The Marine Mammal Commission Compendium of Selected Treaties, International Agreements, and Other Relevant Documents on Marine Resources, Wildlife, and the Environment

Volume III

Pages 2343–3547

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Washington, D.C.

Volume III
Pages 2343–3547

Published with the partial support of:

Bureau of Oceans and International Environmental and Scientific Affairs
U.S. Department of State

National Marine Fisheries Service
U.S. Department of Commerce

Fish and Wildlife Service
U.S. Department of the Interior

Table of Contents

VOLUME I

MULTILATERAL DOCUMENTS

VOLUME II

VOLUME III

Abbreviations and Citations

The following list identifies abbreviations and citations used to indicate primary sources of documents in the *Compendium:*

Bevans	*Treaties and Other International Agreements of the United States of America 1776–1949*
Cmnd.	"Command Papers" of the Government of the United Kingdom
ETS	*European Treaty Series*
ILM	*International Legal Materials*
LNTS	*League of Nations Treaty Series*
TIAS	*United States Treaties and Other International Acts Series*
TS	*United States Treaty Series*
UNTS	*United Nations Treaty Series*
UST	*United States Treaties and Other International Agreements*

MULTILATERAL

MARINE POLLUTION

CONTINUED FROM VOLUME II

Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, Bonn, 1983

Done at Bonn 13 September 1983

Not in force

Depositary: Germany

*Primary source citation: Cmnd. 9104**

AGREEMENT FOR CO-OPERATION IN DEALING WITH POLLUTION OF THE NORTH SEA BY OIL AND OTHER HARMFUL SUBSTANCES

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the European Economic Community,

Recognising that pollution of the sea by oil and other harmful substances in the North Sea area may threaten the marine environment and the interests of coastal States,

Noting that such pollution has many sources and that casualties and other incidents at sea are of great concern,

Convinced that an ability to combat such pollution as well as active co-operation and mutual assistance among States are necessary for the protection of their coasts and related interests,

Welcoming the progress that has already been achieved within the framework of the Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil, signed at Bonn on 9 June 1969,

Wishing to develop further mutual assistance and co-operation in combating pollution,

Have agreed as follows:

Article 1

This Agreement shall apply whenever the presence or the prospective presence of oil or other harmful substances polluting or threatening to pollute the sea within the North Sea area, as defined in Article 2 of this Agreement, presents a grave and imminent danger to the coast or related interests of one or more Contracting Parties.

ARTICLE 2

For the purpose of this Agreement the North Sea area means the North Sea proper southwards of latitude 61° N, together with:

(*a*) the Skagerrak, the southern limit of which is determined east of the Skaw by the latitude 57°44′.8 N;

(*b*) the English Channel and its approaches eastwards of a line drawn fifty nautical miles to the west of a line joining the Scilly Isles and Ushant.

ARTICLE 3

(1) The Contracting Parties consider that protection against pollution of the kind referred to in Article 1 of this Agreement is a matter which calls for active co-operation between them.

(2) The Contracting Parties shall jointly develop and establish guidelines for the practical, operational and technical aspects of joint action.

ARTICLE 4

Contracting Parties undertake to inform the other Contracting Parties about:

(*a*) their national organisation for dealing with pollution of the kind referred to in Article 1 of this Agreement;

(*b*) the competent authority responsible for receiving and dispatching reports of such pollution and for dealing with questions concerning measures of mutual assistance between Contracting Parties;

(*c*) their national means for avoiding or dealing with such pollution, which might be made available for international assistance;

(*d*) new ways in which such pollution may be avoided and about new effective measures to deal with it;

(*e*) major pollution incidents of this kind dealt with.

ARTICLE 5

(1) Whenever a Contracting Party is aware of a casualty or the presence of oil or other harmful substances in the North Sea area likely to constitute a serious threat to the coast or related interests of any other Contracting Party, it shall inform that Party without delay through its competent authority.

(2) The Contracting Parties undertake to request the masters of all ships flying their flags and pilots of aircraft registered in their countries to report without delay through the channels which may be most practicable and adequate in the circumstances:

(*a*) all casualties causing or likely to cause pollution of the sea;

(*b*) the presence, nature and extent of oil or other harmful substances likely to constitute a serious threat to the coast or related interests of one or more Contracting Parties.

(3) The Contracting Parties shall establish a standard form for the reporting of pollution as required under paragraph 1 of this Article.

ARTICLE 6

(1) For the sole purpose of this Agreement the North Sea area is divided into the zones described in the Annex to this Agreement.

(2) The Contracting Party within whose zone a situation of the kind described in Article 1 of this Agreement occurs, shall make the necessary assessments of the nature and extent of any casualty or, as the case may be, of the type and approximate quantity of oil or other harmful substances and the direction and speed of movement thereof.

(3) The Contracting Party concerned shall immediately inform all the other Contracting Parties through their competent authorities of its assessments and of any action which it has taken to deal with the oil or other harmful substances and shall keep these substances under observation as long as they are present in its zone.

(4) The obligations of the Contracting Parties under the provisions of this Article with respect to the zones of joint responsibility shall be the subject of special technical arrangements to be concluded between the Parties concerned. These arrangements shall be communicated to the other Contracting Parties.

ARTICLE 7

A Contracting Party requiring assistance to deal with pollution or the prospective presence of pollution at sea or on its coast may call on the help of the other Contracting Parties. Contracting Parties requesting assistance shall specify the kind of assistance they require. The Contracting Parties called upon for help in accordance with this Article shall use their best endeavours to bring such assistance as is within their power taking into account, particularly in the case of pollution by harmful substances other than oil, the technological means available to them.

ARTICLE 8

(1) The provisions of this Agreement shall not be interpreted as in any way prejudicing the rights and obligations of the Contracting Parties under international law, especially in the field of the prevention and combating of marine pollution.

(2) In no case shall the division into zones referred to in Article 6 of this Agreement be invoked as a precedent or argument in any matter concerning sovereignty or jurisdiction.

ARTICLE 9

(1) In the absence of an agreement concerning the financial arrangements governing actions of Contracting Parties to deal with pollution which might be concluded on a bilateral or multilateral basis or on the occasion of a joint combating operation, Contracting Parties shall bear the costs of their respective actions in dealing with pollution in accordance with sub-paragraph (*a*) or subparagraph (*b*) below:

(*a*) if the action was taken by one Contracting Party at the express request of another Contracting Party, the Contracting Party requesting such assistance shall reimburse to the assisting Contracting Party the costs of its action;

(*b*) if the action was taken by a Contracting Party on its own initiative, this Contracting Party shall bear the costs of its action.

(2) The Contracting Party requesting assistance may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Contracting Party.

ARTICLE 10

Unless otherwise agreed the costs of action taken by a Contracting Party at the request of another Contracting Party shall be calculated according to the law and current practice in the assisting country concerning the reimbursement of such costs by a person or entity liable.

ARTICLE 11

Article 9 of this Agreement shall not be interpreted as in any way prejudicing the rights of Contracting Parties to recover from third parties the costs of action to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law.

ARTICLE 12

(1) Meetings of the Contracting Parties shall be held at regular intervals and at any time when, due to special circumstances, it is so decided in accordance with the Rules of Procedure.

(2) The Contracting Parties at their first meeting shall draw up Rules of Procedure and Financial Rules, which shall be adopted by unanimous vote.

(3) The Depositary Government shall convene the first meeting of Contracting Parties as soon as possible after the entry into force of this Agreement.

ARTICLE 13

Within the areas of its competence, the European Economic Community is entitled to a number of votes equal to the number of its Member States which are Contracting Parties to the present Agreement. The European Economic Community shall not exercise its right to vote in cases where its Member States exercise theirs and conversely.

ARTICLE 14

It shall be the duty of meetings of the Contracting Parties:

(*a*) to exercise overall supervision over the implementation of this Agreement;

(*b*) to review the effectiveness of the measures taken under this Agreement;

(*c*) to carry out such other functions as may be necessary under the terms of this Agreement.

ARTICLE 15

(1) The Contracting Parties shall make provision for the performance of secretariat duties in relation to this Agreement, taking into account existing arrangements in the framework of other international agreements on the prevention of marine pollution in force for the same region as this Agreement.

(2) Each Contracting Party shall contribute 2·5% towards the annual expenditure of the Agreement. The balance of the Agreement's expenditure shall be divided among Contracting Parties other than the European Economic Community in proportion to their gross national product in accordance with the scale of assessment adopted regularly by the United Nations General Assembly. In no case shall the contribution of a Contracting Party to this balance exceed 20% of the balance.

ARTICLE 16

(1) Without prejudice to Article 17 of this Agreement, a proposal by a Contracting Party for the amendment of this Agreement or its Annex shall be considered at a meeting of the Contracting Parties. Following adoption of the proposal by unanimous vote the amendment shall be communicated by the Depositary Government to the Contracting Parties.

(2) Such an amendment shall enter into force on the first day of the second month following the date on which the Depositary Government has received notifications of approval from all Contracting Parties.

ARTICLE 17

(1) Two or more Contracting Parties may modify the common boundaries of their zones described in the Annex to this Agreement.

(2) Such a modification shall enter into force for all Contracting Parties on the first day of the sixth month following the date of its communication by the Depositary Government unless, within a period of three months following that communication, a Contracting Party has expressed an objection or has requested consultation on the matter.

ARTICLE 18

(1) This Agreement shall be open for signature by the Governments of the States invited to participate in the Conference on the Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, held at Bonn on 13 September 1983, and by the European Economic Community.

(2) These States and the European Economic Community may become Parties to this Agreement either by signature without reservation as to ratification, acceptance or approval or by signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval.

(3) Instruments of ratification, acceptance or approval shall be deposited with the Government of the Federal Republic of Germany.

ARTICLE 19

(1) This Agreement shall enter into force on the first day of the second month following the date on which the Governments of all the States mentioned in Article 18 of this Agreement and the European Economic Community have signed the Agreement without reservation as to ratification, acceptance or approval or have deposited an instrument of ratification, acceptance or approval.

(2) Upon the entry into force of this Agreement, the Agreement for Co-operation in dealing with Pollution of the North Sea by Oil, done at Bonn on 9 June 1969, shall cease to be in force.

ARTICLE 20

(1) The Contracting Parties may unanimously invite any other coastal State of the North East Atlantic area to accede to this Agreement.

(2) In such a case Article 2 of this Agreement and its Annex shall be amended as necessary. The amendments shall be adopted by unanimous vote at a meeting of the Contracting Parties and shall take effect upon the entry into force of this Agreement for the acceding State.

ARTICLE 21

(1) For each State acceding to this Agreement, the Agreement shall enter into force on the first day of the second month following the date of deposit by such State of its instrument of accession.

(2) Instruments of accession shall be deposited with the Government of the Federal Republic of Germany.

ARTICLE 22

(1) After this Agreement has been in force for five years it may be denounced by any Contracting Party.

(2) Denunciation shall be effected by a notification in writing addressed to the Depositary Government which shall notify all the other Contracting Parties of any denunciation received and of the date of its receipt.

(3) A denunciation shall take effect one year after its receipt by the Depositary Government.

ARTICLE 23

The Depositary Government shall inform the Contracting Parties and those referred to in Article 18 of this Agreement of:

(*a*) any signature of this Agreement;

(*b*) the deposit of any instrument of ratification, acceptance, approval or accession and of the receipt of any notice of denunciation;

(*c*) the date of entry into force of this Agreement;

(*d*) the receipt of any notification of approval relating to amendments to this Agreement or its Annex and of the date of entry into force of such amendments.

ARTICLE 24

The original of this Agreement, of which the English, French and German texts are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall send certified copies thereof to the Contracting Parties and which shall transmit a certified copy to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done at Bonn, this thirteenth day of September 1983.

ANNEX

Description of the zones referred to in Article 6 of this Agreement

The zones, with the exception of the zones of joint responsibility, are limited by lines joining the following points:

Denmark

55° 03′ 00″. 0 N	8° 22′ 00″. 0 E
55° 10′ 00″. 0 N	7° 30′ 00″. 0 E
55° 10′ 00″. 0 N	2° 13′ 30″. 0 E
57° 00′ 00″. 0 N	1° 30′ 00″. 0 E
57° 00′ 00″. 0 N	2° 25′ 04″. 6 E
56° 35′ 42″. 0 N	2° 36′ 48″. 0 E
56° 05′ 12″. 0 N	3° 15′ 00″. 0 E
56° 35′ 30″. 0 N	5° 02′ 00″. 0 E
57° 10′ 30″. 0 N	6° 56′ 12″. 0 E
57° 29′ 54″. 0 N	7° 59′ 00″. 0 E
57° 37′ 06″. 0 N	8° 27′ 30″. 0 E
57° 41′ 48″. 0 N	8° 53′ 18″. 0 E
57° 59′ 18″. 0 N	9° 23′ 00″. 0 E
58° 15′ 41″. 2 N	10° 01′ 48″. 1 E
58° 10′ 00″. 0 N	10° 00′ 00″. 0 E
57° 48′ 00″. 0 N	10° 57′ 00″. 0 E
57° 44′ 48″. 0 N	10° 38′ 00″. 0 E

Norway

61° 00′ 00″. 0 N	4° 30′ 00″. 0 E
61° 00′ 00″. 0 N	2° 00′ 00″. 0 E
57° 00′ 00″. 0 N	1° 30′ 00″. 0 E
57° 00′ 00″. 0 N	2° 25′ 04″. 6 E
56° 35′ 42″. 0 N	2° 36′ 48″. 0 E
56° 05′ 12″. 0 N	3° 15′ 00″. 0 E
56° 35′ 30″. 0 N	5° 02′ 00″. 0 E
57° 10′ 30″. 0 N	6° 56′ 12″. 0 E
57° 29′ 54″. 0 N	7° 59′ 00″. 0 E
57° 37′ 06″. 0 N	8° 27′ 30″. 0 E
57° 41′ 48″. 0 N	8° 53′ 18″. 0 E
57° 59′ 18″. 0 N	9° 23′ 00″. 0 E
58° 15′ 41″. 2 N	10° 01′ 48″. 1 E
58° 10′ 00″. 0 N	10° 00′ 00″. 0 E
58° 53′ 34″. 0 N	10° 38′ 25″. 0 E

To be continued along the Norwegian-Swedish border

Federal Republic of Germany

53° 34′ N	6° 38′ E
54° 00′ N	5° 30′ E
54° 00′ N	2° 39′. 1 E
55° 10′ N	2° 13′. 5 E
55° 10′ N	7° 30′. E
55° 03′ N	8° 22′ E

Sweden

57° 54′ N	11° 28′ E
57° 48′ N	10° 57′ E
58° 10′ N	10° 00′ E
58° 53′ 34″. 0 N	10° 38′ 25″. 0 E

To be continued along the Norwegian-Swedish border

Netherlands

51° 32′ N	3° 18′ E
51° 32′ N	2° 06′ E
52° 30′ N	3° 10′ E
54° 00′ N	2° 39′. 1 E
54° 00′ N	5° 30′ E
53° 34′ N	6° 38′ E

United Kingdom

61° 00′ N	0° 50′ W
61° 00′ N	2° 00′ E
57° 00′ N	1° 30′ E
52° 30′ N	3° 10′ E
51° 32′ N	2° 06′ E

The zones of joint responsibility are as follows:

(1) *Belgium, France and United Kingdom*
Sea area between parallels 51° 32′ N and 51° 06′ N.

(2) *France and United Kingdom*
The English Channel south-west of parallel 51° 06′ N to a line drawn between the points 49° 52′ N 07° 44′ W and 48° 27′ N 06° 25′ W.

(3) *Denmark and Sweden*
Sea area between the lines in Skagerrak joining the points

57° 54′ N	11° 28′ E
57° 44′. 8 N	10° 38′ E
57° 44′. 8 N	11° 28′ E

Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, Nairobi, 1985

Done at Nairobi 21 June 1985

Not in force

Depositary: Kenya

Primary source citation: Copy of text provided by the United Nations Environment Program

CONVENTION FOR THE PROTECTION, MANAGEMENT AND DEVELOPMENT OF THE MARINE AND COASTAL ENVIRONMENT OF THE EASTERN AFRICAN REGION

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the Eastern African region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic and ecological characteristics of the region which require special care and responsible management,

Recognizing further the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of rational environmental management,

Realizing fully the need for co-operation amongst themselves and with competent international and regional organizations in order to ensure a coordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the Eastern African region,

Desirous to adopt a regional convention elaborated within the framework of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region adopted at Nairobi on 21 June 1985,

Have agreed as follows,

Article 1

GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the Eastern African region, hereinafter referred to as "the Convention area" as defined in paragraph (a) of article 2.

2. Except as may be otherwise provided in any protocol to this Convention, the Convention area shall not include internal waters of the Contracting Parties.

Article 2

DEFINITIONS

For the purposes of this Convention:

(*a*) The "Convention area" shall be comprised of the marine and coastal environment of that part of the Indian Ocean situated within the Eastern African region and falling within the jurisdiction of the Contracting Parties to this Convention. The extent of the coastal environment to be included within the Convention area shall be indicated in each protocol to this Convention taking into account the objectives of the protocol concerned;

(*b*) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities;

(*c*) "Organization" means the body designated as responsible for carrying out secretariat functions pursuant to article 16 of this Convention.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements, for the protection and management of the marine and coastal environment of the Convention area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organization and, through the Organization, to all Contracting Parties to this Convention,

2. Nothing in this Convention or its protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.

3. This Convention and its protocols shall be construed in accordance with international law relating to their subject matter. Nothing in this Convention and its protocols shall prejudice the present or future claims and legal views of any Contracting Party concerning the nature and extent of its maritime jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly, take all appropriate measures in conformity with international law and in accordance with this Convention and those of its protocols in force to which they are party, to prevent, reduce and combat pollution of the Convention area and to ensure sound environmental management of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities.

2. The Contracting Parties shall co-operate in the formulation and adoption of protocols to facilitate the effective implementation of this Convention.

3. The Contracting Parties shall take all appropriate measures in conformity with international law for the effective discharge of the obligations prescribed in this Convention and its protocols and shall endeavour to harmonize their policies in this regard.

4. The Contracting Parties shall co-operate with the competent international, regional and subregional organizations to ensure the effective implementation of this Convention and its protocols. They shall assist each other in fulfilling their obligations under this Convention and its protocols.

5. In taking the measures referred to in paragraph 1, the Contracting Parties shall ensure that the application of such measures does not cause pollution of the marine environment outside the Convention area.

Article 5

POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by discharges from ships and, for this purpose, to ensure the effective implementation of the applicable international rules and standards established by, or within the framework of, the competent international organization.

Article 6

POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by dumping of wastes and other matter at sea from ships, aircraft, or man-made structures at sea, taking into account applicable international rules and standards and recommended practices and procedures.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall endeavour to take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources within their territories.

Article 8

POLLUTION FROM SEA-BED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 9

AIRBORNE POLLUTION

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10

SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Convention area. To this end the Contracting Parties shall, in areas under their jurisdiction, establish protected areas, such as parks and reserves, and shall regulate and, where required and subject to the rules of international law, prohibit any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are established to protect. The establishment of such areas shall not affect the rights of other Contracting Parties and third States and in particular other legitimate uses of the sea.

Article 11

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to respond to pollution emergencies in the Convention area and to reduce or eliminate pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall, individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area.

2. When a Contracting Party becomes aware of a case in which the Convention area is in imminent danger of being polluted or has been polluted, it shall immediately notify other States likely to be affected by such pollution, as well as competent international organizations. Furthermore, it shall inform, as soon as feasible, such other States and the Organization of any measures it has taken to minimize or reduce pollution or the threat thereof.

Article 12

ENVIRONMENTAL DAMAGE FROM ENGINEERING ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat environmental damage in the Convention area, in particular the destruction of marine and coastal ecosystems, caused by engineering activities such as land reclamation and dredging.

Article 13

ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall, in co-operation with competent regional and international organizations if necessary, develop technical and other guidelines to assist the planning of their major development projects in such a way as to prevent or minimize harmful impacts on the Convention area.

2. Each Contracting Party shall assess, within its capabilities, the potential environmental effects of major projects which it has reasonable grounds to expect may cause substantial pollution of, or significant and harmful changes to, the Convention area.

