

Calendar No. 200

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-120

NORTHWEST ATLANTIC FISHERIES
CONVENTION AMENDMENTS ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1251

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AUGUST 28, 2015.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1251]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1251) to implement the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, as adopted at Lisbon, Portugal on September 28, 2007, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1251 is to implement the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (Convention), as adopted at Lisbon, Portugal on September 28, 2007.

BACKGROUND AND NEEDS

Many fish stocks around the world have become depleted in the last several decades as a result of fleet overcapacity, overfishing, and ineffective fisheries law enforcement regimes. Coastal fishing nations are responsible for managing the stocks that fall within their domestic waters, which extend 200 miles from their coastline, also known as their Exclusive Economic Zone (EEZ). Unfortunately, many of these coastal fishing nations do not manage for stock sustainability, enforce their regulations effectively, or coordinate management of shared stocks with other fishing nations.

Under the Magnuson-Stevens Fishery Conservation and Management Act¹ (MSA, first enacted in 1976), the Federal Government exercises jurisdiction over the management of commercial fisheries within the U.S. EEZ. The MSA authorizes the Secretary of Commerce (Secretary), through the National Marine Fisheries Service (NMFS) within the National Oceanic and Atmospheric Administration (NOAA), to be responsible for the management of living marine resources. The MSA authorizes eight Regional Fishery Management Councils to develop management plans, subject to the Secretary's approval, that follow the MSA's requirements for rebuilding overfished stocks and setting harvest levels according to science-based catch limits.

Sustainable fisheries management on the high seas or that occurs under the jurisdiction of multiple nations can be difficult due to the vast areas of ocean that must be monitored, limited enforcement resources, and high volumes of operating fishing vessels. The coordinated management of shared stocks harvested beyond 200 miles is accomplished by nations participating in Regional Fisheries Management Organizations (RFMOs), which are international commissions established by multilateral agreements to guide and coordinate the fisheries management activities of multiple nations that target common stocks in specific regions. Each nation that chooses to participate in RFMOs retains its sovereignty, yet is expected to develop domestic fisheries laws and regulations consistent with each agreement. The United States follows this practice and seeks to implement legislation and regulations to meet its commitments under RFMOs and international fisheries agreements. Short of such an agreement or implementing legislation, U.S. fisheries managers seek discussions with foreign counterparts to address concerns on interjurisdictional stock management.

All U.S. international fishery enforcement activities are coordinated closely between the NMFS, the State Department, and the U.S. Coast Guard (USCG). The NMFS and the USCG also provide input for the State Department's negotiations of fishery treaties and agreements, in addition to reviewing foreign fishing vessel permit applications. The USCG conducts international fisheries enforcement patrols and investigations as part of its 11 statutory missions in close coordination with the State Department, as required by Presidential Directive 27.² Additionally, the NMFS and the USCG cooperate closely with individual U.S. States and territories, and coordinate MSA enforcement in and adjacent to State and territorial waters.

Northwest Atlantic Fisheries Organization

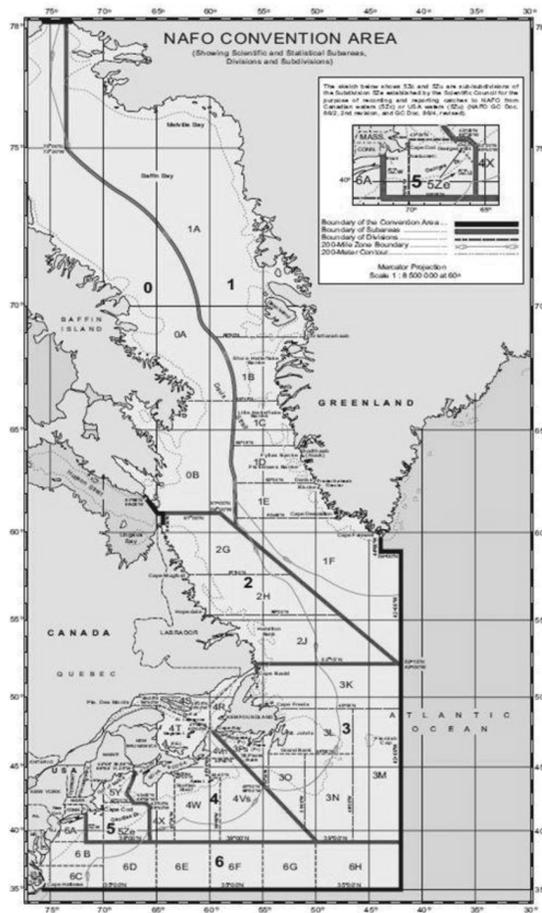
The Northwest Atlantic Fisheries Organization (NAFO) is an RFMO with a mandate to provide scientific advice and management of fisheries in the northwestern part of the Atlantic Ocean. Established in 1979 following the Convention coming into force, NAFO facilitates the long-term and sustainable use of most high seas fisheries in the Northwest Atlantic. These fish stocks include 19 commercial stocks, though the international fishery mostly tar-

