

103^D CONGRESS
1ST SESSION

H. R. 3188

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4 (legislative day, NOVEMBER 2), 1993

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To prohibit fishing in the Central Sea of Okhotsk, 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 **TITLE I—FISHERIES ENFORCE-**
4 **MENT IN CENTRAL SEA OF**
5 **OKHOTSK**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Sea of Okhotsk Fish-
8 eries Enforcement Act of 1993”.

9 **SEC. 102. FISHING PROHIBITION.**

10 The Central Bering Sea Fisheries Enforcement Act
11 of 1992 (16 U.S.C. 1823 note) is amended—

1 (1) in section 302, by inserting “and the
2 Central Sea of Okhotsk” after “Central Bering
3 Sea”; and

4 (2) in section 306—

5 (A) by redesignating paragraphs (2), (3),
6 (4), (5), and (6) in order as paragraphs (3),
7 (4), (5), (6), and (7); and

8 (B) by inserting after paragraph (1) the
9 following:

10 “(2) CENTRAL SEA OF OKHOTSK.—The term
11 ‘Central Sea of Okhotsk’ means the central Sea of
12 Okhotsk area which is more than two hundred nau-
13 tical miles seaward of the baseline from which the
14 breadth of the territorial sea of the Russian Federa-
15 tion is measured.”.

16 **TITLE II—IMPLEMENTATION OF**
17 **CONVENTION ON FUTURE**
18 **MULTILATERAL COOPERA-**
19 **TION IN THE NORTHWEST AT-**
20 **LANTIC FISHERIES**

21 **SEC. 201. SHORT TITLE.**

22 This title may be cited as the “Northwest Atlantic
23 Fisheries Convention Act of 1993”.

1 **SEC. 202. REPRESENTATION OF UNITED STATES UNDER**
2 **CONVENTION.**

3 (a) COMMISSIONERS.—

4 (1) APPOINTMENTS, GENERALLY.—The Sec-
5 retary shall appoint not more than three individuals
6 to serve as the representatives of the United States
7 on the General Council and the Fisheries Commis-
8 sion, who shall each—

9 (A) be known as a “United States Com-
10 missioner to the Northwest Atlantic Fisheries
11 Organization”; and

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

13 (2) REQUIREMENTS FOR APPOINTMENTS.—

14 (A) The Secretary shall ensure that of the
15 individuals serving as Commissioners—

16 (i) at least one is appointed from
17 among representatives of the commercial
18 fishing industry; and

19 (ii) one (but no more than one) is an
20 official of the Government.

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

26 (3) TERMS.—

1 (A) The term of an individual appointed as
2 a Commissioner—

3 (i) shall be specified by the Secretary
4 at the time of appointment; and

5 (ii) may not exceed four years.

6 (B) An individual who is not a Government
7 official may not serve more than two consecu-
8 tive terms as a Commissioner.

9 (b) ALTERNATE COMMISSIONERS.—

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

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

21 (c) REPRESENTATIVES.—

22 (1) APPOINTMENT.—The Secretary shall ap-
23 point not more than three individuals to serve as the
24 representatives of the United States on the Scientific
25 Council, who shall each be known as a “United

1 States Representative to the Northwest Atlantic
2 Fisheries Organization Scientific Council”.

3 (2) ELIGIBILITY FOR APPOINTMENT.—

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

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

12 (3) TERM.—An individual appointed as a Rep-
13 resentative—

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

17 (B) may be reappointed; and

18 (C) shall serve at the pleasure of the Sec-
19 retary.

20 (d) ALTERNATE REPRESENTATIVES.—

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

1 (2) FUNCTIONS.—An Alternate Representative
2 may exercise all powers and perform all duties of the
3 Representative for whom the Alternate Representa-
4 tive is designated, at any meeting of the Scientific
5 Council for which the Alternate Representative is
6 designated.

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

11 (f) COORDINATION AND CONSULTATION.—

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

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

20 (B) consult with the committee established
21 under section 209.

22 (2) RELATIONSHIP TO OTHER LAW.—The Fed-
23 eral Advisory Committee Act (5 U.S.C. App.) shall
24 not apply to coordination and consultations under
25 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 Fishery
23 Management Council, and private institutions and organi-
24 zations.

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),
23 and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1),
24 and (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. UNITED STATES-CANADA FISHERY MANAGEMENT**
13 **AGREEMENT.**

14 (a) NEGOTIATIONS.—Not later than 180 days after
15 the date of enactment of this Act, the Secretary of State,
16 in consultation with the Secretary of Commerce and the
17 Committee established under section 209, is authorized
18 and encouraged to initiate negotiations with the Govern-
19 ment of Canada for the purpose of entering into an inter-
20 national fishery agreement with Canada for the conserva-
21 tion and management of fisheries of mutual concern in
22 the Northwest Atlantic Ocean, with particular emphasis
23 on transboundary stocks of groundfish and ensuring the
24 success of New England groundfish restoration efforts
25 pursuant to the Magnuson Act.

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

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

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

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

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

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

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

1 **SEC. 209. CONSULTATIVE COMMITTEE.**

2 (a) ESTABLISHMENT.—The Secretary of State and
3 the Secretary of Commerce, shall jointly establish a con-
4 sultative committee to advise the Secretaries on issues re-
5 lated to the Convention and in the development and imple-
6 mentation of a fishery agreement pursuant to section 208.

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

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

18 (c) DUTIES OF THE COMMITTEE.—

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

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

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

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

3 (2) UNITED STATES-CANADA FISHERIES MAN-
4 AGEMENT AGREEMENT.—Members of the consult-
5 ative committee shall advise the Secretaries on any
6 agreements established under section 208.

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

11 **SEC. 210. ADMINISTRATIVE MATTERS.**

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

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

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

19 (3) a member of the consultative committee es-
20 tablished by section 209.

21 (b) TRAVEL AND EXPENSES.—The Secretary of
22 State shall, subject to the availability of appropriations,
23 pay all necessary travel and other expenses of persons de-
24 scribed in subsection (a)(1) and of not more than six ex-
25 perts and advisers authorized under section 202(e) with

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

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

12 **SEC. 211. DEFINITIONS.**

13 In this title the following definitions apply:

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

20 (2) COMMISSIONER.—The term “Commis-
21 sioner” means a United States Commissioner to the
22 Northwest Atlantic Fisheries Organization appointed
23 under section 202(a).

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

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

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

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

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

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

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

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

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

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

7 **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

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

 Passed the House of Representatives November 2,
1993.

Attest:

Clerk.

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