 *disputed waters;*

3 *(11) the President should continue to review all*
4 *agreements between the United States and Canada to*
5 *identify other actions that may be taken to convince*
6 *Canada that any reinstatement of the transit license*
7 *fee would be against Canada's long-term interests,*
8 *and should immediately implement any actions which*
9 *the President deems appropriate if Canada reinstates*
10 *the fee;*

11 *(12) the President should continue to convey to*
12 *Canada in the strongest terms that the United States*
13 *will not now, nor at any time in the future, tolerate*
14 *any action by Canada which would impede or other-*
15 *wise restrict the right of passage of vessels of the Unit-*
16 *ed States in a manner inconsistent with international*
17 *law; and*

18 *(13) the United States should continue its efforts*
19 *to seek expeditious agreement with Canada on appro-*
20 *priate fishery conservation and management meas-*
21 *ures that can be implemented through the Pacific*
22 *Salmon Treaty to address issues of mutual concern.*

1 **SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE**
2 **ACT OF 1967.**

3 *(a) The Fishermen's Protective Act of 1967 (22 U.S.C.*
4 *1971 et seq.) is amended by adding at the end the following*
5 *new section:*

6 *“SEC. 11. (a) In any case on or after June 15, 1994,*
7 *in which a vessel of the United States exercising its right*
8 *of passage is charged a fee by the government of a foreign*
9 *country to engage in transit passage between points in the*
10 *United States (including a point in the exclusive economic*
11 *zone or in an area over which jurisdiction is in dispute),*
12 *and such fee is regarded by the United States as being in-*
13 *consistent with international law, the Secretary of State*
14 *shall, subject to the availability of appropriated funds, re-*
15 *imburse the vessel owner for the amount of any such fee*
16 *paid under protest.*

17 *“(b) In seeking such reimbursement, the vessel owner*
18 *shall provide, together with such other information as the*
19 *Secretary of State may require—*

20 *“(1) a copy of the receipt for payment;*

21 *“(2) an affidavit attesting that the owner or the*
22 *owner's agent paid the fee under protest; and*

23 *“(3) a copy of the vessel's certificate of docu-*
24 *mentation.*

25 *“(c) Requests for reimbursement shall be made to the*
26 *Secretary of State within 120 days after the date of pay-*

1 ment of the fee, or within 90 days after the date of enact-
2 ment of this section, whichever is later.

3 “(d) Such funds as may be necessary to meet the re-
4 quirements of this section may be made available from the
5 unobligated balance of previously appropriated funds re-
6 maining in the Fishermen’s Protective Fund established
7 under section 9. To the extent that requests for reimburse-
8 ment under this section exceed such funds, there are author-
9 ized to be appropriated such sums as may be needed for
10 reimbursements authorized under subsection (a), which
11 shall be deposited in the Fishermen’s Protective Fund estab-
12 lished under section 9.

13 “(e) The Secretary of State shall take such action as
14 the Secretary deems appropriate to make and collect claims
15 against the foreign country imposing such fee for any
16 amounts reimbursed under this section.

17 “(f) For purposes of this section, the term ‘owner’ in-
18 cludes any charterer of a vessel of the United States.”.

19 (b) The Fishermen’s Protective Act of 1967 (22 U.S.C.
20 1971 et seq.) is further amended by adding at the end the
21 following:

22 “SEC. 12. (a) If the Secretary of State finds that the
23 government of any nation imposes conditions on the oper-
24 ation or transit of United States fishing vessels which the
25 United States regards as being inconsistent with inter-

1 national law or an international agreement, the Secretary
2 of State shall certify that fact to the President.

3 “(b) Upon receipt of a certification under subsection
4 (a), the President shall direct the heads of Federal agencies
5 to impose similar conditions on the operation or transit
6 of fishing vessels registered under the laws of the nation
7 which has imposed conditions on United States fishing ves-
8 sels.

