

ATLANTIC TUNAS CONVENTION ACT OF 1995

—————
JUNE 27, 1995.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. ARCHER, from the Committee on Ways and Means, submitted
the following

R E P O R T

[To accompany H.R. 541]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 541) to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (to the bill as reported by the Committee on Resources) are as follows:

In section 4, strike paragraph (2) and insert the following:

(2) by inserting the following after paragraph (5):

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

“(A) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the Convention area in a manner that is inconsistent with the objectives of a conservation or management recommendation of the Commission;

“(B) notify the President and the nation so identified, including an explanation of the reasons therefor; and

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

In identifying such nations, the Secretary shall consider, based on the best available information, whether such nations have measures in place for reporting, monitoring,

and enforcement that are adequate and effective to meet the obligations of the Convention.

“(7) CONSULTATION.—Not later than 30 days after a nation is notified under paragraph (6), the President may enter into consultations with the government of that nation for the purpose of obtaining an agreement that will—

“(A) effect the immediate termination and prevent the resumption of any fishing by fishing vessels of that nation within the Convention area that is inconsistent with the objectives of a conservation or management recommendation of the Commission; and

“(B) when practicable, require the government or fishing vessels of that nation to mitigate the negative impacts of that fishing on the effectiveness of a conservation or management recommendation of the Commission including, but not limited to, by imposing deductions for quota overages in subsequent years.”.

In the matter proposed to be inserted by section 7—

(1) in section 12 of the Atlantic Tunas Convention Act of 1975—

(A) in paragraph (2), strike “comparable to those in effect for the United States pursuant to” and insert “adequate and effective to meet the obligations of”; and

(B) in paragraph (4), strike “sections 6 and 13” and insert “section 6”; and

(2) strike sections 13, 14, and 15 of the Atlantic Tunas Convention Act of 1975 and insert the following:

“SAVINGS CLAUSES

“SEC. 13. (a) Nothing in this Act shall have the effect of diminishing the rights and obligations of any nation under Article VIII(3) of the Convention.

“(b) Nothing in this Act shall have the effect of diminishing the rights of the United States, or of requiring the United States to take any action that is inconsistent with United States obligations, under the Convention or under the Agreement Establishing the World Trade Organization entered into on April 15, 1994, and the agreements annexed to that Agreement that are set forth in section 101(d) of the Uruguay Round Agreements Act.”.

I. INTRODUCTION

A. PURPOSES AND SUMMARY

H.R. 541, as amended by the Committee, revises the Atlantic Tunas Convention Act of 1975 (ATCA), legislation which authorizes U.S. participation in the International Convention for the Conservation of Atlantic Tunas (ICCAT). The legislation, as amended by the Committee, makes certain changes to the ATCA concerning identification and notification of countries violating the terms of an ICCAT recommendation.

B. BACKGROUND AND NEED FOR LEGISLATION

H.R. 541, as amended by the Committee, revises the Atlantic Tunas Convention Act of 1975. In 1966, the International Convention for the Conservation of Atlantic Tunas (ICCAT) was established, and the United States Senate ratified ICCAT in 1967. The Atlantic Tunas Convention Act (ATCA), which authorizes U.S. involvement in ICCAT, was enacted in 1975. ATCA authorizes the Secretary of Commerce to administer and enforce ICCAT and ATCA, including the promulgation of regulations to establish open and closed seasons, fish size requirements and catch limitations, incidental catch restrictions, and observer coverage. In addition, the Secretary is authorized to prohibit the entry into the United States of any fish subject to regulations recommended by ICCAT and taken in a manner which would diminish the effectiveness of ICCAT's conservation efforts.

H.R. 541, as amended by the Committee, makes certain changes to the ATCA concerning the identification and notification of countries violating the terms of ICCAT recommendation. Specifically, the legislation would make no change to current law's authorities to restrict imports of fish if fished in a manner that tends to diminish the effectiveness of a recommendation by the ICCAT, instead of imposing additional, and in some cases mandatory, standards. The legislation would add provisions requiring Commerce to identify, notify, and publish a list of countries whose fishing vessels are fishing or have fished during the previous year in the Convention area in a manner inconsistent with the objectives of an ICCAT recommendation. In addition, it provides that the President may enter into consultations with identified nations. The purpose of these amendments is to lead to the development of an international consensus concerning multilateral management of Atlantic tunas, instead of expanding the circumstances under which unilateral sanctions are authorized.

