

CANADA

Fisheries: Pacific Salmon

Agreement amending the treaty of January 28, 1985, as amended.

Effected by exchange of notes

Dated at Ottawa March 29 and May 10, 1988;

Entered into force May 10, 1988.

The American Embassy to the Canadian Department of External Affairs

No. 121

The Embassy of the United States of America has the honor to refer to the Treaty between the Government of the United States of America and the Government of Canada concerning Pacific Salmon, signed at Ottawa, January 28, 1985,¹ and to the recommendations made by the Pacific Salmon Commission on February 19, 1988, in accordance with Article XIII, paragraphs 2 and 3 of the Treaty. The Embassy has the honor to propose that, in accordance with Article XIII, paragraph 3, Annex IV of the Treaty be amended to read as set forth in the attachment to the Commission's letter of February 19, 1988. A copy of that attachment is appended to this note.

If this proposal is acceptable to the Government of Canada, the Embassy has the further honor to propose that this note, including its attachment, together with the note in reply from the Department of External Affairs, shall constitute an agreement between the two Governments amending Annex IV to the Treaty, which shall enter into force on the date of the Department's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of External Affairs the assurances of its highest consideration.

Enclosure: Revised Annex IV to the Pacific Salmon Treaty, recommended by the Pacific Salmon Commission, February 19, 1988.

Embassy of the United States of America
Ottawa, March 29, 1988

TIAS 11091.

ATTACHMENT 1

Revised Annex IV to the Pacific Salmon Treaty in effect for 1988

*Annex IV**Chapter 1**TRANSBOUNDARY RIVERS*

1. Recognizing the desirability of accurately determining exploitation rates and spawning escapement requirements of salmon originating in the Transboundary Rivers, the Parties shall establish a Joint Transboundary Technical Committee (Committee) reporting, unless otherwise agreed, to the Northern Panel and to the Commission. The Committee, *inter alia*, shall

- (a) assemble and refine available information on migratory patterns, extent of exploitation and spawning escapement requirements of the stocks;
- (b) examine past and current management regimes and recommend how they may be better suited to achieving preliminary escapement goals;
- (c) identify enhancement opportunities that:
 - (i) assist the devising of harvest management strategies to increase benefits to fishermen with a view to permitting additional salmon to return to Canadian waters;
 - (ii) have an impact on natural Transboundary river salmon production.

2. The Parties shall improve procedures of coordinated or cooperative management of the fisheries on Transboundary River stocks.

3. Recognizing the objectives of each Party to have viable fisheries, the Parties agree that the following arrangements shall apply to the United States and Canadian fisheries harvesting salmon stocks originating in the Canadian portion of

- (a) the Stikine River:
 - (i) Assessment of the annual run of Stikine River sockeye salmon shall be made as follows:
 - a. A pre-season forecast of the Stikine River sockeye run will be made by the Transboundary Technical Committee prior to March 1 of each year. This forecast may be

modified by the Transboundary Technical Committee prior to the opening of the fishing season.

- b. In-season estimates of the Stikine River sockeye run and the Total Allowable Catch (TAC) shall be made under the guidelines of an agreed Stikine Management Plan and using a mathematical forecast model developed by the Transboundary Technical Committee. Both U.S. and Canadian fishing patterns shall be based on current weekly estimates of the TAC. At the beginning of the season and up to an agreed date, the weekly estimates of the TAC shall be determined from the pre-season forecast of the run strength. After that date, the TAC shall be determined from the in-season forecast model.
 - c. Modifications to the Stikine Management Plan and forecast model may be made prior to June 1 of each year by agreement of both Parties. Failure to reach agreement in modifications shall result in use of the model and parameters used in the previous year.
 - d. Estimates of the TAC may be adjusted in-season only by concurrence of both Parties' respective managers. Reasons for such adjustments must be provided to the Transboundary Technical Committee.
- (ii) Harvest sharing of naturally occurring Stikine River sockeye salmon for the period 1988 to 1992, contingent upon activities specified in the Understanding between the United States and the Canadian Section of the Pacific Salmon Commission concerning Joint Enhancement of Transboundary River Salmon Stocks (Understanding) shall be as follows:
- a. When the estimated TAC of Stikine River sockeye salmon is zero or less:
 - 1. Canada may conduct its native food fishery but the catch shall not exceed 4,000 fish, there will be no commercial fishing;
 - 2. The United States shall not direct commercial fisheries at Stikine River sockeye salmon in District 108;

