

CHAPTER 76—NORTHWEST ATLANTIC FISHERIES CONVENTION

Sec.	
5601.	Representation of United States under Convention.
5602.	Requests for scientific advice.
5603.	Authorities of Secretary of State with respect to Convention.
5604.	Interagency cooperation.
5605.	Rulemaking.
5606.	Prohibited acts and enforcement.
5607.	Consultative committee.
5608.	Administrative matters.
5609.	Definitions.
5610.	Authorization of appropriations.
5611.	Repealed.
5612.	Repealed.

§5601. Representation of United States under Convention

(a) Commissioners

(1) Appointments, generally

The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Commission, who shall each—

- (A) be known as a "United States Commissioner to the Northwest Atlantic Fisheries Organization"; and
- (B) serve at the pleasure of the Secretary.

(2) Requirements for appointments

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

- (i) at least 1 is appointed from among representatives of the commercial fishing industry;
- (ii) 1 (but no more than 1) is an official of the Government; and
- (iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) Terms

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

- (i) shall be specified by the Secretary at the time of appointment; and
- (ii) may not exceed 4 years.

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

(b) Alternate Commissioners

(1) Appointment

The Secretary may, for any anticipated absence of a duly appointed Commissioner, designate an individual to serve as an Alternate Commissioner.

(2) Functions

An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated.

(c) Representatives

(1) Appointment

The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a "United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council".

(2) Eligibility for appointment

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) Term

An individual appointed as a Representative—

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

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) Alternate Representatives

(1) Appointment

The Secretary may, for any anticipated absence of a duly appointed Representative, designate an individual to serve as an Alternate Representative.

(2) Functions

An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated.

(e) Experts and advisers

The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) Coordination and consultation

(1) In general

In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 1852 of this title; and

(B) consult with the committee established under section 5607 of this title.

(2) Relationship to other law

Chapter 10 of title 5 shall not apply to coordination and consultations under this subsection.

(Pub. L. 104–43, title II, §202, Nov. 3, 1995, 109 Stat. 377; Pub. L. 114–327, title V, §502, Dec. 16, 2016, 130 Stat. 1995; Pub. L. 117–286, §4(a)(124), Dec. 27, 2022, 136 Stat. 4319.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (f)(2). Pub. L. 117–286 substituted "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)".

2016—Subsec. (a)(1). Pub. L. 114–327, §502(1), in introductory provisions, struck out "General Council and the Fisheries" before "Commission".

Subsec. (b)(1). Pub. L. 114–327, §502(2), struck out "at a meeting of the General Council or the Fisheries Commission" after "appointed Commissioner".

Subsec. (b)(2). Pub. L. 114–327, §502(3), struck out ", at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated" before period at end.

Subsec. (d)(1). Pub. L. 114–327, §502(4), struck out "at a meeting of the Scientific Council" after "appointed Representative".

Subsec. (d)(2). Pub. L. 114–327, §502(5), struck out ", at any meeting of the Scientific Council for which the Alternate Representative is designated" before period at end.

Subsec. (f)(1)(A). Pub. L. 114–327, §502(6), made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–327, title V, §501(a), Dec. 16, 2016, 130 Stat. 1995, provided that: "This title [amending this section and sections 5602 to 5604, 5606, 5607, 5609, and 5610 of this title and repealing section 5612 of this title] may be cited as the 'Northwest Atlantic Fisheries Convention Amendments Act'."

SHORT TITLE

Pub. L. 104–43, title II, §201, Nov. 3, 1995, 109 Stat. 377, provided that: "This title [enacting this chapter] may be cited as the 'Northwest Atlantic Fisheries Convention Act of 1995'."

§5602. Requests for scientific advice

(a) Restriction

A Representative may not make a request or specification described in paragraph (1) or (2) of subsection (b), respectively, unless the Representative has first—

- (1) consulted with the appropriate Regional Fishery Management Councils; and
- (2) received the consent of the Commissioners for that action.

(b) Requests and terms of reference described

The requests and specifications referred to in subsection (a) are, respectively—

- (1) any request, under Article VII(10)(b) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and
- (2) any specification, under Article VII(11) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(10)(b) of the Convention.

(Pub. L. 104–43, title II, §203, Nov. 3, 1995, 109 Stat. 378; Pub. L. 114–327, title V, §503, Dec. 16, 2016, 130 Stat. 1995.)

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–327, §503(1), in introductory provisions, substituted "A Representative may" for "The Representatives may", "described in paragraph (1) or (2) of subsection (b)" for "described in subsection (b)(1) or (2)", and "the Representative has" for "the Representatives have".

Subsec. (b)(1). Pub. L. 114–327, §503(2), substituted "VII(10)(b)" for "VII(1)".

Subsec. (b)(2). Pub. L. 114–327, §503(2),(3), substituted "VII(11)" for "VIII(2)" and "VII(10)(b)" for "VII(1)".