3. With respect to the assessments referred to in paragraph 2, the Contracting Parties shall, if appropriate in consultation with the Organization, develop procedures for the dissemination of information and, if necessary, for consultations among the Contracting Parties concerned.

Article 14

SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, in scientific research, monitoring, and the exchange of data and other scientific information relating to the purposes of this Convention and its protocols.

2. To this end, the Contracting Parties shall develop and co-ordinate their research and monitoring programmes concerning pollution and natural resources in the Convention area and shall establish, in cooperation with competent regional and international organizations, a regional network of national research centres and institutes to ensure compatible results. With the aim of further protecting the Convention area, the Contracting Parties shall endeavour to participate in international arrangements for research and monitoring outside the Convention area.

3. The Contracting Parties shall co-operate, within their available capabilities, directly or through competent regional and international organizations, in the provision to other Contracting Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention area.

Article 15

LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, with a view to formulating and adopting appropriate rules and procedures which are in conformity with international law in the field of liability and compensation for damage resulting from pollution of the Convention area.

Article 16

INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme as the secretariat of the Convention to carry out the following functions:

(*a*) to prepare and convene the meetings of Contracting Parties and conferences provided for in articles 17, 18 and 19;

(*b*) to transmit to the Contracting Parties the information received in accordance with articles 3, 11, 13 and 23;

(*c*) to perform the functions assigned to it by protocols to this Convention;

(*d*) to consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its protocols;

(*e*) to co-ordinate the implementation of co-operative activities agreed upon by the meetings of Contracting Parties;

(*f*) to ensure the necessary co-ordination with other regional and international bodies that the Contracting Parties consider competent;

(*g*) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

2. Each Contracting Party shall designate an appropriate authority to serve as the channel of communication with the Organization for the purposes of this Convention and its protocols.

Article 17

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years. It shall be the function of the ordinary meetings of the Contracting Parties to keep under review the implementation of this Convention and its protocols and, in particular:

(*a*) To consider information submitted by the Contracting Parties under article 23;

(*b*) To adopt, review and amend annexes to this Convention and to its related protocols, in accordance with the provisions of article 20;

(*c*) To make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its protocols in accordance with the provisions of articles 18 and 19;

(*d*) To establish working groups as required to consider any matters concerning this Convention and its protocols;

(*e*) To assess periodically the state of the environment in the Convention area;

(*f*) To consider co-operative activities to be undertaken within the framework of this Convention and its protocols, including their financial and institutional implications, and to adopt decisions relating thereto;

(*g*) To consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its protocols.

2. The Organization shall convene the first ordinary meeting of the Contracting Parties within nine months of the date on which the Convention enters into force in accordance with article 29.

3. Extraordinary meetings shall be convened at the request of any Contracting Party or upon the request of the Organization, provided that such requests are supported by a two-thirds majority of the Contracting Parties. It shall be the function of the extraordinary meeting of the Contracting Parties to consider only those items proposed in the request for the holding of the extraordinary meeting.

Article 18

ADOPTION OF PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.

2. If so requested by a two-thirds majority of the Contracting Parties, the Organization shall convene a conference of plenipotentiaries for the purpose of adopting additional protocols to this Convention.

Article 19

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties.

2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties to the protocol concerned.

3. The text of any proposed amendment shall be communicated by the Organization to all Contracting Parties at least ninety days before the opening of the conference of plenipotentiaries.

4. Any amendment to this Convention shall be adopted by a two-thirds majority vote of the Contracting Parties to the Convention which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any protocol shall be adopted by a two-thirds majority vote of the Contracting Parties to the protocol which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the protocol.

5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 4 shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least six of the Contracting Parties to this Convention or to the protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after the date on which that Party deposits its instrument.

6. After the entry into force of an amendment to this Convention or to a protocol, any new Contracting Party to this Convention or such protocol shall become a Contracting Party to the Convention or protocol as amended.

Article 20

ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to a protocol shall form an integral part of the Convention or, as the case may be, such protocol.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the adoption and entry into force of amendments to annexes to this Convention or to annexes to a protocol:

(*a*) Any Contracting Party may propose amendments to annexes to this Convention or annexes to any protocol at the meetings convened pursuant to article 17;

(*b*) Such amendments shall be adopted by a two-thirds majority vote of the Contracting Parties to the instrument in question;

(*c*) The Depositary shall without delay communicate the amendments so adopted to all Contracting Parties to this Convention;

(*d*) Any Contracting Party that is unable to accept an amendment to annexes to this Convention or to annexes to any protocol shall so notify the Depositary in writing within a period determined by the Contracting Parties concerned when adopting the amendment;

(*e*) The Depositary shall without delay notify all Contracting Parties of notifications received pursuant to the preceding subparagraph;

(*f*) On expiry of the period determined in accordance with subparagraph (*d*) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that subparagraph;

(*g*) A Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party.

3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex, provided that, if it entails an amendment to the Convention or a protocol, the new annex shall not enter into force until such time as that amendment enters into force.

4. Any amendment to the Annex on Arbitration shall be proposed and adopted, and shall enter into force, in accordance with the procedures set out in article 19.

Article 21

RULES OF PROCEDURES AND FINANCIAL RULES

1. The Contracting parties shall adopt rules of procedures for their meetings.

2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation in the co-operative activities undertaken for the purposes of this Convention and of protocols to which they are parties.

Article 22

SPECIAL EXERCISE OF THE RIGHT TO VOTE

In their fields of competence, the regional intergovernmental integration organizations referred to in article 26 shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention and to one or more protocols. Such organizations shall not exercise their rights to vote if the member States concerned exercise theirs and vice versa.

Article 23

TRANSMISSION OF INFORMATION

The Contracting Parties shall transmit regularly to the Organization information on the measures adopted by them in the implementation of this Convention and of protocols to which they are parties, in such form as the meetings of Contracting Parties may determine.

Article 24

SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute shall, upon common agreement of the Parties concerned, be submitted to arbitration under the conditions set out in the Annex on Arbitration.

Article 25

RELATIONSHIP BETWEEN THE CONVENTION AND ITS PROTOCOLS

1. No State or regional intergovernmental integration organization may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol to the Convention. No State or regional intergovernmental integration organization may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions concerning any protocol shall be taken only by the Contracting Parties to the protocol concerned.

Article 26

SIGNATURE

This Convention, the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region and the Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region shall be open for signature at Nairobi from 21 June 1985 to 20 June 1986 by any State invited as a participant to the Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, held at Nairobi from 17 June 1985 to 21 June 1985. They shall also be open for signature between the same dates by any regional intergovernmental integration organization exercising competence in fields covered by the Convention and such protocols and having at least one member State which belongs to the Eastern African region, provided that such regional organization has been invited to participate in the Conference of Plenipotentiaries.

Article 27

RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and its protocols shall be subject to ratification, acceptance or approval by the States and organizations referred to in article 26. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Republic of Kenya which will assume the functions of Depositary.

Article 28

ACCESSION

1. This Convention and its protocols shall be open for accession by the States and organizations referred to in article 26 as from the day following the date on which the Convention or the protocol concerned is closed for signature.

2. After the entry into force of this Convention and of any protocol, any State or regional intergovernmental integration organization not referred to in article 26 may accede to the Convention and to any protocol, subject to prior approval by three-fourths of the Contracting Parties to the Convention or the protocol concerned.

3. Instruments of accession shall be deposited with the Depositary.

Article 29

ENTRY INTO FORCE

1. This Convention shall enter into force on the same date as the first protocol entering into force.

2. Any protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the ninetieth day following the date of deposit of the sixth instrument of ratification, acceptance, or approval of, or accession to, such protocol by the States referred to in article 26.

3. Thereafter, this Convention and any protocol shall enter into force with respect to any State or organization referred to in article 26 or article 28 on the ninetieth day following the date of deposit of its instruments of ratification, acceptance, approval or accession.

Article 30

WITHDRAWAL

1. At any time after three years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may withdraw from this Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after three years from the date of entry into force of such protocol with respect to that Contracting Party, withdraw from such protocol by giving written notification to the Depositary.

3. Withdrawal shall take effect one year after the date on which notification of withdrawal is received by the Depositary.

4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Contracting Party.

5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Contracting Party to any protocol to this Convention, shall be considered as also having withdrawn from the Convention itself.

Article 31

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Signatories and the Contracting Parties, as well as the Organization, of:

(*a*) the signature of this Convention and of its protocols and the deposit of instruments of ratification, acceptance, approval or accession;

(*b*) the date on which the Convention or any protocol will come into force for each Contracting Party;

(*c*) notification of withdrawal and the date on which it will take effect;

(*d*) the amendments adopted with respect to the Convention or to any protocol, their acceptance by the Contracting Parties and the date of their entry into force;

(*e*) all matters relating to new annexes and to the amendment of any annex.

2. The original of this Convention and of any protocol shall be deposited with the Depositary, the Government of the Republic of Kenya, which shall send certified copies thereof to the Signatories, the Contracting Parties and the Organization.

3. As soon as the Convention or any protocol enters into force, the Depositary shall transmit a certified copy of the instrument concerned to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

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

DONE at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in single copy in the English and French languages, the two texts being equally authentic.

ANNEX ON ARBITRATION

Article 1

Unless the agreement referred to in article 24 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with articles 2 to 10 below.

Article 2

The claimant party shall notify the Organization that the parties agree to submit the dispute to arbitration pursuant to paragraph 2 of article 24 of the Convention. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. The Organization shall forward the information thus received to all Contracting Parties to the Convention or to the protocol concerned.

Article 3

The arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months' period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention and the protocol or protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

2. The arbitral tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

Article 7

The arbitral tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

Article 9

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the arbitral tribunal.

Article 10

1. The arbitral tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.

Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, Nairobi, 1985

Done at Nairobi 21 June 1985

Not in force

Primary source citation: Copy of text provided by the United Nations Environment Program

PROTOCOL CONCERNING PROTECTED AREAS AND WILD FAUNA AND FLORA IN THE EASTERN AFRICAN REGION

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, done at Nairobi on 21 June 1985,

Conscious of the danger from increasing human activities which is threatening the environment of the Eastern African region,

Recognizing that natural resources constitute a heritage of scientific, cultural, educational, recreational and economic value that needs to be effectively protected,

Stressing the importance of protecting and, as appropriate, improving the state of the wild fauna and flora and natural habitats of the Eastern African region among other means by the establishment of specially protected areas in the marine and coastal environment,

Desirous of establishing close co-operation among themselves in order to achieve that objective,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(*a*) "Eastern African region" means the Convention area as defined in paragraph (*a*) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment;

(*b*) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

(*c*) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention.

Article 2

GENERAL UNDERTAKING

1. The Contracting Parties shall take all appropriate measures to maintain essential ecological processes and life support systems, to preserve genetic diversity, and to ensure the sustainable utilization of harvested natural resources under their jurisdiction. In particular, the Contracting Parties shall endeavour to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Eastern African region.

2. To this end, the Contracting Parties shall develop national conservation strategies and co-ordinate, if appropriate, such strategies within the framework of regional conservation activities.

Article 3

PROTECTION OF WILD FLORA

The Contracting Parties shall take all appropriate measures to ensure the protection of the wild flora species specified in annex I. To this end, each Contracting Party shall, as appropriate, prohibit activities having adverse effects on the habitats of such species, as well as the uncontrolled picking, collecting, cutting or uprooting of such species. Each Contracting Party shall, as appropriate, prohibit the possession or sale of such species.

Article 4

SPECIES OF WILD FAUNA REQUIRING SPECIAL PROTECTION

The Contracting Parties shall take all appropriate measures to ensure the strictest protection of the endangered wild fauna species listed in annex II. To this end, each Contracting Party shall strictly regulate and, where required, prohibit activities having adverse effects on the habitats of such species. In particular, the following activities shall, where required, be prohibited with regard to such species:

(*a*) All forms of capture, keeping or killing;

(*b*) Damage to, or destruction of, critical habitats;

(*c*) Disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation;

(*d*) Destruction or taking of eggs from the wild or keeping these eggs even if empty;

(*e*) Possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof.

Article 5

HARVESTABLE SPECIES OF WILD FAUNA

1. The Contracting Parties shall take all appropriate measures to ensure the protection of the depleted or threatened wild fauna species listed in annex III.

2. Any exploitation of such wild fauna species shall be regulated in order to restore and maintain the populations at optimum levels. Each Contracting Party shall develop, adopt and implement management plans for the exploitation of such species which may include:

(*a*) The prohibition of the use of all indiscriminate means of capture and killing and of the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species;

(*b*) Closed seasons and other procedures regulating exploitation;

(*c*) The temporary or local prohibition of exploitation, as appropriate, in order to restore viable population levels;

(*d*) The regulation, as appropriate, of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals;

(*e*) The safeguarding of breeding stocks of such species and their critical habitats in protected areas designated in accordance with article 8 of this Protocol;

(*f*) Exploitation in captivity.

Article 6

MIGRATORY SPECIES

The Contracting Parties shall, in addition to the measures specified in articles 3, 4 and 5, co-ordinate their efforts for the protection of migratory species listed in annex IV whose range extends into their territories. To this end, each Contracting Party shall ensure that, where appropriate, the closed seasons and other measures referred to in paragraph 2 of article 5 are also applied with regard to such migratory species.

Article 7

INTRODUCTION OF ALIEN OR NEW SPECIES

The Contracting Parties shall take all appropriate measures to prohibit the intentional or accidental introduction of alien or new species which may cause significant or harmful changes to the Eastern African region.

Article 8

ESTABLISHMENT OF PROTECTED AREAS

1. The Contracting Parties shall, where necessary, establish protected areas in areas under their jurisdiction with a view to safeguarding the natural resources of the Eastern African region and shall take all appropriate measures to protect those areas.

2. Such areas shall be established in order to safeguard:

(*a*) The ecological and biological processes essential to the functioning of the Eastern African region;

(*b*) Representative samples of all types of ecosystems of the Eastern African region;

(*c*) Populations of the greatest possible number of species of fauna and flora depending on these ecosystems;

(*d*) Areas having a particular importance by reason of their scientific, aesthetic, cultural or educational purposes.

3. In establishing protected areas, the Contracting Parties shall take into account, *inter alia*, their importance as:

(*a*) Natural habitats, and in particular as critical habitats, for species of fauna and flora, especially those which are rare, threatened or endemic;

(*b*) Migration routes or as wintering, staging, feeding or moulting sites for migratory species;

(*c*) Areas necessary for the maintenance of stocks of economically important marine species;

(*d*) Reserves of genetic resources;

(*e*) Rare or fragile ecosystems;

(*f*) Areas of interest for scientific research and monitoring.

Article 9

COMMON GUIDELINES, STANDARDS OR CRITERIA

The Contracting Parties shall, at their first meeting, and in cooperation with the competent regional and international organizations, formulate and adopt guidelines, standards or criteria concerning the identification, selection, establishment and management of protected areas.

Article 10

PROTECTION MEASURES

The Contracting Parties, taking into account the characteristics of each protected area, shall take, in conformity with international law, the measures required to achieve the objectives of protecting the area, which may include:

(*a*) The organization of a planning and management system;

(*b*) The prohibition of the dumping or discharge of wastes or other matter which may impair the protected areas;

(*c*) The regulation of pleasure craft activities;

(*d*) The regulation of fishing and hunting and of the capture of animals and harvesting of plants;

(*e*) The prohibition of the destruction of plant life or animals;

(*f*) The regulation of any act likely to harm or disturb the fauna or flora, including the introduction of non-indigenous animal or plant species;

(*g*) The regulation of any activity involving the exploration or exploitation of the sea-bed or its subsoil or a modification of the sea-bed profile;

(*h*) The regulation of any activity involving a modification of the profile of the soil or the exploitation of the subsoil of the coastal area;

(*i*) The regulation of any archaeological activity and of the removal of any object which may be considered as an archaeological object;

(*j*) The regulation of trade in and import and export of animals, parts of animals, plants, parts of plants and archaeological objects which originate in protected areas and are subject to measures of protection;

(*k*) Any other measure aimed at safeguarding ecological and biological processes in protected areas.

Article 11

BUFFER AREAS

The Contracting Parties may strengthen the protection of a protected area by establishing, within areas under their jurisdiction, one or more buffer areas in which activities are less severely restricted while remaining compatible with the purposes of the protected area.

Article 12

TRADITIONAL ACTIVITIES

1. The Contracting Parties shall, in promulgating protective measures, take into account the traditional activities of their local populations in the areas to be protected. To the fullest extent possible, no exemption which is allowed for this reason shall be such as:

(*a*) to endanger either the maintenance of ecosystems protected under the terms of the present Protocol or the biological processes contributing to the maintenance of those ecosystems;

(*b*) to cause either the extinction of, or any substantial reduction in, the number of individuals making up the species of animal or plant populations within the protected ecosystems, or any ecologically connected species or populations, particularly migratory, endemic, rare, depleted, threatened or endangered species.

2. Contracting Parties which allow exemptions under paragraph 1 of this article with regard to protective measures shall inform the Organization accordingly.

Article 13

FRONTIER PROTECTED AREAS

1. If a Contracting Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of another Contracting Party, the two Contracting Parties shall, as necessary, consult each other with a view to reaching agreement on the measures to be taken and shall, among other things, examine the possibility of the establishment by the other Party of a corresponding protected area or buffer area.

2. If a Contracting Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a State which is not a party to this Protocol, the Party shall endeavour to work together with that State with a view to holding consultations as referred to in the preceding paragraph.

3. If a State which is not a party to this Protocol intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a Contracting Party to this Protocol, the latter shall endeavour to work together with that State with a view to holding consultations.

Article 14

PUBLICITY AND NOTIFICATION

The Contracting Parties shall give appropriate publicity to the establishment of protected areas, in particular to their boundaries and the regulations applying thereto. Such information shall be transmitted to the Organization which shall compile and maintain a current directory of protected areas in the Eastern African region. The Contracting Parties shall provide the Organization with all information necessary for that purpose.

Article 15

PUBLIC INFORMATION AND EDUCATION

The Contracting Parties shall endeavour to inform the public as widely as possible of the significance and interest of protected areas and the protection of wild fauna and flora and the scientific knowledge which may be gained from them. Such information should have an appropriate place in education programmes concerning the environment, archaeology and history. The Contracting Parties should also endeavour to promote the participation of their public and their nature conservation organizations in the protection of the areas and wild fauna and flora concerned.

Article 16

REGIONAL CO-OPERATION

The Contracting Parties shall establish a regional programme to coordinate the selection, establishment, and management of protected areas and the protection of wild fauna and flora with a view to creating a representative network of protected areas in the Eastern African region. There shall be regular exchanges of information concerning the characteristics of the protected areas and wild fauna and flora, the experience acquired and the problems encountered.

Article 17

SCIENTIFIC AND TECHNICAL RESEARCH

1. The Contracting Parties shall encourage and develop scientific and technical research on their protected areas and on the ecosystems, wild fauna and flora, and archaeological heritage of the Eastern African region.

2. The Contracting Parties shall exchange scientific and technical information concerning current or planned research and their results. They shall, to the fullest extent possible, co-ordinate their research, and define jointly or standardize the scientific methods to be applied in the selection, management and monitoring of protected areas.

Article 18

EXCHANGE OF INFORMATION

1. In applying the principles of co-operation set forth in articles 16 and 17, the Contracting Parties shall forward to the Organization:

(*a*) Comparable information for monitoring the biological development of the Eastern African region;

(*b*) Inventories, publications and information of a scientific, administrative and legal nature, in particular:

(i) On the measures taken by the Contracting Parties in pursuance of this Protocol for the protection of the protected areas and wild fauna and flora;

(ii) On the wild fauna and flora present in the protected areas or listed in the annexes to this Protocol;

(iii) On any threats to protected areas or wild fauna and flora, especially those threats which may come from sources outside their control;

(iv) On any changes in the delimitation or legal status of a protected area or the suppression of all or part of such an area.

2. The Contracting Parties shall designate persons responsible for protected areas. Those persons shall meet at least once every two years to discuss matters of joint interest and especially to propose to the Contracting Parties recommendations concerning scientific, administrative and legal measures to be adopted to improve the application of the provisions of this Protocol.

Article 19

TECHNICAL CO-OPERATION

The Contracting Parties shall co-operate, directly or with the assistance of competent regional or international organizations, in the provision to other Contracting Parties of technical and other assistance in fields related to the selection, establishment and management of protected areas and the protection of wild fauna and flora. Such assistance should relate, in particular, to the training of scientific, technical and managerial personnel and scientific research.

