

104TH CONGRESS  
1ST SESSION

# S. 267

To establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 10), 1995

Mr. STEVENS (for himself, Mr. KERRY, Mr. GORTON, Mrs. MURRAY, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, 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 “Fisheries Act of  
5 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

## TITLE I—HIGH SEAS FISHERIES LICENSING

- Sec. 101. Short title.
- Sec. 102. Purpose.
- Sec. 103. Definitions.
- Sec. 104. Licensing.
- Sec. 105. Responsibilities of the Secretary.
- Sec. 106. Unlawful activities.
- Sec. 107. Enforcement provisions.
- Sec. 108. Civil penalties and license 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.
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- Sec. 206. Rulemaking.
- Sec. 207. Prohibited acts and penalties.
- Sec. 208. Consultative committee.
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- 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. Advisory committee procedures.
- Sec. 304. Regulations.
- Sec. 305. Fines and permit sanctions.
- Sec. 306. Authorization of appropriations.
- Sec. 307. Report and certification.
- Sec. 308. Management of Yellowfin Tuna.

## 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—GOVERNING INTERNATIONAL FISHERY AGREEMENT

Sec. 701. Agreement with Estonia.

1           **TITLE I—HIGH SEAS FISHERIES**

2                           **LICENSING**

3   **SEC. 101. SHORT TITLE.**

4           This title may be cited as the “High Seas Fisheries  
 5 Licensing Act of 1995”.

6   **SEC. 102. PURPOSE.**

7           It is the purpose of this Act—

8                   (1) to implement the Agreement to Promote  
 9 Compliance with International Conservation and  
 10 Management Measures by Fishing Vessels on the  
 11 High Seas, adopted by the Conference of the Food  
 12 and Agriculture Organization of the United Nations  
 13 on November 24, 1993; and

14                   (2) to establish a system of licensing, reporting,  
 15 and regulation for vessels of the United States fish-  
 16 ing on the high seas.

17   **SEC. 103. DEFINITIONS.**

18           As used in this Act—

19                   (1) The term “Agreement” means the Agree-  
 20 ment to Promote Compliance with International  
 21 Conservation and Management Measures by Fishing  
 22 Vessels on the High Seas, adopted by the Con-

1       ference of the Food and Agriculture Organization of  
2       the United Nations on November 24, 1993.

3               (2) The term “FAO” means the Food and Ag-  
4       riculture Organization of the United Nations.

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

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

13                      (A) on the high seas;

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

16                      (C) as a harvesting vessel, as a mother  
17       ship, or as any other support vessel directly en-  
18       gaged in a fishing operation.

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

1 United States. Such measures may be adopted by  
2 global, regional, or sub-regional fisheries organiza-  
3 tions, subject to the rights and obligations of their  
4 members, or by treaties or other international agree-  
5 ments.

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  
9 length on a waterline at 85 percent of the least  
10 molded depth measured from the top of the  
11 keel, or the length from the foreside of the stem  
12 to the axis of the rudder stock on that water-  
13 line, if that is greater. In ships designed with  
14 a rake of keel the waterline on which this  
15 length is measured shall be parallel to the de-  
16 signed waterline; and

17 (B) for any high seas fishing vessel built  
18 before July 18, 1982, registered length as en-  
19 tered 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,

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

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

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

7 (A) a vessel documented under chapter  
8 121 of title 46, United States Code, or num-  
9 bered in accordance with chapter 123 of title  
10 46, United 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,  
22 commonwealth, or possession of the United  
23 States; unless the vessel has been granted  
24 the nationality of a foreign nation in ac-  
25 cordance with article 92 of the 1982 Unit-

1 ed Nations Convention on the Law of the  
2 Sea and a claim of nationality or registry  
3 for the vessel is made by the master or in-  
4 dividual in charge at the time of the en-  
5 forcement action by an officer or employee  
6 of the United States authorized to enforce  
7 applicable provisions of the United States  
8 law; and

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

16 (10) The terms “vessel subject to the jurisdic-  
17 tion of the United States” and “vessel without na-  
18 tionality” have the same meaning as in section  
19 1903(c) of title 46, United States Code Appendix.

20 **SEC. 104. LICENSING.**

21 (a) IN GENERAL.—No high seas fishing vessel shall  
22 engage in harvesting operations on the high seas unless  
23 the vessel has on board a valid license issued under this  
24 section.

25 (b) ELIGIBILITY.—

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

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

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

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

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

1 issuing a license would not subvert the purposes of  
2 the Agreement.

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

8 (c) APPLICATION.—

9 (1) The owner or operator of a high seas fish-  
10 ing vessel may apply for a license under this section  
11 by completing an application form prescribed by the  
12 Secretary.

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 ves-  
20 sel's 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  
2 requires for the purposes of implementing the  
3 Agreement.

4 (d) CONDITIONS.—The Secretary shall establish such  
5 conditions and restrictions on each license issued under  
6 this section as are necessary and appropriate to carry out  
7 the obligations of the United States under the Agreement,  
8 including 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  
12 regulations issued under section 305 of the Magnu-  
13 son Fishery Conservation and Management Act (16  
14 U.S.C. 1855); and

15 (2) The license holder shall report such infor-  
16 mation as the Secretary by regulation requires, in-  
17 cluding area of fishing operations and catch statis-  
18 tics. The Secretary shall promulgate regulations con-  
19 cerning conditions under which information submit-  
20 ted 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 licenses issued  
24 under this section. The amount of any fee charged  
25 for a license issued under this section shall not ex-

1       ceed the administrative costs incurred in issuing  
2       such licenses. The licensing fee may be in addition  
3       to any fee required under any regional licensing re-  
4       gime applicable to high seas fishing vessels.

5           (2) The fees authorized by paragraph (1) shall  
6       be collected and credited to the Operations, Re-  
7       search and Facilities account of the National Oce-  
8       anic and Atmospheric Administration. Fees collected  
9       under this subsection shall be available for the nec-  
10      essary expenses of the National Oceanic and Atmos-  
11      pheric Administration in implementing this Act, and  
12      shall remain available until expended.

13       (f) DURATION.—A license issued under this section  
14      is valid for 5 years. A license issued under this section  
15      is void in the event the vessel is no longer eligible for  
16      United States documentation, such documentation is re-  
17      voked or denied, or the vessel is deleted from such docu-  
18      mentation.