9 “(c) For the purposes of this section, the term ‘fishing
10 vessel’ has the meaning given that term in section
11 2101(11a) of title 46, United States Code.

12 “(d) It is the sense of the Congress that any action
13 taken by any Federal agency under subsection (b) should
14 be commensurate with any conditions certified by the Sec-
15 retary of State under subsection (a).”.

16 (c) Notwithstanding any other provision of law, the
17 Secretary of State shall reimburse the owner of any vessel
18 of the United States for costs incurred due to the seizure
19 of such vessel in 1994 by Canada on the basis of a claim
20 to jurisdiction over sedentary species which was not recog-
21 nized by the United States at the time of such seizure. Any
22 such reimbursement shall cover, in addition to amounts re-
23 imburseable under section 3 of the Fishermen’s Protective
24 Act of 1967 (22 U.S.C. 1973), legal fees and travel costs
25 incurred by the owner of any such vessel that were necessary

1 to secure the prompt release of the vessel and crew. Total
2 reimbursements under this subsection may not exceed
3 \$25,000 and may be made available from the unobligated
4 balances of previously appropriated funds remaining in the
5 Fishermen's Protective Fund established under section 9 of
6 the Fishermen's Protective Act (22 U.S.C. 1979).

7 **SEC. 403. REAUTHORIZATION.**

8 (a) Section 7(c) of the Fishermen's Protective Act of
9 1967 (22 U.S.C. 1977(c)) is amended by striking the third
10 sentence.

11 (b) Section 7(e) of the Fishermen's Protective Act of
12 1967 (22 U.S.C. 1977(e)) is amended by striking "October
13 1, 1993" and inserting "October 1, 2000".

14 **SEC. 404. TECHNICAL CORRECTIONS.**

15 (a)(1) Section 15(a) of Public Law 103–238 is amend-
16 ed by striking "April 1, 1994," and inserting "May 1,
17 1994.".

18 (2) The amendment made by paragraph (1) shall be
19 effective on and after April 30, 1994.

20 (b) Section 803(13)(C) of Public Law 102–567 (16
21 U.S.C. 5002(13)(C)) is amended to read as follows:

22 "(C) any vessel supporting a vessel de-
23 scribed in subparagraph (A) or (B).".

1 *TITLE V—FISHERIES ENFORCEMENT IN*
2 *CENTRAL SEA OF OKHOTSK*

3 **SEC. 501. SHORT TITLE.**

4 *This title may be cited as the “Sea of Okhotsk Fisheries*
5 *Enforcement Act of 1995”.*

6 **SEC. 502. FISHING PROHIBITION.**

7 *(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Sec-*
8 *tion 302 of the Central Bering Sea Fisheries Enforcement*
9 *Act of 1992 (16 U.S.C. 1823 note) is amended by inserting*
10 *“and the Central Sea of Okhotsk” after “Central Bering*
11 *Sea”.*

12 *(b) DEFINITION.—Section 306 of such Act is amend-*
13 *ed—*

14 *(1) by redesignating paragraphs (2), (3), (4),*
15 *(5), and (6) as paragraphs (3), (4), (5), (6), and (7),*
16 *respectively; and*

17 *(2) by inserting after paragraph (1) the follow-*
18 *ing:*

19 *“(2) CENTRAL SEA OF OKHOTSK.—The term*
20 *‘Central Sea of Okhotsk’ means the central Sea of*
21 *Okhotsk area which is more than two hundred nau-*
22 *tical miles seaward of the baseline from which the*
23 *breadth of the territorial sea of the Russian Federa-*
24 *tion is measured.”.*

1 **TITLE VI—DRIFTNET MORATORIUM**

2 **SEC. 601. SHORT TITLE.**

3 *This title may be cited as the “High Seas Driftnet*
4 *Fishing Moratorium Protection Act”.*