Article 20

ALTERATION OF THE BOUNDARIES OF OR WITHDRAWAL OF PROTECTION FROM, PROTECTED AREAS

Changes in the delimitation or legal status of a protected area, or the suppression of all or part of such an area, shall not take place unless for significant reasons, taking into account the need to protect the environment and according to the rules and obligations provided in this Protocol.

Article 21

MEETINGS OF THE PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties to this Protocol, in particular:

(*a*) To keep under review the implementation of this Protocol;

(*b*) To consider the efficacy of the measures adopted and to examine the need for other measures, in particular in the form of annexes in conformity with the provisions of article 20 of the Convention;

(*c*) To adopt, review and amend as required any annex to this Protocol;

(*d*) To monitor the establishment and development of the network of protected areas referred to in article 16, to adopt guidelines to facilitate the establishment and development of that system and to increase co-operation among the Contracting Parties;

(*e*) To consider the recommendations made by the meetings of the persons responsible for the protected areas, as provided by article 18, paragraph 2;

(*f*) To consider, as appropriate, information transmitted by the Contracting Parties to this Protocol to the Organization under article 23 of the Convention.

Article 22

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

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

DONE at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX I

Protected species of wild flora

Uvariodendron gorgonis Verdc. (Kenya)
Grevia madagascariensis Baill. subsp. *keniensis* Verdc. (Kenya)
Saintpaulia rupicola B.L. Burtt (Kenya)
Beccariophoenix madagascariensis Jumelle & Perr. (Madagascar)
Crinum mauritianum Lodd. (Mauritius)
Tetrataxis salicifolia (Thouars ex Tul.) Baker (Mauritius)
Zanthoxylum paniculatum Balf. f. (Mauritius, Rodrigues)
Hibiscus liliiflorus Cav. (Mauritius, Rodrigues)
Lodoicea maldivica (J. F. Gmelin) Pers. (Seychelles)
Toxocarpus schimperianus Hemsley (Seychelles)
Peponium sublitorale C. Jeffrey & J. S. Page (Seychelles, Aldabra)

ANNEX II

Species of wild fauna requiring special protection

MAMMALS

Zanzibar red colobus (*Colobus badius kirkii*)
Zanzibar suni (*Neotragus moschatus moschatus*)
Mauritius fruit bat (*Pteropus niger*)
Rodrigues fruit bat (*Pteropus rodricensis*)
Dugong (*Dugong dugon*)
Humpback whale (*Megaptera novaeangliae*)
Blue whale (*Balaenoptera musculus*)
Lemurs (*Lemur spp.*)
Nosy Bé sportive lemur (*Lepilemur dorsalis*)
Coquerel's mouse lemur (*Microcebus coquereli*)
Aye aye (*Daubentonia madagascariensis*)

BIRDS

Sokoke pipit (*Anthus sokokensis*)
Sokoke scops owl (*Otus ireneae*)
Amani sunbird (*Anthreptes pallidigaster*)
East coast akalat (*Sheppardia gunningi gunningi*)
Pemba scops owl (*Otus rutilus pembaensis*)
Wattled crane (*Bugeranus carunculatus*)

Clarke's weaver (*Ploceus golandi*)
Spotted ground thrush (*Turdus fisheri fisheri*)
Aldabra white-throated rail (*Dryolimmas cuvieri aldabranus*)
Aldabra brush warbler (*Nesillas aldabranus*)
Aldabra sacred ibis (*Threskiornis aethiopica*)
Aldabra kestrel (*Falco newtoni aldabranus*)
Mauritius kestrel (*Falco punctatus*)
Seychelles magpie robin (*Copsychus sechellarum*)
Seychelles fody (*Foudia flavicans*)
Rodriquez fody (*Foudia flavicans*)
Seychelles brush warbler (*Acrocephalus sechellensis*)
Seychelles turtle dove (*Streptopelia picturata rostrata*)
Madagascar fish eagle (*Haliaeetus vociferoides*)
Reunion cuckoo-shrike (*Coracina newtoni*)
Madagascar heron (*Ardea humbloti*)
Grand Comoro scops owl (*Otus pauliani*)
Grand Comoro flycatcher (*Humblotia flavirostris*)
Mount Karthala white-eye (*Zosterops mouroniensis*)
Grand Comoro drongo (*Dicrurus fuscipennis*)
Mayotte drongo (*Dicrurus waldeni*)
Mascarene black petrel (*Pterodroma aterrima*)
Tana thrush (*Turdus helleri*)
Hinde's pied babbler (*Turdoides hindei*)
Papyrus yellow warbler (*Chloropeta gracilirostris*)
Taita river cisticola (*Cisticola restricta*)
Turner's eremomela (*Eremomela turneri*)
Chapin's flycatcher (*Muscicapa lendu*)
Madagascar little grebe (*Tachybaptus pelzelnii*)
Alaotra grebe (*Tachybaptus rufolavatus*)
Madagascar teal (*Anas bernieri*)
Madagascar pochard (*Aythya innotata*)
Madagascar serpent eagle (*Eutriorchis astur*)
White-breasted mesite (*Mesoenas variegata*)
Brown mesite (*Mesoenas unicolor*)
Subdesert mesite (*Monias benschi*)
Slender-billed flufftail (*Sarothrura watersi*)
Sakalava rail (*Amaurornis olivieri*)
Madagascar plover (*Charadrius thoracicus*)
Snail-eating coua (*Coua delalandei*)
Madagascar red owl (*Tyto soumagnei*)
Short-legged ground-roller (*Brachypteracias leptosomus*)
Scaly ground-roller (*Brachypteracias squamiger*)
Roufous-headed ground-roller (*Atelornis crossleyi*)
Long-tailed ground-roller (*Uratelornis chimaera*)
Yellow-bellied sunbird-asity (*Neodrepanis hypoxantha*)
Appert's greenbul (*Phyllastrephus apperti*)
Dusky greenbul (*Phyllastrephus tenebrosus*)
Grey-crowned greenbul (*Phyllastrephus cinereiceps*)
Van Dam's vanga (*Xenopirostris damii*)
Pollen's vanga (*Xenopirostris polleni*)
Benson's rockthrush (*Monticola bensoi*)
Madagascar yellowbrow (*Crossleyia xanthophrys*)
Red-tailed newtonia (*Newtonia fanovanae*)
Pink pigeon (*Nesoenas mayeri*)
Mauritius parakeet (*Psittacula eques*)
Mauritius cuckoo-shrike (*Coracina typica*)
Mauritius black bulbul (*Hypsipetes olivaceus*)
Rodrigues warbler (*Acrocephalus rodericanus*)
Mauritius olive white-eye (*Zosterops chloronothus*)

Mauritius fody (*Foudia rubra*)
Cape vulture (*Gyps coprotheres*)
Swynnerton's forest robin (*Swynnertonia swynnertoni*)
Dappled mountain robin (*Modulatrix orostruthus*)
Thyolo alethe (*Alethe choloensis*)
Long-billed apalis (*Apalis moreaui*)
Seychelles kestrel (*Falco araea*)
Seychelles scops owl (*Otus insularis*)
Seychelles swiftlet (*Collocalia elaphra*)
Seychelles black paradise flycatcher (*Terpsiphone corvina*)
Seychelles white-eye (*Zosterops modestus*)
Somalia pigeon (*Columba oliviae*)
Ash's lark (*Mirafra ashi*)
Somali long-clawed lark (*Heteromirafra archeri*)
Warsangli linnet (*Acanthis johannis*)
Shoebill (*Balaeniceps rex*)
Nduk eagle owl (*Bubo vosseleri*)
Uluguru bush-shrike (*Malaconotus alius*)
Usambara ground robin (*Dryocichloides montanus*)
Iringa ground robin (*Dryocichloides lowei*)
Karamoja apalis (*Apalis karamojae*)
Kungwe apalis (*Apalis argentea*)
Mrs. Moreau's warbler (*Bathmocercus winifredae*)
Banded green sunbird (*Anthreptes rubritorques*)
Rufous-winged sunbird (*Nectarinia rufipennis*)
Tanzanian mountain weaver (*Ploceus nicolli*)

REPTILES

Olive ridley turtle (*Lepidochelys olivacea*)
Loggerhead turtle (*Caretta caretta*)
Leatherback turtle (*Dermochelys coriacea*)
Serpent island gecko (*Cyrtodactylus serpensin sula*)
Round island day gecko (*Phelsuma guentheri*)
Round island skink (*Leiolopisma telfairii*)
Skink (*Gongylomorphus bojerii*)
Round island hoa (*Bolyeria multocarinata*)
Round island keel-scaled boa (*Casarea dussumieri*)
Aldabra giant tortoise (*Dipsochelys elephantina*)
Madagascar tortoise (*Geochelone yniphora*)

MOLLUSCS

Triton's trumpet (*Charonia tritonia*)
Commercial trochus (*Trochus niloticus*)
Fluted giant clam (*Tridacna squamosa*)
Small giant clam (*Tridacna maxima*)
Horse's hoof clam (*Hippopus hippopus*)
Pearl oyster (*Pinctada spp.*)

CRUSTACEANS

Coconut crab (*Birgus latro*)

CNIDARIANS

Black coral (*Antipathes dichotoma*)
Whip coral (*Cirrhipathes spp.*)

INSECTS

Tenebrionid beetle (*Pulposipus herculeanus*)
Comoro graphium butterfly (*Graphium levassari*)

ANNEX III

Harvestable species of wild fauna requiring protection

Cane rats (*Thryonomys spp.*)
African Elephant (*Loxodonta africana*)
Rock hyrax (*Procavia capensis*)
Yellow-spotted hyrax (*Heterohyrax brucei*)
Tree hyrax (*Dendrohyrax arboreus*)
Burchell's zebra (*Equus burchelli*)
Hippopotamus (*Hippopotamus amphibius*)
Warthog (*Phacochoerus aethiopicus*)
Bush pig (*Potamochaerus porcus*)
Lesser kudu (*Tragelaphus imberbis*)
Common waterbuck (*Kobus ellipsiprymnus*)
Topi (*Damaliscus korrigum*)
Lichtenstein's hartebeest (*Alcelaphus lichtensteini*)
Wildebeest (*Connochaetes taurinus*)
Impala (*Aepyceros melampus*)
Grimm's duiker (*Sylvicapra grimmia*)
Buffalo (*Syncerus caffer*)
Spiny lobsters (*Panulirus spp.*)
Green turtle (*Chelonia mydas*)
Hawksbill turtle (*Eretmochelys imbricata*)

ANNEX IV

Protected migratory species

MAMMALS

Dugong (*Dugong dugon*)
Humpback whale (*Megaptera novaeangliae*)
Blue whale (*Balaenoptera musculus*)

REPTILES

Green turtle (*Chelonia mydas*)
Hawksbill turtle (*Eretmochelys imbricata*)
Olive ridley turtle (*Lepidochelys olivacea*)
Loggerhead turtle (*Caretta caretta*)
Leatherback turtle (*Dermochelys coriacea*)

Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region, Nairobi, 1985

Done at Nairobi 21 June 1985

Not in force

Primary source citation: Copy of text provided by the United Nations Environment Program

PROTOCOL CONCERNING CO-OPERATION IN COMBATING MARINE POLLUTION IN CASES OF EMERGENCY IN THE EASTERN AFRICAN REGION

The Contracting Parties to the present Protocol,

Being Contracting parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African region, done at Nairobi on 21 June 1985,

Conscious that the use of the Eastern African region and adjacent areas for vessel traffic, oil production and refining activities poses the risk of major spillages of oil and other harmful substances and the subsequent serious threat to the marine and coastal environment and related interests of the States of the region,

Noting the International Maritime Organization's Assembly Resolution A.448(XI) which recognizes that regional anti-pollution arrangements are a valuable and economical way of supplementing national arrangements for the effective combating of major spillages of oil and other harmful substances in cases of emergency,

Recognizing that in the event of major spillages of oil and other harmful substances or threat thereof, prompt and effective action should be taken, initially at the local level, to mitigate the effects or eliminate the threat,

Further recognizing that for major spillages mutual assistance, and in some cases, assistance from the international community at large will be required, and that such assistance should be organized in advance so as to be timely and effective,

Aware of existing agreements and arrangements which have already been concluded in other regions for co-operation in dealing with spillages of oil and other harmful substances,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(*a*) "Eastern African region" means the Convention area as defined in paragraph (*a*) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment;

(*b*) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

(*c*) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention;

(*d*) "Marine pollution incident" means a discharge or spillage of oil or other harmful substance into the marine environment, or a significant threat of such a discharge or spillage, however caused, of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating the threat;

(*e*) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(*f*) "Harmful substances" means any substance other than oil which, if introduced into the sea creates hazards to human health, harms living resources and marine life, damages amenities or interferes with other legitimate uses of the sea;

(*g*) "Related interests" means the interests of a Contracting Party directly affected or threatened by oil or other harmful substances and concerning, among others:

(i) The health of the coastal population;

(ii) Maritime, coastal, port or estuarine activities;

(iii) Fishing activities and the conservation of natural resources;

(iv) The historical and tourist appeal of the area in question, including water sports and recreation.

Article 2

APPLICATION

This Protocol applies to marine pollution incidents which have resulted in or which pose a significant threat of, pollution to the marine and coastal environment of the Eastern African region or which adversely affect the related interests of one or more of the Contracting Parties.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventive and remedial, for the protection of the marine and coastal environment of the Eastern African region from marine pollution incidents.

2. The Contracting Parties shall, within their capabilities, establish and maintain the means of responding to marine pollution incidents and shall endeavour to reduce the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the identification and development of the capability to respond to marine pollution incidents and the designation of a national authority with overall responsibility for the implementation of this Protocol.

Article 4

EXCHANGE OF INFORMATION

Each Contracting Party shall periodically exchange with the other Contracting Parties up-to-date information relating to the implementation of this Protocol, including the identity of the authorities responsible for such implementation, and information on their laws, regulations, institutions and operational procedures relating to the prevention of a marine pollution incident and to the means of reducing and combating the harmful effects of such incidents.

Article 5

COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, MARINE POLLUTION INCIDENTS

1. Each Contracting Party shall establish appropriate procedures to ensure that information regarding marine pollution incidents is reported as rapidly as possible, and shall, *inter alia*:

(*a*) Require its appropriate officials, masters of ships flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it any marine pollution incident involving their ships or facilities;

(*b*) Request masters of all ships and pilots of all aircraft operating in the vicinity of its coasts to report to it any marine pollution incident of which they are aware.

2. Guidelines to be followed in preparing the report to be made pursuant to paragraph 1 are given in the annex to this Protocol.

3. In the event of receiving a report regarding a marine pollution incident, a Contracting Party shall immediately notify all other Contracting Parties whose interests are likely to be affected by such an incident, as well as the flag State of any ship involved in it. The Contracting Party shall also inform the Organization and the competent international organizations. Furthermore, as soon as feasible, it shall inform such Contracting Parties, the Organization and competent international organizations of measures it has taken to minimize or reduce marine pollution or the threat thereof.

Article 6

MUTUAL ASSISTANCE

1. Each Contracting Party shall render assistance, within its available capabilities, to other Contracting Parties which request assistance of it in the event of a marine pollution incident, as appropriate, within the framework of joint response action agreed between or among the requesting and assisting Contracting Parties and taking into account, in the event of a marine pollution incident involving harmful substances other than oil, the available technology.

2. Each Contracting Party shall, subject to its laws and regulations, facilitate the movement into, through and out of its territory of technical personnel, equipment and material necessary for responding to a marine pollution incident.

Article 7

OPERATIONAL MEASURES

Each Contracting Party shall, within its capabilities, take all necessary steps, including those outlined below, to respond to a marine pollution incident:

(*a*) Make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(*b*) Promptly communicate notification of the incident pursuant to article 5;

(*c*) Promptly determine its ability to take effective measures to respond to the incident and the assistance that might be required;

(*d*) Consult, as appropriate, with other Contracting Parties concerned in the process of determining the necessary response to the incident;

(*e*) Take the measures necessary to prevent, reduce or eliminate the effects of the incident, including monitoring of the situation.

Article 8

SUBREGIONAL ARRANGEMENTS

1. With a view to facilitating the implementation of the provisions of this Protocol, and in particular articles 6 and 7, the Contracting Parties shall conclude appropriate bilateral or multilateral subregional arrangements.

2. Contracting Parties to this Protocol which enter into such subregional arrangements shall notify the other Contracting Parties, as well as the Organization, of the conclusion and the content of such arrangements.

Article 9

INSTITUTIONAL ARRANGEMENTS

The Contracting Parties designate the Organization to carry out, in co-operation with the International Maritime Organization, the following functions:

(*a*) Assisting Contracting Parties, upon request, in the following areas:

(i) The preparation, periodic review and updating of the contingency plans referred to in paragraph 2 of article 3, with a view, *inter alia,* to promoting the compatibility of the plans of the Contracting Parties; and

(ii) Publicizing training courses, programmes and material.

(*b*) Assisting the Contracting Parties, upon request, on a regional basis, in the following areas:

(i) The co-ordination of regional emergency response activities; and

(ii) The provision of a forum for discussion of such activities and related topics.

(*c*) Establishing and maintaining liaison with:

(i) Competent regional and international organizations; and

(ii) Appropriate entities conducting activities in the Eastern African region including major oil producers, refiners, clean-up contractors and co-operatives for marine pollution incidents, and transporters of oil and other harmful substances.

(*d*) Maintaining a current inventory of equipment, materials and expertise readily available in the Eastern African region to deal with a marine pollution incident;

(*e*) Disseminating information on the prevention and combating of marine pollution incidents;

(*f*) Identifying or maintaining means for marine emergency response communications;

(*g*) Encouraging research by the Contracting Parties, competent international organizations and appropriate entities on marine pollution-related matters, including the environmental impacts of spillages of oil and other harmful substances and materials and techniques used for combating such spillages;

(*h*) Assisting the Contracting Parties in the exchange of information pursuant to article 4; and

(*i*) Preparing reports and carrying out other duties assigned to it by the Contracting Parties.

Article 10

MEETINGS OF THE CONTRACTING PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties:

(*a*) To review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness; and

(*b*) To consider measures to improve co-operation under this Protocol including, in accordance with article 19 of the Convention, possible amendments to this Protocol.

Article 11

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

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

DONE AT Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX

Guidelines for the report to be made pursuant to article 5, paragraph 1, of this Protocol

1. Each report shall, as far as possible, contain:

(*a*) The identification of the source of pollution (e.g. identity of the ship, fixed or floating platform or any other structure), where appropriate;

(*b*) The geographic position, time and date of the observation or of the occurrence of the incident;

(*c*) The marine meteorological conditions prevailing in the area.

2. Each report shall contain, whenever possible, in particular:

(*a*) A clear indication or description of oil or other harmful substances involved;

(*b*) A statement or estimate of the quantities, concentrations, nature (oil or a noxious liquid, solid or gaseous substance) and likely conditions of oil or other harmful substances discharged or likely to be discharged into the sea.

3. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

4. Any of the persons referred to in article 5, paragraph 1, of this Protocol shall:

(*a*) Supplement as far as possible the initial report, as necessary, with information concerning further developments; and

(*b*) Comply as fully as possible with requests from affected States for additional information.

APPENDIX

Status as at 22 June 1985 of the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region and related protocols

	Convention		*Protocol on Protected Areas*[a]		*Protocol on Pollution Emergencies*[b]	
Parties	*Signature*	*Ratification*	*Signature*	*Ratification*	*Signature*	*Ratification*
Comoros	—	—	—	—	—	—
France	22 June 85	—	22 June 85	—	22 June 85	—
Kenya	—	—	—	—	—	—
Madagascar	22 June 85	—	22 June 85	—	22 June 85	—
Mauritius	—	—	—	—	—	—
Mozambique	—	—	—	—	—	—
Seychelles	22 June 85	—	22 June 85	—	22 June 85	—
Somalia	22 June 85	—	22 June 85	—	22 June 85	—
United Republic of Tanzania	—	—	—	—	—	—
European Economic Community	—	—	—	—	—	—

[a] Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region.

[b] Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region.

Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, Noumea, 1986

Done at Noumea 24 November 1986

Entered into force 22 August 1990

Depositary: The South Pacific Bureau for Economic Cooperation

Primary source citation: Senate Treaty Document 101-21, 101st Congress, 2d Session, U.S. Government Printing Office, Washington, 1990

CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

THE PARTIES,

FULLY AWARE of the economic and social value of the natural resources of the environment of the South Pacific Region;

TAKING INTO ACCOUNT the traditions and cultures of the Pacific people as expressed in accepted customs and practices;

CONSCIOUS of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations;

RECOGNIZING the special hydrological, geological and ecological characteristics of the region which requires special care and responsible management;

RECOGNIZING FURTHER the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process;

SEEKING TO ENSURE that resource development shall be in harmony with the maintenance of the unique environmental quality of the region and the evolving principles of sustained resource management;

REALIZING FULLY the need for co-operation amongst themselves and with competent international, regional and sub-regional organisations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region;

RECOGNIZING the desirability for the wider acceptance and national implementation of international agreements already in existence concerning the marine and coastal environment;

NOTING, however, that existing international agreements concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Pacific Region;

DESIROUS to adopt the regional convention to strengthen the implementation of the general objectives of the Action Plan for Managing the Natural Resources and Environment of the South Pacific Region adopted at Rarotonga, Cook Islands, on 11 March 1982;

HAVE AGREED AS FOLLOWS:

Article 1

GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the South Pacific Region, hereinafter referred to as "the Convention Area" as defined in paragraph (a) of article 2.

2. Except as may be otherwise provided in any Protocol to this Convention, the Convention Area shall not include internal waters or archipelagic waters of the Parties as defined in accordance with international law.

Article 2

DEFINITIONS

For the purposes of this Convention and its Protocols unless otherwise defined in any such Protocol:

(a) the "Convention Area" shall comprise:

(i) the 200 nautical mile zones established in accordance with international law off:

American Samoa
Australia (East Coast and Islands to eastward including Macquarie Island)
Cook Islands
Federated States of Micronesia
Fiji
French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia and Dependencies
Niue
New Zealand
Northern Mariana Islands
Palau
Papua New Guinea
Pitcairn Islands
Solomon Islands
Tokelau
Tonga
Tuvalu
Vanuatu
Wallis and Futuna
Western Samoa

(ii) those areas of high seas which are enclosed from all sides by the 200 nautical mile zones referred to in sub-paragraph (i);

(iii) areas of the Pacific Ocean which have been included in the Convention Area pursuant to article 3;

(b) "dumping" means:

- any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

- any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea;

"dumping" does not include:

- the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

- placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention;

(c) "wastes or other matter" means material and substances of any kind, form or description;

(d) the following wastes or other matter shall be considered to be non-radioactive: sewage sludge, dredge spoil, fly ash, agricultural wastes, construction materials, vessels, artificial reef building materials and other such materials, provided that they have not been contaminated with radio nuclides of anthropogenic origin (except dispersed global fallout from nuclear weapons testing), nor are potential sources of naturally occurring radio nuclides for commercial purposes, nor have been enriched in natural or artificial radio nuclides;

if there is a question as to whether the material to be dumped should be considered non-radioactive, for the purposes of this Convention, such material shall not be dumped unless the appropriate national authority of the proposed dumper confirms that such dumping would not exceed the individual and collective dose limits of the International Atomic Energy Agency general principles for the exemption of radiation sources and practices from regulatory control. The national authority shall also take into account the relevant recommendations, standards and guidelines developed by the International Atomic Energy Agency;

(e) "vessels" and "aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air-cushioned craft and floating craft, whether self-propelled or not;

(f) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

in applying this definition to the Convention obligations, the Parties shall use their best endeavours to comply with the appropriate standards and recommendations established by competent international organizations, including the International Atomic Energy Agency;

(g) "Organisation" means the South Pacific Commission;

(h) "Director" means the Director of the South Pacific Bureau for Economic Co-operation.

Article 3

ADDITION TO THE CONVENTION AREA

Any party may add areas under its jurisdiction within the Pacific Ocean between the Tropic of Cancer and 60 degrees South latitude and between 130 degrees East longitude and 120 degrees West longitude to the Convention Area. Such addition shall be notified to the Depositary who shall promptly notify the other Parties and the Organisation. Such areas shall be incorporated within the Convention Area ninety days after notification to the Parties by the Depositary, provided there has been no objection to the proposal to add new areas by any Party affected by that proposal. If there is any such objection the Parties concerned will consult with a view to resolving the matter.

Article 4

GENERAL PROVISIONS

1. The Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or sub-regional agreements, for the protection, development and management of the marine and coastal environment of the Convention Area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organisation and through it to all Parties to this Convention.

2. Nothing in this Convention or its Protocols shall be deemed to affect obligations assumed by a Party under agreements previously concluded.

3. Nothing in this Convention and its Protocols shall be construed to prejudice or affect the interpretation and application of any provision or term in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

4. This Convention and its Protocols shall be construed in accordance with international law relating to their subject matter.

5. Nothing in this Convention and its Protocols shall prejudice the present or future claims and legal views of any Party concerning the nature and extent of maritime jurisdiction.

6. Nothing in this Convention shall affect the sovereign right of States to exploit, develop and manage their own natural resources pursuant to their own policies, taking into account their duty to protect and preserve the environment. Each Party shall ensure that activities within its jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of its national jurisdiction.

Article 5

GENERAL OBLIGATIONS

1. The Parties shall endeavour, either individually or jointly, to take all appropriate measures in conformity with international law and in accordance with this Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Parties shall endeavour to harmonise their policies at the regional level.

2. The Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention Area.

3. In addition to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, the Parties shall cooperate in the formulation and adoption of other Protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources or in promoting environmental management in conformity with the objectives of this Convention.

4. The Parties shall, taking into account existing internationally recognised rules, standards, practices and procedures, co-operate with competent global, regional and sub-regional organisations to establish and adopt recommended practices, procedures and measures to prevent, reduce and control pollution from all sources and to promote sustained resource management and to ensure the sound development of natural resources in conformity with the objectives of this Convention and its Protocols, and to assist each other in fulfilling their obligations under this Convention and its Protocols.

5. The Parties shall endeavour to establish laws and regulations for the effective discharge of the obligations prescribed in this Convention. Such laws and regulations shall be no less effective than international rules, standards and recommended practices and procedures.

Article 6

POLLUTION FROM VESSELS

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by discharges from vessels, and to ensure the effective application in the Convention Area of the generally accepted international rules and standards established through the competent international organisation or general diplomatic conference relating to the control of pollution from vessels.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory.

Article 8

POLLUTION FROM SEA-BED ACTIVITIES

The Parties shall take all appropriate measures to prevent, reduce control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 9

AIRBORNE POLLUTION

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10

DISPOSAL OF WASTES

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by dumping from vessels, aircraft, or man-made structures at sea, including the effective application of the relevant internationally recognised rules and procedures relating to the control of dumping of wastes and other matter. The Parties agree to prohibit the dumping of radioactive wastes or other radioactive matter in the Convention area. Without prejudice to whether or not disposal into the seabed and subsoil of wastes or other matter is "dumping", the Parties agree to prohibit the disposal into the seabed and subsoil of the Convention area of radioactive wastes or other radioactive matter.

2. This article shall also apply to the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

Article 11

STORAGE OF TOXIC AND HAZARDOUS WASTES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the storage of toxic and hazardous wastes. In particular, the Parties shall prohibit the storage of radioactive wastes or other radioactive matter in the Convention Area.

Article 12

TESTING OF NUCLEAR DEVICES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area which might result from the testing of nuclear devices.

Article 13

MINING AND COASTAL EROSION

The Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging.

Article 14

SPECIALLY PROTECTED AREAS AND PROTECTION OF WILD FLORA AND FAUNA

The Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat in the Convention Area. To this end, the Parties shall, as appropriate, establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. The establishment of such areas shall not affect the rights of other Parties or third States under international law. In addition, the Parties shall exchange information concerning the administration and management of such areas.

Article 15

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area.

2. When a Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be affected by such pollution, as well as the Organisation. Furthermore it shall inform, as soon as feasible, such other countries and territories and the Organisation of any measures it has itself taken to reduce or control pollution or the threat thereof.

Article 16

ENVIRONMENTAL IMPACT ASSESSMENT

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and sub-regional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.

2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.

3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:

(a) public comment according to its national procedures,

(b) other Parties that may be affected to consult with it and submit comments.

The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

Article 17

SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Parties shall co-operate, either directly or with the assistance of competent global, regional and sub-regional organisations, in scientific research, environmental monitoring, and the exchange of data and other scientific and technical information related to the purposes of the Convention.

2. In addition, the Parties shall, for the purposes of this Convention, develop and co-ordinate research and monitoring programmes relating to the Convention Area and co-operate, as far as practicable, in the establishment and implementation of regional, sub-regional and international research programmes.

Article 18

TECHNICAL AND OTHER ASSISTANCE

The Parties undertake to co-operate, directly and when appropriate through the competent global, regional and sub-regional organisations, in the provision to other Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the island developing countries and territories.

Article 19

TRANSMISSION OF INFORMATION

The Parties shall transmit to the Organisation information on the measures adopted by them in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the Parties may determine.

Article 20

LIABILITY AND COMPENSATION

The Parties shall co-operate in the formulation and adoption of appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.

Article 21

INSTITUTIONAL ARRANGEMENTS

1. The Organisation shall be responsible for carrying out the following secretariat functions:

(a) to prepare and convene the meetings of Parties;

(b) to transmit to the Parties notifications, reports and other information received in accordance with this Convention and its Protocols;

(c) to perform the functions assigned to it by the protocols to this Convention;

(d) to consider enquiries by, and information from, the Parties and to consult with them on questions relating to this Convention and the Protocols;

(e) to co-ordinate the implementation of co-operative activities agreed upon by the Parties;

(f) to ensure the necessary co-ordination with other competent global, regional and sub-regional bodies;

(g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;

(h) to perform such other functions as may be assigned to it by the Parties; and

(i) to transmit to the South Pacific Conference and the South Pacific Forum the reports of ordinary and extraordinary meetings of the Parties.

2. Each Party shall designate an appropriate national authority to serve as the channel of communication with the Organisation for the purposes of this Convention.

Article 22

MEETINGS OF THE PARTIES

1. The Parties shall hold ordinary meetings once every two years. Ordinary meetings shall review the implementation of this Convention and its Protocols and, in particular, shall:

(a) assess periodically the state of the environment in the Convention Area;

(b) consider the information submitted by the Parties under article 19;

(c) adopt, review and amend as required annexes to this Convention and to its Protocols, in accordance with the provisions of article 25;

(d) make recommendations regarding the adoption of any Protocols or any amendments to this Convention or its Protocols in accordance with the provisions of articles 23 and 24;

(e) establish working groups as required to consider any matters concerning this Convention and its Protocols;

(f) consider co-operative activities to be undertaken within the framework of this Convention and its Protocols, including their financial and institutional implications and to adopt decisions relating thereto;

(g) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its Protocols; and

(h) adopt by consensus financial rules and budget, prepared in consultation with the Organisation, to determine, inter alia, the financial participation of the Parties under this Convention and those Protocols to which they are party.

2. The Organisation shall convene the first ordinary meeting of the Parties not later than one year after the date on which the Convention enters into force in accordance with article 31.

3. Extraordinary meetings shall be convened at the request of any Party or upon the request of the Organisation, provided that such requests are supported by at least two-thirds of the Parties. It shall be the function of an extraordinary meeting of the Parties to consider those items proposed in the request for the holding of the extraordinary meeting and any other items agreed to by all the Parties attending the meeting.

4. The Parties shall adopt by consensus at their first ordinary meeting, rules of procedure for their meetings.

Article 23

ADOPTION OF PROTOCOLS

1. The Parties may, at a conference of plenipotentiaries, adopt Protocols to this Convention pursuant to paragraph 3 of article 5.

2. If so requested by a majority of the Parties, the Organisation shall convene a conference of plenipotentiaries for the purpose of adopting Protocols to this Convention.

Article 24

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties.

2. Any Party to this Convention may propose amendments to any Protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties to the Protocol concerned.

3. A proposed amendment to the Convention or any Protocol shall be communicated to the Organisation, which shall promptly transmit such proposal for consideration to all the other Parties.

4. A conference of plenipotentiaries to consider a proposed amendment to the Convention or any Protocol shall be convened not less than ninety days after the requirements for the convening of the Conference have been met pursuant to paragraphs 1 or 2, as the case may be.

5. Any amendment to this Convention shall be adopted by a three-fourths majority vote of the Parties to the Convention which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Convention. Amendments to any Protocol shall be adopted by a three-fourths majority vote of the Parties to the Protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Protocol.

6. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments shall enter into force between Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least three-fourths of the Parties to this Convention or to the Protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Party on the thirtieth day after the date on which that Party deposits its instrument.

7. After the entry into force of an amendment to this Convention or to a Protocol, any new Party to the Convention or such protocol shall become a Party to the Convention or Protocol as amended.

Article 25

ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol respectively.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to annexes to any Protocol:

(a) any Party may propose amendments to the annexes to this Convention or annexes to any Protocol;

(b) any proposed amendment shall be notified by the Organisation to the Parties not less than sixty days before the convening of a meeting of the Parties unless this requirement is waived by the meeting;

(c) such amendments shall be adopted at a meeting of the Parties by a three-fourths majority vote of the Parties to the instrument in question;

(d) the Depositary shall without delay communicate the amendments so adopted to all Parties;

(e) any Party that is unable to approve an amendment to the annexes to this Convention or to annexes to any Protocol shall so notify in writing to the Depositary within one hundred days from the date of the communication of the amendment by the Depositary. A Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party;

(f) the Depositary shall without delay notify all Parties of any notification received pursuant to the preceding sub-paragraph; and

(g) on expiry of the period referred to in sub-paragraph (e) above, the amendment to the annex shall become effective for all Parties to this Convention or to the Protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex as set out in the provisions of paragraph 2, provided that, if any amendment to the Convention or the Protocol concerned is involved, the new annex shall not enter into force until such time as that amendment enters into force.

4. Amendments to the Annex on Arbitration shall be considered to be amendments to this Convention or its Protocols and shall be proposed and adopted in accordance with the procedures set out in article 24.

Article 26

SETTLEMENT OF DISPUTES

1. In case of a dispute between Parties as to the interpretation or application of this Convention or its Protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. If the Parties concerned cannot reach agreement, they should seek the good offices of, or jointly request mediation by, a third Party.

2. If the Parties concerned cannot settle their dispute through the means mentioned in paragraph 1, the dispute shall, upon common agreement, except as may be otherwise provided in any Protocol to this Convention, be submitted to arbitration under conditions laid down in the Annex on Arbitration to this Convention. However, failure to reach common agreement on submission of the dispute to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by means referred to in paragraph 1.

3. A Party may at any time declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any other Party accepting the same obligation, the application of the arbitration procedure set out in the Annex on Arbitration. Such declaration shall be notified in writing to the Depositary who shall promptly communicate it to the other Parties.

Article 27

RELATIONSHIP BETWEEN THIS CONVENTION AND ITS PROTOCOLS

1. No State may become a Party to this Convention unless it becomes at the same time a Party to one or more Protocols. No State may become a Party to a Protocol unless it is, or becomes at the same time, a Party to this Convention.

2. Decisions concerning any Protocol pursuant to articles 22, 24 and 25 of this Convention shall be taken only by the Parties to the Protocol concerned.

Article 28

SIGNATURE

This Convention, the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping shall be open for signature at the South Pacific Commission Headquarters in Noumea, New Caledonia on 25 November 1986 and at the South Pacific Bureau for Economic Co-operation Headquarters, Suva, Fiji from 26 November 1986 to 25 November 1987 by States which were invited to participate in the Plenipotentiary Meeting of the High Level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region held at Noumea, New Caledonia from 24 November 1986 to 25 November 1986.

Article 29

RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval by States referred to in article 28. Instruments of ratification, acceptance or approval shall be deposited with the Director who shall be the Depositary.

Article 30

ACCESSION

1. This Convention and any Protocol thereto shall be open to accession by the States referred to in article 28 as from the day following the date on which the Convention or Protocol concerned was closed for signature.

2. Any State not referred to in paragraph 1 may accede to the Convention and to any Protocol subject to prior approval by three-fourths of the Parties to the Convention or the Protocol concerned.

3. Instruments of accession shall be deposited with the Depositary.

Article 31

ENTRY INTO FORCE

1. This Convention shall enter into force on the thirtieth day following the date of deposit of at least ten instruments of ratification, acceptance, approval or accession.

2. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the thirtieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of such Protocol, or of accession thereto, provided that no Protocol shall enter into force before the Convention. Should the requirements for entry into force of a Protocol be met prior to those for entry into force of the Convention pursuant to paragraph 1, such Protocol shall enter into force on the same date as the Convention.

3. Thereafter, this Convention and any Protocol shall enter into force with respect to any State referred to in articles 28 or 30 on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 32

DENUNCIATION

1. At any time after two years from the date of entry into force of this Convention with respect to a Party, that Party may denounce the Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any Protocol to this Convention, any Party may, at any time after two years from the date of entry into force of such Protocol with respect to that Party, denounce the Protocol by giving written notification to the Depositary.

3. Denunciation shall take effect ninety days after the date on which notification of denunciation is received by the Depositary.

4. Any Party which denounces this Convention shall be considered as also having denounced any Protocol to which it was a Party.

5. Any Party which, upon its denunciation of a Protocol, is no longer a Party to any Protocol to this Convention, shall be considered as also having denounced this Convention.

Article 33

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Parties, as well as the Organisation:

(a) of the signature of this Convention and of any Protocol thereto and of the deposit of instruments of ratification, acceptance, approval, or accession in accordance with articles 29 and 30;

(b) of the date on which the Convention and any Protocol will come into force in accordance with the provisions of article 31;

(c) of notification of denunciation made in accordance with article 32;

(d) of notification of any addition to the Convention Area in accordance with article 3;

(e) of the amendments adopted with respect to the Convention and to any Protocol, their acceptance by the Parties and the date of their entry into force in accordance with the provisions of article 24; and

(f) of the adoption of new annexes and of the amendments of any annex in accordance with article 25.

2. The original of this Convention and of any Protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Signatories, the Parties, to the Organisation and to the Secretary-General of the United Nations for registration and publication in accordance with article 102 of the United Nations Charter.

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

DONE at Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX ON ARBITRATION

Article 1

Unless the agreement referred to in article 26 of the Convention provides otherwise, the arbitration procedure shall be in accordance with the rules set out in this Annex.

Article 2

The claimant Party shall notify the Organisation that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2, or that paragraph 3 of article 26 of the Convention is applicable. The notification shall state the subject matter of the arbitration and include the provisions of the Convention or any Protocol thereto, the interpretation or application of which is the subject of disagreement. The Organisation shall transmit this information to all Parties to the Convention or Protocol concerned.

Article 3

1. The Tribunal shall consist of a single arbitrator if so agreed between the Parties to the dispute within thirty days from the date of receipt of the notification for arbitration.

2. In the case of the death, disability or default of the arbitrator, the Parties to a dispute may agree upon a replacement within thirty days of such death, disability or default.

Article 4

1. Where the Parties to a dispute do not agree upon a Tribunal in accordance with article 3 of this Annex, the Tribunal shall consist of three members:

(i) one arbitrator nominated by each Party to the dispute, and

(ii) a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2. If the Chairman of a Tribunal is not nominated within thirty days of nomination of the second arbitrator, the Parties to a dispute shall, upon the request of one Party, submit to the Secretary-General of the Organisation within a further period of thirty days, an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is, or has been, a national of one Party to the dispute except with the consent of the other Party to the dispute.

3. If one Party to a dispute fails to nominate an arbitrator as provided in subparagraph 1(i) within sixty days from the date of receipt of the notification for arbitration, the other Party may request the submission to the Secretary-General of the Organisation within a period of thirty days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the Party which has not nominated an arbitrator to do so. If this Party does not nominate an arbitrator within fifteen days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4. In the case of the death, disability or default of an arbitrator, the Party to the dispute who nominated him shall nominate a replacement within thirty days of such death, disability or default. If the Party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with paragraphs 1(ii) and 2 within ninety days of such death, disability or default.

