

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3058

To implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1993

Mr. STUDDS (for himself and Mr. MANTON) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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## A BILL

To implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northwest Atlantic  
5 Fisheries Convention Act of 1993”.

6 **SEC. 2. REPRESENTATION OF UNITED STATES UNDER CON-**  
7 **VENTION.**

8 (a) COMMISSIONERS.—

9 (1) APPOINTMENTS, GENERALLY.—The Sec-  
10 retary shall appoint not more than three individuals

1 to serve as the representatives of the United States  
2 on the General Council and the Fisheries Commis-  
3 sion, who shall each—

4 (A) be known as a “United States Com-  
5 missioner to the Northwest Atlantic Fisheries  
6 Organization”; and

7 (B) serve at the pleasure of the Secretary.

8 (2) REQUIREMENTS FOR APPOINTMENTS.—

9 (A) The Secretary shall ensure that of the  
10 individuals serving as Commissioners.—

11 (i) at least one is appointed from  
12 among representatives of the commercial  
13 fishing industry; and

14 (ii) one (but no more than one) is an  
15 official of the Government.

16 (B) The Secretary may not appoint as a  
17 Commissioner an individual unless the individ-  
18 ual is knowledgeable and experienced concern-  
19 ing the fishery resources to which the Conven-  
20 tion applies.

21 (3) TERMS.—

22 (A) The term of an individual as a Com-  
23 missioner—

24 (i) shall be specified by the Secretary  
25 at the time of appointment; and

1 (ii) may not exceed four years.

2 (B) An individual who is not a Government  
3 official may not serve more than two consecu-  
4 tive terms as a Commissioner.

5 (b) ALTERNATE COMMISSIONERS.—

6 (1) APPOINTMENT.—The Secretary may, for  
7 any anticipated absence of a duly appointed Com-  
8 missioner at a meeting of the General Council or the  
9 Fisheries Commission, designate an individual to  
10 serve as an Alternate Commissioner.

11 (2) FUNCTIONS.—An Alternate Commissioner  
12 may exercise all powers and perform all duties of the  
13 Commissioner for whom the Alternate Commissioner  
14 is designated, at any meeting of the General Council  
15 or the Fisheries Commission for which the Alternate  
16 Commissioner is designated.

17 (c) REPRESENTATIVES.—

18 (1) APPOINTMENT.—The Secretary shall ap-  
19 point not more than three individuals to serve as the  
20 representatives of the United States on the Scientific  
21 Council, who shall each be known as a “United  
22 States Representative to the Northwest Atlantic  
23 Fisheries Organization Scientific Council”.

24 (2) ELIGIBILITY FOR APPOINTMENT.—

1 (A) The Secretary may not appoint an in-  
2 dividual as a Representative unless the individ-  
3 ual is knowledgeable and experienced concern-  
4 ing the scientific issues dealt with by the Sci-  
5 entific Council.

6 (B) The Secretary shall appoint as a Rep-  
7 resentative at least one individual who is an of-  
8 ficial of the Government.

9 (3) TERM.—An individual appointed as a Rep-  
10 resentative—

11 (A) shall serve for a term of not to exceed  
12 four years, as specified by the Secretary at the  
13 time of appointment;

14 (B) may be reappointed; and

15 (C) shall serve at the pleasure of the Sec-  
16 retary.

17 (d) ALTERNATE REPRESENTATIVES.—

18 (1) APPOINTMENT.—The Secretary may, for  
19 any anticipated absence of a duly appointed Rep-  
20 resentative at a meeting of the Scientific Council,  
21 designate an individual to serve as an Alternate Rep-  
22 resentative.

23 (2) FUNCTIONS.—An Alternate Representative  
24 may exercise all powers and perform all duties of the  
25 Representative for whom the Alternate Commis-

1 sioner is designated, at any meeting of the Scientific  
2 Council for which the Alternate Representative is  
3 designated.