5 **SEC. 602. FINDINGS.**

6 *The Congress finds that—*

7 *(1) Congress has enacted and the President has*
8 *signed into law numerous Acts to control or prohibit*
9 *large-scale driftnet fishing both within the jurisdic-*
10 *tion of the United States and beyond the exclusive*
11 *economic zone of any nation, including the Driftnet*
12 *Impact Monitoring, Assessment, and Control Act of*
13 *1987 (title IV, P.L. 100–220), the Driftnet Act*
14 *Amendments of 1990 (P.L. 101–627), and the High*
15 *Seas Driftnet Fisheries Enforcement Act (title I, P.L.*
16 *102–582);*

17 *(2) the United States is a party to the Conven-*
18 *tion for the Prohibition of Fishing with Long*
19 *Driftnets in the South Pacific, also known as the Wel-*
20 *lington Convention;*

21 *(3) the General Assembly of the United Nations*
22 *has adopted three resolutions and three decisions*
23 *which established and reaffirm a global moratorium*
24 *on large-scale driftnet fishing on the high seas, begin-*

1 *ning with Resolution 44/225 in 1989 and most re-*
2 *cently in Decision 48/445 in 1993;*

3 *(4) the General Assembly of the United Nations*
4 *adopted these resolutions and decisions at the request*
5 *of the United States and other concerned nations;*

6 *(5) the best scientific information demonstrates*
7 *the wastefulness and potentially destructive impacts*
8 *of large-scale driftnet fishing on living marine re-*
9 *sources and seabirds; and*

10 *(6) Resolution 46/215 of the United Nations*
11 *General Assembly calls on all nations, both individ-*
12 *ually and collectively, to prevent large-scale driftnet*
13 *fishing on the high seas.*

14 **SEC. 603. PROHIBITION.**

15 *The United States, or any agency or official acting*
16 *on behalf of the United States, may not enter into any*
17 *international agreement with respect to the conservation*
18 *and management of living marine resources or the use of*
19 *the high seas by fishing vessels that would prevent full im-*
20 *plementation of the global moratorium on large-scale*
21 *driftnet fishing on the high seas, as such moratorium is ex-*
22 *pressed in Resolution 46/215 of the United Nations General*
23 *Assembly.*

1 **SEC. 604. NEGOTIATIONS.**

2 *The Secretary of State, on behalf of the United States,*
3 *shall seek to enhance the implementation and effectiveness*
4 *of the United Nations General Assembly resolutions and de-*
5 *cisions regarding the moratorium on large-scale driftnet*
6 *fishing on the high seas through appropriate international*
7 *agreements and organizations.*

8 **SEC. 605. CERTIFICATION.**

9 *The Secretary of State shall determine in writing*
10 *prior to the signing or provisional application by the Unit-*
11 *ed States of any international agreement with respect to*
12 *the conservation and management of living marine re-*
13 *sources or the use of the high seas by fishing vessels that*
14 *the prohibition contained in section 603 will not be violated*
15 *if such agreement is signed or provisionally applied.*

16 **SEC. 606. ENFORCEMENT.**

17 *The President shall utilize appropriate assets of the*
18 *Department of Defense, the United States Coast Guard, and*
19 *other Federal agencies to detect, monitor, and prevent viola-*
20 *tions of the United Nations moratorium on large-scale*
21 *driftnet fishing on the high seas for all fisheries under the*
22 *jurisdiction of the United States and, in the case of fisheries*
23 *not under the jurisdiction of the United States, to the fullest*
24 *extent permitted under international law.*

1 **TITLE VII—YUKON RIVER SALMON ACT**

2 **SEC. 701. SHORT TITLE.**

3 *This title may be cited as the “Yukon River Salmon*
4 *Act of 1995”.*

5 **SEC. 702. PURPOSES.**

6 *It is the purpose of this title—*

7 *(1) to implement the interim agreement for the*
8 *conservation of salmon stocks originating from the*
9 *Yukon River in Canada agreed to through an ex-*
10 *change of notes between the Government of the United*
11 *States and the Government of Canada on February 3,*
12 *1995;*