¹ 16 U.S.C. 1801 et seq.

² The Carter Administration, Presidential Decision Directive 27 (PDD-27): Procedures for Dealing with Non-military Incidents. Jan. 19, 1978. (<http://www.jimmycarterlibrary.gov/documents/pddirectives/pd27.pdf>)

gets groundfish, including cod, Greenland halibut, redfish, and skates, as well as shrimp. A fishing moratorium is in place for five species (Atlantic cod, American plaice, Witch flounder, Capelin, and shrimp), as their abundance is at levels too low to support fishing, due to decades (perhaps centuries) of overfishing. In 2011, 56 vessels from 13 flag states fished under NAFO.³ NAFO's Convention Area includes the waters of the U.S. EEZ from Cape Hatteras to Maine, although NAFO management measures apply primarily to the high seas portion of the Convention Area, which is shown in the following Figure 1:

Figure 1.



Source: Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, pg. viii (<http://www.nafo.int/publications/frames/publications.html>)

The United States joined NAFO in 1995, and has since been an active participant, assuming leadership positions and working to advance key principles of sustainable fisheries management. In recent years, the United States has sought a series of reforms at

³ Fishing in the NAFO Area (<http://www.nafo.int/fisheries/frames/fishery.html>)

NAFO to improve the body's conservation and management outcomes, as well as to better support U.S. interests. Ensuring equitable catch allocation and budgetary obligations have been primary concerns for the United States. For example, under the Convention, part of the NAFO budget is divided equally among all parties, while the rest is split according to parties' catches of certain species in the Convention Area, including within coastal nations' EEZs. As a result, coastal nations such as the United States are required to pay a disproportionately high share of NAFO's budget relative to other parties. This imbalance has occurred in the context of limited U.S. participation in the high seas fisheries managed under NAFO. Although many NAFO stocks remain at levels too low to support fishing, others have recently demonstrated signs of rebuilding under NAFO management. After working for many years to secure viable allocations, the United States was able to begin fisheries for some of these NAFO-managed high seas stocks in 2013.

Amendment to the NAFO Convention

Following international calls for RFMOs to strengthen their effectiveness, NAFO launched a reform process in 2005 intended to improve the way it adopts conservation and management measures, strengthen compliance and enforcement provisions, and revise its underlying Convention. The United States was a leading voice in this effort, advocating to bring NAFO more in line with the principles of modern fisheries management and to address longstanding concerns about catch allocations and fair participation. The negotiations culminated on September 28, 2007, with the adoption of the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (Amendment). The reforms contained in the Amendment are comprehensive, touching on every element of the Convention.

Key elements of the amended Convention include provisions that embrace long-term conservation and sustainable use of fishery resources based on the best science available, reflecting a modernized approach to fisheries management. Additionally, the amended Convention will simplify NAFO's governance structure to consist of a Commission, a Scientific Council, and a Secretariat. This new structure will combine the current General Council and Fisheries Commission into a single Commission and reorganize a number of the sub-bodies. These changes and other procedural modifications are intended to streamline NAFO considerably and result in increased efficiency, more effective conservation and management, and reduced operating costs. The amended Convention also will provide additional transparency to the decision-making process, establish a dispute settlement procedure between parties, improve the guidance language for allocating catches, and make the basis for calculating parties' budget contributions more equitable. Ensuring equitable budget contributions has long been a priority for the United States, which it advocated for to better correspond with the benefits parties receive. The amended Convention will not change the basic formula, but rather would amend the list of stocks used to calculate parties' respective catches to include only species under NAFO management or for which NAFO provides scientific advice, removing those fished exclusively in waters under a coastal na-

tion's jurisdiction. This change is expected to reduce U.S. dues by almost one-third.