5. A list of arbitrators shall be maintained by the Secretary-General of the Organisation and composed of qualified persons nominated by the Parties. Each Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the Parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

Article 5

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article 6

The Tribunal may, at the request of one of the Parties to the dispute, recommend interim measures of protection.

Article 7

Each Party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the Parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the Parties.

Article 8

Any Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the Parties to the dispute which have originally initiated the procedure, intervene in the arbitration

procedure with the consent of the Tribunal which should be freely given. Any intervenor shall participate at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral arguments on the matter giving rise to its intervention, in accordance with procedures established pursuant to article 9 of this Annex but shall have no rights with respect to the composition of the Tribunal.

Article 9

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

Article 10

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a Party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The Parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

(i) provide the Tribunal with all necessary documents and information, and

(ii) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene of the subject matter of the arbitration.

3. The failure of a Party to the dispute to comply with the provisions of paragraph 2 or to defend its case shall not preclude the Tribunal from reaching a decision and rendering an award.

Article 11

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organisation who shall inform the Parties. The Parties to the dispute shall immediately comply with the award.

Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, Noumea, 1986

Done at Noumea 24 November 1986

Entered into force 22 August 1990

Primary source citation: Senate Treaty Document 101-21, 101st Congress, 2d Session, U.S. Government Printing Office, Washington, 1990

PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING

THE PARTIES TO THE PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

RECOGNIZING the danger posed to the marine environment by pollution caused by the dumping of waste or other matter;

CONSIDERING that they have a common interest to protect the South Pacific Region from this danger, taking into account the unique environmental quality of the region;

DESIRING to enter into a regional agreement consistent with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 as provided in article VIII thereof according to which the Contracting Parties to that Convention have undertaken to endeavour to act consistently with the objectives and provisions of such regional agreement;

HAVE AGREED AS FOLLOWS:

Article 1

DEFINITIONS

For the purpose of this Protocol "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Article 2

GEOGRAPHICAL COVERAGE

The area to which this Protocol applies, hereinafter referred to as the "Protocol Area", shall be the Convention Area as defined in article 2 of the Convention together with the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

Article 3

GENERAL OBLIGATIONS

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Protocol Area by dumping.

2. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf of a Party as defined in international law shall not be carried out without the express prior approval of that Party, which has the right to permit, regulate and control such dumping taking fully into account the provisions of this Protocol, and after due consideration of the matter with other Parties which by reason of their geographical situation may be adversely affected thereby.

3. National laws, regulations and measures adopted by the Parties shall be no less effective in preventing, reducing and controlling pollution by dumping than the relevant internationally recognised rules and procedures relating to the control of dumping established within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

Article 4

PROHIBITED SUBSTANCES

1. The dumping in the Protocol of wastes or other matter listed in Annex 1 to this Protocol is prohibited except as provided in this Protocol.

2. No provision of this Protocol is to be interpreted as preventing a Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

Article 5

SPECIAL PERMITS

The dumping in the Protocol Area of wastes or other matter listed in Annex II to this Protocol requires, in each case, a prior special permit.

Article 6

GENERAL PERMITS

The dumping in the Protocol Area of all wastes or other matter not listed in Annexes I and II to this Protocol requires a prior general permit.

Article 7

FACTORS GOVERNING THE ISSUE OF PERMITS

The permits referred to in articles 5 and 6 shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol. The Organisation shall receive records of such permits.

Article 8

ALLOCATION OF SUBSTANCES TO ANNEXES

Substances are allocated to Annexes I and II of this Protocol in accordance with Annex IV.

Article 9

FORCE MAJEURE

The provisions of articles 4, 5 and 6 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life. Such dumping shall immediately be reported to the Organisation and, either through the Organisation or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

Article 10

EMERGENCIES

1. A Party may issue a special permit as an exception to article 4, in emergencies arising in the Protocol Area, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organization which, after consultating other Parties, and international organisations as appropriate, shall in accordance with article 15 promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

2. This article does not apply with respect to materials in whatever form produced for biological and chemical warfare referred to in paragraph 6 of Section A of Annex I.

3. Any Party may waive its rights under paragraph 1 at the time of, or subsequent to ratification, acceptance or approval of, or accession to this Protocol.

Article 11

ISSUANCE OF PERMITS

1. Each Party shall designate an appropriate authority or authorities to:

(a) issue the special permits provided for in article 5 and in the emergency circumstances provided for in article 10;

(b) issue the general permits provided for in article 6;

(c) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping; and

(d) monitor individually, or in collaboration with other Parties, and competent international organisations, the condition of the Protocol Area for the purposes of this Protocol.

2. The appropriate authority or authorities of each Party shall issue the permits provided for in articles 5 and 6 and in the emergency circumstances provided for in article 10 in respect of the wastes or other matter intended for dumping:

(a) loaded in its territory or at its off-shore terminals; or

(b) loaded by vessels flying its flag or vessels or aircraft of its registry when the loading occurs in the territory or at the offshore terminals of a State not Party to this Protocol.

3. In issuing permits under paragraphs 1 (a) and (b) the appropriate authority or authorities shall comply with Annex III together with such additional criteria, measures and requirements as they may consider relevant.

Article 12

IMPLEMENTATION AND ENFORCEMENT

1. Each Party shall apply the measures required to implement this Protocol to all:

(a) vessels flying its flag and vessels and aircraft of its registry;

(b) vessels and aircraft loading in its territory or at its offshore terminals wastes or other matter which are to be dumped; and

(c) vessels, aircraft and fixed or floating platforms believed to be engaged in dumping in areas under its jurisdiction.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Protocol.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Protocol particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Protocol.

4. This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the Organisation accordingly.

Article 13

ADOPTION OF OTHER MEASURES

Nothing in this Protocol shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping.

Article 14

REPORTING OF DUMPING INCIDENTS

Each Party undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Protocol area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Party shall, if it considers it appropriate, report accordingly to the Organisation and to any other Party concerned.

Article 15

INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

(a) to assist the Parties, upon request, in the communication of reports in accordance with articles 9 and 14;

(b) to convey to the Parties concerned all notifications received by the Organisation in accordance with articles 4(2) and 10;

(c) to transmit to the International Maritime Organization as the organisation responsible for the secretariat functions under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 records and any other information received in accordance with article 7;

(d) to keep itself informed on evolving international standards and the results of research and investigation, and to advise meetings of Parties to this Protocol of such developments and any modification of the Annexes which may become desirable; and

(e) to carry out other duties assigned to it by the Parties.

Article 16

MEETINGS OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with article 22 of the Convention.

2. It shall be the function of the meetings of the Parties to this Protocol to:

(a) keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of annexes;

(b) study and consider the records of the permits issued in accordance with articles 5, 6, 7 and the emergency situation in article 10, and of the dumping which has taken place;

(c) review and amend as required any Annex to this Protocol taking into account Annex IV;

(d) adopt as necessary guidelines for the preparation of records and procedures to be followed in submitting such records for the purposes of article 7;

(e) develop, adopt and implement in consultation with the Organisation and other competent international organisations procedures pursuant to article 10 including basic criteria for determining emergency circumstances and procedures for consultative advice and the safe disposal, storage or destruction of matter in such circumstances;

(f) invite, as necessary, the appropriate scientific body or bodies to collaborate with and to advise the Parties and the Organisation on any scientific or technical aspects relevant to this Protocol, including particularly the content and applicability of the Annexes; and

(g) perform such other functions as may be appropriate for the implementation of this Protocol.

3. The adoption of amendments to the Annexes to this Protocol pursuant to article 25 of the Convention shall require a three fourths majority vote of the Parties to this Protocol.

Article 17

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any protocol shall apply with respect to the present Protocol.

2. The rules of procedures and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

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

DONE at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX I

- A -

The following substances and materials are listed for the purposes of article 4 of this Protocol.

1. Organohalogen compounds.

2. Mercury and mercury compounds.

3. Cadmium and cadmium compounds.

4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.

5. Crude oil and its wastes, refined petroleum products, petroleum distillate residues and any mixtures containing any of these taken on board for the purpose of dumping.

6. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases, or in a living state) produced for biological and chemical warfare.

7. Organophosphorous compounds.

- B -

Section A does not apply to substances, other than substances produced for biological or chemical warfare, which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:

- make edible marine organisms unpalatable; or

- endanger human health or that of marine biota.

The consultative procedure provided for under article 10 shall be followed by a Party if there is doubt about the harmlessness of the substance.

- C -

This Annex does not apply to wastes or other materials, such as sewage sludges and dredged spoils, containing the matters referred to in paragraphs 1 - 5 of Section A as trace contaminants. The dumping of such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of article 5 of this Protocol.

- A -

Wastes containing a significant amount of the matters listed below:

arsenic)
lead)
copper) and their compounds
zinc)

organosilicon compounds
cyanides
fluorides
pesticides and their by-products not covered in Annex I.

- B -

In the issue of permits for the dumping of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in section A and to the following additional substances:

beryllium)
chromium)
nickel) and their compounds
vanadium)

- C -

Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

- D -

Substances which, though of a non-toxic nature, may become harmful due to the quantities in which they are dumped, or which are liable to seriously reduce amenities.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account article 7 of this Protocol, include:

- A -

Characteristics and Composition of the Matter

1. Total amount and average composition of matter dumped (e.g. per year).

2. Form (e.g. solid, sludge, liquid, or gaseous).

3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).

4. Toxicity.

5. Persistence: physical, chemical and biological.

6. Accumulation and biotransformation in biological materials or sediments.

7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.

8. Probability of production of taints or other changes reducing marketability of resources (e.g. fish, shellfish, etc.).

9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis and sufficient knowledge of the composition and characteristics of the waste or other matter proposed for dumping exist for assessing the impact of such material on the marine environment and human health.

- B -

Characteristics of Dumping Site and Method of Deposit

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).

2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).

3. Methods of packaging and containment, if any.

4. Initial dilution achieved by proposed method of release.

5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).

6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution - dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), - nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).

7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).

8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).

9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations.

- C -

General Considerations and Conditions

1. Possible effects on amenities (e.g. presence of floating or stranded materials, turbidity, objectionable odour, discolouration and foaming).

2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structure, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance of scientific or conservation purposes).

4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

- D -

References

Reference should also be made to "Guidelines for the Implementation and Uniform Interpretation of Annex III" as adopted by the Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution By Dumping of Wastes and Other Matter, 1972.

ANNEX IV
ALLOCATION OF SUBSTANCES TO ANNEXES

1. Substances are allocated to Annexes I and II on the grounds of any combination of the following criteria:

   Persistence and degradability,

   Bioaccumulation potential,

   Toxicity to marine life,

   Toxicity to man, domestic animals, marine mammals and birds preying on marine organisms,

   Carcinogenicity and mutagenicity,

   Ability to interfere with other legitimate uses of the sea.

2. Annex I substances are those which have a high degree of persistence coupled with:

   a the ability to accumulate to harmful levels in terms of toxicity to marine organisms and their predators, to domestic animals or to man; or

   b the ability to accumulate through marine pathways to levels harmful in terms of carcinogenicity or mutagenicity to domestic animals or to man; or

   c the ability to cause interference with fisheries, amenities or other legitimate uses of the sea.

3. Annex II substances are all those considered suitable for inclusion in the Annexes except for those allocated to Annex I.

Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, Noumea, 1986

Done at Noumea 24 November 1986

Entered into force 22 August 1990

Primary source citation: Senate Treaty Document 101-21, 101st Congress, 2d Session, U.S. Government Printing Office, Washington, 1990

PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION EMERGENCIES IN THE SOUTH PACIFIC REGION

THE PARTIES TO THIS PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

CONSCIOUS that the exploration, development and use of offshore and near shore minerals and the use of hazardous substances, as well as related vessel traffic, pose the threat of significant pollution emergencies in the South Pacific Region;

AWARE that the islands of the region are particularly vulnerable to damage resulting from significant pollution due to the sensitivity of their ecosystems and their economic reliance on the continuous utilization of their coastal areas;

RECOGNIZING that in the event of a pollution emergency or threat thereof, prompt and effective action should be taken initially at the national level to organise and co-ordinate prevention, mitigation and cleanup activities;

RECOGNIZING FURTHER the importance of rational preparation and mutual co-operation and assistance in responding effectively to pollution emergencies or the threat thereof;

DETERMINED to avert ecological damage to the marine environment and coastal areas of the South Pacific Region through the adoption of national contingency plans to be co-ordinated with appropriate bilateral and sub-regional contingency plans;

HAVE AGREED as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(a) "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

(b) "South Pacific Region" means the Convention Area as defined in article 2 of the Convention and adjacent coastal areas;

(c) "related interests" of a Party refer, inter alia, to:

(i) maritime, coastal, port, or estuarine activities;

(ii) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;

(iii) the cultural value of the area concerned and the exercise of traditional customary rights therein;

(iv) the health of the coastal population;

(v) tourist and recreational activities;

(d) "pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine and coastal environment or which adversely affects the related interests of one or more of the Parties and of a magnitude that requires emergency action or other immediate response for the purpose of minimising its effects or eliminating its threat.

Article 2

APPLICATION

This Protocol applies to pollution incidents in the South Pacific Region.

Article 3

GENERAL PROVISIONS

1. The Parties to this Protocol shall, within their respective capabilities, co-operate in taking all necessary measures for the protection of the South Pacific Region from the threat and effects of pollution incidents.

2. The Parties shall, within their respective capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority responsible for the implementation of this Protocol.

Article 4

EXCHANGE OF INFORMATION

Each Party shall periodically exchange with other Parties, either directly or through the Organisation, current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it, and information on its laws, regulations, institutions and operational procedures relating to the prevention and the means of reducing and combating the harmful effects of pollution incidents.

Article 5

COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, POLLUTION INCIDENTS

1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible and shall, inter alia:

(a) require appropriate officials of its government to report to it the occurrence of any pollution incident which comes to their attention;

(b) require masters of vessels flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it the existence of any pollution incident involving their vessel or facilities;

(c) establish procedures to encourage masters of vessels flying its flag or of its registry to report, to the extent practicable, the existence of any pollution incident involving their vessel to any coastal State in the South Pacific Region which they deem likely to be seriously affected;

(d) request masters of all vessels and pilots of all aircraft operating in the vicinity of its coasts to report to it any pollution incident of which they are aware.

2. In the event of receiving a report regarding a pollution incident, each Party shall promptly inform all other Parties whose interests are likely to be affected by such incident as well as the flag state of any vessel involved in it. Each Party shall also inform the Organisation and, directly or through the Organisation, the competent international organisations. Furthermore, it shall inform, as soon as feasible, such other Parties and organisations of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

Article 6

MUTUAL ASSISTANCE

1. Each Party requiring assistance to deal with a pollution incident may request, either directly or through the Organisation, the assistance of the other Parties. The Party requesting assistance shall specify the type of assistance it requires. The Parties whose assistance is requested under this article shall, within their capabilities, provide this assistance based on an agreement with the requesting Party or Parties and taking into account, in particular in the case of pollution by hazardous substances other than oil, the technological means available to them. If the Parties responding jointly within the framework of this article so request, the Organisation may co-ordinate the activities undertaken as a result.

2. Each Party shall facilitate the movement of technical personnel, equipment and material necessary for responding to a pollution incident, into, out of and through its territory.

Article 7

OPERATIONAL MEASURES

Each Party shall, within its capabilities, take steps including those outlined below in responding to a pollution incident:

(a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(b) promptly communicate information concerning the situation to other Parties and the Organisation pursuant to article 5;

(c) promptly determine its ability to take effective measures to respond to the pollution incident and the assistance that might be required and to communicate any request for such assistance to the Party or Parties concerned or the Organisation in accordance with article 6;

(d) consult, as appropriate, with other affected or concerned Parties or the Organisation in determining the necessary response to a pollution incident;

(e) carry out the necessary measures to prevent, eliminate or control the effects of the pollution incident, including surveillance and monitoring of the situation.

Article 8

SUB-REGIONAL ARRANGEMENTS

1. The Parties should develop and maintain appropriate sub-regional arrangements, bilateral or multilateral, in particular to facilitate the steps provided for in articles 6 and 7 and taking into account the general provisions of this Protocol.

2. The Parties to any arrangements shall notify the other Parties to this Protocol as well as the Organisation of the conclusion of such sub-regional arrangements and the provisions thereof.

Article 9

INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

(a) assisting Parties, upon request, in the communication of reports of pollution incidents in accordance with article 5;

(b) assisting Parties, upon request, in the organisation of a response action to a pollution incident, in accordance with article 6;

(c) assisting Parties, upon request, in the following areas:

(i) the preparation, periodic review, and updating of the contingency plans, referred to in paragraph 2 of article 3, with a view, inter alia, to promoting the compatibility of the plans of the Parties; and

(ii) the identification of training courses and programmes;

(d) assisting the Parties upon request, on a regional or sub-regional basis, in the following areas:

(i) the co-ordination of emergency response activities; and

(ii) the provision of a forum for discussions concerning emergency response and other related topics;

(e) establishing and maintaining liaison with:

(i) appropriate regional and international organisations; and

(ii) appropriate private organisations, including producers and transporters of substances which could give rise to a pollution incident in the South Pacific Region and clean-up contractors and co-operatives;

(f) maintaining an appropriate current inventory of available emergency response equipment;

(g) disseminating information related to the prevention and control of pollution incidents and the removal of pollutants resulting therefrom;

(h) identifying or maintaining emergency response communications systems;

(i) encouraging research by the Parties, as well as by appropriate international and private organisations, on the environmental effects of pollution incidents, the environmental effects of pollution incident control materials and other matters related to pollution incidents;

(j) assisting Parties in the exchange of information pursuant to article 4; and

(k) preparing reports and carrying out other duties assigned to it by the Parties.

Article 10

MEETINGS OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention, held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided for in article 22 of the Convention.

2. It shall be the function of the meetings of the Parties:

(a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;

(b) to consider any measures to improve co-operation under this Protocol including, in accordance with article 24 of the Convention, amendments to this Protocol.

Article 11

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, Basel, 1989

Done at Basel 22 March 1989

*Entered into force 5 May 1992**

Depositary: Secretary-General of the United Nations

Primary source citation: Senate Treaty Document 102-5, 102d Congress, 1st Session, U.S. Government Printing Office, Washington, 1991

BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

PREAMBLE

The Parties of this Convention,

Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof,

Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes,

Mindful also that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of their disposal,

Noting that States would ensure that the generator should carry out duties with regard to the transport and disposal of hazardous wastes and other wastes in a manner that is consistent with the protection of the environment, whatever the place of disposal,

Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory,

Recognizing also the increasing desire for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially developing countries,

* This Convention is not in force for the United States.

Convinced that hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated,

Aware also that transboundary movements of such wastes from the State of their generation to any other State should be permitted only when conducted under conditions which do not endanger human health and the environment, and under conditions in conformity with the provisions of this Convention,

Considering that enhanced control of transboundary movement of hazardous wastes and other wastes will act as an incentive for their environmentally sound management and for the reduction of the volume of such transboundary movement,

Convinced that States should take measures for the proper exchange of information on and control of the transboundary movement of hazardous wastes and other wastes from and to those States,

Noting that a number of international and regional agreements have addressed the issue of protection and preservation of the environment with regard to the transit of dangerous goods,

Taking into account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,

Mindful of the spirit, principles, aims and functions of the World Charter for Nature adopted by the General Assembly of the United Nations at its thirty-seventh session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

Affirming that States are responsible for the fulfilment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law,

Recognizing that in the case of a material breach of the provisions of this Convention or any protocol thereto the relevant international law of treaties shall apply,

Aware of the need to continue the development and implementation of environmentally sound low-waste technologies, recycling options, good house-keeping and management systems with a view to reducing to a minimum the generation of hazardous wastes and other wastes,

Aware also of the growing international concern about the need for stringent control of transboundary movement of hazardous wastes and other wastes, and of the need as far as possible to reduce such movement to a minimum,

Concerned about the problem of illegal transboundary traffic in hazardous wastes and other wastes,

Taking into account also the limited capabilities of the developing countries to manage hazardous wastes and other wastes,

Recognizing the need to promote the transfer of technology for the sound management of hazardous wastes and other wastes produced locally, particularly to the developing countries in accordance with the spirit of the Cairo Guidelines and decision 14/16 of the Governing Council of UNEP on Promotion of the transfer of environmental protection technology,

Recognizing also that hazardous wastes and other wastes should be transported in accordance with relevant international conventions and recommendations,

Convinced also that the transboundary movement of hazardous wastes and other wastes should be permitted only when the transport and the ultimate disposal of such wastes is environmentally sound, and

Determined to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the Convention

1. The following wastes that are subject to transboundary movement shall be "hazardous wastes" for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and

(b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be "other wastes" for the purposes of this Convention.

3. Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials, are excluded from the scope of this Convention.

4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are excluded from the scope of this Convention.

Article 2

Definitions

For the purposes of this Convention:

1. "Wastes" are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;

2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;

3. "Transboundary movement" means movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;

4. "Disposal" means any operation specified in Annex IV to this Convention;

5. "Approved site or facility" means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

6. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;

7. "Focal point" means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16;

8. "Environmentally sound management of hazardous wastes or other wastes" means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

9. "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;

10. "State of export" means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;

11. "State of import" means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

12. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;

13. "States concerned" means Parties which are States of export or import, or transit States, whether or not Parties;

14. "Person" means any natural or legal person;

15. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;

16. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;

17. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;

18. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;

19. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;

20. "Political and/or economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;

21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

Article 3

National Definitions of Hazardous Waste

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.

3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.

4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters.

Article 4

General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located to the extent possible, within it, whatever the place of their disposal;

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting;

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic;

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.

4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.

5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.

6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.

7. Furthermore, each Party shall:

(a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:

(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or

(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.

Article 5

Designation of Competent Authorities and Focal Point

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designation made by them under paragraph 2 above.

Article 6

Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

(a) The notifier has received the written consent of the State of import; and

(b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;

(b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or

(c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

Article 7

Transboundary Movement from a Party through States which are not Parties

Paragraph 2 of Article 6 of the Convention shall apply mutatis mutandis to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

Article 8

Duty to Re-import

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

Article 9

Illegal Traffic

1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:

(a) without notification pursuant to the provisions of this Convention to all States concerned; or

(b) without the consent pursuant to the provisions of this Convention of a State concerned; or

(c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or

(d) that does not conform in a material way with the documents; or

(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law,

shall be deemed to be illegal traffic.

2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

(a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,

(b) are otherwise disposed of in accordance with the provisions of this Convention,

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article.

Article 10

International Co-operation

1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.

2. To this end, the Parties shall:

(a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;

(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice.

3. The Parties shall employ appropriate means to co-operate in order to assist developing countries in the implementation of subparagraphs a, b, c and d of paragraph 2 of Article 4.

4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, inter alia, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

Article 11

Bilateral, Multilateral and Regional Agreements

1. Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes or other wastes as required by this Convention.

Article 12

Consultations on Liability

The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.

Article 13

Transmission of Information

1. The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those States are immediately informed.

2. The Parties shall inform each other, through the Secretariat, of:

(a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;

(b) Changes in their national definition of hazardous wastes, pursuant to Article 3;

and, as soon as possible,

(c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;

(d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;

(e) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year, containing the following information:

(a) Competent authorities and focal points that have been designated by them pursuant to Article 5;

(b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:

(i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;

(ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;

(iii) Disposals which did not proceed as intended;

(iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;

(c) Information on the measures adopted by them in implementation of this Convention;

(d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;

(g) Information on disposal options operated within the area of their national jurisdiction;

(h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and

(i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done.

Article 14

Financial Aspects

1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

Article 15

Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.

4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.

5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

(a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;

(b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, inter alia, available scientific, technical, economic and environmental information;

(c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11;

(d) Consider and adopt protocols as required; and

(e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

6. The United Nations, its specialized agencies, as well as any State not party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

Article 16

Secretariat

1. The functions of the Secretariat shall be:

(a) To arrange for and service meetings provided for in Articles 15 and 17;

(b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

(c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;

(d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(e) To communicate with focal points and competent authorities established by the Parties in accordance with Article 5 of this Convention;

(f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;

(g) To receive and convey information from and to Parties on:

- sources of technical assistance and training;
- available technical and scientific know-how;
- sources of advice and expertise; and
- availability of resources

with a view to assisting them, upon request, in such areas as:

- the handling of the notification system of this Convention;
- the management of hazardous wastes and other wastes;
- environmentally sound technologies relating to hazardous wastes and other wastes, such as low- and non-waste technology;
- the assessment of disposal capabilities and sites;
- the monitoring of hazardous wastes and other wastes; and
- emergency responses;

(h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or

the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;

(i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;

(j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and

(k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.

3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

Article 17

Amendment of the Convention

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.

4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted the amendments to the protocol concerned, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 18

Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;

(b) Any Party that is unable to accept an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned, which have not submitted a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol enters into force.

Article 19

Verification

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention may inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. All relevant information should be submitted by the Secretariat to the Parties.

Article 20

Settlement of Disputes

1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph the dispute, if the parties to the dispute agree, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to reach common agreement on submission

of the dispute to the International Court of Justice or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

(a) submission of the dispute to the International Court of Justice; and/or

(b) arbitration in accordance with the procedures set out in Annex VI.

Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

Article 21

Signature

This Convention shall be open for signature by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations, in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23 March 1989 to 30 June 1989, and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.

Article 22

Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who will inform the Parties of any substantial modification in the extent of their competence.

Article 23

Accession

1. This Convention shall be open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 22 paragraph 2, shall apply to political and/or economic integration organizations which accede to this Convention.

Article 24

Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention shall have one vote.

2. Political and/or economic integration organizations, in matters within their competence, in accordance with Article 22, paragraph 3, and Article 23, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 25

Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

2. For each state or political and/or economic integration organization which ratifies, accepts, approves or formally confirms this Convention or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or political and/or economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a political and/or economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 26

Reservations and Declarations

1. No reservation or exception may be made to this Convention.

2. Paragraph 1 of this Article does not preclude a State or political and/or economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

Article 27

Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Withdrawal shall be effective one year from receipt of notification by the Depositary, or on such later date as may be specified in the notification.

Article 28

Depository

The Secretary-General of the United Nations shall be the Depository of this Convention and of any protocol thereto.

Article 29

Authentic Texts

The original Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Basel on the 22nd day of March 1989

Annex I

CATEGORIES OF WASTES TO BE CONTROLLED

Waste Streams

Y1 Clinical wastes from medical care in hospitals, medical centers and clinics
Y2 Wastes from the production and preparation of pharmaceutical products
Y3 Waste pharmaceuticals, drugs and medicines
Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals
Y6 Wastes from the production, formulation and use of organic solvents
Y7 Wastes from heat treatment and tempering operations containing cyanides
Y8 Waste mineral oils unfit for their originally intended use
Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
Y15 Wastes of an explosive nature not subject to other legislation
Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
Y17 Wastes resulting from surface treatment of metals and plastics
Y18 Residues arising from industrial waste disposal operations

Wastes having as constituents:

Y19 Metal carbonyls
Y20 Beryllium; beryllium compounds
Y21 Hexavalent chromium compounds
Y22 Copper compounds
Y23 Zinc compounds
Y24 Arsenic; arsenic compounds
Y25 Selenium; selenium compounds
Y26 Cadmium; cadmium compounds
Y27 Antimony; antimony compounds
Y28 Tellurium; tellurium compounds
Y29 Mercury; mercury compounds
Y30 Thallium; thallium compounds
Y31 Lead; lead compounds
Y32 Inorganic fluorine compounds excluding calcium fluoride
Y33 Inorganic cyanides
Y34 Acidic solutions or acids in solid form
Y35 Basic solutions or bases in solid form
Y36 Asbestos (dust and fibres)
Y37 Organic phosphorous compounds
Y38 Organic cyanides
Y39 Phenols; phenol compounds including chlorophenols
Y40 Ethers
Y41 Halogenated organic solvents
Y42 Organic solvents excluding halogenated solvents
Y43 Any congenor of polychlorinated dibenzo-furan
Y44 Any congenor of polychlorinated dibenzo-p-dioxin
Y45 Organohalogen compounds other than substances referred to in this Annex (eg. Y39, Y41, Y42, Y43, Y44).

Annex II

CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

Y46 Wastes collected from households
Y47 Residues arising from the incineration of household wastes

Annex III

LIST OF HAZARDOUS CHARACTERISTICS

UN Class*	Code	Characteristics
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.

* Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988).

3	H3	Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figure to make allowances for such differences would be within the spirit of this definition.)
4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1	Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.
5.2	H5.2	Organic Peroxides Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

Tests

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

Annex IV

DISPOSAL OPERATIONS

A. OPERATIONS WHICH DO NOT LEAD TO THE POSSIBILITY OF RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section A encompasses all such disposal operations which occur in practice.

D1 Deposit into or onto land, (e.g., landfill, etc.)
D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)
D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
D6 Release into a water body except seas/oceans
D7 Release into seas/oceans including sea-bed insertion
D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A
D9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)
D10 Incineration on land
D11 Incineration at sea
D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
D13 Blending or mixing prior to submission to any of the operations in Section A
D14 Repackaging prior to submission to any of the operations in Section A
D15 Storage pending any of the operations in Section A

B. OPERATIONS WHICH MAY LEAD TO RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A.

R1 Use as a fuel (other than in direct incineration) or other means to generate energy
R2 Solvent reclamation/regeneration
R3 Recycling/reclamation of organic substances which are not used as solvents
R4 Recycling/reclamation of metals and metal compounds
R5 Recycling/reclamation of other inorganic materials
R6 Regeneration of acids or bases
R7 Recovery of components used for pollution abatement
R8 Recovery of components from catalysts
R9 Used oil re-refining or other reuses of previously used oil
R10 Land treatment resulting in benefit to agriculture or ecological improvement
R11 Uses of residual materials obtained from any of the operations numbered R1-R10
R12 Exchange of wastes for submission to any of the operations numbered R1-R11
R13 Accumulation of material intended for any operation in Section B

Annex V A

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export
2. Exporter of the waste 1/
3. Generator(s) of the waste and site of generation 1/
4. Disposer of the waste and actual site of disposal 1/
5. Intended carrier(s) of the waste or their agents, if known 1/
6. Country of export of the waste
   Competent authority 2/
7. Expected countries of transit
   Competent authority 2/
8. Country of import of the waste
   Competent authority 2/
9. General or single notification
10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit) 3/
11. Means of transport envisaged (road, rail, sea, air, inland waters)
12. Information relating to insurance 4/
13. Designation and physical description of the waste including Y number and UN number and its composition 5/ and information on any special handling requirements including emergency provisions in case of accidents
14. Type of packaging envisaged (eg. bulk, drummed, tanker)
15. Estimated quantity in weight/volume 6/
16. Process by which the waste is generated 7/
17. For wastes listed in Annex I, classifications from Annex III: hazardous characteristic, H number, and UN class.
18. Method of disposal as per Annex IV
19. Declaration by the generator and exporter that the information is correct
20. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import.
21. Information concerning the contract between the exporter and disposer.

Notes

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.

2/ Full name and address, telephone, telex or telefax number.

3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the ships will be required.

4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

5/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

Annex V B

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/
2. Generator(s) of the waste and site of generation 1/
3. Disposer of the waste and actual site of disposal 1/
4. Carrier(s) of the waste 1/ or his agent(s)
5. Subject of general or single notification
6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste
7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties.
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

Notes

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

Annex VI

ARBITRATION

Article 1

Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

Article 2

The claimant party shall notify the Secretariat that the parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of Article 20 and include, in particular, the Articles of the Convention the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated with two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party in the dispute shall not constitute an impediment to the proceedings.

Article 7

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

Article 9

Any Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 10

1. The tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

International Convention on Salvage, London, 1989

Done at London 28 April 1989

Not in force

Depositary: International Maritime Organization

Primary source citation: Senate Treaty Document 102-12, 102d Congress, 1st Session, U.S. Government Printing Office, Washington, 1991

INTERNATIONAL CONVENTION ON SALVAGE, 1989

THE STATES PARTIES TO THE PRESENT CONVENTION,

RECOGNIZING the desirability of determining by agreement uniform international rules regarding salvage operations,

NOTING that substantial developments, in particular the increased concern for the protection of the environment, have demonstrated the need to review the international rules presently contained in the Convention for the Unification of Certain Rules of Law relating to Assistance and Salvage at Sea, done at Brussels, 23 September 1910,

CONSCIOUS of the major contribution which efficient and timely salvage operations can make to the safety of vessels and other property in danger and to the protection of the environment,

CONVINCED of the need to ensure that adequate incentives are available to persons who undertake salvage operations in respect of vessels and other property in danger,

HAVE AGREED as follows:

Chapter I - General Provisions

Article 1

Definitions

For the purpose of this Convention:

(a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.

(b) Vessel means any ship or craft, or any structure capable of navigation.

(c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.

(d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

(e) Payment means any reward, remuneration or compensation due under this Convention.

(f) Organization means the International Maritime Organization.

(g) Secretary-General means the Secretary-General of the Organization.

Article 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

Article 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Article 4

State-owned vessels

1 Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognized principles of international law unless that State decides otherwise.

2 Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

Article 5

Salvage operations controlled by public authorities

1 This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.

2 Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.

3 The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

Article 6

Salvage contracts

1 This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.

2 The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

3 Nothing in this article shall affect the application of article 7 nor duties to prevent or minimize damage to the environment.

Article 7

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if:

(a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or

(b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

Chapter II - Performance of salvage operations

Article 8

Duties of the salvor and of the owner and master

1 The salvor shall owe a duty to the owner of the vessel or other property in danger:

(a) to carry out the salvage operations with due care;

(b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimize damage to the environment;

(c) whenever circumstances reasonably require, to seek assistance from other salvors; and

(d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

2 The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor:

(a) to co-operate fully with him during the course of the salvage operations;

(b) in so doing, to exercise due care to prevent or minimize damage to the environment; and

(c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

Article 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognized principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

Article 10

Duty to render assistance

1 Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

2 The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.

3 The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

Article 11

Co-operation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

Chapter III - Rights of salvors

Article 12

Conditions for reward

1 Salvage operations which have had a useful result give right to a reward.

2 Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.

3 This chapter shall apply, notwithstanding that the salved vessel and the vessel undertaking the salvage operations belong to the same owner.

Article 13

Criteria for fixing the reward

1 The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:

(a) the salved value of the vessel and other property;

(b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;

(c) the measure of success obtained by the salvor;

(d) the nature and degree of the danger;

(e) the skill and efforts of the salvors in salving the vessel, other property and life;

(f) the time used and expenses and losses incurred by the salvors;

(g) the risk of liability and other risks run by the salvors or their equipment;

(h) the promptness of the services rendered;

(i) the availability and use of vessels or other equipment intended for salvage operations;

(j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

2 Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salved values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3 The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salved value of the vessel and other property.

Article 14

Special compensation

1 If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.

2 If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased to a maximum of 30% of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.

3 Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4 The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5 If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6 Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

Article 15

Apportionment between salvors

1 The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2 The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

Article 16

Salvage of persons

1 No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2 A salvor of human life, who has taken part in the services rendered on the occasioning of the accident given rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.

Article 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

Article 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

Article 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

Chapter IV - Claims and actions

Article 20

Maritime lien

1 Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.

2 The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

Article 21

Duty to provide security

1 Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.

2 Without prejudice to paragraph 1, the owner of the salved vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.

3 The salved vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

Article 22

Interim payment

1 The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.

2 In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

Article 23

Limitation of actions

1 Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.

2 The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.

3 An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

Article 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

Article 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings in rem against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognized principles of international law.

Article 26

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

Article 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

Chapter V - Final clauses

Article 28

Signature, ratification, acceptance, approval and accession

1 This Convention shall be open for signature at the Headquarters of the Organization from 1 July 1989 to 30 June 1990 and shall thereafter remain open for accession.

2 States may express their consent to be bound by this Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 29

Entry into force

1 This Convention shall enter into force one year after the date on which 15 States have expressed their consent to be bound by it.

2 For a State which expresses its consent to be bound by this Convention after the conditions for entry into force thereof have been met, such consent shall take effect one year after the date of expression of such consent.

Article 30

Reservations

1 Any State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right not to apply the provisions of this Convention:

(a) when the salvage operation takes place in inland waters and all vessels involved are of inland navigation;

(b) when the salvage operations take place in inland waters and no vessel is involved;

(c) when all interested parties are nationals of that State;

(d) when the property involved is maritime cultural property of prehistoric, archaeological or historic interest and is situated on the sea-bed.

2 Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.

3 Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Secretary-General. Such withdrawal shall take effect on the date the notification is received. If the notification states that the withdrawal of a reservation is to take effect on a date specified

therein, and such date is later than the date the notification is received by the Secretary-General, the withdrawal shall take effect on such later date.

Article 31

Denunciation

1 This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

Article 32

Revision and amendment

1 A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2 The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of eight States Parties, or one fourth of the States Parties, whichever is the higher figure.

3 Any consent to be bound to this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 33

Depositary

1 This Convention shall be deposited with the Secretary-General.

2 The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) the date of the entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;

(iv) any amendment adopted in conformity with article 32;

(v) the receipt of any reservation, declaration or notification made under this Convention;

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3 As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 34

Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE AT LONDON this twenty-eighth day of April one thousand nine hundred and eighty-nine.

Accord of Cooperation for the Protection of the Coasts and Waters of the Northeast Atlantic Against Pollution Due to Hydrocarbons or Other Harmful Substances, Lisbon, 1990

Done at Lisbon 17 October 1990

Not in force

Depositary: Portugal

*Primary source citation: 30 ILM 1227 (1990)**

ACCORD OF COOPERATION FOR THE PROTECTION OF THE COASTS AND WATERS OF THE NORTHEAST ATLANTIC AGAINST POLLUTION DUE TO HYDROCARBONS OR OTHER HARMFUL SUBSTANCES

The Governments of the Kingdom of Spain, the French Republic, the Kingdom of Morocco, and the Portuguese Republic, and the European Economic Community, meeting at the conference for the Protection of Coasts and Waters of the Northeast Atlantic against Pollution due to Hydrocarbons or other Harmful Substances, held at Lisbon, October 17, 1990,

CONSCIOUS of the necessity to protect the human environment in general and the marine environment in particular,

RECOGNIZING that pollution of the Northeast Atlantic Ocean by hydrocarbons and other harmful substances may threaten the marine environment in general and the interests of littoral states in particular,

NOTING that such pollution has many causes, but RECOGNIZING that special measures are necessary in the case of accidents and other occurrences of pollution due to ships as well as fixed or floating platforms,

CONCERNED to act promptly and efficaciously in the eventuality of an occurance of marine pollution, which threatens the coast or related interests of a littoral state, in order to reduce the harm caused by such an incident,

UNDERLINING the importance of effective preparation at the national level to combat incidents of pollution at sea,

RECOGNIZING FURTHER the importance of bringing about reciprocal assistance and international cooperation among the states for the purpose of protecting their coasts and related interests,

UNDERLINING also the importance of measures taken individually or jointly to minimize the risk of incidents of pollution at sea,

*Translation provided by the American Society of International Law.

TAKING INTO ACCOUNT the success of present regional accords, and especially, the plan of action of the European Community, aimed at bringing aid in the case of major pollution at sea due to hydrocarbons or other dangerous substances, have designated plenipotentiaries, who, having exchanged full powers in due form, have agreed to the following:

ARTICLE ONE

The contracting Parties of this Accord (hereafter designated "the Parties") undertake individually, or jointly should the case arise, to take all measures required by this Accord to prepare themselves to encounter incidents of pollution due to hydrocarbons or other harmful substances.

ARTICLE 2

For the purpose of this Accord:

The expression "incident of pollution" means an event, or a series of events having the same cause, leading to a discharge or a threatened discharge of hydrocarbons or other harmful substances, causing or potentially causing damage to the marine environment, the coasts, or related interests of one or more of the Parties, requiring emergency action or any other immediate reaction.

The term "hydrocarbons" means petroleum in all its forms, in particular, crude oil, fuel oil, muds, hydrocarbon residues, and refined products.

The expression "other harmful substances" means all substances other than hydrocarbons, including dangerous waste products, the release of which into the marine environment may lead to injury to human health, to ecosystems or living resources, or to the coasts or related interests of the Parties.

