

INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

- *Signed at Tokyo, May 9, 1952*
- *Ratified by the United States, July 30, 1952*
- *Ratified by Canada, May 15, 1953*
- *Ratified by Japan, June 9, 1953*
- *Ratifications exchanged at Tokyo, June 12, 1953*
- *Entered into force, June 12, 1953*
- *Amended by Protocol signed at Tokyo, April 25, 1978*
- *Ratified by Canada, June 8, 1978*
- *Ratified by the United States, November 2, 1978*
- *Ratified by Japan, February 13, 1979*
- *Ratifications exchanged at Tokyo, February 15, 1979*
- *Entered into force, February 15, 1979*

PROTOCOL AMENDING THE INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of Japan, Canada and the United States of America,

Having regard to the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on the ninth day of May, nineteen hundred and fifty-two, its Annex and the Protocol thereto (hereinafter referred to as "the Convention"),

Sharing the view that the Convention has served to promote and coordinate scientific studies relating to the fishery resources of the North Pacific Ocean and its adjacent seas, and has aided in the conservation of these fishery resources,

Taking into account that each of the Contracting Parties has established new fishery jurisdiction in the Convention area,

Acknowledging that certain provisions of the Convention are not compatible with such jurisdiction, and

Desirous of amending the Convention,

Have agreed as follows:

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Article I

The Convention shall be amended to read as follows:

“The Governments of Japan, Canada and the United States of America have agreed as follows:

ARTICLE I

1. The area to which this Convention applies, hereinafter referred to as “the Convention area”, shall be all waters, other than territorial waters, of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas.

2. Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims or position of any Contracting Party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

3. For the purposes of this Convention the term “fishing vessel” shall mean any vessel engaged in catching fish or processing or transporting fish loaded in the Convention area, or any vessel outfitted for such activities, or any vessel in normal support of another vessel as described above.

ARTICLE II

1. The Contracting Parties shall maintain the International North Pacific Fisheries Commission, hereinafter referred to as “the Commission”.

2. The Commission shall be composed of three national sections, each consisting of not more than four members appointed by the Governments of the respective Contracting Parties.

3. Each national section shall have one vote. All proposals, recommendations and other decisions of the Commission shall be made only by a unanimous vote of the three national sections.

4. The Commission may decide upon and amend, as occasion may require, bylaws or rules for the conduct of its meetings.

5. The Commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections.

6. The Commission shall select a Chairman, Vice-Chairman, and Secretary from different national sections. The Chairman, Vice-

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Chairman and Secretary shall hold office for a period of one year. During succeeding years selection of a Chairman, Vice-Chairman and Secretary from the national sections shall be made in such a manner as will provide each Contracting Party in turn with representation in those offices.

7. The location of the Commission's headquarters shall be determined by the Commission.

8. Each Contracting Party may establish an Advisory Committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such Advisory Committee shall be invited to attend all sessions of the Commission except those which the Commission decides to be *in camera*.

9. The Commission may hold public hearings. Each national section may also hold public hearings within its own country.

10. The official languages of the Commission shall be Japanese and English. Proposals and data may be submitted to the Commission in either language.

11. Each Contracting Party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the Commission shall be paid by the Commission through contributions made by the Contracting Parties in the form and proportion recommended by the Commission and approved by the Contracting Parties.

12. An annual budget of joint expenses shall be recommended by the Commission and submitted to the Contracting Parties for approval.

13. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its functions.

ARTICLE III

1. The Commission shall perform the following functions:
 - (a) provide for scientific studies and for coordinating the collection, exchange and analysis of scientific data regarding anadromous species, including data regarding the continent of origin of these species, and provide a forum for cooperation among the Contracting Parties with respect to these species;
 - (b) pending the establishment of an international organization