§5603. Authorities of Secretary of State with respect to Convention

The Secretary of State may, on behalf of the Government of the United States—

- (1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;
- (2) object, or withdraw an objection, to the proposal of the Commission consistent with the procedures detailed in Articles XIV and XV of the Convention;
- (3) give or withdraw notice of intent not to be bound by a measure of the Commission consistent with the procedures detailed in Articles XIV and XV of the Convention;
- (4) object or withdraw an objection to an amendment to the Convention; and
- (5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

(Pub. L. 104–43, title II, §204, Nov. 3, 1995, 109 Stat. 379; Pub. L. 114–327, title V, §504, Dec. 16, 2016, 130 Stat. 1996.)

EDITORIAL NOTES

AMENDMENTS

2016—Pars. (2), (3). Pub. L. 114–327 substituted "Commission consistent with the procedures detailed in Articles XIV and XV of the Convention" for "Fisheries Commission".

§5604. Interagency cooperation

(a) Authorities of the Secretary

In carrying out the provisions of the Convention and this chapter, the Secretary may arrange for cooperation with—

- (1) any department, agency, or instrumentality of the United States;
- (2) a State;
- (3) a Council; or
- (4) a private institution or an organization.

(b) Other agencies

The head of any Federal agency may—

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

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

(Pub. L. 104–43, title II, §205, Nov. 3, 1995, 109 Stat. 379; Pub. L. 114–327, title V, §505, Dec. 16, 2016, 130 Stat. 1996.)

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–327 amended subsec. (a) generally. Prior to amendment, text read as follows: "In carrying out the provisions of the Convention and this chapter, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations."

§5605. Rulemaking

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

(Pub. L. 104–43, title II, §206, Nov. 3, 1995, 109 Stat. 379.)

§5606. Prohibited acts and enforcement

(a) Prohibition

It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

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

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this chapter, any regulation issued under this chapter, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fishery resources taken or retained in violation of this section; or

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

(b) Additional prohibitions and enforcement

For additional prohibitions relating to this chapter and enforcement of this chapter, see section 1826g of this title.

(Pub. L. 104–43, title II, §207, Nov. 3, 1995, 109 Stat. 379; Pub. L. 105–384, title II, §201(b)(1), Nov. 13, 1998, 112 Stat. 3451; Pub. L. 114–81, title I, §111, Nov. 5, 2015, 129 Stat. 659; Pub. L. 114–327, title V, §506, Dec. 16, 2016, 130 Stat. 1996.)

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (a)(5). Pub. L. 114–327 substituted "fishery resources" for "fish".

2015—Pub. L. 114–81, §111(1), in section catchline, substituted "and enforcement" for "and penalties".

Subsec. (a)(2), (3). Pub. L. 114–81, §111(2), (3), inserted ", investigation," before "or inspection".

Subsecs. (b) to (f). Pub. L. 114–81, §111(4), added subsec. (b) and struck out former subsecs. (b) to (f), which related to civil penalty, criminal penalty, civil forfeitures, enforcement, and jurisdiction of courts.

1998—Subsec. (e). Pub. L. 105–384 substituted "section" for "sections".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of

Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5607. Consultative committee

(a) Establishment

The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) Membership

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

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

(c) Duties of committee

Members of the consultative committee may attend—

- (1) all public meetings of the Commission;
- (2) any other meetings to which they are invited by the Commission; and
- (3) all nonexecutive meetings of the United States Commissioners.

(d) Relationship to other law

Chapter 10 of title 5 shall not apply to the consultative committee established under this section.

(Pub. L. 104–43, title II, §208, Nov. 3, 1995, 109 Stat. 380; Pub. L. 114–327, title V, §507, Dec. 16, 2016, 130 Stat. 1996; Pub. L. 117–286, §4(a)(125), Dec. 27, 2022, 136 Stat. 4319.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–286 substituted "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)".

2016—Subsec. (b)(2). Pub. L. 114–327, §507(1), substituted "2" for "two".

Subsec. (c)(1), (2). Pub. L. 114–327, §507(2), struck out "General Council or the Fisheries" before "Commission;".

§5608. Administrative matters

(a) Prohibition on compensation

A person shall not receive any compensation from the Government by reason of any service of the person as—

- (1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;
- (2) an expert or adviser authorized under section 5601(e) of this title; or
- (3) a member of the consultative committee established by section 5607 of this title.

(b) Travel and expenses

The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 5601(e) of this title with respect to their actual performance of their official duties pursuant to this chapter, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(c) Status as Federal employees

A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5 and chapter 171 of title 28, respectively.

(Pub. L. 104–43, title II, §209, Nov. 3, 1995, 109 Stat. 381; Pub. L. 105–384, title II, §201(b)(2), Nov. 13, 1998, 112 Stat. 3451.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–384 substituted "171" for "17".

§5609. Definitions

In this chapter:

(1) 1982 Convention

The term "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) Authorized enforcement officer

The term "authorized enforcement officer" means a person authorized to enforce this chapter, any regulation issued under this chapter, or any measure that is legally binding on the United States under the Convention.

(3) Commission

The term "Commission" means the body provided for by Articles V, VI, XIII, XIV, and XV of the Convention.