C. LEGISLATIVE HISTORY

H.R. 541 was introduced on January 17, 1995, by Congressman Jim Saxton. The bill was referred to the Committee on Resources. On April 5, 1995, the Committee on Resources reported H.R. 541 favorably, with amendments. See H. Rep. 104-109 (Part 1) for a detailed description of action by the Committee on Resources.

On May 1, 1995, H.R. 541, as amended by the Committee on Resources, was referred to the Committee on Ways and Means sequentially, for a period ending not later than June 30, 1995.

On June 14, 1995, the Subcommittee on Trade of the Committee on Ways and Means met to consider H.R. 541. At that time, Chairman Crane offered an amendment concerning those provisions of H.R. 541 within the jurisdiction of the Committee. No other amendments were offered, and the bill, as amended, was ordered favorably reported to the Full Committee by voice vote, in the presence of a quorum.

On June 20, 1995, the Committee on Ways and Means met to consider H.R. 541, as amended by the Subcommittee. The Committee ordered the bill to be favorably reported without further amendment by voice vote, in the presence of a quorum.

II. SECTION-BY-SECTION SUMMARY OF THE PROVISIONS IN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

SECTION 4. REGULATIONS AND ENFORCEMENT OF CONVENTION

Present law

Section 4 of the Atlantic Tunas Convention Act of 1975 (19 U.S.C. §971d(c)(4)) provides that the Secretary of Commerce shall prohibit imports of fish of species subject to an International Convention for the Conservation of Atlantic Tunas (ICCAT) recommendation under two circumstances: first, they have been taken from the Convention area in a manner that tends to diminish the effectiveness of the ICCAT recommendation; or, second, a country's vessels are used in fishing operations in the Convention area in a manner that tends to diminish the effectiveness of the ICCAT recommendation. Section 5 (19 U.S.C. §971d(c)(5)) provides that in the case of repeated and flagrant fishing operations that seriously threaten achievement of the objectives of an ICCAT recommendation, Commerce may prohibit imports of fish from other species covered by ICCAT. Present law contains no provisions for identification or notification of, or consultation with, countries potentially in violation of an ICCAT recommendation.

Explanation of provision

H.R. 541, as amended by the Committee, does not modify sections 4 and 5 of the Atlantic Tunas Convention Act. However, section 4(2) of the legislation amends the Atlantic Tunas Convention Act by adding section 6, to require the Secretary of Commerce, beginning January 1, 1996 and annually thereafter, to identify, notify, and publish a list of those nations whose fishing vessels are fishing, or have fished during the previous year, in the Convention area in a manner that is inconsistent with the objectives of an ICCAT recommendation. In addition, the legislation would add a provision requiring consideration, during the identification process, of whether nations have measures for reporting, monitoring, and enforcement that are adequate and effective to meet the obligations of the Convention. Finally, section 4(2) would add a section 7 to the Act, to provide that, not later than thirty days after a country is notified under the previous section, the President may enter into consultations with that country. The purpose of the consultations is to effect the immediate termination and prevent the resumption of fishing that is inconsistent with an ICCAT recommendation and, where practicable, to require the government of fishing vessels of that country to mitigate the negative impacts of that fishing.

Reason for change

H.R. 541, as reported by the Committee on Resources, would have deleted provisions permitting sanctions under current law and instead provided for some mandatory sanctions and would have required the President to undertake consultations with countries identified under the Act. However, it is the view of the Committee that current law provides ample authority for the President

to take action against countries violating ICCAT principles and objectives, and it is unnecessary to expand this authority further. The Committee recognizes that enforcement actions are often the most effective when they are based on international consensus, and that such consensus would be more constructive to effective management of Atlantic tunas by all countries concerned. The Committee thus expects the Secretary to use this authority, wherever possible in accordance with multilaterally agreed decisions taken by ICCAT and to work within ICCAT and other institutions to achieve multilateral consensus on appropriate enforcement mechanisms. The Committee anticipates that eventually, the United States could move away from unilateral enforcement entirely.