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

20       (a) RECORD.—The Secretary shall maintain an auto-  
21      mated file or record of high seas fishing vessels issued li-  
22      censes under section 104, including all information sub-  
23      mitted under section 104(c)(2).

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

1 of 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  
5 (a);

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

8 (3) promptly notify FAO of additions to or de-  
9 letions from the record, and the reason for any dele-  
10 tion;

11 (4) convey to FAO information relating to any  
12 license granted under section 104(b)(3), including  
13 the vessel's identity, owner or operator, and factors  
14 relevant to the Secretary's determination to issue  
15 the license;

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

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

1 (c) INFORMATION TO FLAG NATIONS.—If the Sec-  
2 retary, in cooperation with the Secretary of State and the  
3 Secretary of the department in which the Coast Guard is  
4 operating, has reasonable grounds to believe that a foreign  
5 vessel has engaged in activities undermining the effective-  
6 ness of international conservation and management meas-  
7 ures, the Secretary shall—

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

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

18 (d) REGULATIONS.—The Secretary, after consulta-  
19 tion with the Secretary of State and the Secretary of the  
20 department in which the Coast Guard is operating, may  
21 promulgate such regulations, in accordance with section  
22 553 of title 5, United States Code, as may be necessary  
23 to carry out the purposes of the Agreement and this title.  
24 The Secretary shall coordinate such regulations with any  
25 other entities regulating high seas fishing vessels, in order

1 to minimize duplication of license application and report-  
2 ing requirements. To the extent practicable, such regula-  
3 tions shall also be consistent with regulations implement-  
4 ing fishery management plans under the Magnuson Fish-  
5 ery Conservation and Management Act (16 U.S.C. 1801  
6 et seq.).

7 (e) NOTICE OF INTERNATIONAL CONSERVATION AND  
8 MANAGEMENT MEASURES.—The Secretary, in consulta-  
9 tion with the Secretary of State, shall publish in the Fed-  
10 eral Register, from time to time, a notice listing inter-  
11 national conservation and management measures recog-  
12 nized by the United States.

13 **SEC. 106. UNLAWFUL ACTIVITIES.**

14 It is unlawful for any person subject to the jurisdic-  
15 tion of the United States—

16 (1) to use a high seas fishing vessel on the high  
17 seas in contravention of international conservation  
18 and management measures described in section  
19 105(e);

20 (2) to use a high seas fishing vessel on the high  
21 seas, unless the vessel has on board a valid license  
22 issued under section 104;

23 (3) to use a high seas fishing vessel in violation  
24 of the conditions or restrictions of a license issued  
25 under section 104;

1           (4) to falsify any information required to be re-  
2           ported, communicated, or recorded pursuant to this  
3           title or any regulation issued under this title, or to  
4           fail to submit in a timely fashion any required infor-  
5           mation, or to fail to report to the Secretary imme-  
6           diately any change in circumstances that has the ef-  
7           fect of rendering any such information false, incom-  
8           plete, or misleading;

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

14          (6) to forcibly assault, resist, oppose, impede,  
15          intimidate, or interfere with an authorized officer in  
16          the conduct of any search or inspection described in  
17          paragraph (5);

18          (7) to resist a lawful arrest or detention for any  
19          act prohibited by this section;

20          (8) to interfere with, delay, or prevent, by any  
21          means, the apprehension, arrest, or detection of an-  
22          other person, knowing that such person has commit-  
23          ted any act prohibited by this section;

24          (9) to ship, transport, offer for sale, sell, pur-  
25          chase, import, export, or have custody, control, or

1 possession of, any living marine resource taken or  
2 retained in violation of this title or any regulation or  
3 license issued under this title; or

4 (10) to violate any provision of this title or any  
5 regulation or license issued under this title.

6 **SEC. 107. ENFORCEMENT PROVISIONS.**

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

20 (b) DISTRICT COURT JURISDICTION.—The district  
21 courts of the United States shall have exclusive jurisdic-  
22 tion over any case or controversy arising under the provi-  
23 sions of this title. In the case of Guam, and any Common-  
24 wealth, territory, or possession of the United States in the  
25 Pacific Ocean, the appropriate court is the United States

1 District Court for the District of Guam, except that in  
2 the case of American Samoa, the appropriate court is the  
3 United States District Court for the District of Hawaii.

4 (c) POWERS OF ENFORCEMENT OFFICERS.—

5 (1) Any officer who is authorized under sub-  
6 section (a) to enforce the provisions of this title  
7 may—

8 (A) with or without a warrant or other  
9 process—

10 (i) arrest any person, if the officer has  
11 reasonable cause to believe that such per-  
12 son has committed an act prohibited by  
13 paragraph (6), (7), (8), or (9) of section  
14 106;

15 (ii) board, and search or inspect, any  
16 high seas fishing vessel;

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

1 (iv) seize any living marine resource  
2 (wherever found) taken or retained, in any  
3 manner, in connection with or as a result  
4 of the commission of any act prohibited by  
5 section 106;

6 (v) seize any other evidence related to  
7 any violation of any provision of this title  
8 or any regulation or license issued under  
9 this title;

10 (B) execute any warrant or other process  
11 issued by any court of competent jurisdiction;  
12 and

13 (C) exercise any other lawful authority.

14 (2) Subject to the direction of the Secretary, a  
15 person charged with law enforcement responsibilities  
16 by the Secretary who is performing a duty related  
17 to enforcement of a law regarding fisheries or other  
18 marine resources may make an arrest without a war-  
19 rant for an offense against the United States com-  
20 mitted in his presence, or for a felony cognizable  
21 under the laws of the United States, if he has rea-  
22 sonable grounds to believe that the person to be ar-  
23 rested has committed or is committing a felony.

24 (d) ISSUANCE OF CITATIONS.—If any authorized offi-  
25 cer finds that a high seas fishing vessel is operating or

1 has been operated in violation of any provision of this title,  
2 such officer may issue a citation to the owner or operator  
3 of such vessel in lieu of proceeding under subsection (c).  
4 If a permit has been issued pursuant to this title for such  
5 vessel, such officer shall note the issuance of any citation  
6 under this subsection, including the date thereof and the  
7 reason therefor, on the permit. The Secretary shall main-  
8 tain a record of all citations issued pursuant to this sub-  
9 section.