13 *(2) to provide for representation by the United*
14 *States on the Yukon River Panel established under*
15 *such agreement; and*

16 *(3) to authorize to be appropriated sums nec-*
17 *essary to carry out the responsibilities of the United*
18 *States under such agreement.*

19 **SEC. 703. DEFINITIONS.**

20 *As used in this title—*

21 *(1) The term “Agreement” means the interim*
22 *agreement for the conservation of salmon stocks origi-*
23 *nating from the Yukon River in Canada agreed to*
24 *through an exchange of notes between the Government*

1 *of the United States and the Government of Canada*
2 *on February 3, 1995.*

3 *(2) The term “Panel” means the Yukon River*
4 *Panel established by the Agreement.*

5 *(3) The term “Yukon River Joint Technical*
6 *Committee” means the technical committee established*
7 *by paragraph C.2 of the Memorandum of Understand-*
8 *ing concerning the Pacific Salmon Treaty between the*
9 *Government of the United States and the Government*
10 *of Canada recorded January 28, 1985.*

11 **SEC. 704. PANEL.**

12 *(a) REPRESENTATION.—The United States shall be*
13 *represented on the Panel by six individuals, of whom—*

14 *(1) one shall be an official of the United States*
15 *Government with expertise in salmon conservation*
16 *and management;*

17 *(2) one shall be an official of the State of Alaska*
18 *with expertise in salmon conservation and manage-*
19 *ment; and*

20 *(3) four shall be knowledgeable and experienced*
21 *with regard to the salmon fisheries on the Yukon*
22 *River.*

23 *(b) APPOINTMENTS.—Panel members shall be ap-*
24 *pointed as follows:*

1 (1) *The Panel member described in subsection*
2 *(a)(1) shall be appointed by the Secretary of State.*

3 (2) *The Panel member described in subsection*
4 *(a)(2) shall be appointed by the Governor of Alaska.*

5 (3) *The Panel members described in subsection*
6 *(a)(3) shall be appointed by the Secretary of State*
7 *from a list of at least 3 individuals nominated for*
8 *each position by the Governor of Alaska. The Gov-*
9 *ernor of Alaska may consider suggestions for nomina-*
10 *tions provided by organizations with expertise in*
11 *Yukon River salmon fisheries. The Governor of Alaska*
12 *may make appropriate nominations to allow for, and*
13 *the Secretary of State shall appoint, at least one*
14 *member under subsection (a)(3) who is qualified to*
15 *represent the interests of Lower Yukon River fishing*
16 *districts, and at least one member who is qualified to*
17 *represent the interests of Upper Yukon River fishing*
18 *districts. At least one of the Panel members under*
19 *subsection (a)(3) shall be an Alaska Native.*

20 (c) *ALTERNATES.—The Secretary of State may des-*
21 *ignate an alternate Panel member for each Panel member*
22 *the Secretary appoints under subsections (b) (1) and (3),*
23 *who meets the same qualifications, to serve in the absence*
24 *of the Panel member. The Governor of the State of Alaska*
25 *may designate an alternative Panel member for the Panel*

1 member appointed under subsection (b)(2), who meets the
2 same qualifications, to serve in the absence of that Panel
3 member.

4 (d) *TERM LENGTH.*—Panel members and alternate
5 Panel members shall serve four-year terms. Any individual
6 appointed to fill a vacancy occurring before the expiration
7 of any term shall be appointed for the remainder of that
8 term.

9 (e) *REAPPOINTMENT.*—Panel members and alternate
10 Panel members shall be eligible for reappointment.

11 (f) *DECISIONS.*—Decisions by the United States sec-
12 tion of the Panel shall be made by the consensus of the Panel
13 members appointed under paragraphs (2) and (3) of sub-
14 section (a).

15 (g) *CONSULTATION.*—In carrying out their functions
16 under the Agreement, Panel members may consult with such
17 other interested parties as they consider appropriate.

