

Union Calendar No. 76

104TH CONGRESS
1ST SESSION

H. R. 541

[Report No. 104-109, Parts I and II]

A BILL

To reauthorize the Atlantic Tunas Convention Act
of 1975, and for other purposes.

JUNE 27, 1995

Reported with amendments, committed to the Committee
of the Whole House on the State of the Union, and or-
dered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1995

Mr. SAXTON introduced the following bill; which was referred to the Committee on Resources

MAY 1, 1995

Reported with an amendment, and referred to the Committee on Ways and Means for a period ending not later than June 30, 1995, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(s), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 27, 1995

Reported from the Committee on Ways and Means with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through in italic and insert the part printed in boldface roman]

[For text of introduced bill, see copy as introduced on January 17, 1995]

A BILL

To reauthorize the Atlantic Tunas Convention Act of 1975,
and for other purposes.

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 “Atlantic Tunas Conven-*
5 *tion Act of 1995”.*

6 **SEC. 2. RESEARCH AND MONITORING ACTIVITIES.**

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

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

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

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

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

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

1 **“SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY**
2 **SPECIES.”;**

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

6 (3) by adding at the end the following:

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

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

22 “(A) identify and define the range of stocks
23 of highly migratory species in the Atlantic
24 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 routes;

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) The Secretary of Commerce shall ensure
6 that personnel and resources of each regional research
7 center shall have substantial participation in the
8 stock assessments, research, and monitoring of highly
9 migratory species that occur in that region.

10 “(4) In developing a program under this section,
11 the Secretary shall provide for comparable monitoring
12 of all United States fishermen to which this Act ap-
13 plies with respect to effort and species composition of
14 catch and discards. The Secretary through the Sec-
15 retary of State shall encourage other member nations
16 to adopt a similar program.”.

17 **SEC. 3. ADVISORY COMMITTEE PROCEDURES.**

18 Section 4 of the Atlantic Tunas Convention Act of
19 1975 (16 U.S.C. 971b) is amended—

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

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

22 “(b)(1) A majority of the members of the advisory com-
23 mittee shall constitute a quorum, but one or more such
24 members designated by the advisory committee may hold
25 meetings to provide for public participation and to discuss

1 *measures relating to the United States implementation of*
2 *Commission recommendations.*

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

5 “(3) *The advisory committee shall meet at appropriate*
6 *times and places at least twice a year, at the call of the*
7 *Chairman or upon the request of the majority of its voting*
8 *members, the United States Commissioners, the Secretary,*
9 *or the Secretary of State.*

10 “(4)(A) *The Secretary shall provide to the advisory*
11 *committee in a timely manner such administrative and*
12 *technical support services as are necessary for the effective*
13 *functioning of the committee.*

14 “(B) *The Secretary and the Secretary of State shall*
15 *furnish the advisory committee with relevant information*
16 *concerning fisheries and international fishery agreements.*

17 “(5) *The advisory committee shall determine its orga-*
18 *nization, and prescribe its practices and procedures for car-*
19 *rying out its functions under this Act, the Magnuson Fish-*
20 *ery Conservation and Management Act (16 U.S.C. 1801 et*
21 *seq.), and the Convention. The advisory committee shall*
22 *publish and make available to the public a statement of its*
23 *organization, practices, and procedures.*

24 “(6) *The Federal Advisory Committee Act (5 U.S.C.*
25 *App.) shall not apply to the advisory committee.”*

1 **SEC. 4. REGULATIONS AND ENFORCEMENT OF CONVEN-**
2 **TION.**

3 *Section 6(c) of the Atlantic Tunas Convention Act of*
4 *1975 (16 U.S.C. 971d(c)) is amended—*

5 *(1) in paragraph (3) in the matter following*
6 *subparagraph (K), by inserting “or fishery mortality*
7 *level” after “quota of fish”; and*

8 *(2) by striking paragraphs (4) and (5) and in-*
9 *serting the following:*

10 *“(4) PUBLICATION OF LIST.—Not later than*
11 *January 1, 1996, and annually thereafter, the Sec-*
12 *retary, in consultation with the Secretary of State,*
13 *shall publish a list of nations whose fishing vessels are*
14 *fishing, or have fished during the previous year, with-*
15 *in the Convention area in a manner that is inconsis-*
16 *tent with the objectives of a conservation or manage-*
17 *ment recommendation of the Commission.*

18 *“(5) IDENTIFICATION AND NOTIFICATION.—As*
19 *soon as practicable after the date of the enactment of*
20 *the Atlantic Tunas Convention Act of 1995 and as*
21 *appropriate thereafter, the Secretary shall—*

22 *“(A) identify those nations whose fishing*
23 *vessels are fishing within the Convention area in*
24 *a manner that is inconsistent with the objectives*
25 *of a conservation or management recommenda-*
26 *tion of the Commission; and*

1 “(B) notify the President and the nation so
2 identified, including an explanation of the rea-
3 sons therefor.