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

15 **SEC. 108. CIVIL PENALTIES AND LICENSE SANCTIONS.**

16 (a) CIVIL PENALTIES.—

17 (1) Any person who is found by the Secretary,  
18 after notice and opportunity for a hearing in accord-  
19 ance with section 554 of title 5, United States Code,  
20 to have committed an act prohibited by section 106  
21 shall be liable to the United States for a civil pen-  
22 alty. The amount of the civil penalty shall not exceed  
23 \$100,000 for each violation. Each day of a continu-  
24 ing violation shall constitute a separate offense. The  
25 amount of such civil penalty shall be assessed by the

1 Secretary by written notice. In determining the  
2 amount of such penalty, the Secretary shall take  
3 into account the nature, circumstances, extent, and  
4 gravity of the prohibited acts committed and, with  
5 respect to the violation, the degree of culpability,  
6 any history of prior offenses, and such other matters  
7 as justice may require.

8 (2) The Secretary may compromise, modify, or  
9 remit, with or without conditions, any civil penalty  
10 that is subject to imposition or that has been im-  
11 posed under this section.

12 (b) LICENSE SANCTIONS.—

13 (1) In any case in which—

14 (A) a vessel of the United States has been  
15 used in the commission of an act prohibited  
16 under section 106;

17 (B) the owner or operator of a vessel or  
18 any other person who has been issued or has  
19 applied for a license under section 104 has  
20 acted in violation of section 106; or

21 (C) any amount in settlement of a civil for-  
22 feiture imposed on a high seas fishing vessel or  
23 other property, or any civil penalty or criminal  
24 fine imposed on a high seas fishing vessel or on  
25 an owner or operator of such a vessel or on any

1 other person who has been issued or has ap-  
2 plied for a license under any fishery resource  
3 statute enforced by the Secretary, has not been  
4 paid and is overdue, the Secretary may—

5 (i) revoke any license issued to or ap-  
6 plied for by such vessel or person under  
7 this title, with or without prejudice to the  
8 issuance of subsequent licenses;

9 (ii) suspend such license for a period  
10 of time considered by the Secretary to be  
11 appropriate;

12 (iii) deny such license; or

13 (iv) impose additional conditions and  
14 restrictions on such license.

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

17 (A) the nature, circumstances, extent, and  
18 gravity of the prohibited acts for which the  
19 sanction is imposed; and

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

23 (3) Transfer of ownership of a high seas fishing  
24 vessel, by sale or otherwise, shall not extinguish any  
25 license sanction that is in effect or is pending at the

1 time of transfer of ownership. Before executing the  
2 transfer of ownership of a vessel, by sale or other-  
3 wise, the owner shall disclose in writing to the pro-  
4 spective transferee the existence of any license sanc-  
5 tion that will be in effect or pending with respect to  
6 the vessel at the time of the transfer. The Secretary  
7 may waive or compromise a sanction in the case of  
8 a transfer pursuant to court order.

9 (4) In the case of any license that is suspended  
10 under this subsection for nonpayment of a civil pen-  
11 alty or criminal fine, the Secretary shall reinstate  
12 the license upon payment of the penalty or fine and  
13 interest thereon at the prevailing rate.

14 (5) No sanctions shall be imposed under this  
15 subsection unless there has been prior opportunity  
16 for a hearing on the facts underlying the violation  
17 for which the sanction is imposed, either in conjunc-  
18 tion with a civil penalty proceeding under this sec-  
19 tion or otherwise.

20 (c) HEARING.—For the purposes of conducting any  
21 hearing under this section, the Secretary may issue sub-  
22 poenas for the attendance and testimony of witnesses and  
23 the production of relevant papers, books, and documents,  
24 and may administer oaths. Witnesses summoned shall be  
25 paid the same fees and mileage that are paid to witnesses

1 in the courts of the United States. In case of contempt  
2 or refusal to obey a subpoena served upon any person pur-  
3 suant to this subsection, the district court of the United  
4 States for any district in which such person is found, re-  
5 sides, or transacts business, upon application by the  
6 United States and after notice to such person, shall have  
7 jurisdiction to issue an order requiring such person to ap-  
8 pear and give testimony before the Secretary or to appear  
9 and produce documents before the Secretary, or both, and  
10 any failure to obey such order of the court may be pun-  
11 ished by such court as a contempt thereof.

12 (d) JUDICIAL REVIEW.—Any person against whom a  
13 civil penalty is assessed under subsection (a) or against  
14 whose vessel a license sanction is imposed under sub-  
15 section (b) (other than a license suspension for  
16 nonpayment of penalty or fine) may obtain review thereof  
17 in the United States district court for the appropriate dis-  
18 trict by filing a complaint against the Secretary in such  
19 court within 30 days from the date of such penalty or  
20 sanction. The Secretary shall promptly file in such court  
21 a certified copy of the record upon which such penalty or  
22 sanction was imposed, as provided in section 2112 of title  
23 28, United States Code. The findings and order of the  
24 Secretary shall be set aside by such court if they are not

1 found to be supported by substantial evidence, as provided  
2 in section 706(2) of title 5, United States Code.

3 (e) COLLECTION.—

4 (1) If any person fails to pay an assessment of  
5 a civil penalty after it has become a final and  
6 unappealable order, or after the appropriate court  
7 has entered final judgment in favor of the Secretary,  
8 the matter shall be referred to the Attorney General,  
9 who shall recover the amount assessed in any appro-  
10 priate district court of the United States. In such  
11 action the validity and appropriateness of the final  
12 order imposing the civil penalty shall not be subject  
13 to review.

14 (2) A high seas fishing vessel (including its  
15 fishing gear, furniture, appurtenances, stores, and  
16 cargo) used in the commission of an act prohibited  
17 by section 106 shall be liable in rem for any civil  
18 penalty assessed for such violation under subsection  
19 (a) and may be proceeded against in any district  
20 court of the United States having jurisdiction there-  
21 of. Such penalty shall constitute a maritime lien on  
22 such vessel that may be recovered in an action in  
23 rem in the district court of the United States having  
24 jurisdiction over the vessel.