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

8 (f) COORDINATION AND CONSULTATION.—

9 (1) IN GENERAL.—In carrying out their func-  
10 tions under the Convention, Commissioners, Alter-  
11 nate Commissioners, Representatives, and Alternate  
12 Representatives shall—

13 (A) coordinate with the appropriate Re-  
14 gional Fishery Management Councils estab-  
15 lished by section 302 of the Magnuson Act (16  
16 U.S.C. 1852); and

17 (B) consult with the committee established  
18 under section 9.

19 (2) RELATIONSHIP TO OTHER LAW.—The Fed-  
20 eral Advisory Committee Act (5 U.S.C. App.) shall  
21 not apply to coordination and consultations under  
22 this subsection.

23 **SEC. 3. REQUESTS FOR SCIENTIFIC ADVICE.**

24 (a) RESTRICTION.—The Representatives may not  
25 make a request or specification described in subsection

1 (b)(1) or (2), respectively, unless the Representatives have  
2 first—

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

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

7 (b) REQUESTS AND TERMS OF REFERENCE DE-  
8 SCRIBED.—The requests and specifications referred to in  
9 subsection (a) are, respectively—

10 (1) any request, under Article VII(1) of the  
11 Convention, that the Scientific Council consider and  
12 report on a question pertaining to the scientific basis  
13 for the management and conservation of fishery re-  
14 sources in waters under the jurisdiction of the  
15 United States within the Convention Area; and

16 (2) any specification, under Article VIII(2) of  
17 the Convention, of the terms of reference for the  
18 consideration of a question referred to the Scientific  
19 Council pursuant to Article VII(1) of the Conven-  
20 tion.

21 **SEC. 4. AUTHORITIES OF SECRETARY OF STATE WITH RE-**  
22 **SPECT TO CONVENTION.**

23 The Secretary of State may, on behalf of the Govern-  
24 ment of the United States—

1           (1) receive and transmit reports, requests, rec-  
2           ommendations, proposals, and other communications  
3           of and to the Organization and its subsidiary or-  
4           gans;

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

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

9           (4) object or withdraw an objection, to an  
10          amendment to the convention; and

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

14 **SEC. 5. INTERAGENCY COOPERATION.**

15          (a) **AUTHORITIES OF SECRETARY.**—In carrying out  
16          the provisions of the Convention and this Act, the Sec-  
17          retary may arrange for cooperation with other agencies of  
18          the United States, the States, the New England Fishery  
19          Management Council, and private institutions and organi-  
20          zations.

21          (b) **OTHER AGENCIES.**—The head of any Federal  
22          agency may—

23                  (1) cooperate in the conduct of scientific and  
24                  other programs, and furnish facilities and personnel,

1 for the purposes of assisting the Organization in  
2 carrying out its duties under the Convention; and

3 (2) accept reimbursement from the Organiza-  
4 tion for providing such services, facilities, and per-  
5 sonnel.

6 **SEC. 6. RULEMAKING.**

7 The Secretary shall promulgate regulations as may  
8 be necessary to carry out the purposes and objectives of  
9 the Convention and this Act. Any such regulation may be  
10 made applicable, as necessary, to all persons and all ves-  
11 sels subject to the jurisdiction of the United States, wher-  
12 ever located.

13 **SEC. 7. PROHIBITED ACTS AND PENALTIES.**

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

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

20 (2) to refuse to permit any authorized enforce-  
21 ment officer to board a fishing vessel that is subject  
22 to the person's control for purposes of conducting  
23 any search or inspection in connection with the en-  
24 forcement of this Act, any regulation issued under

1 this Act, or any measure that is legally binding on  
2 the United States under the Convention;

3 (3) forcibly to assault, resist, oppose, impede,  
4 intimidate, or interfere with any authorized enforce-  
5 ment officer in the conduct of any search or inspec-  
6 tion described in paragraph (2);

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

9 (5) to ship, transport, offer for sale, sell, pur-  
10 chase, import, export, or have custody, control, or  
11 possession of, any fish taken or retained in violation  
12 of this section; or

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

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

22 (c) CRIMINAL PENALTY.—Any person who commits  
23 an act that is unlawful under paragraph (2), (3), (4), or  
24 (6) of subsection (a) shall be guilty of an offense punish-

1 able under section 309(b) of the Magnuson Act (16 U.S.C.  
2 1859(b)).