18 **SEC. 705. ADVISORY COMMITTEE.**

19 (a) *APPOINTMENTS.*—The Governor of Alaska may ap-
20 point an Advisory Committee of not less than eight, but
21 not more than twelve, individuals who are knowledgeable
22 and experienced with regard to the salmon fisheries on the
23 Yukon River. At least 2 of the Advisory Committee members
24 shall be Alaska Natives. Members of the Advisory Committee
25 may attend all meetings of the United States section of the

1 *Panel, and shall be given the opportunity to examine and*
2 *be heard on any matter under consideration by the United*
3 *States section of the Panel.*

4 **(b) COMPENSATION.**—*The members of such advisory*
5 *committee shall receive no compensation for their services.*

6 **(c) TERM LENGTH.**—*Advisory Committee members*
7 *shall serve two-year terms. Any individual appointed to fill*
8 *a vacancy occurring before the expiration of any term shall*
9 *be appointed for the remainder of that term.*

10 **(d) REAPPOINTMENT.**—*Advisory Committee members*
11 *shall be eligible for reappointment.*

12 **SEC. 706. EXEMPTION.**

13 *The Federal Advisory Committee Act (5 U.S.C. App.)*
14 *shall not apply to the Panel, the Yukon River Joint Tech-*
15 *nical Committee, or the Advisory Committee created under*
16 *section 705 of this title.*

17 **SEC. 707. AUTHORITY AND RESPONSIBILITY.**

18 **(a) RESPONSIBLE MANAGEMENT ENTITY.**—*The State*
19 *of Alaska Department of Fish and Game shall be the respon-*
20 *sible management entity for the United States for the pur-*
21 *poses of the Agreement.*

22 **(b) EFFECT OF DESIGNATION.**—*The designation under*
23 *subsection (a) shall not be considered to expand, diminish,*
24 *or change the management authority of the State of Alaska*
25 *or the Federal government with respect to fishery resources.*

1 (c) *RECOMMENDATIONS OF PANEL.*—In addition to
2 recommendations made by the Panel to the responsible
3 management entities in accordance with the Agreement, the
4 Panel may make recommendations concerning the conserva-
5 tion and management of salmon originating in the Yukon
6 River to the Department of the Interior, Department of
7 Commerce, Department of State, North Pacific Fishery
8 Management Council, and other Federal or State entities
9 as appropriate. Recommendations by the Panel shall be ad-
10 visory in nature.

11 **SEC. 708. CONTINUATION OF AGREEMENT.**

12 In the event that the Treaty between Canada and the
13 United States of America concerning Pacific Salmon,
14 signed at Ottawa, January 28, 1985, terminates prior to
15 the termination of the Agreement, and the functions of the
16 Panel are assumed by the “Yukon River Salmon Commis-
17 sion” referenced in the Agreement, the provisions of this
18 title which apply to the Panel shall thereafter apply to the
19 Yukon River Salmon Commission, and the other provisions
20 of this title shall remain in effect.

21 **SEC. 709. ADMINISTRATIVE MATTERS.**

22 (a) Panel members and alternate Panel members who
23 are not State or Federal employees shall receive compensa-
24 tion at the daily rate of GS–15 of the General Schedule
25 when engaged in the actual performance of duties.

1 (b) Travel and other necessary expenses shall be paid
2 for all Panel members, alternate Panel members, United
3 States members of the Joint Technical Committee, and
4 members of the Advisory Committee when engaged in the
5 actual performance of duties.

6 (c) Except for officials of the United States Govern-
7 ment, individuals described in subsection (b) shall not be
8 considered to be Federal employees while engaged in the ac-
9 tual performance of duties, except for the purposes of injury
10 compensation or tort claims liability as provided in chapter
11 81 of title 5, United States Code, and chapter 71 of title
12 28, United States Code.