1 **SEC. 109. CRIMINAL OFFENSES.**

2 (a) OFFENSES.—A person is guilty of an offense if  
3 the person commits any act prohibited by paragraph (6),  
4 (7), (8), or (9) of section 106.

5 (b) PUNISHMENT.—Any offense described in sub-  
6 section (a) is a class A misdemeanor punishable by a fine  
7 under title 18, United States Code, or imprisonment for  
8 not more than one year, or both; except that if in the com-  
9 mission of any offense the person uses a dangerous weap-  
10 on, engages in conduct that causes bodily injury to any  
11 authorized officer, or places any such officer in fear of  
12 imminent bodily injury, the offense is a felony punishable  
13 by a fine under title 18, United States Code, or imprison-  
14 ment for not more than 10 years, or both.

15 **SEC. 110. FORFEITURES.**

16 (a) IN GENERAL.—Any high seas fishing vessel (in-  
17 cluding its fishing gear, furniture, appurtenances, stores,  
18 and cargo) used, and any living marine resources (or the  
19 fair market value thereof) taken or retained, in any man-  
20 ner, in connection with or as a result of the commission  
21 of any act prohibited by section 106 (other than an act  
22 for which the issuance of a citation under section 107 is  
23 a sufficient sanction) shall be subject to forfeiture to the  
24 United States. All or part of such vessel may, and all such  
25 living marine resources (or the fair market value thereof)

1 shall, be forfeited to the United States pursuant to a civil  
2 proceeding under this section.

3 (b) JURISDICTION OF DISTRICT COURTS.—Any dis-  
4 trict court of the United States shall have jurisdiction,  
5 upon application of the Attorney General on behalf of the  
6 United States, to order any forfeiture authorized under  
7 subsection (a) and any action provided for under sub-  
8 section (d).

9 (c) JUDGMENT.—If a judgment is entered for the  
10 United States in a civil forfeiture proceeding under this  
11 section, the Attorney General may seize any property or  
12 other interest declared forfeited to the United States,  
13 which has not previously been seized pursuant to this title  
14 or for which security has not previously been obtained.  
15 The provisions of the customs laws relating to—

16 (1) the seizure, forfeiture, and condemnation of  
17 property for violation of the customs law;

18 (2) the disposition of such property or the pro-  
19 ceeds from the sale thereof; and

20 (3) the remission or mitigation of any such for-  
21 feiture;

22 shall apply to seizures and forfeitures incurred, or alleged  
23 to have been incurred, under the provisions of this title,  
24 unless such provisions are inconsistent with the purposes,  
25 policy, and provisions of this title.

1 (d) PROCEDURE.—

2 (1) Any officer authorized to serve any process  
3 in rem that is issued by a court under section  
4 107(b) shall—

5 (A) stay the execution of such process; or

6 (B) discharge any living marine resources  
7 seized pursuant to such process;

8 upon receipt of a satisfactory bond or other security  
9 from any person claiming such property. Such bond  
10 or other security shall be conditioned upon such per-  
11 son delivering such property to the appropriate court  
12 upon order thereof, without any impairment of its  
13 value, or paying the monetary value of such property  
14 pursuant to an order of such court. Judgment shall  
15 be recoverable on such bond or other security  
16 against both the principal and any sureties in the  
17 event that any condition thereof is breached, as de-  
18 termined by such court.

19 (2) Any living marine resources seized pursuant  
20 to this title may be sold, subject to the approval of  
21 the appropriate court, for not less than the fair mar-  
22 ket value thereof. The proceeds of any such sale  
23 shall be deposited with such court pending the dis-  
24 position of the matter involved.

1 (e) REBUTTABLE PRESUMPTION.—For purposes of  
2 this section, all living marine resources found on board  
3 a high seas fishing vessel and which are seized in connec-  
4 tion with an act prohibited by section 106 are presumed  
5 to have been taken or retained in violation of this title,  
6 but the presumption can be rebutted by an appropriate  
7 showing of evidence to the contrary.

8 **SEC. 111. EFFECTIVE DATE.**

9 This title shall take effect 120 days after the date  
10 of enactment of this Act.

11 **TITLE II—IMPLEMENTATION OF CONVEN-**  
12 **TION ON FUTURE MULTILATERAL CO-**  
13 **OPERATION IN THE NORTHWEST AT-**  
14 **LANTIC FISHERIES**

15 **SEC. 201. SHORT TITLE.**

16 This title may be cited as the “Northwest Atlantic  
17 Fisheries Convention Act of 1995”.

18 **SEC. 202. REPRESENTATION OF UNITED STATES UNDER**  
19 **CONVENTION.**

20 (a) COMMISSIONERS.—

21 (1) APPOINTMENTS, GENERALLY.—The Sec-  
22 retary shall appoint not more than 3 individuals to  
23 serve as the representatives of the United States on  
24 the General Council and the Fisheries Commission,  
25 who shall each—

1 (A) be known as a “United States Com-  
2 missioner to the Northwest Atlantic Fisheries  
3 Organization”; and

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

5 (2) REQUIREMENTS FOR APPOINTMENTS.—

6 (A) The Secretary shall ensure that of the  
7 individuals serving as Commissioners—

8 (i) at least 1 is appointed from among  
9 representatives of the commercial fishing  
10 industry;

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

13 (iii) 1, other than the individual ap-  
14 pointed under clause (ii), is a voting mem-  
15 ber of the New England Fishery Manage-  
16 ment Council.

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

22 (3) TERMS.—

23 (A) The term of an individual appointed as  
24 a Commissioner—

1 (i) shall be specified by the Secretary  
2 at the time of appointment; and

3 (ii) may not exceed 4 years.

4 (B) An individual who is not a Government  
5 official may not serve more than 2 consecutive  
6 terms as a Commissioner.

7 (b) ALTERNATE COMMISSIONERS.—

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

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

19 (c) REPRESENTATIVES.—

20 (1) APPOINTMENT.—The Secretary shall ap-  
21 point not more than 3 individuals to serve as the  
22 representatives of the United States on the Scientific  
23 Council, who shall each be known as a “United  
24 States Representative to the Northwest Atlantic  
25 Fisheries Organization Scientific Council”.

1 (2) ELIGIBILITY FOR APPOINTMENT.—

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

7 (B) The Secretary shall appoint as a Rep-  
8 resentative at least 1 individual who is an offi-  
9 cial of the Government.

