INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

29th Annual Meeting--1982

Tokyo, Japan, 1982 November 2

RESPONSES TO REQUEST FOR CLARIFICATION OF STATUS OF STEELHEAD WITH RESPECT TO THE CONVENTION

In accordance with a request by the Commission at the 28th Annual Meeting held in Vancouver, Canada, 1981 November 5, the Secretariat on behalf of the Commission requested from the three Contracting Governments a clarification of the status of steelhead with respect to the Convention as follows--

On behalf of the International North Pacific Fisheries Commission, it is my privilege to transmit to your government the following question raised by the International North Pacific Fisheries Commission during the course of its 28th Annual Meeting held in Vancouver, Canada, on 1981 November 5.

At that time the Commission had been asked to clarify the status of steelhead with respect to the International Convention for the High Seas Fisheries of the North Pacific Ocean. The Commission was unable to arrive at an agreed interpretation of the status of steelhead and unanimously agreed to refer the matter to the Contracting Governments as follows--

"The Commission requests the Contracting Parties to clarify the status of steelhead with respect to the Convention."

The views of your government with respect to this question are respectfully solicited.

******

Responses which were immediately transmitted to National Section correspondents were received as follows--

CANADA (received 1982 October 1)

The Canadian authorities consider that the International Convention for the High Seas Fisheries of the North Pacific Ocean applies to steelhead but that the Convention does not prohibit their harvest.
The Government of Japan has understood that catch of steelhead shall be allowed both inside and outside the U.S. 200 mile zones. The basis for this understanding is—

1. According to Article V, item 2 of the Convention, the Contracting Parties have agreed that in fishing for anadromous species they shall respect the conservation measures specified in the Annex to this Convention. Although "anadromous species" in this section of the Convention includes the steelhead, there is no description of regulations for catch and incidental take in the Annex.

2. That is, for salmon fisheries operations, Japanese nationals and fishing vessels are obliged only to observe the conservation measures specified in the Annex, and judging from (1) above, any incidental catch of steelhead by the salmon fishery shall not be considered to be in violation of the terms of the Convention. In addition, in reference to the term "salmon fishery operations conducted by Japanese nationals and fishing vessels", in the first paragraph of the Annex, some objections may be presented which insist that the incidental catch of the steelhead shall not be permitted. However, this term was used only to define the operation of the fishery for salmon generally, and Japan cannot consider that a condition which prohibits the incidental catch of steelhead is in the Annex.

3. In accordance with the Memorandum of Understanding which was drawn up when the Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean was signed, the Government of Japan is obliged to provide statistics for the landbased driftnet fishery and the mothership gillnet fishery, not only on the salmon which are the main target species of these fisheries, but on all anadromous salmonidae (in which steelhead are naturally included). From this fact, it is obvious that the catch of steelhead is not prohibited by the Convention.

The Government of the United States of America submits that the retention of steelhead trout of United States origin is prohibited both within and beyond the United States Fishery Conservation Zone. This interpretation is based on the following:

The Protocol to the Convention establishes a framework arrangement regarding both anadromous and nonanadromous species (See Article III. 1(A) and (D) with respect to anadromous species and Article III. 1(B) and Article IV with respect to nonanadromous species).
With respect to anadromous species, the Protocol permits the Contracting Governments to establish certain conservation measures by agreement in an annex (See Article V. 2 and 3). Such an annex has been developed for salmon. No provisions have been negotiated for steelhead or other species.

Until such time as the Contracting Governments establish specific conservation measures for steelhead, the taking of steelhead of United States origin will continue to be governed by United States domestic law. This law prohibits the retention of steelhead in commercial salmon fisheries both within and beyond the United States Fishery Conservation Zone. (Magnuson Fishery Conservation and Management Act, Pub. L. 94-265, 16 U.S.C. 1801 Et. Seq., and its implementing regulations, See 50 CFR 611.2(66) and 50 CFR 611.13).