(4) Commissioner

The term "Commissioner" means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 5601 of this title.

(5) Convention

The term "Convention" means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978, and as amended on September 28, 2007.

(6) Convention Area

The term "Convention Area" means the waters of the Northwest Atlantic Ocean north of 35°00' N and west of a line extending due north from 35°00' N and 42°00' W to 59°00' N, thence due west to 44°00' W, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' N.

(7) Council

The term "Council" means the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council.

(8) Fishery resources

(A) In general

The term "fishery resources" means all fish, mollusks, and crustaceans, including any products thereof, within the Convention Area.

(B) Exclusions

The term "fishery resources" does not include—

- (i) sedentary species over which coastal States may exercise sovereign rights consistent with Article 77 of the 1982 Convention; or
- (ii) insofar as they are managed under other international treaties, anadromous and catadromous stocks and highly migratory species listed in Annex I of the 1982 Convention.

(9) Fishing activities

(A) In general

The term "fishing activities" means harvesting or processing fishery resources, or transshipping ¹/₁ of fishery resources or products derived from fishery resources, or any other activity in preparation for, in support of, or related to the harvesting of fishery resources.

(B) Inclusions

The term "fishing activities" includes—

- (i) the actual or attempted searching for or catching or taking of fishery resources;
- (ii) any activity that can reasonably be expected to result in locating, catching, taking, or harvesting of fishery resources for any purpose; and
- (iii) any operation at sea in support of, or in preparation for, any activity described in this paragraph.

(C) Exclusions

The term "fishing activities" does not include any operation related to emergencies involving the health and safety of crew members or the safety of a vessel.

(10) Fishing vessel

(A) In general

The term "fishing vessel" means a vessel that is or has been engaged in fishing activities.

(B) Inclusions

The term "fishing vessel" includes a fish processing vessel or a vessel engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities.

(11) Organization

The term "Organization" means the Northwest Atlantic Fisheries Organization provided for by Article V of the Convention.

(12) Person

The term "person" means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(13) Representative

The term "Representative" means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 5601 of this title.

(14) Scientific council

The term "Scientific Council" means the Scientific Council provided for by Articles V, VI, and VII of the Convention.

(15) Secretary

The term "Secretary" means the Secretary of Commerce.

(16) State

The term "State" means each of the several States of the United States, the District of Columbia, and any other commonwealth, territory, or possession of the United States.

(17) Transshipment

The term "transshipment" means the unloading of all or any of the fishery resources on board a fishing vessel to another fishing vessel either at sea or in port.

(Pub. L. 104–43, title II, §210, Nov. 3, 1995, 109 Stat. 381; Pub. L. 105–384, title II, §201(b)(3), Nov. 13, 1998, 112 Stat. 3451; Pub. L. 114–327, title V, §508, Dec. 16, 2016, 130 Stat. 1996.)

EDITORIAL NOTES

AMENDMENTS

2016—Pub. L. 114–327 amended section generally. Prior to amendment, section defined terms for this chapter.

1998—Par. (6). Pub. L. 105–384 substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery".

¹ *So in original. Probably should be "transshipping".*

§5610. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, including to pay the United States contribution to the Organization as provided in Article IX of the Convention, \$500,000 for each fiscal year through fiscal year 2021.

(Pub. L. 104–43, title II, §211, Nov. 3, 1995, 109 Stat. 382; Pub. L. 105–384, title II, §201(a), Nov. 13, 1998, 112 Stat. 3451; Pub. L. 107–372, title III, §305, Dec. 19, 2002, 116 Stat. 3096; Pub. L. 109–479, title III, §302(i), Jan. 12, 2007, 120 Stat. 3625; Pub. L. 114–327, title V, §509, Dec. 16, 2016, 130 Stat. 1998.)

EDITORIAL NOTES

AMENDMENTS

2016—Pub. L. 114–327 substituted "including to pay the United States contribution to the Organization as provided in Article IX of the Convention" for "including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention" and "2021" for "2012".

2007—Pub. L. 109–479 substituted "2012" for "2006".

2002—Pub. L. 107–372 substituted "2006" for "2001".

1998—Pub. L. 105–384 substituted "for each fiscal year through fiscal year 2001" for "for each of the fiscal years 1995, 1996, 1997, and 1998".

§5611. Repealed. Pub. L. 113–188, title II, §201(f), Nov. 26, 2014, 128 Stat. 2018

Section, Pub. L. 104–43, title II, §212, as added Pub. L. 105–384, title II, §201(c), Nov. 13, 1998, 112 Stat. 3452, required annual reports on the activities of the Fisheries Commission, the General Council, the Scientific Council, and the consultative committee established under section 5607 of this title.

§5612. Repealed. Pub. L. 114–327, title V, §510, Dec. 16, 2016, 130 Stat. 1998

Section, Pub. L. 104–43, title II, §213, as added Pub. L. 105–384, title II, §201(d), Nov. 13, 1998, 112 Stat. 345, related to quota allocation practice under the Convention.