The Amendment will enter into force 120 days after the 9 contracting parties ratify it. Since its adoption, Canada, Cuba, the European Union, Norway, and the Russian Federation have ratified it. The United States signed the Convention on September 28, 2007. However, the Convention is not self-executing, meaning that ratification requires implementing legislation to conform U.S. domestic law to the requirements of the Convention.⁴ The United States will need to complete its implementation of the Convention in order to participate fully in the reformed NAFO should the amended Convention enter into force.

SUMMARY OF PROVISIONS

S. 1251, the Northwest Atlantic Fisheries Convention Amendments Act, would make changes to domestic law necessary to implement the Convention by amending the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.). The bill includes mostly administrative changes that would reflect the amended Convention's restructuring of NAFO, allowing for U.S. participation in its modernized governing bodies and more robust scientific activities. S. 1251 would authorize to be appropriated \$500,000 for each fiscal year to carry out the Act and to pay for the United States' contributions to NAFO.

LEGISLATIVE HISTORY

S. 1251 was introduced by Senator Markey on May 7, 2015. On May 20, 2015, the Committee met in open Executive Session and, by a voice vote, ordered S. 1251 to be reported favorably without amendment. A nearly identical bill, S. 2485 passed out of Committee last Congress.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1251—Northwest Atlantic Fisheries Convention Amendments Act

S. 1251 would amend current law to implement an amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (Convention), which governs the Northwest Atlantic Fisheries Organization (NAFO). The bill also would authorize the appropriation of \$500,000 a year to carry out the Convention. Based on information provided by the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the Department of State, CBO estimates that implementing S. 1251 would cost \$2.5 million over the 2016–2020 period, assuming availability of appropriated amounts. Because enacting the bill would

⁴Senate Executive Report 113-4: Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, adopted on September 28, 2007, at the twenty-ninth Annual Meeting of the North Atlantic Fisheries Organization (NAFO) (<http://www.gpo.gov/fdsys/pkg/CRPT-113erpt4/pdf/CRPT-113erpt4.pdf>).

not affect direct spending or revenues, pay-as-you-go procedures do not apply.

The amendment to the Convention that would be implemented under the bill would detail NAFO's objectives and outline general management principles for the Northwest Atlantic Ocean. The amendment also would combine two governing bodies created under the Convention into a single management entity. In addition, the amendment would describe the reporting requirements, inspections, and compliance and enforcement duties of all parties to the Convention. Finally, the amendment would rewrite provisions for making and implementing decisions and for settling disputes under the Convention.

CBO has not reviewed S. 1251 for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that the bill falls within that exclusion.

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs), Jon Sperl (for intergovernmental mandates), and Amy Petz (for private-sector mandates). The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1251 as reported would not create any new programs or impose any new regulatory requirements, and therefore would not subject any individuals or businesses to new regulations.

ECONOMIC IMPACT

Enactment of this legislation would not be expected to have any inflationary or adverse impact on the Nation's economy. Failure to enact S. 1251 into law may jeopardize the benefits of a streamlined NAFO and additional opportunities for U.S. fishermen to participate in NAFO fisheries.

PRIVACY

The bill would not impact the personal privacy of individuals.

PAPERWORK

This bill would have no impact on paperwork requirements for individuals or businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; references to the Northwest Atlantic Fisheries Convention Act of 1995.

This section would designate the short title of this bill as the “Northwest Atlantic Fisheries Convention Amendments Act.” It would provide that whenever an amendment to, or repeal of, a section or other provision is expressed in this Act, the reference shall be considered to be made to a section or other provision of the Northwest Atlantic Fisheries Convention Act of 1995 (Convention Act; 16 U.S.C. 5601 et seq.).

Section 2. Representation of the United States under Convention.