ARTICLE 3

The zone of application of this Accord is the region of the Northeast Atlantic defined by the outer limit of the exclusive economic zones of the contracting States and:

a) on the north, by an east-west line defined as follows: beginning at the southern point of Ile d'Ouessant, following parallel 48 degrees 27 minutes to its intersection with the southwest boundary of the Accord concerning Cooperation in Combatting Pollution in the North Sea by Hydrocarbons and other Dangerous Substances (the Bonn Accord); following the southwest boundary of that accord to its intersection with the line of demarcation of the continental shelf between France and the United Kingdom of Great Britain and Ireland defined by the arbitral decision of June 30, 1977; following that line of demarcation to its western extremity situated at the north point of coordinates 48 degrees 6 minutes north and 9 degrees 36 minutes 30 seconds west;

b) on the east, by the western limit of the Convention for the Protection of the Mediterranean Sea against Pollution (the Barcelona Convention) of February 16, 1976;

c) on the south, by the southern limit of waters subject to the sovereignty or jurisdiction of the Kingdom of Morocco.

ARTICLE 4

1) Each State Party of this Accord shall put in place on its territory in collaboration, if necessary, with concerned industries, including maritime transportation, as well as with other entities, and maintain in working order at predetermined points, a minimum volume of materiel to cope with discharges of hydrocarbons or other harmful substances.

2) Each of the Parties shall set in place a national system for preventing and combatting incidents of pollution at sea. This system encompasses:

a) the identification of the administrative organization and responsibility of each of its elements for the preparation and implementation of measures of prevention and combat, and in particular, the national authority charged with dealing with other Parties on questions of mutual assistance;

b) the designation of a national operational contact charged with the sending and receiving of reports regarding incidents of pollution at sea, as set down in article 8(3) of this Accord;

c) a national plan of intervention aimed at preventing or coping with such incidents of pollution, including but not limited to:

i) determination of probable sources of discharge of hydrocarbons or other harmful substances;

ii) definition of sensitive zones and vulnerable resources as well as of priorities for their protection;

iii) identification of available human and material resources;

iv) determination of means for storing and eliminating hydrocarbons or other harmful substances recovered.

3) In addition, each of the Parties, individually or within the framework of bilateral or multilateral cooperation, shall put in place personnel training programs aimed at increasing the state of readiness of those charged with handling incidents of pollution.

ARTICLE 5

1) The Parties shall jointly develop and establish guidelines on the practical, technical, and operational aspects of joint action.

2) To facilitate active cooperation each Party undertakes to furnish to the other Parties the information noted in article 4(2) (a) and 4(2) (b) as well as information on:

a) its national means (equipment and personnel) dedicated to preventing or confronting incidents of pollution, of which a part may be made available for international assistance during such incidents under conditions to be determined by the Parties concerned;

b) new and efficacious methods for preventing and confronting such pollution;

c) the major incidents of pollution that required its intervention.

ARTICLE 6

The cooperation provided for in the preceding article applies as well to a loss at sea of harmful substances placed in packages, freight containers, portable receptacles, or truck, trailer, or railroad tanks.

ARTICLE 7

1) Each of the Parties shall require of its competent officials, as well as of captains or other competent officials on ships flying the national flag or on marine platforms situated within its jurisdiction, prompt notice of any incident on such ships or platforms entailing a discharge or threatened discharge of hydrocarbons or other harmful substances. In the case of ships these reports will conform to pertinent dispositions developed by the International Maritime Organization.

2) Each of the Parties shall instruct ships or aircraft subject to its maritime inspection or other services to report without delay any incident of pollution observed by them due to hydrocarbons or other harmful substances.

3) Each Party shall request of captains of ships flying the national flag as well as of pilots of aircraft registered in the country to give notice without delay of the presence, nature, and extent of hydrocarbons or other harmful substances observed which might constitute a threat to the coast or related interests of one or more of the Parties.

ARTICLE 8

1) For the purpose of this Accord only the northeast Atlantic region is divided into zones as they are defined in Annex 1 of this Accord.

2) The Party in whose zone an incident of pollution takes place shall undertake the necessary evaluations of its nature, importance, and probable consequences.

3) When warranted by the importance of the incident of pollution, the Party concerned shall immediately inform all other Parties through their operational points of contact of all actions taken to combat the hydrocarbons or other harmful substances. It shall maintain observation of these substances as long as they are present in its zone and keep the other Parties informed of the progress of the incident of pollution as well as of measures taken or anticipated.

4) When the slick of hydrocarbons or derived substances moves into a neighboring zone, the responsibility for evaluation and notification to other Parties stipulated above is transferred to the Party where the hydrocarbons or substances are next found, absent contrary agreement between the Parties concerned.

ARTICLE 9

1) The Parties may designate zones of joint interest.

2) If pollution occurs in a joint zone, the Party in whose zone the incident occurs immediately informs the neighboring party as required by article 8(3) and invites that Party to take part in evaluating the nature of the incident and in deciding whether it should be considered of such scope and gravity that joint action by the two Parties is warranted.

3) Except as provided in paragraph (4) of this article, the responsibility for initiating such joint action falls on the Party in whose zone the incident occurs. That Party designates an authority and charges it with coordinating the action; the latter then assumes responsibility, requesting all assistance that may be necessary, and coordinating available resources. Within its means the neighboring Party provides the assistance required; it also designates an authority for cooperative action.

4) Absent an agreement with the Party in whose zone of responsibility an incident occurs, the neighboring Party may assume responsibility for the coordination of the action when:

a) the neighboring Party is directly threatened by the incident, or

b) the flag of the neighboring Party is flown by the ships or ships in question, or

c) the neighboring Party has greater resources capable of being engaged in the operation.

When the provisions of this paragraph are utilized, the Party in whose zone of responsibility the incident occurs renders all necessary assistance to the Party assuming responsibility for the action.

ARTICLE 10

A Party in need of aid in the event of a real or threatened incident of pollution at sea or on its coasts may request the cooperation of other Parties. With the advice of other Parties, should the case arise, the requesting Party shall detail the kind of aid needed. The Parties whose cooperation is requested under this article shall make every effort possible within their means to effect that cooperation, bearing in mind the technical resources at their disposal, especially in the case of harmful substances other than hydrocarbons.

ARTICLE 11

1) No provision of this Accord shall in any way impair the sovereignty of the States over their territorial waters, or the jurisdiction and sovereign rights they exercise over their exclusive economic zones and continental shelves in conformity with international law, or the rights of navigation of ships and aircraft of all nations as governed by international law and applicable international instruments.

2) In no case may the division into zones provided for in articles 8 and 9 of this Accord be invoked as precedent or argument regarding sovereignty or jurisdiction.

ARTICLE 12

Each of the Parties shall develop means of maritime surveillance by instituting maritime traffic services. To this end the parties shall consult together as well as participate actively in studies necessary to this development conducted by competent international bodies, including studies bearing on the interconnection of national maritime traffic services.

ARTICLE 13

1) In the absence of a bilateral or multilateral agreement that might be concluded relating to financial arrangements governing the actions of the Parties in combatting marine pollution, the Parties shall defray the expenses of their respective actions in combatting such pollution according to the following principles:

a) if an action is undertaken by a Party at the express request of another, the requesting Party shall reimburse the other for the costs of the action;

b) if an action is undertaken by a single Party, that Party shall defray the costs entailed in the action;

c) if an action is undertaken in a zone of joint interest by Parties concerned with that zone as defined in article 9, each shall defray the cost of its own actions.

2) A Party requesting aid may withdraw the request at any time; in that case it shall defray costs already incurred or committed by the assisting Party.

3) Absent contrary agreement, costs entailed in an action undertaken by a Party at the express request of another will be calculated, using expertise where appropriate, according to the law and practice in force in the assisting state for reimbursement of such expenses.

ARTICLE 14

1) In no case may article 13 of this Accord be interpreted as prejudicing the right of the Parties to recover from third persons expenses of actions taken to cope with real or threatened incidents of pollution, according to applicable municipal and international law.

2) The Parties may cooperate and offer mutual assistance in recovering these costs.

ARTICLE 15

1) The meetings of the Parties to this Accord will take place at regular intervals, or by reason of special circumstances, as decided according to the rules of procedure.

2) At their first meetings the Parties will develop procedural and budgetary rules to be adopted by unanimous vote.

3) The depositary government shall convoke the first meeting of the Parties as soon as possible after the entry in force of this Accord.

ARTICLE 16

In matters arising within its competence the European Economic Community will exercise voting rights in number equal to the number of its members who are Parties to this Accord. The Community will not exercise its right to vote in cases where its member States exercise theirs, and vice versa.

ARTICLE 17

The meetings of the Parties shall:

a) exercise general supervision over the implementation of this accord;

b) regularly examine the effectiveness of measures taken under this Accord;

c) seek as soon as practicable to identify and define zones that should be considered particularly sensitive because of their environmental characteristics;

d) exercise all other functions that may be necessary to carry out the provisions of this Accord.

ARTICLE 18

1) An International Center shall be established for the purpose of aiding the States Parties to react rapidly and effectively to incidents of pollution.

2) The Center, located in the depositary State, will cooperate with entities located in the other Parties to assure such rapid and effective response in the entire region covered by this Accord, and should the case arise, beyond it.

3) The meeting of the Parties will define the functions of the Center based on the considerations set forth in Annex 2.

ARTICLE 19

1) The International Center will develop for the Parties appropriate proposals for improving the mobility and the complementarity of their materiel.

2) These recommendations will focus especially on the renewal and increase of that materiel.

ARTICLE 20

1) Without prejudice to the provisions of Annex 1(3) of this Accord, every proposal to amend this Accord or its annexes will be examined at a meeting of the Parties. After adoption of the proposal by unanimous vote the Parties will be informed of the amendment by the depositary Government.

2) Such amendment enters into force on the first day of the second month following the date of notice to the depositary Government of its approval by all of the contracting Parties.

ARTICLE 21

1) Each Party shall contribute 2.5% toward the operational expenses of the Secretariat of this Accord mentioned at Annex 2(7). Two-thirds of the balance of these expenses will be defrayed by the depositary Government and one-third by the other States as follows:

- by the Kingdom of Spain, 40 percent
- by the French Republic, 40 percent
- by the Kingdom of Morocco, 20 percent

2) The other functions of the Center mentioned in Annex 2 will be defrayed to the extent permitted by voluntary contributions of the Parties in amounts set at the meeting of the contracting Parties.

ARTICLE 22

1) The signatory States and the European Economic Community become Parties to this Accord either by signature without reserving ratification, acceptance or approval, or by signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2) Instruments of ratification, acceptance, or approval will be deposited with the Government of Portugal.

3) This Accord enters into force on the first day of the second month following the date on which all signatory States and the European Economic Community have signed without reserving ratification, acceptance, or approval, or have deposited an instrument of ratification, acceptance, or approval.

ARTICLE 23

1) The Parties may unanimously invite any other littoral state of the Northeast Atlantic to accede to this Accord.

2) In that case articles 3 and 21 of this Accord and Annex 1 will be amended. The amendments will be adopted by unanimous vote of the contracting Parties, and they will take effect at the entry in force of this Accord for the acceding State.

ARTICLE 24

1) This Accord enters into force for an acceding State on the first day of the second month following the date of deposit of its instrument of accession.

2) Instruments of adhesion will be deposited with the Government of Portugal.

ARTICLE 25

1) This Accord may be denounced by any Party after a period of five years.

2) The denunciation is effected by written notice to the depositary Government, which will notify the other Parties of each denunciation and the date of its receipt.

3) A denunciation takes effect one year after notification is received by the depositary Government.

ARTICLE 26

The depositary Government shall inform signing and acceding States as well as the European Economic Community:

a) of all signatures to this Accord;

b) of the deposit of all instruments of ratification, acceptance, approval or accesion, and of the receipt of notices of denunciation;

c) of the date of entry in force of this Accord;

d) of the receipt of notifications of approval of amendments to this Accord or its Annexes and the date of entry into force of these amendments.

ARTICLE 27

The original of this Accord, rendered in Arabic, Spanish, French, and Portuguese, the French text prevailing in case of divergence, will be deposited with the Government of Portugal, which will deliver certified copies to the contracting Parties and transmit a certified copy to the Secretary-General of the United Nations for registration and publication in keeping with article 102 of the Charter of the United Nations.

In witness whereof the undersigned plenipotentiaries have signed this Accord and placed their seals.

Done at Lisbon, October 17, 1990.

ANNEX 1

1) Apart from bilateral agreements concluded between the contracting States, the zones provided for in article 8(1) correspond to the exclusive economic zones of the contracting States.

2) Bilateral agreements that may be concluded in accordance with the preceding paragraph will be sent to the depositary Government who will transmit them to the contracting Parties. They will enter in force for all contracting Parties, unless within three months of said transmission a contracting Party raises an objection or requests consultations in the matter.

3) Two or more State Parties may modify the common boundary of their zones as defined in this Annex. Such modifications will enter in force for all Parties on the first day of the sixth month following the date of its communication by the depositary Government, unless within three months after that communication a Party raises an objection or requests consultations regarding it.

ANNEX 2

Considerations Defining the Functions of the International Center

1) Establishment of close working relationships with other national and international centers in the region covered by the Accord, and where appropriate, beyond it.

2) On the basis of that principle, and employing all resources existent in the region, coordination of national and regional operations of training, technical cooperation, and expertise in case of emergency.

International Convention on Oil Pollution Preparedness, Response and Co-operation, London, 1990

Done at London 30 November 1990

Not in force

Depositary: International Maritime Organization

Primary source citation: Senate Treaty Document 102-11, 102d Congress, 1st Session, U.S. Government Printing Office, Washington, 1991

INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990

THE PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the need to preserve the human environment in general and the marine environment in particular,

RECOGNIZING the serious threat posed to the marine environment by oil pollution incidents involving ships, offshore units, sea ports and oil handling facilities,

MINDFUL of the importance of precautionary measures and prevention in avoiding oil pollution in the first instance, and the need for strict application of existing international instruments dealing with maritime safety and marine pollution prevention, particularly the International Convention for the Safety of Life at Sea, 1974, as amended, and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and also the speedy development of enhanced standards for the design, operation and maintenance of ships carrying oil, and of offshore units,

MINDFUL ALSO that, in the event of an oil pollution incident, prompt and effective action is essential in order to minimize the damage which may result from such an incident,

EMPHASIZING the importance of effective preparation for combating oil pollution incidents and the important role which the oil and shipping industries have in this regard,

RECOGNIZING FURTHER the importance of mutual assistance and international co-operation relating to matters including the exchange of information respecting the capabilities of States to respond to oil pollution incidents, the preparation of oil pollution contingency plans, the exchange of reports of incidents of significance which may affect the marine environment or the coastline and related interests of States and research and development respecting means of combating oil pollution in the marine environment,

TAKING ACCOUNT of the "polluter pays" principle as a general principle of international environmental law,

TAKING ACCOUNT ALSO of the importance of international instruments on liability and compensation for oil pollution damage, including the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC); and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND); and the compelling need for early entry into force of the 1984 Protocols to the CLC and FUND Conventions,

TAKING ACCOUNT FURTHER of the importance of bilateral and multilateral agreements and arrangements including regional conventions and agreements,

BEARING IN MIND the relevant provisions of the United Nations Convention on the Law of the Sea, in particular of its part XII,

BEING AWARE of the need to promote international co-operation and to enhance existing national, regional and global capabilities concerning oil pollution preparedness and response, taking into account the special needs of the developing countries and particularly small island States,

CONSIDERING that these objectives may best be achieved by the conclusion of an International Convention on Oil Pollution Preparedness, Response and Co-operation,

HAVE AGREED as follows:

ARTICLE I

General provisions

(1) Parties undertake, individually or jointly, to take all appropriate measures in accordance with the provisions of this Convention and the Annex thereto to prepare for and respond to an oil pollution incident.

(2) The Annex to this Convention shall constitute an integral part of the Convention and a reference to this Convention constitutes at the same time a reference to the Annex.

(3) This Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention.

ARTICLE 2

Definitions

For the purposes of this Convention:

(1) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.

(2) "Oil pollution incident" means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response.

(3) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, and floating craft of any type.

(4) "Offshore unit" means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil.

(5) "Sea ports and oil handling facilities" means those facilities which present a risk of an oil pollution incident and includes, inter alia, sea ports, oil terminals, pipelines and other oil handling facilities.

(6) "Organization" means the International Maritime Organization.

(7) "Secretary-General" means the Secretary-General of the Organization.

ARTICLE 3

Oil pollution emergency plans

(1) (a) Each Party shall require that ships entitled to fly its flag have on board a shipboard oil pollution emergency plan as required by and in accordance with the provisions adopted by the Organization for this purpose.

(b) A ship required to have on board an oil pollution emergency plan in accordance with subparagraph (a) is subject, while in a port or at an offshore terminal under the jurisdiction of a Party, to inspection by officers duly authorized by that Party, in accordance with the practices provided for in existing international agreements or its national legislation.

(2) Each Party shall require that operators of offshore units under its jurisdiction have oil pollution emergency plans, which are co-ordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

(3) Each Party shall require that authorities or operators in charge of such sea ports and oil handling facilities under its jurisdiction as it deems appropriate have oil pollution emergency plans or similar arrangements which are co-ordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

ARTICLE 4

Oil pollution reporting procedures

(1) Each Party shall:

(a) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without delay any event on their ship or offshore unit involving a discharge or probable discharge of oil:

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(b) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without delay any observed event at sea involving a discharge of oil or the presence of oil:

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(c) require persons having charge of sea ports and oil handling facilities under its jurisdiction to report without delay any event involving a discharge or probable discharge of oil or the presence of oil to the competent national authority;

(d) instruct its maritime inspection vessels or aircraft and other appropriate services or officials to report without delay any observed event at sea or at a sea port or oil handling facility involving a discharge of oil or the presence of oil to the competent national authority or, as the case may be, to the nearest coastal State;

(e) request the pilots of civil aircraft to report without delay any observed event at sea involving a discharge of oil or the presence of oil to the nearest coastal State.

(2) Reports under paragraph (1) (a) (i) shall be made in accordance with the requirements developed by the Organization and based on the guidelines and general principles adopted by the Organization. Reports under paragraph (1) (a) (ii), (b), (c) and (d) shall be made in accordance with the guidelines and general principles adopted by the Organization to the extent applicable.

ARTICLE 5

Action on receiving an oil pollution report

(1) Whenever a Party receives a report referred to in article 4 or pollution information provided by other sources, it shall:

(a) assess the event to determine whether it is an oil pollution incident;

(b) assess the nature, extent and possible consequences of the oil pollution incident; and

(c) then, without delay, inform all States whose interests are affected or likely to be affected by such oil pollution incident, together with

(i) details of its assessments and any action it has taken, or intends to take, to deal with the incident, and

(ii) further information as appropriate,

until the action taken to respond to the incident has been concluded or until joint action has been decided by such States.

(2) When the severity of such oil pollution incident so justifies, the Party should provide the Organization directly or, as appropriate, through the relevant regional organization or arrangements with the information referred to in paragraph (1) (b) and (c).

(3) When the severity of such oil pollution incident so justifies, other States affected by it are urged to inform the Organization directly or, as appropriate, through the relevant regional organizations or arrangements of their assessment of the extent of the threat to their interests and any action taken or intended.

(4) Parties should use, in so far as practicable, the oil pollution reporting system developed by the Organization when exchanging information and communicating with other States and with the Organization.

ARTICLE 6

National and regional systems for preparedness and response

(1) Each Party shall establish a national system for responding promptly and effectively to oil pollution incidents. This system shall include as a minimum:

(a) the designation of:

(i) the competent national authority or authorities with responsibility for oil pollution preparedness and response;

(ii) the national operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports as referred to in article 4; and

(iii) an authority which is entitled to act on behalf of the State to request assistance or to decide to render the assistance requested;

(b) a national contingency plan for preparedness and response which includes the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed by the Organization.

(2) In addition, each Party, within its capabilities either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with the oil and shipping industries, port authorities and other relevant entities, shall establish:

(a) a minimum level of pre-positioned oil spill combating equipment, commensurate with the risk involved, and programmes for its use;

(b) a programme of exercises for oil pollution response organizations and training of relevant personnel;

(c) detailed plans and communication capabilities for responding to an oil pollution incident. Such capabilities should be continuously available; and

(d) a mechanism or arrangement to co-ordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.

(3) Each Party shall ensure that current information is provided to the Organization, directly or through the relevant regional organization or arrangements, concerning:

(a) the location, telecommunication data and, if applicable, areas of responsibility of authorities and entities referred to in paragraph (1) (a);

(b) information concerning pollution response equipment and expertise in disciplines related to oil pollution response and marine salvage which may be made available to other States, upon request; and

(c) its national contingency plan.