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- as referred to in Article IV, provide a forum for cooperation among the Contracting Parties with respect to the study, analysis and exchange of scientific information and views relating to the stocks of non-anadromous species of the Convention area, including information and views relating to all relevant factors affecting these stocks, the promotion of scientific research designed to fill gaps in knowledge and the compilation and dissemination of statistics and records;
- (c) recommend, when necessary, amendment of the Annex to this Convention;
 - (d) coordinate scientific studies to determine the continent of origin of anadromous species migrating in the waters south of 46° North Latitude, and following three years of such studies make recommendations if appropriate in accordance with sub-paragraph (c) above relating to the conservation of salmon of North American origin;
 - (e) consider and make proposals to the Contracting Parties concerning the enactment of schedules of equivalent penalties for violations of this Convention which occur outside the 200 nautical mile fishery zone of any Contracting Party;
 - (f) compile and study the records provided by the Contracting Parties pursuant to Article VIII;
 - (g) submit annually to each Contracting Party a report on the Commission's operations, investigations and findings, with appropriate proposals, and inform each Contracting Party, whenever it is deemed advisable, on any matter relating to the implementation of this Convention;
 - (h) consider the results of reviews undertaken by the Contracting Parties pursuant to Article XI and make proposals as appropriate.

2. In the performance of its functions, the Commission shall, insofar as feasible, utilize the technical and scientific services of, and information from, official agencies of the Contracting Parties and their political sub-divisions and may, when desirable and if available, utilize the services of, and information from, any public or private institution or organization or any private individual.

ARTICLE IV

The Contracting Parties shall work towards the establishment of an international organization with broader membership dealing with species of the Convention area other than anadromous species. Progress

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towards this end shall be reviewed during the consultations provided for in Article XI. When such an international organization becomes functional, the functions of the Commission under the provisions of Article III, paragraph 1, sub-paragraph (b) shall be terminated and transferred to the new organization.

ARTICLE V

1. The Annex attached hereto forms an integral part of this Convention. All references to the Convention shall be understood as including the said Annex either in its present terms or as amended in accordance with the provisions of Article VII.

2. The Contracting Parties agree that in fishing for anadromous species in the Convention area, they shall respect the conservation measures specified in the Annex to this Convention and that any infringement of these measures shall be deemed to be in violation of the terms of this Convention.

3. The nationals and fishing vessels of the Contracting Parties shall abide by the conservation measures specified in the Annex to this Convention.

ARTICLE VI

In the event that it shall come to the attention of any of the Contracting Parties that the nationals or fishing vessels of any country which is not a Party to this Convention appear to affect adversely the operations of the Commission or the implementation of this Convention, such Party shall call the matter to the attention of other Contracting Parties. All the Contracting Parties agree upon the request of such Party to confer upon the steps to be taken towards obviating such adverse effects or relieving any Contracting Party from such adverse effects.

ARTICLE VII

1. The Annex to this Convention shall be considered amended from the date upon which the Commission receives notification from all the Contracting Parties of acceptance of a recommendation to amend the Annex made by the Commission in accordance with the provisions of Article III, paragraph 1., sub-paragraph (c).

2. The Commission shall notify all the Contracting Parties of the date of receipt of each notification of acceptance of an amendment

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to the Annex.

ARTICLE VIII

The Contracting Parties agree to keep as far as practicable all records requested by the Commission and to furnish compilations of such records and other information upon request of the Commission. No Contracting Party shall be required hereunder to provide the records of individual operations.

ARTICLE IX

1. The Contracting Parties agree that within the Convention area:

- (a) each Contracting Party shall enforce the provisions of this Convention within its 200 nautical mile fishery zone in accordance with its domestic law;
- (b) outside the 200 nautical mile fishery zone of any Contracting Party, any Contracting Party may enforce the provisions of this Convention in accordance with the following:
 - (i) The duly authorized officials of any Contracting Party may board vessels fishing for anadromous species of the other Contracting Parties to inspect equipment, logs, documents, catch and other articles and question the persons on board for the purpose of carrying out the provisions of this Convention. Such inspections and questioning shall be made so that the vessels suffer the minimum interference and inconvenience. Such officials shall present credentials issued by their respective Governments if requested by the master of the vessel.
 - (ii) When any such person or fishing vessel is actually engaged in operations in violation of the provisions of this Convention, or there is reasonable ground to believe was obviously so engaged prior to boarding of such vessel by any such official, the latter may arrest or seize such person or vessel and further investigate the circumstances if necessary. The Contracting Party to which the official belongs shall notify promptly the Contracting Party to which such person or vessel belongs of such arrest or seizure, and shall deliver such person or vessel as promptly as practicable to the au-

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thorized officials of the Contracting to Party which such person or vessel belongs at a place to be agreed upon by both Parties. Provided, however, that when the Contracting Party which receives such notification cannot immediately accept delivery, the Contracting Party which gives such notification may keep such person or vessel under surveillance within the waters of the Convention area or within its own territory under the conditions agreed upon by both the Contracting Parties.