13 **SEC. 710. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated \$4,000,000 for
15 each fiscal year for carrying out the purposes and provi-
16 sions of the Agreement and this title including—

17 (1) necessary travel expenses of Panel members,
18 alternate Panel members, United States members of
19 the Joint Technical Committee, and members of the
20 Advisory Committee in accordance with Federal
21 Travel Regulations and sections 5701, 5702, 5704
22 through 5708, and 5731 of title 5, United States
23 Code;

24 (2) the United States share of the joint expenses
25 of the Panel and the Joint Technical Committee: Pro-

1 *vided, That Panel members and alternate Panel mem-*
2 *bers shall not, with respect to commitments concern-*
3 *ing the United States share of the joint expenses, be*
4 *subject to section 262(b) of title 22, United States*
5 *Code, insofar as it limits the authority of United*
6 *States representatives to international organizations*
7 *with respect to such commitments;*

8 *(3) not more than \$3,000,000 for each fiscal year*
9 *to the Department of the Interior and to the Depart-*
10 *ment of Commerce for survey, restoration, and en-*
11 *hancement activities related to Yukon River salmon;*
12 *and*

13 *(4) \$400,000 in each of fiscal years 1996, 1997,*
14 *1998, and 1999 to be contributed to the Yukon River*
15 *Restoration and Enhancement Fund and used in ac-*
16 *cordance with the Agreement.*

17 **TITLE VIII—MISCELLANEOUS**

18 **SEC. 801. SOUTH PACIFIC TUNA AMENDMENT.**

19 *Section 9 of the South Pacific Tuna Act of 1988 (16*
20 *U.S.C. 973g) is amended by adding at the end thereof the*
21 *following:*

22 *“(h) Notwithstanding the requirements of—*

23 *“(1) section 1 of the Act of August 26, 1983 (97*
24 *Stat. 587; 46 U.S.C. 12108);*

1 “(2) the general permit issued on December 1,
2 1980, to the American Tunaboat Association under
3 section 104(h)(1) of the Marine Mammal Protection
4 Act (16 U.S.C. 1374(h)(1)); and

5 “(3) sections 104(h)(2) and 306(a) of the Marine
6 Mammal Protection Act (16 U.S.C. 1374(h)(2) and
7 1416(a))—

8 any vessel documented under the laws of the United States
9 as of the date of enactment of the Fisheries Act of 1995
10 for which a license has been issued under subsection (a)
11 may fish for tuna in the Treaty Area, including those wa-
12 ters subject to the jurisdiction of the United States in ac-
13 cordance with international law, subject to the provisions
14 of the treaty and this Act, provided that no such vessel fish-
15 ing in the Treaty Area intentionally deploys a purse seine
16 net to encircle any dolphin or other marine mammal in
17 the course of fishing under the provisions of the Treaty or
18 this Act.”.

19 **SEC. 802. FOREIGN FISHING FOR ATLANTIC HERRING AND**
20 **ATLANTIC MACKEREL.**

21 Notwithstanding any other provision of law—

22 (1) no allocation may be made to any foreign
23 nation or vessel under section 201 of the Magnuson
24 Fishery Conservation and Management Act (16
25 U.S.C. 1801 et seq.) in any fishery for which there is

1 *not a fishery management plan implemented in ac-*
2 *cordance with that Act; and*

3 *(2) the Secretary of Commerce may not approve*
4 *the portion of any permit application submitted*
5 *under section 204(b) of the Act which proposes fishing*
6 *by a foreign vessel for Atlantic mackerel or Atlantic*
7 *herring unless—*

8 *(A) the appropriate regional fishery man-*
9 *agement council recommends under section*
10 *204(b)(5) of that Act that the Secretary approve*
11 *such fishing, and*

12 *(B) the Secretary of Commerce includes in*
13 *the permit any conditions or restrictions rec-*
14 *ommended by the appropriate regional fishery*
15 *management council with respect to such fishing.*

Attest:

Secretary.

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HR 716 EAS—5

104TH CONGRESS
1ST SESSION

H. R. 716

AMENDMENT