To assist in the furtherance of multilateral efforts, the amendments require the Secretary to identify nations whose fishing vessels are fishing or have fished during the previous year in a manner inconsistent with the objectives of an ICCAT recommendation. These amendments do not affect the current sanction authority of the President but are intended to authorize the Secretary to gather information primarily for the purpose of assisting the ICCAT Commission in its determinations.

Finally, the Committee believes that oversight concerning the reporting, monitoring, and enforcement measures of other countries will be more effective if those countries are held to an international standard rather than the standard of whether they are comparable to the U.S. measures.

SECTION 7. REPORT AND CERTIFICATION

Present law

The Atlantic Tunas Convention Act of 1975 contains no provisions concerning countries that do not report, monitor, or enforce an ICCAT determination. In addition, present law does not contain a savings clause relating the Act to rights and obligations under the Convention or other international agreements.

Explanation of provision

Section 7 of H.R. 541, as amended by the Committee, amends ATCA by adding section 12, to require the Secretary of Commerce to submit a report to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that, among other things, describes the results of efforts by the United States to negotiate with other nations to establish reporting, monitoring, and enforcement measures that are adequate and effective to meet the obligations of ICCAT.

In addition, section 7 of H.R. 541, as amended, revises ATCA by adding section 13, to provide that no ATCA provision shall have the effect of diminishing the rights and obligations of any nation under ICCAT. In addition, section 7 provides that no ATCA provision shall have the effect of diminishing the rights of the United States, or of requiring the United States to take any action that is inconsistent with U.S. obligations under ICCAT or the Agreement Establishing the World Trade Organization and the agreements annexed to that Agreement.

Reason for change

H.R. 541 as reported by the Committee on Resources requires the Secretary of Commerce to certify to the President whether any countries have not established or are not likely to establish reporting, monitoring, and enforcement measures comparable to those in effect for the United States. In addition, H.R. 541 as reported by that Committee requires the President, within sixty days of such a certification, to limit the importation of fish to levels consistent with the quota levels established by the Commission. H.R. 541, as amended by the Committee, strikes those provisions and instead includes as a condition for certification under the new section 6 of the Act whether a signatory has measures that are adequate and effective to meet the obligations of the Convention. It is the view of the Committee that it is not appropriate to hold ICCAT signatories to a standard in which their measures must be comparable to those of the United States. Instead, it is appropriate to consider only whether those signatories are complying with international standards developed through the ICCAT. The change made by section 7 of H.R. 541, as amended, to section 12 of the Act is a conforming change concerning this international standard.

Concerning the savings clause, it is the view of the Committee that the United States should not be required to take action under the Act in a manner that is inconsistent with its international obligations under either the Convention or trade agreements.

III. VOTE ON THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill: On June 20, 1995, H.R. 541, as amended, was ordered reported with amendments by voice vote, with a quorum present.

IV. BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE**A. COMMITTEE ESTIMATE OF BUDGETARY EFFECT**

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made: The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that the bill does not provide new budget, spending, or credit authority or an increase or decrease in revenues or tax authority.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET
OFFICE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington DC, June 23, 1995.

Hon. BILL ARCHER,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 541, the Atlantic Tunas Convention Act of 1995.

Enactment of H.R. 541 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 541.
2. Bill title: The Atlantic Tunas Convention Act of 1995.
3. Bill status: As ordered by the House Committee on Ways and Means on June 20, 1995.
4. Bill purpose: H.R. 541 would amend the Atlantic Tunas Convention Act (Public Law 94-70) to require the Secretary of Commerce to develop and implement a research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species. The bill also would require the Secretary of Commerce to submit a report to the Congress explaining any current research that is being done on these species, as well as budgetary resources and personnel committed to this effort. The bill would authorize appropriations of \$2.75 million in fiscal year 1996 and \$4 million each year for fiscal years 1997 and 1998 to carry out these activities.

H.R. 541 also would require the Secretary of Commerce to publish annually a list of nations whose fishing vessels have fished within an area designated by the International Convention for the Conservation of Atlantic Tunas (ICCAT) in ways that are inconsistent with recommendations of the Commission for the Conservation of Atlantic Tunas. The President would be directed to enter into consultations with those nations in order to end this behavior by their vessels, and if practicable, to mitigate any negative impacts that have taken place by imposing deductions for quota averages in subsequent years or by other means.