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

12 (A) shall serve for a term of not to exceed  
13 4 years, as specified by the Secretary at the  
14 time of appointment;

15 (B) may be reappointed; and

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

18 (d) ALTERNATE REPRESENTATIVES.—

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

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

1 Representative for whom the Alternate Representa-  
2 tive is designated, at any meeting of the Scientific  
3 Council for which the Alternate Representative is  
4 designated.

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

9 (f) COORDINATION AND CONSULTATION.—

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

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

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

20 (2) RELATIONSHIP TO OTHER LAW.—The Fed-  
21 eral Advisory Committee Act (5 U.S.C. App. § 1 et  
22 seq.) shall not apply to coordination and consulta-  
23 tions under this subsection.

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

2 (a) RESTRICTION.—The Representatives may not  
3 make a request or specification described in subsection  
4 (b)(1) or (2), respectively, unless the Representatives have  
5 first—

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

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

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

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

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

1 **SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RE-**  
2 **SPECT TO CONVENTION.**

3 The Secretary of State may, on behalf of the Govern-  
4 ment of the United States—

5 (1) receive and transmit reports, requests, rec-  
6 ommendations, proposals, and other communications  
7 of and to the Organization and its subsidiary or-  
8 gans;

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

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

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

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

18 **SEC. 205. INTERAGENCY COOPERATION.**

19 (a) **AUTHORITIES OF SECRETARY.**—In carrying out  
20 the provisions of the Convention and this title, the Sec-  
21 retary may arrange for cooperation with other agencies of  
22 the United States, the States, the New England and the  
23 Mid-Atlantic Fishery Management Councils, and private  
24 institutions and organizations.

25 (b) **OTHER AGENCIES.**—The head of any Federal  
26 agency may—

1           (1) cooperate in the conduct of scientific and  
2 other programs, and furnish facilities and personnel,  
3 for the purposes of assisting the Organization in  
4 carrying out its duties under the Convention; and

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

8 **SEC. 206. RULEMAKING.**

9           The Secretary shall promulgate regulations as may  
10 be necessary to carry out the purposes and objectives of  
11 the Convention and this title. Any such regulation may  
12 be made applicable, as necessary, to all persons and all  
13 vessels subject to the jurisdiction of the United States,  
14 wherever located.

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

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

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

22           (2) to refuse to permit any authorized enforce-  
23 ment officer to board a fishing vessel that is subject  
24 to the person's control for purposes of conducting  
25 any search or inspection in connection with the en-

1 enforcement of this title, any regulation issued under  
2 this title, or any measure that is legally binding on  
3 the United States under the Convention;

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

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

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

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

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

23 (c) CRIMINAL PENALTY.—Any person who commits  
24 an act that is unlawful under paragraph (2), (3), (4), or  
25 (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 title 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 title 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. 208. CONSULTATIVE COMMITTEE.**

13 (a) ESTABLISHMENT.—The Secretary of State and  
14 the Secretary, shall jointly establish a consultative com-  
15 mittee to advise the Secretaries on issues related to the  
16 Convention.

17 (b) MEMBERSHIP.—

18 (1) The membership of the Committee shall in-  
19 clude representatives from the New England and  
20 Mid-Atlantic Fishery Management Councils, the  
21 States represented on those Councils, the Atlantic  
22 States Marine Fisheries Commission, the fishing in-  
23 dustry, the seafood processing industry, and others  
24 knowledgeable and experienced in the conservation

1 and management of fisheries in the Northwest At-  
2 lantic Ocean.

3 (2) TERMS AND REAPPOINTMENT.—Each mem-  
4 ber of the consultative committee shall serve for a  
5 term of two years and shall be eligible for reappoint-  
6 ment.

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

9 (1) all public meetings of the General Council  
10 or the Fisheries Commission;

11 (2) any other meetings to which they are in-  
12 vited by the General Council or the Fisheries Com-  
13 mission; and

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

16 (d) RELATIONSHIP TO OTHER LAW.—The Federal  
17 Advisory Committee Act (5 U.S.C. App. § 1 et seq.) shall  
18 not apply to the consultative committee established under  
19 this section.

20 **SEC. 209. ADMINISTRATIVE MATTERS.**

21 (a) PROHIBITION ON COMPENSATION.—A person  
22 shall not receive any compensation from the Government  
23 by reason of any service of the person as—

24 (1) a Commissioner, Alternate Commissioner,  
25 Representative, or Alternate Representative;

1           (2) an expert or adviser authorized under sec-  
2           tion 202(e); or

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

5           (b) TRAVEL AND EXPENSES.—The Secretary of  
6 State shall, subject to the availability of appropriations,  
7 pay all necessary travel and other expenses of persons de-  
8 scribed in subsection (a)(1) and of not more than six ex-  
9 perts and advisers authorized under section 202(e) with  
10 respect to their actual performance of their official duties  
11 pursuant to this title, in accordance with the Federal  
12 Travel Regulations and sections 5701, 5702, 5704  
13 through 5708, and 5731 of title 5, United States Code.

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

21 **SEC. 210. DEFINITIONS.**

22          In this title the following definitions apply:

23           (1) AUTHORIZED ENFORCEMENT OFFICER.—  
24          The term “authorized enforcement officer” means a  
25          person authorized to enforce this title, any regula-

1 tion issued under this title, or any measure that is  
2 legally binding on the United States under the Con-  
3 vention.

4 (2) COMMISSIONER.—The term “Commis-  
5 sioner” means a United States Commissioner to the  
6 Northwest Atlantic Fisheries Organization appointed  
7 under section 202(a).

8 (3) CONVENTION.—The term “Convention”  
9 means the Convention on Future Multilateral Co-  
10 operation in the Northwest Atlantic Fisheries, done  
11 at Ottawa on October 24, 1978.

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

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

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

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

1           (8) PERSON.—The term “person” means any  
2 individual (whether or not a citizen or national of  
3 the United States), and any corporation, partner-  
4 ship, association, or other entity (whether or not or-  
5 ganized or existing under the laws of any State).

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

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

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

16 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

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

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

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “Atlantic Tunas Con-  
5 vention Authorization Act of 1995”.