This section would amend section 202 of the Convention Act (16 U.S.C. 5601) by striking several references to the “General Council” and the “Scientific Council.”

Section 3. Requests for scientific advice.

This section would amend section 203 of the Convention Act (16 U.S.C. 5602) to allow a single representative, rather than requiring all representatives, to request advice from the Scientific Council.

Section 4. Authorities of Secretary of State with respect to Convention.

This section would amend section 204 of the Convention Act (16 U.S.C. 5603) by replacing “Fisheries Commission” with “Commission consistent with the procedures detailed in Articles XIV and XV of the Convention.”

Section 5. Interagency cooperation.

This section would amend section 205(a) of the Convention Act (16 U.S.C. 5604(a)) to allow the Secretary to arrange for cooperation with any department, agency, or instrument of the United States; any State; the Council; or any private institution or an organization in carrying out the provisions of the Convention and this Act.

Section 6. Prohibited acts and penalties.

This section would amend section 207 of the Convention Act (16 U.S.C. 5606) by striking “fish” wherever it appears and inserting “fishery resources.”

Section 7. Consultative committee.

This section would amend section 208 of the Convention Act (16 U.S.C. 5607) by striking “General Council or the Fisheries” wherever it appears.

Section 8. Definitions.

This section would amend section 210 of the Convention Act (16 U.S.C. 5609) to define: “1982 Convention” as the United Nations Convention on the Law of the Sea of 10 December 1982; “Authorized Enforcement Officer” as a person authorized to enforce this Act; “Commission” as the body provided for by Articles V, VI, XIII, XIV, and XV of the Convention; “Commissioner” as a United States Commissioner to the Northwest Atlantic Fisheries Organization ap-

pointed under section 202; “Convention” as the Convention on Cooperation in the Northwest Atlantic Fisheries; “Convention Area” as the waters of the Northwest Atlantic; “Council” as the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council; “Fishery Resources” as all fish, mollusks, and crustaceans within the Convention Area, but not sedentary species in sovereign waters, species managed under other international treaties, anadromous and catadromous stocks and highly migratory species; “Fishing Activities” as harvesting, processing, or transshipping of fishery resources and activities in support of these actions, but excluding any operation related to emergencies involving the health and safety of crew member or the safety of a vessel; “Fishing Vessel” as a vessel that has been engaged in fishing activities; “Organization” as the Northwest Atlantic Fisheries Organization provided for by Article V of the Convention; “Person” as any individual, corporation, partnership, association, or other entity; “Representative” as a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202; “Scientific Council” as the Scientific Council provided for by Articles V, VI, and VII of the Convention; “Secretary” as the Secretary of Commerce; “State” as each of the several States of the United States, the District of Columbia, and any other commonwealth, territory, or possession of the United States; and “Transshipment” as the unloading of fishery resources on board a fishing vessel to another vessel either at sea or in port.

Section 9. Authorization of appropriations.

This section would amend section 211 of the Convention Act (16 U.S.C. 5610) by striking “XVI” and inserting “IX” and striking “through fiscal year 2012.”

Section 10. Quota allocation practice.

This section would repeal section 213 of the Convention Act (16 U.S.C. 5612).

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF
1995

[16 U.S.C. 5601 et seq.]

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

[16 U.S.C. 5601]

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the [General Council and the Fisheries] Commission, who shall each—

(A) be known as a “United States Commissioner to the Northwest Atlantic Fisheries Organization”; and

- (B) serve at the pleasure of the Secretary.
- (2) REQUIREMENTS FOR APPOINTMENTS.—
- (A) The Secretary shall ensure that of the individuals serving as Commissioners—
- (i) at least 1 is appointed from among representatives of the commercial fishing industry;
 - (ii) 1 (but no more than 1) is an official of the Government; and
 - (iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.
- (B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.
- (3) TERMS.—
- (A) The term of an individual appointed as a Commissioner—
- (i) shall be specified by the Secretary at the time of appointment; and
 - (ii) may not exceed 4 years.
- (B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.
- (b) ALTERNATE COMMISSIONERS.—
- (1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner [at a meeting of the General Council or the Fisheries Commission], designate an individual to serve as an Alternate Commissioner.
- (2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated [at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated].
- (c) REPRESENTATIVES.—
- (1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a “United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council”.
- (2) ELIGIBILITY FOR APPOINTMENT.—
- (A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.
- (B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.
- (3) TERM.—An individual appointed as a Representative—
- (A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;
 - (B) may be reappointed; and
 - (C) shall serve at the pleasure of the Secretary.
- (d) ALTERNATE REPRESENTATIVES.—
- (1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative [at a meeting of

the Scientific Council], designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated [, at any meeting of the Scientific Council for which the Alternate Representative is designated].