Finally, H.R. 541 would amend Public Law 94-70 to establish civil and criminal penalties under the Magnuson Fishery Conservation and Management Act.

5. Estimated cost to the Federal Government: H.R. 541 would authorize appropriations of \$2.75 million for 1996 and \$4 million each year for fiscal years 1997 and 1998. This estimate assumes that the full amounts authorized would be appropriated. The National Oceanic and Atmospheric Administration (NOAA) did not receive an appropriation to carry out these activities in 1995. Because some of the bill's requirements are similar to functions already being carried out by NOAA within its Operations, Research and Facilities account, CBO used that account's outlay rate for estimating outlays of the amounts authorized.

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000
Spending subject to appropriations action:					
Authorizations of appropriations	2.8	4.0	4.0
Estimated outlays	1.7	3.1	3.7	1.5	0.5
Direct spending:					
Estimated budget authority	(¹)				
Estimated outlays	(¹)				
Revenues	(¹)				

¹ CBO cannot estimate this amount precisely, but expects that it would be less than \$500,000.

The costs of this bill fall within budget function 300.

Any civil and criminal fines levied under the Magnuson Act would increase receipts to the federal government. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Receipts from civil penalties would be used to pay for enforcement costs incurred by the Department of Commerce. CBO does not expect this additional revenue or direct spending to be significant.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 541 would affect direct spending and receipts through the imposition of criminal fines and resulting spending from the Crime Victims Fund. CBO estimates that the amounts involved would be less than \$500,000 per year. The following table summarizes the estimated pay-as-you-go impact of this bill.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	0	0	0

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On April 12, 1995, CBO prepared a cost estimate for S. 267, the Fisheries Act of 1995, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 28, 1995. H.R. 541 corresponds closely to Title III of S. 267, with the addition of identification, notification, and

consultation language regarding nations whose fishing vessels have fished in ICCAT-designated areas.

On April 13, 1995, CBO prepared a cost estimate for H.R. 541, as ordered reported by the House Committee on Resources. Although similar to S. 267, H.R. 541 included import prohibition and limitation provisions on bluefin tuna and other species that would not have increased costs significantly to the federal government.

10. Estimate prepared by: Rachel Robertson and Melissa Sampson.

11. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's oversight activities concerning customs and tariff matters, import trade matters, and specific trade-related problems that the Committee concluded that it was appropriate to enact the provisions contained in the bill.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to subdivision (D) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform and Oversight with respect to the provisions contained in this bill.

C. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the provisions of the bill are not expected to have an overall inflationary impact on prices and costs in the operation of the national economy.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 3 OF THE ACT OF SEPTEMBER 4, 1980

AN ACT To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes

[SEC. 3. REPORTS REGARDING BLUEFIN TUNA.]

SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.

(a) *BIENNIAL REPORT ON BLUEFIN TUNA.*—The Secretary of Commerce shall prepare, for each biennial period commencing with the period covering calendar years 1981 and 1982, and submit to the Congress a report setting forth, with respect to such biennial period—

- (1) the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas;
- (2) the status of bluefin tuna stocks within such Convention area and the trends in their population level; and
- (3) related information resulting from the implementation of the observer program under section 2 of this Act.

The report required under this section shall be submitted to the Congress within sixty days after the close of the biennial period covered by the report. There are authorized to be appropriated such sums as may be necessary to carry out this section.

(b) *HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.*—

(1) *Within 6 months after the date of enactment of the Atlantic Tunas Convention Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to in this section as the "Commission") and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species, that shall—*

- (A) *identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and*
 - (B) *provide for appropriate participation by nations which are members of the Commission.*
- (2) *The program shall provide for, but not be limited to—*
- (A) *statistically designed cooperative tagging studies;*
 - (B) *genetic and biochemical stock analyses;*
 - (C) *population censuses carried out through aerial surveys of fishing grounds and known migration routes;*
 - (D) *adequate observer coverage and port sampling of commercial and recreational fishing activity;*
 - (E) *collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;*
 - (F) *studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;*

(G) integration of data from all sources and the preparation of data bases to support management decisions; and
(H) other research as necessary.