3. The United States may fish in the commercial gill net fisheries in the Sumner Strait portion of District 106 so long as the in-season estimate of the contribution of Stikine River sockeye salmon is less than 20 percent of the total catch to date of sockeye salmon in Sumner Strait.
- b. When the estimated TAC of Stikine River sockeye salmon is between 1 and 20,000 fish:
1. Canada shall conduct its commercial and native food fisheries so that the all gear catch is at least 10,000 fish and may increase its catch to include any surplus available in-river total allowable catch but not to exceed 15,000 fish;
 2. The United States shall not direct commercial fisheries at Stikine sockeye salmon in District 108;
 3. The United States may fish in the commercial gill net fisheries in the Sumner Strait portion of District 106 so long as the in-season estimate of the contribution of Stikine River sockeye salmon is less than 25 percent of the total catch to date of sockeye salmon in Sumner Strait. If the contribution of Stikine River sockeye salmon is greater than 20 percent but less than 25 percent only one day of fishing per week will be permitted, if greater than 25 percent, no fishing will be permitted in Sumner Strait.
- c. When the estimated TAC of Stikine River sockeye salmon is between 20,001 and 60,000 fish:
1. Canada shall conduct its commercial and native food fisheries so that the all gear catch is at least 15,000 fish and may increase its catch to include any surplus total allowable catch but not to exceed 20,000 fish;
 2. The United States may direct commercial fisheries at Stikine River sockeye salmon in District 108 if the total TAC of Stikine River sockeye salmon is

greater than the actual catch of Stikine River sockeye salmon in District 106 plus 20,000.

- d. When the estimated TAC of Stikine River sockeye salmon is greater than 60,000 fish:
 1. Canada shall conduct its commercial and native food fisheries so that the all gear catch is at least 20,000 fish and may increase its catch to include any surplus total allowable catch but not to exceed 30,000 fish;
 2. The United States may direct commercial fisheries at Stikine River sockeye salmon in District 108 if the total TAC of Stikine River sockeye salmon is greater than the actual catch of Stikine River sockeye salmon in District 106 plus 30,000.
 - e. United States incidental catches of Stikine River sockeye salmon in District 108 shall not be counted when computing TAC available for the Canadian fishery. For the purpose of calculation, the Canadian inriver allowable catch of sockeye salmon will be based on a 10 percent harvest rate of Stikine River sockeye salmon in the District 106 drift gill net fishery.
- (iii) Canada shall harvest no more than 4,000 coho salmon annually in the Stikine River from 1988 through 1992.
 - (iv) Canadian harvests of chinook, pink, and chum salmon may be taken as an incidental harvest in the directed fishery for sockeye and coho salmon.
 - (v) Both Parties shall take the appropriate management action to ensure that the necessary escapement goals for the chinook salmon bound for the Canadian portions of the Stikine River are achieved by 1995.
 - (vi) If the United States unilaterally withdraws from mutually agreed enhancement goals and activities as specified in the Understanding, then the harvest sharing of naturally occurring Stikine River salmon as stated in sections (ii) through (iv) above shall remain in effect.
 - (vii) If Canada unilaterally withdraws from mutually agreed enhancement goals and activities as specified in the Under-

cerns expressed by both Parties. Troll fishing for sockeye and pink salmon shall, upon appropriate prior notice, be permitted only in order to attain Canadian domestic troll allocation objectives on sockeye and pink;