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

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

13 (1) identifying current governmental and non-  
14 governmental research and monitoring activities on  
15 Atlantic bluefin tuna and other highly migratory  
16 species;

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

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

22 (b) RESEARCH AND MONITORING PROGRAM.—Sec-  
23 tion 3 of the Act of September 4, 1980 (16 U.S.C. 971i)  
24 is amended—

1 (1) by amending the section heading to read as  
2 follows:

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

5 (2) by striking the last sentence;

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

9 (4) by adding at the end the following:

10 “(b) HIGHLY MIGRATORY SPECIES RESEARCH AND  
11 MONITORING.—

12 “(1) Within 6 months after the date of enact-  
13 ment of the Atlantic Tunas Convention Authoriza-  
14 tion Act of 1995, the Secretary of Commerce, in co-  
15 operation with the advisory committee established  
16 under section 4 of the Atlantic Tunas Convention  
17 Act of 1975 (16 U.S.C. 971b) and in consultation  
18 with the United States Commissioners on the Inter-  
19 national Commission for the Conservation of Atlan-  
20 tic Tunas (referred to elsewhere in this section as  
21 the ‘Commission’) and the Secretary of State, shall  
22 develop and implement a comprehensive research  
23 and monitoring program to support the conservation  
24 and management of Atlantic bluefin tuna and other  
25 highly migratory species that shall—

1           “(A) identify and define the range of  
2 stocks of highly migratory species in the Atlan-  
3 tic Ocean, including Atlantic bluefin tuna; and

4           “(B) provide for appropriate participation  
5 by nations which are members of the Commis-  
6 sion.

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

9           “(A) statistically designed cooperative tag-  
10 ging studies;

11           “(B) genetic and biochemical stock analy-  
12 ses;

13           “(C) population censuses carried out  
14 through aerial surveys of fishing grounds and  
15 known migration areas;

16           “(D) adequate observer coverage and port  
17 sampling of commercial and recreational fishing  
18 activity;

19           “(E) collection of comparable real-time  
20 data on commercial and recreational catches  
21 and landings through the use of permits,  
22 logbooks, landing reports for charter operations  
23 and fishing tournaments, and programs to pro-  
24 vide reliable reporting of the catch by private  
25 anglers;

1           “(F) studies of the life history parameters  
2 of Atlantic bluefin tuna and other highly migra-  
3 tory species;

4           “(G) integration of data from all sources  
5 and the preparation of data bases to support  
6 management decisions; and

7           “(H) other research as necessary.

8           “(3) In developing a program under this sec-  
9 tion, the Secretary shall provide for comparable  
10 monitoring of all United States fishermen to which  
11 the Atlantic Tunas Convention Act applies with re-  
12 spect to effort and species composition of catch and  
13 discards. The Secretary through the Secretary of  
14 State shall encourage other member nations to adopt  
15 a similar program.”.

16 **SEC. 303. ADVISORY COMMITTEE PROCEDURES.**

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

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

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

21       “(b)(1) A majority of the members of the advisory  
22 committee shall constitute a quorum, but one or more such  
23 members designated by the advisory committee may hold  
24 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 appro-  
6 priate times and places at least twice a year, at the call  
7 of the Chairman or upon the request of the majority of  
8 its voting members, the United States Commissioners, the  
9 Secretary, or the Secretary of State. Meetings of the advi-  
10 sory committee shall be open to the public, and prior no-  
11 tice of meetings shall be made public in a timely fashion.

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

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

19 “(5) The advisory committee shall determine its orga-  
20 nization, and prescribe its practices and procedures for  
21 carrying out its functions under this Act, the Magnuson  
22 Fishery Conservation and Management Act (16 U.S.C.  
23 1801 et seq.), and the Convention. The advisory commit-  
24 tee shall publish and make available to the public a state-  
25 ment of its organization, practices, and procedures.

1       “(6) The advisory committee shall, to the maximum  
2 extent practicable, consist of an equitable balance among  
3 the various groups concerned with the fisheries covered by  
4 the Convention and shall not be subject to the Federal  
5 Advisory Committee Act (5 U.S.C. App. §1 et seq.).”

6 **SEC. 304. REGULATIONS.**

7       Section 6(c)(3) of the Atlantic Tunas Convention Act  
8 of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding “or  
9 fishery mortality level” after “quota of fish” in the last  
10 sentence.

11 **SEC. 305. FINES AND PERMIT SANCTIONS.**

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

14       “(e) The civil penalty and permit sanctions of section  
15 308 of the Magnuson Fishery Conservation and Manage-  
16 ment Act (16 U.S.C. 1858) are hereby made applicable  
17 to violations of this section as if they were violations of  
18 section 307 of that Act.”

19 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

20       Section 10 of the Atlantic Tunas Convention Act of  
21 1975 (16 U.S.C. 971h) is amended to read as follows:

22 **“§ 10. Authorization of appropriations**

23       “There are authorized to be appropriated to carry out  
24 this Act, including use for payment of the United States

1 share of the joint expenses of the Commission as provided  
2 in article X of the Convention, the following sums:

3           “(1) For fiscal year 1995, \$2,750,000, of which  
4           \$50,000 are authorized in the aggregate for the ad-  
5           visory committee established under section 4 and the  
6           species working groups established under section 4A,  
7           and \$1,500,000 are authorized for research activities  
8           under this Act.

9           “(2) For fiscal year 1996, \$4,000,000, of which  
10          \$62,000 are authorized in the aggregate for such  
11          advisory committee and such working groups, and  
12          \$2,500,000 are authorized for such research activi-  
13          ties.

14          “(3) For fiscal year 1997, \$4,000,000 of which  
15          \$75,000 are authorized in the aggregate for such  
16          advisory committee and such working groups, and  
17          \$2,500,000 are authorized for such research activi-  
18          ties.”.

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

1 **SEC. 307. REPORT AND CERTIFICATION.**

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

5 **“§ 11. Annual report**

6 “Not later than April 1, 1996, and annually there-  
7 after, the Secretary shall prepare and transmit to the  
8 Committee on Resources of the House of Representatives  
9 and the Committee on Commerce, Science, and Transpor-  
10 tation of the Senate a report, that—

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

17 “(2) identifies those fishing nations whose har-  
18 vests are inconsistent with conservation and manage-  
19 ment recommendations of the Commission;

20 “(3) describes reporting requirements estab-  
21 lished by the Secretary to ensure that imported fish  
22 products are in compliance with all international  
23 management measures, including minimum size re-  
24 quirements, established by the Commission and  
25 other international fishery organizations to which  
26 the United States is a party; and

1           “(4) describes actions taken by the Secretary  
2           under section 12.