3 (d) CIVIL FORFEITURE.—

4 (1) IN GENERAL.—Any vessel (including its  
5 gear, furniture, appurtenances, stores, and cargo)  
6 used in the commission of an act that is unlawful  
7 under subsection (a), and any fish (or the fair mar-  
8 ket value thereof) taken or retained, in any manner,  
9 in connection with or as a result of the commission  
10 of any act that is unlawful under subsection (a),  
11 shall be subject to seizure and forfeiture as provided  
12 in section 310 of the Magnuson Act (16 U.S.C.  
13 1860).

14 (2) DISPOSAL OF FISH.—Any fish seized pursu-  
15 ant to this Act may be disposed of pursuant to the  
16 order of a court of competent jurisdiction or, if per-  
17 ishable, in a manner prescribed by regulations issued  
18 by the Secretary.

19 (e) ENFORCEMENT.—The Secretary and the Sec-  
20 retary of the Department in which the Coast Guard is op-  
21 erating shall enforce the provisions of this Act and shall  
22 have the authority specified in sections 311(a), (b)(1), and  
23 (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and  
24 (c)) for that purpose.

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

5 (1) enter restraining orders or prohibitions;

6 (2) issue warrants, process in rem, or other  
7 process;

8 (3) prescribe and accept satisfactory bonds or  
9 other security; and

10 (4) take such other actions as are in the inter-  
11 ests of justice.

12 **SEC. 8. UNITED STATES-CANADA FISHERY MANAGEMENT**  
13 **AGREEMENT.**

14 (a) NEGOTIATIONS.—Not later than one hundred and  
15 eighty days after the date of enactment of this Act, the  
16 Secretary of State, in consultation with the Secretary of  
17 Commerce and the Committee established under section  
18 9, is authorized and encouraged to initiate negotiations  
19 with the Government of Canada for the purpose of enter-  
20 ing into an international fishery agreement with Canada  
21 for the conservation and management of fisheries of mu-  
22 tual concern in the northwest Atlantic Ocean, with par-  
23 ticular emphasis on transboundary stocks of groundfish  
24 and ensuring the success of New England groundfish res-  
25 toration efforts pursuant to the Magnuson Act.

1 (b) CONTENTS OF AGREEMENT.—An agreement en-  
2 tered into pursuant to this section shall—

3 (1) provide for timely and periodic exchanges of  
4 scientific information relating to the conservation  
5 and management of fisheries stocks of mutual con-  
6 cern;

7 (2) provide for routine meetings between the of-  
8 ficials of the United States and Canada responsible  
9 for the conservation and management of fisheries;

10 (3) establish procedures for the identification of  
11 conservation and management measures that would  
12 be mutually beneficial; and

13 (4) identify procedures for the implementation  
14 within each country of conservation and manage-  
15 ment measures identified as mutually beneficial.

16 (c) APPLICATION OF EXISTING LAW.—An agreement  
17 entered into pursuant to this section shall be subject to  
18 section 203 of the Magnuson Act (16 U.S.C. 1823).

19 (d) LETTER.—Not later than one year after the date  
20 of enactment of this Act, and annually thereafter until the  
21 effective date of an agreement entered into pursuant to  
22 this section, the Secretary of State shall transmit to the  
23 Congress a letter describing activities of the Secretary  
24 under this section.

1 **SEC. 9. CONSULTATIVE COMMITTEE.**

2 (a) ESTABLISHMENT.—The Secretary of State and  
3 the Secretary of Commerce, shall jointly establish a con-  
4 sultative committee to advise the Secretaries on issues re-  
5 lated to the Convention and in the development and imple-  
6 mentation of a fishery agreement pursuant to section 8.