(iii) Only the authorities of the Contracting Party to which the above-mentioned person or fishing vessel belongs may try the offense and impose penalties therefor. The witnesses and evidence necessary for establishing the offense, so far as they are under the control of any of the Contracting Parties to this Convention, shall be furnished as promptly as possible to the Contracting Party having jurisdiction to try the offense and shall be taken into account, and utilized as appropriate, by the executive authority of that Contracting Party having jurisdiction to try the offense.

(c) the Contracting Parties shall take appropriate measures to ensure that their fishing vessels allow and assist boardings and inspections carried out in accordance with this Convention of such vessels by the duly authorized officials of any Contracting Party, and cooperate in such enforcement action as may be undertaken.

2. Each Contracting Party agrees, for the purpose of rendering effective the provisions of this Convention, to enact and enforce necessary laws and regulations, with appropriate penalties against violations thereof, and to transmit to the Commission a report on any action taken by it in regard thereto.

ARTICLE X

The Contracting Parties agree that a scientific program is necessary to carry out the provisions of this Convention. To this end the Contracting Parties agree to establish such a program to coordinate their scientific research activities with respect to anadromous species in the Convention area as well as species of marine mammals incidentally caught in fishing for anadromous species. In this regard, the Contracting Parties agree to exchange scientists in order to carry out

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scientific observations with respect to the catches and methods of operation. The Contracting Parties shall establish procedures to facilitate such observations.

ARTICLE XI

1. The Contracting Parties agree to hold consultations whenever necessary, or not later than sixty days following the request of any of them, in order to review the implementation of this Convention.

2. The Contracting Parties agree to hold consultations, at a time and place to be mutually agreed upon, not later than ninety days following notice by any Contracting Party of its intention to terminate the Convention in accordance with the provisions of Article XII, paragraph 1, of this Convention.

ARTICLE XII

1. This Convention shall continue in force until one year from the day on which a Contracting Party shall give notice to the other Contracting Parties of an intention of terminating the Convention, whereupon it shall terminate as to all Contracting Parties.

2. This Convention shall be subject to review by the Contracting Parties upon the conclusion of a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

AMENDED ANNEX

- *Amendment accepted by Japan, April 25, 1986*
- *Amendment accepted by the United States, April 28, 1986*
- *Amendment accepted by Canada, May 23, 1986*
- *Effective date, May 23, 1986*

1. The following measures shall apply to salmon fishery operations conducted by Japanese nationals and fishing vessels in the waters of the Convention area:

- (a) North of 56° North Latitude, between 180° Longitude and 175° West Longitude, and outside the areas designated as the United States exclusive economic zone by the Presidential Proclamation of March 10, 1983 (hereinafter referred to as "the United States exclusive economic zone"), be-

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ginning on June 26 (Japan Standard Time) (1500 June 25 GMT) of each year, the Japanese mothership fishery shall conduct salmon fishery operations according to the following schedule:

- (1) For 1986, no more than 12 mothership fleet days in the area between 175° West Longitude and 180° Longitude;
 - (2) For 1987, no more than 8 mothership fleet days in the area between 178° West Longitude and 180° Longitude, with no salmon fishery operations to be conducted in the area east of 178° West Longitude; and
 - (3) For 1988 and thereafter, no salmon fishery operations are to be conducted in the area east of 180° Longitude.
- (b) North of 56° North Latitude, west of 180° Longitude, and outside the United States exclusive economic zone, beginning on June 26 (Japan Standard Time) (1500 June 25 GMT) of each year, the Japanese mothership fishery shall conduct salmon fishery operations according to the following schedule:
- (1) For 1986 through 1988, no more than 18 mothership fleet days each year;
 - (2) For 1989 through 1991, no more than 12 mothership fleet days each year;
 - (3) For 1992 and 1993, no more than 8 mothership fleet days each year; and
 - (4) For 1994 and thereafter, no salmon fishery operations are to be conducted.
- (c) North of 46° North Latitude, between 175° East Longitude and 170° East Longitude, and outside and south of the United States exclusive economic zone, salmon fishery operations shall not begin before June 1 (Japan Standard Time) (1500 May 31 GMT) of each year.
- (d) West of 175° East Longitude, and within the United States exclusive economic zone:
- (1) For 1986 through 1993, salmon fishery operations shall not begin before June 10 (Japan Standard Time) (1500 June 9 GMT) of each year and shall end on July 31 (Japan Standard Time) (1500 July 31 GMT) of each year. Between these dates the Japanese mothership fishery shall conduct salmon fishery operations of no

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- more than 140 mothership fleet days each year.
- (2) For 1994 and thereafter, salmon fishery operations shall not begin before June 10 (Japan Standard Time) (1500 June 9 GMT) and shall end on July 26 (Japan Standard Time) (1500 July 26 GMT) of each year. Between these dates the Japanese mothership fishery shall conduct salmon fishery operations of no more than 144 mothership fleet days each year.
- (3) Fishing vessels engaged in this fishery shall be required to have on board a registration permit which shall be issued by the Government of the United States. Such vessels may be required by the Government of the United States to accept on board scientific observers and to bear the expenses incurred in such boarding. Such vessels shall also be required to have on board a Certificate of Inclusion relating to the incidental taking of marine mammals which is a requirement of the Government of the United States.
- (e) Except for the areas specified in sub-paragraphs (a) and (b) above, in the area north of 46° North Latitude there shall be no salmon fishery operations east of 175° East Longitude, unless such fishery operations are agreed to for a temporary period among the three Contracting Parties.
- (f) In 1986 and thereafter, the Japanese landbased fishery shall not conduct salmon fishery operations east of 174° East Longitude. The eastern limit of this fishery may be modified in accordance with the results of the coordinated scientific studies to be initiated with the beginning of the 1986 season in the landbased fishery area south of 46° North Latitude to determine accurately continent of origin of salmonids migrating in this area, including biological sampling and studies and verification of fishing effort and catch by species, date, and location. The modification shall be negotiated no later than the beginning of the 1991 season.

2. For the purposes of this Annex, a mothership fleet day is defined as one mothership with forty-three catcher/scout boats using 14,190 tans (330 tans/15 km) of fishing nets during a portion of any one calendar day. Any increase in the number of catcher/scout boats assigned to the mothership fishery will be reflected in a proportional reduction in the number of authorized fleet days. Modifications to

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gear or fishing procedures which might affect current fishing efficiency, or modifications to areas which are different from those used in 1985, shall be undertaken only after consultations among the three Contracting Parties. In such consultations the Contracting Parties shall examine the necessity of change in the number of authorized fleet days to take account of any increase in fishing efficiency.

3. East of 170° East Longitude the southern limit of the Japanese mothership fishery and the northern limit of the Japanese landbased fishery shall remain at 46° North Latitude. West of 170° East Longitude the southern limit of the Japanese mothership fishery shall not extend south of 46° North Latitude, and the northern limit of the Japanese landbased fishery shall not extend north of 48° North Latitude.

Article II

This Protocol shall be ratified or approved by the Contracting Parties to the Convention in accordance with their respective constitutional processes, and the instruments of ratification or approval shall be exchanged as soon as possible at Tokyo. This Protocol shall come into force on the date of the exchange by all the Contracting Parties of instruments of ratification or approval.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE, in triplicate, in the Japanese, English and French languages, all texts being equally authentic, at Tokyo this twenty-fifth day of April, nineteen hundred and seventy-eight.

FOR THE GOVERNMENT OF JAPAN:

Sunao Sonoda

FOR THE GOVERNMENT OF CANADA:

Bruce Rankin

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Michael J. Mansfield