3   **“§ 12. Certification**

4           “(a) If the Secretary determines that vessels of any  
5   nation are harvesting fish which are subject to regulation  
6   pursuant to a recommendation of the Commission and  
7   which were taken from the convention area in a manner  
8   or under circumstances which would tend to diminish the  
9   effectiveness of the conservation recommendations of the  
10   Commission, the Secretary shall certify such fact to the  
11   President.

12          “(b) Such certification shall be deemed to be a certifi-  
13   cation for the purposes of section 8 of the Fishermen’s  
14   Protective Act (22 U.S.C. 1978).

15          “(c) Upon certification under subsection (a), the Sec-  
16   retary shall promulgate regulations under section 6(c)(4)  
17   with respect to a nation so certified.”.

18   **SEC. 308. MANAGEMENT OF YELLOWFIN TUNA.**

19          (a) Not later than 90 days after the date of the enact-  
20   ment of this act, the Secretary of Commerce in accordance  
21   with this section shall publish a preliminary determination  
22   of the level of the United States recreational and commer-  
23   cial catch of yellowfin tuna on an annual basis since 1980.  
24   The Secretary shall publish a preliminary determination  
25   in the Federal Register for comment for a period not to

1 exceed 60 days. The Secretary shall publish a final deter-  
2 mination not later than 140 days from the date of the  
3 enactment of this section.

4 (b) Not later than June 1, 1996, the Secretary of  
5 Commerce shall implement the recommendations of Inter-  
6 national Commission for the Conservation of Atlantic  
7 Tunas regarding yellowfin tuna.

## 8 **TITLE IV—FISHERMEN’S PROTECTIVE ACT**

### 9 **SEC. 401. FINDINGS.**

10 The Congress finds that—

11 (1) customary international law and the United  
12 Nations Convention on the Law of the Sea guaran-  
13 tee the right of passage, including innocent passage,  
14 to vessels through the waters commonly referred to  
15 as the “Inside Passage” off the Pacific Coast of  
16 Canada;

17 (2) Canada recently required all commercial  
18 fishing vessels of the United States to pay 1,500 Ca-  
19 nadian dollars to obtain a “license which authorizes  
20 transit” through the Inside Passage;

21 (3) this action was inconsistent with inter-  
22 national law, including the United Nations Conven-  
23 tion on the Law of the Sea, and, in particular, Arti-  
24 cle 26 of that Convention, which specifically pro-  
25 hibits such fees, and threatened the safety of United

1 States commercial fishermen who sought to avoid  
2 the fee by traveling in less protected waters;

3 (4) the Fishermen's Protective Act of 1967 pro-  
4 vides for the reimbursement of vessel owners who  
5 are forced to pay a license fee to secure the release  
6 of a vessel which has been seized, but does not per-  
7 mit reimbursement of a fee paid by the owner in ad-  
8 vance in order to prevent a seizure;

9 (5) Canada required that the license fee be paid  
10 in person in 2 ports on the Pacific Coast of Canada,  
11 or in advance by mail;

12 (6) significant expense and delay was incurred  
13 by commercial fishing vessels of the United States  
14 that had to travel from the point of seizure back to  
15 one of those ports in order to pay the license fee re-  
16 quired by Canada, and the costs of that travel and  
17 delay cannot be reimbursed under the Fishermen's  
18 Protective Act;

19 (7) the Fishermen's Protective Act of 1967  
20 should be amended to permit vessel owners to be re-  
21 imbursement for fees required by a foreign government  
22 to be paid in advance in order to navigate in the wa-  
23 ters of that foreign country if the United States con-  
24 sidered that fee to be inconsistent with international  
25 law;

1           (8) the Secretary of State should seek to re-  
2           cover from Canada any amounts paid by the United  
3           States to reimburse vessel owners who paid the tran-  
4           sit license fee;

5           (9) the United States should review its current  
6           policy with respect to anchorage by commercial fish-  
7           ing vessels of Canada in waters of the United States  
8           off Alaska, including waters in and near the Dixon  
9           Entrance, and should accord such vessels the same  
10          treatment that commercial fishing vessels of the  
11          United States are accorded for anchorage in the wa-  
12          ters of Canada off British Columbia;

13          (10) the President should ensure that, consist-  
14          ent with international law, the United States Coast  
15          Guard has available adequate resources in the Pa-  
16          cific Northwest and Alaska to provide for the safety  
17          of United States citizens, the enforcement of United  
18          States law, and to protect the rights of the United  
19          States and keep the peace among vessels operating  
20          in disputed waters;

21          (11) the President should continue to review all  
22          agreements between the United States and Canada  
23          to identify other actions that may be taken to con-  
24          vince Canada that any reinstatement of the transit  
25          license fee would be against Canada's long-term in-

1       terests, and should immediately implement any ac-  
2       tions which the President deems appropriate if Can-  
3       ada reinstates the fee;

4               (12) the President should continue to imme-  
5       diately convey to Canada in the strongest terms that  
6       the United States will not now, nor at any time in  
7       the future, tolerate any action by Canada which  
8       would impede or otherwise restrict the right of pas-  
9       sage of vessels of the United States in a manner in-  
10      consistent with international law; and

11              (13) the United States should redouble its ef-  
12      forts to seek expeditious agreement with Canada on  
13      appropriate fishery conservation and management  
14      measures that can be implemented through the Pa-  
15      cific Salmon Treaty to address issues of mutual con-  
16      cern.

17   **SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE**  
18                                   **ACT OF 1967.**

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

22       "Sec. 11. (a) In any case on or after June 15, 1994,  
23   in which a vessel of the United States exercising its right  
24   of passage is charged a fee by the government of a foreign  
25   country to engage in transit passage between points in the

1 United States (including a point in the exclusive economic  
2 zone or in an area over which jurisdiction is in dispute),  
3 and such fee is regarded by the United States as being  
4 inconsistent with international law, the Secretary of State  
5 shall reimburse the vessel owner for the amount of any  
6 such fee paid under protest.