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the [Magnuson Act] *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1852); and

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

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

[16 U.S.C. 5602]

(a) RESTRICTION.—[The Representatives may] *A Representative may not make a request or specification [described in subsection (b) (1) or (2)] described in paragraph (1) or (2) of subsection (b), respectively, unless [the Representatives have] the Representative has first—*

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

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

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article [VII(1)] *VII(10)(b)* of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article [VIII(2)] *VII(11)* of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article [VII(1)] *VII(10)(b)* of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

[16 U.S.C. 5603]

THE SECRETARY OF STATE MAY, ON BEHALF OF THE GOVERNMENT OF THE UNITED STATES.—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the **[Fisheries Commission]** *Commission consistent with the procedures detailed in Articles XIV and XV of the Convention;*

(3) give or withdraw notice of intent not to be bound by a measure of the **[Fisheries Commission]** *Commission consistent with the procedures detailed in Articles XIV and XV of the Convention;*

(4) object or withdraw an objection to an amendment to the Convention; and

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

SEC. 205. INTERAGENCY COOPERATION.

[16 U.S.C. 5604]

[(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.]

(a) AUTHORITIES OF THE SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with—

(1) any department, agency, or instrumentality of the United States;

(2) a State;

(3) a Council; or

(4) a private institution or an organization.

* * * * *

SEC. 207. PROHIBITED ACTS AND PENALTIES.

[16 U.S.C. 5606]

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

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

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

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any **[fish]** *fishery resources* taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for

a civil penalty, or may be subject to a permit sanction, under section 308 of the **【Magnuson Act】** *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1858).

(c) **CRIMINAL PENALTY.**—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the **【Magnuson Act】** *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1859(b)).

(d) **CIVIL FORFEITURES.**—

(1) **IN GENERAL.**—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any **【fish】** *fishery resources* (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the **【Magnuson Act】** *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1860).

(2) **DISPOSAL OF 【FISH】 FISHERY RESOURCES.**—Any **【fish】** *fishery resources* seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) **ENFORCEMENT.**—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in section 311(a), (b)(1), and (c) of the **【Magnuson Act】** *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

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

- (1) enter restraining orders or prohibitions;
 - (2) issue warrants, process in rem, or other process;
 - (3) prescribe and accept satisfactory bonds or other security;
- and
- (4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

[16 U.S.C. 5607]

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

(b) **MEMBERSHIP.**—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) **TERMS AND REAPPOINTMENT.**—Each member of the consultative committee shall serve for a term of **【two】** 2 years and shall be eligible for reappointment.

(c) **DUTIES OF THE COMMITTEE.**—Members of the consultative committee may attend—

(1) all public meetings of the [General Council or the Fisheries] Commission;

(2) any other meetings to which they are invited by the [General Council or the Fisheries] Commission; and

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

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

[SEC. 210. DEFINITIONS.

16 U.S.C. 5609]

[In this title the following definitions apply:

[(1) AUTHORIZED ENFORCEMENT OFFICER.—The term “authorized enforcement officer” means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

[(2) COMMISSIONER.—The term “Commissioner” means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

[(3) CONVENTION.—The term “Convention” means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

[(4) FISHERIES COMMISSION.—The term “Fisheries Commission” means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

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

[(6) MAGNUSON ACT.—The term “Magnuson Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

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

[(8) PERSON.—The term “person” means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

[(9) REPRESENTATIVE.—The term “Representative” means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

[(10) SCIENTIFIC COUNCIL.—The term “Scientific Council” means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

[(11) SECRETARY.—The term “Secretary” means the Secretary of Commerce.]