- (c) to avoid any alterations in coho fisheries along the west coast of Vancouver Island that would increase the proportional interception of U.S. coho stocks;
- (d) that in 1987 and 1988, for Canadian Area 20, and U.S. Areas 7 and 7A, fisheries directed at coho salmon will be permitted. Notwithstanding this agreement, if the Commission determines that conservation concerns expressed by either Party warrant further restrictions, then the Parties shall limit their catch of coho salmon to that taken incidentally during fisheries under the control of the Fraser Panel and those permitted under the provisions of Annex IV, Chapter 6. Both Parties agree that in 1987, due to conservation concerns expressed by both Parties and agreed to by the Commission, coho fisheries in Canadian Area 20 and U.S. Areas 7 and 7A shall be limited by the levels of incidental coho catch anticipated during fisheries conducted under the control of the Fraser Panel and provisions of Annex IV, Chapter 6;
- (e) for 1987 and 1988, the United States shall adhere to presently agreed management objectives in Strait of Juan de Fuca Areas 4B, 5, and 6C; and,
- (f) to develop in 1989 and thereafter, troll fishery regimes for the west coast of Vancouver Island that
 - (i) implement conservation measures approved by the Commission and take into account any increased contributions by the Parties to the fishery; and,
 - (ii) provide for the sharing of benefits of coho production of each Party consistent with the principles of Article III.

4. Notwithstanding any other provisions of this Chapter, the Commission, for 1988 and thereafter, may set specific fishery regimes as appropriate, which may include troll harvest ceilings, for coho salmon in the intercepting fisheries restricted under this Chapter that

- (a) implement conservation measures approved by the Commission;
- (b) take into account increased production;

- (c) provide for the recognition of benefits of coho production of each Party consistent with the principles of Article III;
- (d) take into account actions taken by each Party to address its conservation concerns; and,
- (e) take into account time and area management measures which will assist either Party in meeting its conservation objectives while avoiding undue disruption of fisheries.

5. Starting with the 1987 season, a 7.5 percent management range is established above and below a catch ceiling. On a continuing basis, the cumulative deviation (in numbers of fish) shall not exceed that management range. In the event that the cumulative deviation exceeds the range, the responsible Party shall be required, in the succeeding year, to take appropriate management actions to return the cumulative deviation, plus any penalty assessed, to a level within the established management range. Negative cumulative deviations shall not accumulate below the management range. It is the intent of this section to insure that, on average, the annual catch in ceilinged fisheries is equal to the agreed target ceiling.

6. The Parties agree that enhancement efforts designed to increase production of coho salmon would, when combined with catch ceilings and/or time/area management measures, aid in rebuilding depressed natural stocks by reducing the exploitation rates on these stocks. They agree that utilizing this opportunity in the future to rebuild natural stocks is, in most cases preferable to reductions in fishing levels. A major objective of enhancement is to lay the foundation for improved fisheries in Annex areas in the future.

Chapter 6

***SOUTHERN BRITISH COLUMBIA AND WASHINGTON STATE CHUM
SALMON***

1. The Parties shall maintain a Joint Chum Technical Committee (Committee) reporting, unless otherwise agreed, to the Southern Panel and the Commission. The Committee, *inter alia*, will undertake to

- (a) identify and review the status of stocks of primary concern;
- (b) present the most current information on harvest rates and patterns on these stocks, and develop a joint data base for assessments;
- (c) collate available information on the productivity of chum stocks to identify escapements which produce maximum sustainable harvests and allowable harvest rates;
- (d) present historical catch data, associated fishing regimes, and information on stock composition in fisheries harvesting those stocks;
- (e) devise analytical methods for the development of alternative regulatory and production strategies;
- (f) identify information and research needs, to include future monitoring programs for stock assessment; and,
- (g) for each season, make stock and fishery assessments and evaluate the effectiveness of management.

2. In 1988, Canada will manage its Johnstone Strait, Strait of Georgia, and Fraser River chum fisheries to provide continued rebuilding of depressed naturally spawning chum stocks, and, to the extent practicable, minimize increased interceptions of United States origin chum. Terminal fisheries conducted on specific stocks with identified surpluses will be managed to minimize interception of non-targeted stocks.