7 “(b) In seeking such reimbursement, the vessel owner  
8 shall provide, together with such other information as the  
9 Secretary of State may require—

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

11 “(2) an affidavit attesting that the owner or the  
12 owner’s agent paid the fee under protest; and

13 “(3) a copy of the vessel’s certificate of docu-  
14 mentation.

15 “(c) Requests for reimbursement shall be made to the  
16 Secretary of State within 120 days after the date of pay-  
17 ment of the fee, or within 90 days after the date of enact-  
18 ment of this section, whichever is later.

19 “(d) such funds as may be necessary to meet the re-  
20 quirements of this section may be made available from the  
21 unobligated balances of previously appropriated funds re-  
22 maining in the Fishermen’s Guaranty Fund established  
23 under section 7 and the Fishermen’s Protective Fund es-  
24 tablished under section 9. To the extent that requests for  
25 reimbursement under this section exceed such funds, there

1 are authorized to be appropriated such sums as may be  
2 needed for reimbursements authorized under subsection  
3 (a).

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

8 “(f) For purposes of this section, the term ‘owner’  
9 includes any charterer of a vessel of the United States.

10 “(g) This section shall remain in effect until October  
11 1, 1996.”.

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

15 “Sec. 12. (a) If the Secretary of State finds that the  
16 government of any nation imposes conditions on the oper-  
17 ation or transit of United States fishing vessels which the  
18 United States regards as being inconsistent with inter-  
19 national law or an international agreement, the Secretary  
20 of State shall certify that fact to the President.

21 “(b) Upon receipt of a certification under subsection  
22 (a), the President shall direct the heads of Federal agen-  
23 cies to impose similar conditions on the operation or tran-  
24 sit of fishing vessels registered under the laws of the na-

1 tion which has imposed conditions on United States fish-  
2 ing vessels.

3 “(c) For the purposes of this section, the term ‘fish-  
4 ing vessel’ has the meaning given that term in section  
5 2101(11a) of title 46, United States Code.

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

10 **SEC. 403. REAUTHORIZATION.**

11 (a) Section 7(c) of the Fishermen’s Protective Act of  
12 1967 (22 U.S.C. 1977(c)) is amended by striking the third  
13 sentence.

14 (b) Section 7(e) of the Fishermen’s Protective Act of  
15 1967 (22 U.S.C. 1977(e)) is amended by striking “Octo-  
16 ber 1, 1993” and inserting “October 1, 2000”.

17 **SEC. 404. TECHNICAL CORRECTIONS.**

18 (a)(1) Section 15(a) of Public Law 103–238 is  
19 amended by striking “April 1, 1994,” and inserting “May  
20 1, 1994,”.

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

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

1           “(C) any vessel supporting a vessel de-  
2           scribed in subparagraph (A) or (B).”.

3       **TITLE V—FISHERIES ENFORCEMENT IN**  
4           **CENTRAL SEA OF OKHOTSK**

5       **SEC. 501. SHORT TITLE.**

6           This title may be cited as the “Sea of Okhotsk Fish-  
7       eries Enforcement Act of 1995”.

8       **SEC. 502. FISHING PROHIBITION.**

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

14       (b) DEFINITION.—Section 306 of such Act is amend-  
15       ed—

16           (1) by redesignating paragraphs (2), (3), (4),  
17           (5), and (6) as paragraphs (3), (4), (5), (6), and  
18           (7), respectively; and

19           (2) by inserting after paragraph (1) the follow-  
20       ing:

21           “(2) CENTRAL SEA OF OKHOTSK.—The term  
22       ‘Central Sea of Okhotsk’ means the central Sea of  
23       Okhotsk area which is more than two hundred nau-  
24       tical miles seaward of the baseline from which the

1 breadth of the territorial sea of the Russian Federa-  
2 tion is measured.”.

3 **TITLE VI—DRIFTNET MORATORIUM**

4 **SEC 601. SHORT TITLE.**

5 This title may be cited as the “High Seas Driftnet  
6 Fishing Moratorium Protection Act”.

7 **SEC. 602. FINDINGS.**

8 The Congress finds that—

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

19 (2) the United States is a party to the Conven-  
20 tion for the Prohibition of Fishing with Long  
21 Driftnets in the South Pacific, also known as the  
22 Wellington Convention;

23 (3) the General Assembly of the United Nations  
24 has adopted three resolutions and three decisions  
25 which established and reaffirm a global moratorium

1 on large-scale driftnet fishing on the high seas, be-  
2 ginning with Resolution 44/225 in 1989 and most  
3 recently in Decision 48/445 in 1993;

4 (4) the General Assembly of the United Nations  
5 adopted these resolutions and decisions at the re-  
6 quest of the United States and other concerned na-  
7 tions;

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

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

16 **SEC. 603. PROHIBITION.**

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

1 **SEC. 604. NEGOTIATIONS.**

2 The Secretary of State, on behalf of the United  
3 States, shall seek to enhance the implementation and ef-  
4 fectiveness of the United Nations General Assembly reso-  
5 lutions and decisions regarding the moratorium on large-  
6 scale driftnet fishing on the high seas through appropriate  
7 international 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  
11 United States of any international agreement with respect  
12 to 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 vio-  
15 lated 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,  
19 and other Federal agencies to detect, monitor, and prevent  
20 violations 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 fish-  
23 eries not under the jurisdiction of the United States, to  
24 the fullest extent permitted under international law.

1 **TITLE VII—GOVERNING INTERNATIONAL**  
2 **FISHERY AGREEMENT**

3 **SEC. 701. AGREEMENT WITH ESTONIA.**

4 Notwithstanding section 203 of the Magnuson Fish-  
5 ery Conservation and Management Act (16 U.S.C. 1823),  
6 the governing international fishery agreement between the  
7 Government of the United States of America and the gov-  
8 ernment of the Republic of Estonia as contained in the  
9 message to Congress from the President of the United  
10 States dated January 19, 1995, is approved as a govern-  
11 ing international fishery agreement for the purposes of  
12 such Act and shall enter into force and effect with respect  
13 to the United States on the date of enactment of this Act.

○

S 267 IS—2

S 267 IS—3

S 267 IS—4

S 267 IS—5