7 (b) MEMBERSHIP.—(1) The membership of the Com-  
8 mittee shall include representatives from the New England  
9 Fishery Management Council, the States represented on  
10 that Council, the Atlantic States Marine Fisheries Com-  
11 mission, the fishing industry, the seafood processing in-  
12 dustry, and others knowledgeable and experienced in the  
13 conservation and management of fisheries in the North-  
14 west Atlantic Ocean.

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

18 (c) DUTIES OF THE COMMITTEE.—

19 (1) NORTHWEST ATLANTIC FISHERIES ORGANI-  
20 ZATION.—Members of the consultative committee  
21 may attend—

22 (A) all public meetings of the General  
23 Council or the Fisheries Commission;

24 (B) any other meetings to which they are  
25 invited by the General Council or the Fisheries  
26 Commission; and

1 (C) all nonexecutive meetings of the  
2 United States Commissioners.

3 (2) UNITED STATES-CANADA FISHERIES MAN-  
4 AGEMENT AGREEMENT.—Members of the consult-  
5 ative committee shall advise the the Secretaries on  
6 any agreements established under section 8.

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

11 **SEC. 10. ADMINISTRATIVE MATTERS.**

12 (a) PROHIBITION ON COMPENSATION.—A person  
13 shall not receive any compensation from the Government  
14 by reason of any service of the person as—

15 (1) a Commissioner, Alternate Commissioner,  
16 Representative, or Alternative Representative;

17 (2) an expert or adviser authorized under sec-  
18 tion 2(e); or

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

21 (b) TRAVEL AND EXPENSES.—The Secretary of  
22 State shall, subject to the availability of appropriations,  
23 pay all necessary travel and other expenses of persons de-  
24 scribed in subsection (a)(1) and of not more than six ex-  
25 perts and advisers authorized under section 2(e) with re-

1 spect to their actual performance of their official duties  
2 pursuant to this Act, in accordance with the Federal Trav-  
3 el Regulations and sections 5701, 5702, 5704 through  
4 5708, and 5731 of title 5, United States Code.

5 (c) STATUS AS FEDERAL EMPLOYEES.—A person  
6 shall not be considered to be a Federal employee by reason  
7 of any service of the person in a capacity described in sub-  
8 section (a), except for purposes of injury compensation  
9 and tort claims liability under chapter 81 of title 5, United  
10 States Code, and chapter 17 of title 28, United States  
11 Code, respectively.

12 **SEC. 11. DEFINITIONS.**

13 In this Act the following definitions apply:

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

19 (2) COMMISSIONER.—The term “Commis-  
20 sioner” means a United States Commissioner to the  
21 Northwest Atlantic Fisheries Organization appointed  
22 under section 2(a).

23 (3) CONVENTION.—The term “Convention”  
24 means the Convention on Future Multilateral Co-

1 operation in the Northwest Atlantic Fisheries, done  
2 at Ottawa on October 24, 1978.

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

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

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

13 (7) ORGANIZATION.—The term “Organization”  
14 means the Northwest Atlantic Fisheries Organiza-  
15 tion provided for by Article II of the Convention.

16 (8) PERSON.—The term “person” means any  
17 individual (whether or not a citizen or national of  
18 the United States), and any corporation, partner-  
19 ship, association, or other entity (whether or not or-  
20 ganized or existing under the laws of any State).

21 (9) REPRESENTATIVE.—The term “Representa-  
22 tive” means a United States Representative to the  
23 Northwest Atlantic Fisheries Scientific Council ap-  
24 pointed under section 2(c).

1           (10) SCIENTIFIC COUNCIL.—The term “Sci-  
2           entific Council” means the Scientific Council pro-  
3           vided for by Articles II, VI, VII, VIII, IX, and X of  
4           the Convention.

5           (11) SECRETARY.—The term “Secretary”  
6           means the Secretary of Commerce.

7   **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

8           There are authorized to be appropriated to carry out  
9           this Act, including use for payment as the United States  
10          contribution to the Organization as provided in Article  
11          XVI of the Convention, \$500,000 for each of the fiscal  
12          years 1994, 1995, and 1996.

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