4 “(6) CONSULTATIONS.—Not later than 30 days
5 after a nation is notified under paragraph (5), the
6 President shall enter into consultations with the gov-
7 ernment of that nation for the purpose of obtaining
8 an agreement that will—

9 “(A) effect the immediate termination and
10 prevent the resumption of any fishing by fishing
11 vessels of that nation within the Convention area
12 that is inconsistent with the objectives of a con-
13 servation or management recommendation of the
14 Commission; and

15 “(B) when practicable, require the govern-
16 ment or fishing vessels of that nation to mitigate
17 the negative impacts of that fishing on the effec-
18 tiveness of a conservation or management rec-
19 ommendation of the Commission including, but
20 not limited to, by imposing deductions for quota
21 overages in subsequent years.

22 “(7) PROHIBITION OF IMPORTS OF FISH AND
23 FISH PRODUCTS.—

24 “(A) If, within 90 days after entering into
25 consultations under paragraph (6), the President

1 *finds that such consultations have not concluded*
2 *satisfactorily or are not likely to conclude satis-*
3 *factorily, the President shall—*

4 *“(i) direct the Secretary of the Treas-*
5 *ury to prohibit the importation into the*
6 *United States from the nation concerned of*
7 *fish and fish products of those species which*
8 *are subject to regulation pursuant to a rec-*
9 *ommendation of the Commission and which*
10 *were harvested within the Convention area;*
11 *and*

12 *“(ii) upon the recommendation of the*
13 *Secretary, direct the Secretary of the Treas-*
14 *ury to prohibit the importation from the*
15 *nation concerned of such other fish and fish*
16 *products as may be necessary to carry out*
17 *the purposes of this subsection.*

18 *“(B) In making a recommendation under*
19 *subparagraph (A)(ii), the Secretary shall take*
20 *into consideration the severity of the impacts of*
21 *fishing by fishing vessels of the nation concerned*
22 *on the effectiveness of a conservation or manage-*
23 *ment recommendation of the Commission.”.*

24 **(2) by inserting the following after**
25 **paragraph (5):**

1 **“(6) IDENTIFICATION AND NOTIFICATION.—**
2 **Not later than January 1, 1996, and annually**
3 **thereafter, the Secretary shall—**

4 **“(A) identify those nations whose fish-**
5 **ing vessels are fishing, or have fished**
6 **during the preceding calendar year, with-**
7 **in the Convention area in a manner that**
8 **is inconsistent with the objectives of a**
9 **conservation or management rec-**
10 **ommendation of the Commission;**

11 **“(B) notify the President and the na-**
12 **tion so identified, including an expla-**
13 **nation of the reasons therefor; and**

14 **“(C) publish a list of those nations**
15 **identified under subparagraph (A).**

16 **In identifying such nations, the Secretary**
17 **shall consider, based on the best available in-**
18 **formation, whether such nations have meas-**
19 **ures in place for reporting, monitoring, and**
20 **enforcement that are adequate and effective**
21 **to meet the obligations of the Convention.**

22 **“(7) CONSULTATION.—Not later than 30**
23 **days after a nation is notified under para-**
24 **graph (6), the President may enter into con-**
25 **sultations with the government of that nation**

1 **for the purpose of obtaining an agreement**
2 **that will—**

3 **“(A) effect the immediate termination**
4 **and prevent the resumption of any fish-**
5 **ing by fishing vessels of that nation with-**
6 **in the Convention area that is inconsist-**
7 **ent with the objectives of a conservation**
8 **or management recommendation of the**
9 **Commission; and**

10 **“(B) when practicable, require the**
11 **government or fishing vessels of that na-**
12 **tion to mitigate the negative impacts of**
13 **that fishing on the effectiveness of a con-**
14 **servation or management recommenda-**
15 **tion of the Commission including, but not**
16 **limited to, by imposing deductions for**
17 **quota overages in subsequent years.”.**

18 ***SEC. 5. FINES AND PERMIT SANCTIONS.***

19 *Section 7(e) of the Atlantic Tunas Convention Act of*
20 *1975 (16 U.S.C. 971(e)) is amended to read as follows:*

21 *“(e) The civil penalty and permit sanctions of section*
22 *308 of the Magnuson Fishery Conservation and Manage-*
23 *ment Act (16 U.S.C. 1858) are hereby made applicable to*
24 *violations of this section as if they were violations of section*
25 *307 of that Act.”.*

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 *Section 10 of the Atlantic Tunas Convention Act of*
3 *1975 (16 U.S.C. 971h) is amended to read as follows:*