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

(4) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which this Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.

ATLANTIC TUNAS CONVENTION ACT OF 1975

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ADVISORY COMMITTEE

SEC. 4. (a) There is established an advisory committee which shall be composed of—

(1) * * *

* * * * *

(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

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

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

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

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

(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

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

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ADMINISTRATION

SEC. 6. (a) * * *

* * * * *

(c)(1) * * *

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(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) * * *

* * * * *

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishery mortality level to the United States agreed to pursuant to a recommendation of the Commission.

* * * * *

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

(A) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the Convention area in a manner that is inconsistent with the objectives of a conservation or management recommendation of the Commission;

(B) notify the President and the nation so identified, including an explanation of the reasons therefor; and

(C) publish a list of those nations identified under subparagraph (A).

In identifying such nations, the Secretary shall consider, based on the best available information, whether such nations have measures in place for reporting, monitoring, and enforcement that are adequate and effective to meet the obligations of the Convention.

(7) CONSULTATION.—Not later than 30 days after a nation is notified under paragraph (6), the President may enter into consultations with the government of that nation for the purpose of obtaining an agreement that will—

(A) effect the immediate termination and prevent the resumption of any fishing by fishing vessels of that nation within the Convention area that is inconsistent with the objectives of a conservation or management recommendation of the Commission; and

(B) when practicable, require the government or fishing vessels of that nation to mitigate the negative impacts of that fishing on the effectiveness of a conservation or management recommendation of the Commission including, but not limited to, by imposing deductions for quota overages in subsequent years.

* * * * *

VIOLATIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS

SEC. 7. (a) * * *

* * * * *

[(e)(1) Any person who—

[(A) violates any provision of subsection (a) of this section shall be assessed a civil penalty of not more than \$25,000, and for any subsequent violation of such subsection (a) shall be assessed a civil penalty of not more than \$50,000;

[(B) violates any provision of subsection (b) or (c) of this section shall be assessed a civil penalty of not more than \$1,000, and for any subsequent violation of such subsection (b) or (c) shall be assessed a civil penalty of not more than \$5,000; or

[(C) violates any provision of subsection (d) of this section shall be assessed a civil penalty of not more than \$100,000.

[(2) The Secretary is responsible for the assessment of the civil penalties provided for in paragraph (1). The Secretary may remit or mitigate any civil penalty assessed by him under this subsection for good cause shown.

[(3) No penalty shall be assessed under this subsection unless the person accused of committing any violation is given notice and opportunity for a hearing with respect to such violation.

[(4) Upon any failure of any person to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.]

(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.

* * * * *

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than \$2,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

(1) For fiscal year 1996, \$2,750,000, of which \$50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and \$1,500,000 are authorized for research activities under this Act.

(2) For fiscal year 1997, \$4,000,000 of which \$62,000 are authorized in the aggregate for such advisory committee and such working groups, and \$2,500,000 are authorized for such research activities.

(3) For fiscal year 1998, \$4,000,000, of which \$75,000 are authorized in the aggregate for such advisory committee and such working groups, and \$2,500,000 are authorized for such research activities.

* * * * *

ANNUAL REPORT

SEC. 12. Not later than April 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State and the advisory committee established under section 4, shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

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

(2) describes the results of efforts by the United States to negotiate with other nations whose fishing vessels are fishing or have fished in the previous year within the Convention area to establish reporting, monitoring, and enforcement measures that are adequate and effective to meet the obligations of the Convention;

(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

(4) describes actions taken by the Secretary under section 6.

SAVINGS CLAUSES

SEC. 13. (a) Nothing in this Act shall have the effect of diminishing the rights and obligations of any nation under Article VIII(3) of the Convention.

(b) Nothing in this Act shall have the effect of diminishing the rights of the United States, or of requiring the United States to take any action that is inconsistent with United States obligations, under the Convention or under the Agreement Establishing the World Trade Organization entered into on April 15, 1994, and the agreements annexed to that Agreement that are set forth in section 101(d) of the Uruguay Round Agreements Act.