3. In 1988,

- (a) for Johnstone Strait run sizes less than 3.0 million
 - (i) Canada, taking into account the catch of Canadian chum in United States Areas 7 and 7A, will limit its harvest rate in Johnstone Strait to less than 10 percent, resulting in a Johnstone Strait catch level of up to 225,000 chum; and,
 - (ii) when the catch in Johnstone Strait is 225,000 chum or less, the United States catch of chum in Areas 7 and 7A shall be

limited to chum taken incidentally to other species and in other minor fisheries, but shall not exceed 20,000, provided, however, that catches for the purposes of electrophoretic sampling shall not be included in the aforementioned limit;

- (b) for Johnstone Strait run sizes from 3.0 million to 3.7 million
 - (i) Canada, taking into account the catch of Canadian chum in United States Areas 7 and 7A, will limit its harvest rate in Johnstone Strait to 20 percent, resulting in a Johnstone Strait catch level of 225,000 to 640,000 chum;
 - (ii) when the catch in Johnstone Strait is from 225,000 to 640,000 chum, the United States catch of chum in Areas 7 and 7A shall not exceed 120,000;
- (c) for Johnstone Strait run sizes of 3.7 million and greater
 - (i) Canada, taking into account the catch of Canadian chum in United States Areas 7 and 7A, will harvest at a rate in Johnstone Strait of 30 percent or greater, resulting in a Johnstone Strait catch level of 640,000 chum or greater; and,
 - (ii) when the catch in Johnstone Strait is 640,000 chum or greater, the United States catch of chum in Areas 7 and 7A shall not exceed 140,000;
- (d) it is understood that the Johnstone Strait run sizes, harvest rates, and catch levels referred to in 3(a), 3(b), and 3(c) are those determined in season, in Johnstone Strait, by Canada; and,
- (e) the United States shall manage in a manner that, as far as practicable, maintains a traditional proportion of effort and catch between United States Areas 7 and 7A, and avoids concentrations of effort along the boundary in Area 7A.

4. In 1988, the United States shall conduct its chum fishery in the Strait of Juan de Fuca (United States Areas 4B, 5 and 6C) so as to maintain the limited effort nature of this fishery, and, to the extent practicable, minimize increased interceptions of Canadian origin chum. The United States shall continue to monitor this fishery to determine if recent catch levels indicate an increasing level of interception.

5. If the United States chum fishery in Areas 7 and 7A fails to achieve the 1988 catch levels specified in paragraphs 3(a)(ii), 3(b)(ii), and 3(c)(ii), any differences shall be compensated by adjustments to the Areas 7 and 7A fishery in

subsequent years, except that chum catches below the level specified in paragraph 3(a)(ii) shall not be compensated.

6. Catch compositions in fisheries covered by this chapter will be estimated by post-season analysis using methods agreed upon by the Joint Chum Technical Committee.

7. Canada will manage the Nitinat net chum fishery to minimize the harvest of non-targeted stocks.

8. In 1988, Canada shall conduct electrophoretic sampling of chum taken in the West Coast Vancouver Island troll fishery if early-season catch information indicates that catch totals for the season may reach levels similar to 1985 and 1986. Sampling, should it occur, will include catches taken from the southern areas (Canadian Areas 121–124).

Chapter 7

GENERAL OBLIGATION

With respect to intercepting fisheries not dealt with elsewhere in this Annex, unless otherwise agreed, neither Party shall initiate new intercepting fisheries, nor conduct or redirect fisheries in a manner that intentionally increases interceptions.

The Canadian Department of External Affairs to the American Embassy

Department of External Affairs Ministère des Affaires extérieures
Canada

NO. URR-1168

The Department of External Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's Note No. 121 of March 29, 1988 concerning the recommendations made by the Pacific Salmon Commission in accordance with Article XIII, Paragraphs 2 and 3 of the Treaty between Canada and the United States concerning Pacific Salmon signed at Ottawa on January 28, 1985.

The proposal that Chapters 1, 2, 4 and 6 of Annex IV be amended to read as set forth in Attachment 1 to the Pacific Salmon Commission's letter of transmission of February 19, 1988 to the governments of Canada and the United States, in accordance with the informal amendment procedure established by Article XIII, Paragraph 3 of the Treaty, is acceptable to the Government of Canada.

The Department of External Affairs confirms that the Embassy's Note of March 29, 1988, together with Attachment 1 of the Commission's February 19, 1988 letter, and this reply, will constitute an Exchange of Notes between the Government of Canada and the Government of the United States of America amending Annex IV of the Treaty, which will become effective on the date of this Note.

The Department of External Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Ottawa, May 10, 1988