SEC. 210. DEFINITIONS.

In this title:

(1) 1982 CONVENTION.—The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) *AUTHORIZED ENFORCEMENT OFFICER.*—The term “authorized enforcement officer” means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(3) *COMMISSION.*—The term “Commission” means the body provided for by Articles V, VI, XIII, XIV, and XV of the Convention.

(4) *COMMISSIONER.*—The term “Commissioner” means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202.

(5) *CONVENTION.*—The term “Convention” means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978, and as amended on September 28, 2007.

(6) *CONVENTION AREA.*—The term “Convention Area” means the waters of the Northwest Atlantic Ocean north of 35°00′ N and west of a line extending due north from 35°00′ N and 42°00′ W to 59°00′ N, thence due west to 44°00′ W, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10′ N.

(7) *COUNCIL.*—The term “Council” means the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council.

(8) *FISHERY RESOURCES.*—

(A) *IN GENERAL.*—The term “fishery resources” means all fish, mollusks, and crustaceans within the Convention Area.

(B) *EXCLUSIONS.*—The term “fishery resources” does not include—

(i) sedentary species over which coastal States may exercise sovereign rights consistent with Article 77 of the 1982 Convention; or

(ii) in so far as they are managed under other international treaties, anadromous and catadromous stocks and highly migratory species listed in Annex I of the 1982 Convention.

(9) *FISHING ACTIVITIES.*—

(A) *IN GENERAL.*—The term “fishing activities” means harvesting or processing fishery resources, or transshipping of fishery resources or products derived from fishery resources, or any other activity in preparation for, in support of, or related to the harvesting of fishery resources.

(B) *INCLUSIONS.*—The term “fishing activities” includes—

(i) the actual or attempted searching for or catching or taking of fishery resources;

(ii) any activity that can reasonably be expected to result in locating, catching, taking, or harvesting of fishery resources for any purpose; and

(iii) any operation at sea in support of, or in preparation for, any activity described in this paragraph.

(C) *EXCLUSIONS.*—The term “fishing activities” does not include any operation related to emergencies involving the health and safety of crew members or the safety of a vessel.

(10) *FISHING VESSEL.*—

(A) *IN GENERAL.*—The term “fishing vessel” means a vessel that is or has been engaged in fishing activities.

(B) *INCLUSIONS.*—The term “fishing vessel” includes a fish processing vessel or a vessel engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities.

(11) *ORGANIZATION.*—The term “Organization” means the Northwest Atlantic Fisheries Organization provided for by Article V of the Convention.

(12) *PERSON.*—The term “person” means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(13) *REPRESENTATIVE.*—The term “Representative” means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202.

(14) *SCIENTIFIC COUNCIL.*—The term “Scientific Council” means the Scientific Council provided for by Articles V, VI, and VII of the Convention.

(15) *SECRETARY.*—The term “Secretary” means the Secretary of Commerce.

(16) *STATE.*—The term “State” means each of the several States of the United States, the District of Columbia, and any other commonwealth, territory, or possession of the United States.

(17) *TRANSSHIPMENT.*—The term “transshipment” means the unloading of all or any of the fishery resources on board a fishing vessel to another fishing vessel either at sea or in port.

[SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

[16 U.S.C. 5610]

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article [XVI] IX of the Convention, \$500,000 for each fiscal year [through fiscal year 2012].

[SEC. 213. QUOTA ALLOCATION PRACTICE.

[16 U.S.C. 5612]

[(a) *IN GENERAL.*—The Secretary of Commerce, acting through the Secretary of State, shall promptly seek to establish a new practice for allocating quotas under the Convention that—

[(1) is predictable and transparent;

[(2) provides fishing opportunities for all members of the Organization; and

[(3) is consistent with the Straddling Fish Stocks Agreement.

[(b) *REPORT.*—The Secretary of Commerce shall include in annual reports under section 212—

[(1) a description of the results of negotiations held pursuant to subsection (a);

[(2) an identification of barriers to achieving such a new allocation practice; and

[(3) recommendations for any further legislation that is necessary to achieve such a new practice.

[(c) DEFINITION.—In this section the term “Straddling Fish Stocks Agreement” means the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.]