4 *“AUTHORIZATION OF APPROPRIATIONS*

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

9 *“(1) For fiscal year 1996, \$2,750,000, of which*
10 *\$50,000 are authorized in the aggregate for the advi-*
11 *sory committee established under section 4 and the*
12 *species working groups established under section 4A,*
13 *and \$1,500,000 are authorized for research activities*
14 *under this Act.*

15 *“(2) For fiscal year 1997, \$4,000,000 of which*
16 *\$62,000 are authorized in the aggregate for such advi-*
17 *sory committee and such working groups, and*
18 *\$2,500,000 are authorized for such research activities.*

19 *“(3) For fiscal year 1998, \$4,000,000, of which*
20 *\$75,000 are authorized in the aggregate for such advi-*
21 *sory committee and such working groups, and*
22 *\$2,500,000 are authorized for such research activi-*
23 *ties.”.*

1 **SEC. 7. REPORT AND CERTIFICATION.**

2 *The Atlantic Tunas Convention Act of 1975 (16 U.S.C.*
3 *971 et seq.) is amended by adding at the end thereof the*
4 *following:*

5 *“ANNUAL REPORT*

6 *“SEC. 12. Not later than April 1, 1996, and annually*
7 *thereafter, the Secretary, in consultation with the Secretary*
8 *of State and the advisory committee established under sec-*
9 *tion 4, shall prepare and transmit to the Committee on Re-*
10 *sources of the House of Representatives and the Committee*
11 *on Commerce, Science, and Transportation of the Senate*
12 *a report, that—*

13 *“(1) details for the previous 10-year period the*
14 *catches and exports to the United States of highly mi-*
15 *gratory species (including tunas, swordfish, marlin,*
16 *and sharks) from nations fishing on Atlantic stocks of*
17 *such species that are subject to management by the*
18 *Commission;*

19 *“(2) describes the results of efforts by the United*
20 *States to negotiate with other nations whose fishing*
21 *vessels are fishing or have fished in the previous year*
22 *within the Convention area to establish reporting,*
23 *monitoring, and enforcement measures that are com-*
24 *parable to those in effect for the United States pursu-*
25 *ant to* **adequate and effective to meet the**
26 **obligations of** *the Convention;*

1 ~~“REMOVAL OF PROHIBITIONS~~

2 ~~“SEC. 14. If the President finds that the reasons for~~
3 ~~the imposition of any prohibition under section 6 or any~~
4 ~~limitation on importation under section 13 no longer pre-~~
5 ~~vail, the President shall direct the Secretary of the Treasury~~
6 ~~to promptly terminate such prohibition or limitation.~~

7 ~~“SAVINGS CLAUSES~~

8 ~~“SEC. 15. (a) Nothing in this Act shall have the effect~~
9 ~~of diminishing the rights and obligations of any nation~~
10 ~~under Article VIII(3) of the Convention.~~

11 ~~“(b) Nothing in this Act shall have the effect of dimin-~~
12 ~~ishing the rights and obligations of the United States as~~
13 ~~set forth in the General Agreement on Tariffs and Trade.”.~~

14 **“SAVINGS CLAUSES**

15 **“SEC. 13. (a) Nothing in this Act shall have**
16 **the effect of diminishing the rights and obli-**
17 **gations of any nation under Article VIII(3) of**
18 **the Convention.**

19 **“(b) Nothing in this Act shall have the ef-**
20 **fect of diminishing the rights of the United**
21 **States, or of requiring the United States to**
22 **take any action that is inconsistent with Unit-**
23 **ed States obligations, under the Convention**
24 **or under the Agreement Establishing the**
25 **World Trade Organization entered into on**
26 **April 15, 1994, and the agreements annexed to**

1 **that Agreement that are set forth in section**
2 **101(d) of the Uruguay Round Agreements**
3 **Act.”.**

4 ***SEC. 8. SENSE OF THE CONGRESS WITH RESPECT TO ICCAT***
5 ***NEGOTIATIONS.***

6 (a) *SHARING OF CONSERVATION BURDEN.*—It is the
7 sense of the Congress that in future ICCAT negotiations,
8 the Secretary of Commerce shall ensure that the conserva-
9 tion actions recommended by international commissions
10 and implemented by the Secretary for United States com-
11 mercial and recreational fishermen provide fair and equi-
12 table sharing of the conservation burden among all con-
13 tracting harvesters in negotiations with those commissions.

14 (b) *ENFORCEMENT PROVISIONS.*—It is further the
15 sense of the Congress that, during 1995 ICCAT negotiations
16 on swordfish and other Highly Migratory Species managed
17 by ICCAT, the Congress encourages the United States Com-
18 missioners to add enforcement provisions similar to the
19 bluefin tuna sanctions.

20 (c) *ENHANCED MONITORING.*—It is further the sense
21 of the Congress that the National Oceanic and Atmospheric
22 Administration and United States Customs Service should
23 enhance monitoring activities to ascertain what specific
24 stocks are being imported into the United States and the
25 country of origin.