ARTICLE 7

International co-operation in pollution response

(1) Parties agree that, subject to their capabilities and the availability of relevant resources, they will co-operate and provide advisory services, technical support and equipment for the purpose of responding to an oil pollution incident, when the severity of such incident so justifies, upon the request of any Party affected or likely to be affected. The financing of the costs for such assistance shall be based on the provisions set out in the Annex to this Convention.

(2) A Party which has requested assistance may ask the Organization to assist in identifying sources of provisional financing of the costs referred to in paragraph (1).

(3) In accordance with applicable international agreements, each Party shall take necessary legal or administrative measures to facilitate:

(a) the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of its territory of personnel, cargoes, materials and equipment referred to in subparagraph (a).

ARTICLE 8

Research and development

(1) Parties agree to co-operate directly or, as appropriate, through the Organization or relevant regional organizations or arrangements in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art of oil pollution preparedness and response, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimizing or mitigating the effects of oil pollution, and for restoration.

(2) To this end, Parties undertake to establish directly or, as appropriate, through the Organization or relevant regional organizations or arrangements, the necessary links between Parties' research institutions.

(3) Parties agree to co-operate directly or through the Organization or relevant regional organizations or arrangements to promote, as appropriate, the holding on a regular basis of international symposia on relevant subjects, including technological advances in oil pollution combating techniques and equipment.

(4) Parties agree to encourage, through the Organization or other competent international organizations, the development of standards for compatible oil pollution combating techniques and equipment.

ARTICLE 9

Technical co-operation

(1) Parties undertake directly or through the Organization and other international bodies, as appropriate, in respect of oil pollution preparedness and response, to provide support for those Parties which request technical assistance:

(a) to train personnel;

(b) to ensure the availability of relevant technology, equipment and facilities;

(c) to facilitate other measures and arrangements to prepare for and respond to oil pollution incidents; and

(d) to initiate joint research and development programmes.

(2) Parties undertake to co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology in respect of oil pollution preparedness and response.

ARTICLE 10

Promotion of bilateral and multilateral co-operation in preparedness and response

Parties shall endeavour to conclude bilateral or multilateral agreements for oil pollution preparedness and response. Copies of such agreements shall be communicated to the Organization which should make them available on request to Parties.

ARTICLE 11

Relation to other conventions and international agreements

Nothing in this Convention shall be construed as altering the rights or obligations of any Party under any other convention or international agreement.

ARTICLE 12

Institutional arrangements

(1) Parties designate the Organization, subject to its agreement and the availability of adequate resources to sustain the activity, to perform the following functions and activities:

(a) information services:

(i) to receive, collate and disseminate on request the information provided by Parties (see, for example, articles 5(2) and (3), 6(3) and 10) and relevant information provided by other sources; and

(ii) to provide assistance in identifying sources of provisional financing of costs (see, for example, article 7(2));

(b) education and training:

(i) to promote training in the field of oil pollution preparedness and response (see, for example, article 9); and

(ii) to promote the holding of international symposia (see, for example, article 8(3));

(c) technical services:

(i) to facilitate co-operation in research and development (see, for example, articles 8(1), (2) and (4) and 9(1)(d));

(ii) to provide advice to States establishing national or regional response capabilities; and

(iii) to analyse the information provided by Parties (see, for example, articles 5(2) and (3), 6(3) and 8(1)) and relevant information provided by other sources and provide advice or information to States;

(d) technical assistance:

(i) to facilitate the provision of technical assistance to States establishing national or regional response capabilities; and

(ii) to facilitate the provision of technical assistance and advice, upon the request of States faced with major oil pollution incidents.

(2) In carrying out the activities specified in this article, the Organization shall endeavour to strengthen the ability of States individually or through regional arrangements to prepare for and combat oil pollution incidents, drawing upon the experience of States, regional agreements and industry arrangements and paying particular attention to the needs of developing countries.

(3) The provisions of this article shall be implemented in accordance with a programme developed and kept under review by the Organization.

ARTICLE 13

Evaluation of the Convention

Parties shall evaluate within the Organization the effectiveness of the Convention in the light of its objectives, particularly with respect to the principles underlying co-operation and assistance.

ARTICLE 14

Amendments

(1) This Convention may be amended by one of the procedures specified in the following paragraphs.

(2) Amendment after consideration by the Organization:

(a) Any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by the Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration.

(b) Any amendment proposed and circulated as above shall be submitted to the Marine Environment Protection Committee of the Organization for consideration.

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Marine Environment Protection Committee.

(d) Amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting.

(e) If adopted in accordance with subparagraph (d), amendments shall be communicated by the Secretary-General to all Parties to the Convention for acceptance.

(f) (i) An amendment to an article or the Annex of the Convention shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties.

(ii) An amendment to an appendix shall be deemed to have been accepted at the end of a period to be determined by the Marine Environment Protection Committee at the time of its adoption, which period shall not be less than ten months, unless within that period an objection is communicated to the Secretary-General by not less than one third of the Parties.

(g) (i) An amendment to an article or the Annex of the Convention accepted in conformity with subparagraph (f) (i) shall enter into force six months after the date on which it is deemed to have been accepted with respect to the Parties which have notified the Secretary-General that they have accepted it.

(ii) An amendment to an appendix accepted in conformity with subparagraph (f) (ii) shall enter into force six months after the date on which it is deemed to have been accepted with respect to all Parties with the exception of those which, before that date, have objected to it. A Party may at any time withdraw a previously communicated objection by submitting a notification to that effect to the Secretary-General.

(3) Amendment by a Conference:

(a) Upon the request of a Party, concurred with by at least one third of the Parties, the Secretary-General shall convene a Conference of Parties to the Convention to consider amendments to the Convention.

(b) An amendment adopted by such a Conference by a two-thirds majority of those Parties present and voting shall be communicated by the Secretary-General to all Parties for their acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraph (2) (f) and (g).

(4) The adoption and entry into force of an amendment constituting an addition of an Annex or an appendix shall be subject to the procedure applicable to an amendment to the Annex.

(5) Any Party which has not accepted an amendment to an article or the Annex under paragraph (2) (f) (i) or an amendment constituting an addition of an Annex or an appendix under paragraph (4) or has communicated an objection to an amendment to an appendix under paragraph (2) (f) (ii) shall be treated as a non-Party only for the purpose of the application of such amendment. Such treatment shall terminate upon the submission of a notification of acceptance under paragraph (2) (f) (i) or withdrawal of the objection under paragraph (2) (g) (ii).

(6) The Secretary-General shall inform all Parties of any amendment which entered into force under this article, together with the date on which the amendment enters into force.

(7) Any notification of acceptance of, objection to, or withdrawal of objection to, an amendment under this article shall be communicated in writing to the Secretary-General who shall inform Parties of such notification and the date of its receipt.

(8) An appendix to the Convention shall contain only provisions of a technical nature.

ARTICLE 15

Signature, ratification, acceptance, approval and accession

(1) This Convention shall remain open for signature at the Headquarters of the Organization from 30 November 1990 until 29 November 1991 and shall thereafter remain open for accession. Any State may become Party to this Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

ARTICLE 16

Entry into force

(1) This Convention shall enter into force twelve months after the date on which not less than fifteen States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with article 15.

(2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or three months after the date of deposit of the instrument, whichever is the later date.

(3) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which this Convention entered into force, this Convention shall become effective three months after the date of deposit of the instrument.

(4) After the date on which an amendment to this Convention is deemed to have been accepted under article 14, any instrument of ratification, acceptance, approval or accession deposited shall apply to this Convention as amended.

ARTICLE 17

Denunciation

(1) This Convention may be denounced by any Party at any time after the expiry of five years from the date on which this Convention enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

ARTICLE 18

Depositary

(1) This Convention shall be deposited with the Secretary-General.

(2) The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Convention; and

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it was received and the date on which the denunciation takes effect;

(b) transmit certified true copies of this Convention to the Governments of all States which have signed this Convention or acceded thereto.

(3) As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 19

Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

DONE AT London this thirtieth day of November one thousand nine hundred and ninety.

ANNEX

Reimbursement of costs of assistance

(1) (a) Unless an agreement concerning the financial arrangements governing actions of Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (i) or subparagraph (ii).

(i) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Party.

(ii) If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.

(b) The principles laid down in subparagraph (a) shall apply unless the Parties concerned otherwise agree in any individual case.

(2) Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.

(3) The Party requesting assistance and the assisting Party shall, where appropriate, co-operate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Party requesting assistance may ask the assisting Party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph (2). It may also request a postponement of the reimbursement of such costs. In considering such a request, assisting Parties shall give due consideration to the needs of the developing countries.

(4) The provisions of this Convention shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law. Special attention shall be paid to the 1969 International Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage or any subsequent amendment to those Conventions.

Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes Within Africa, Bamako, 1991

Done at Bamako 29 January 1991

Not in force

Depositary: Organization of African Unity

Primary source citation: Copy of text provided by the Organization of African Unity

BAMAKO CONVENTION ON THE BAN OF THE IMPORT INTO AFRICA AND THE CONTROL OF TRANSBOUNDARY MOVEMENT AND MANAGEMENT OF HAZARDOUS WASTES WITHIN AFRICA

PREAMBLE

The Parties to this Convention,

1. Mindful of the growing threat to human health and the environment posed by the increased generation and the complexity of hazardous wastes,

2. Further mindful that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

3. Aware of the risk of damage to human health and the environment caused by transboundary movements of hazardous wastes,

4. Reiterating that States should ensure that the generator should carry out his responsibilities with regard to the transport and disposal of hazardous wastes in a manner that is consistent with the protection of human health and environment, whatever the place of disposal,

5. Recalling relevant chapters of the Charter of the Organisation of African Unity (OAU) on environmental protection, the African Charter for Human and Peoples' Rights, Chapter IX of the Lagos Plan of Action and other Recommendations adopted by the Organisation of African Unity on the environment,

6. Further recognizing the sovereignty of States to ban the importation into, and the transit through, their territory, of hazardous wastes and substances for environmental and human health reasons,

7. Recognizing also the increasing mobilization in Africa for the prohibition of transboundary movements of hazardous wastes and their disposal in African countries,

8. Convinced that hazardous wastes should, as far as is compatible with environmentally sound and efficient management, be disposed in the State where they were generated,

9. Convinced that the effective control and minimization of transboundary movements of hazardous wastes will act as an incentive, in Africa and elsewhere, for the reduction of the volume of the generation of such wastes,

10. Noting that a number of international and regional agreements deal with the problem of the protection and preservation of the environment with regard to the transit of dangerous goods,

11. Taking in account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by Decision 14/30 of 17 June, 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), the Charter of Human Rights, relevant recommendations, declarations, instruments and regulations adopted within the United Nations System, the relevant articles of the 1989 Basel Convention on the control of Transboundary Movements of Hazardous Wastes and their Disposal which allow for the establishment of regional agreements which may be equal to or stronger than its own provisions, Article 39 of the Lome' IV Convention relating to the international movement of hazardous wastes and radioactive wastes, African intergovernmental organisations and the work and studies done within other international and regional organisations,

12. Mindful of the spirit, principles, aims and functions of the African Convention on the Conservation of Nature and Natural Resources adopted by the African Heads of State and Government in Algiers (1968) and the World Charter for Nature adopted by the General Assembly of the United Nations at its Thirty-seventh Session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

13. Concerned by the problem of transboundary traffic in hazardous wastes,

14. Recognizing the need to promote the development of clean production methods, including clean technologies, for the sound management of hazardous wastes produced in Africa, in particular, to avoid, minimize and eliminate the generation of such wastes,

15. Recognizing also that where necessary hazardous wastes should be transported in accordance with relevant international conventions and recommendations,

16. Determined to protect, by strict control, the human health of the African population and the environment against the adverse effects which may result from the generation of hazardous wastes,

17. Affirming a commitment also to responsibly address the problem of hazardous wastes originating within the Continent of Africa,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purpose of this Convention:

1. "Wastes" are substances or materials which are disposed of, or are intended to be disposed of, or are required to be disposed of by the provisions of national law;

2. "Hazardous wastes" means wastes as specified in Article 2 of this Convention;

3. "Management" means the prevention and reduction of hazardous wastes and the collection, transport, storage, and treatment either for the reuse or disposal, of hazardous wastes including after-care of disposal sites;

4. "Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of any State to or through an area under the national jurisdiction of another State, or to or through an area not under the national jurisdiction of another State, provided at least two States are involved in the movement;

5. "Clean production methods" means production or industrial systems which avoid, or eliminate the generation of hazardous wastes and hazardous products in conformity with Article 4, section 3 (f) and (g) of this Convention;

6. "Disposal" means any operation specified in Annex III to this Convention;

7. "Approved site or facility" means a site or facility for the disposal of hazardous wastes which is authorised or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

8. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes and any information related to it, and for responding to such a notification, as provided in Article 6 of this Convention;

9. "Focal point" means the entity of a Party referred to in Article 5 of this Convention responsible for receiving and submitting information as provided for in Articles 13 and 16;

10. "Environmentally sound management of hazardous wastes" means taking all practicable steps to ensure that hazardous wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

11. "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;

12. "State of export" means a Party from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated;

13. "State of import" means a State to which a transboundary movement is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

14. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place;

15. "States concerned" means States of export or import, or transit states, whether or not Parties;

16. "Person" means any natural or legal person;

17. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes to be exported;

18. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes to be imported;

19. "Carrier" means any person who carries out the transport of hazardous wastes;

20. "Generator" means any person whose activity produces hazardous wastes, or, if that person is not known, the person who is in possession and/or control of those wastes;

21. "Disposer" means any person to whom hazardous wastes are shipped and who carries out the disposal of such wastes;

22. "Illegal traffic" means any transboundary movement of hazardous wastes as specified in Article 9 of this Convention;

23. "Dumping at sea" means the deliberate disposal of hazardous wastes at sea from vessels, aircraft, platforms or other man-made structures at sea, and includes ocean incineration and disposal into the seabed and sub-seabed.

Article 2

Scope of the Convention

1. The following substances shall be "hazardous wastes" for the purposes of this convention:

   (a) Wastes that belong to any category contained in Annex I of this Convention;

   (b) Wastes that are not covered under paragraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit;

   (c) Wastes which possess any of the characteristics contained in Annex II of this Convention;

   (d) Hazardous substances which have been banned, cancelled or refused registration by government regulatory action, or voluntarily withdrawn from registration in the country of manufacture, for human health or environmental reasons.

2. Wastes which, as a result of being radioactive, are subject to any international control systems, including international instruments, applying specifically to radioactive materials, are included in the scope of this Convention.

3. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, shall not fall within the scope of this convention.

Article 3

National Definitions of Hazardous Wastes

1. Each State shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annex I of this Convention, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to Paragraph 1 of this Article.

3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2 of this Article.

4. Parties shall be responsible for making the information transmitted to them by the Secretariat under Paragraph 3 of this Article available to their exporters and other appropriate bodies.

Article 4

General Obligations

1. Hazardous Waste Import Ban

All Parties shall take appropriate legal, administrative and other measures within the area under their jurisdiction to prohibit the import of all hazardous wastes, for any reason, into Africa from non-Contracting Parties. Such import shall be deemed illegal and a criminal act. All Parties shall:

(a) Forward as soon as possible, all information relating to such illegal hazardous waste import activity to the Secretariat who shall distribute the information to all Contracting Parties;

(b) Co-operate to ensure that no imports of hazardous wastes from a non-Party enter a Party to this Convention. To this end, the Parties shall, at the Conference of the Contracting Parties to this Convention, consider other enforcement mechanisms.

2. Ban on Dumping of Hazardous Wastes at Sea and Internal Waters

(a) Parties in conformity with related international conventions and instruments shall, in the exercise of their jurisdiction within their internal waters, waterways, territorial seas, exclusive economic zones and continental shelf, adopt legal, administrative and other appropriate measures to control all carriers from non-Parties, and prohibit the dumping at sea of hazardous wastes, including their incineration at sea and their disposal in the seabed and sub-seabed;

Any dumping of hazardous wastes at sea, including incineration at sea as well as seabed and sub-seabed disposal, by Contracting Parties, whether in internal waters, waterways, territorial seas, exclusive economic zones or high seas shall be deemed to be illegal;

(b) Parties shall forward, as soon as possible, all information relating to dumping of hazardous wastes to the Secretariat which shall distribute the information to all Contracting Parties.

3. Waste Generation in Africa

Each Party Shall:

(a) Ensure that hazardous waste generators submit to the Secretariat reports regarding the wastes that they generate in order to enable the Secretariat of the Convention to produce a complete hazardous waste audit;

(b) Impose strict, unlimited liability as well as joint and several liability on hazardous waste generators;

(c) Ensure that the generation of hazardous wastes within the area under its jurisdiction is reduced to a minimum taking into account social, technological and economic aspects;

(d) Ensure the availability of adequate treatment and disposal facilities, for the environmentally sound management of hazardous wastes which shall be located, to the extent possible, within its jurisdiction;

(e) Ensure that persons involved in the management of hazardous wastes within its jurisdiction take such steps as are necessary to prevent pollution arising from such wastes and, if such pollution occurs, to minimize the consequence thereof for human health and the environment;

The Adoption of Precautionary Measures:

(f) Each Party shall strive to adopt and implement the preventive, precautionary approach to pollution problems which entails, inter-alia, preventing the release into the environment of substances which may cause harm to humans or the environment without waiting for scientific proof regarding such harm.

The Parties shall co-operate with each other in taking the appropriate measures to implement the precautionary principle to pollution prevention through the application of clean production methods, rather than the pursuit of a permissible emissions approach based on assimilative capacity assumptions;

(g) In this respect Parties shall promote clean production methods applicable to entire product life cycles including:

- raw material selection, extraction and processing;
- product conceptualisation, design, manufacture and assemblage;
- materials transport during all phases;
- industrial and household usage;
- reintroduction of the product into industrial systems or nature when it no longer serves a useful function;

Clean production shall not include "end-of-pipe" pollution controls such as filters and scrubbers, or chemical, physical or biological treatment. Measures which reduce the volume of waste by incineration or concentration, mask the hazard by dilution, or transfer pollutants from one environmental medium to another, are also excluded;

(h) The issue of preventing the transfer to Africa of polluting technologies shall be kept under systematic review by the Secretariat of the Conference and periodic reports shall be made to the Conference of the Parties;

Obligations in the Transport and Transboundary Movement of Hazardous Wastes from Contracting Parties:

(i) Each Party shall prevent the export of hazardous wastes to States which have prohibited by their legislation or international agreement all such imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting;

(j) A Party shall not permit hazardous wastes to be exported to a State which does not not have the facilities for treating or disposing of them in an environmentally sound manner;

(k) Each Party shall ensure that hazardous wastes to be exported are managed in an environmentally sound manner in the State of import and transit. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting;

(l) The Parties agree not to allow the export of hazardous wastes for disposal within the area South of 60 degrees South Latitude, whether or not such wastes are subject to transboundary movement;

(m) Furthermore, each Party shall:

(i) Prohibit all persons under its national jurisdiction from transporting, storing or disposing of hazardous wastes unless such persons are authorized or allowed to perform such operations;

(ii) Ensure that hazardous wastes that are to be the subject of a transboundary movement are packaged, labeled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(iii) Ensure that hazardous wastes be accompanied by a movement document, containing information specified in Annex IV B, from the point at which a transboundary movement commences to the point of disposal;

(n) Parties shall take the appropriate measures to ensure that the transboundary movements of hazardous wastes only are allowed if:

(i) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(ii) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention;

(o) Under this Convention, the obligation of States in which hazardous wastes are generated, requiring that those wastes are managed in an environmentally sound manner, may not under any circumstances be transferred to the States of import or transit;

(p) Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes which are exported to other States;

(q) Parties exercising their right to prohibit the import of hazardous wastes for disposal shall inform the other Parties of their decision pursuant to Article 13 of this Convention;

(r) Parties shall prohibit or shall not permit the export of hazardous wastes to States which have prohibited the import of such wastes, when notified by the secretariat or any competent authority pursuant to sub-paragraph (q) above;

(s) Parties shall prohibit or shall not permit the export of hazardous wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes;

(t) Parties shall ensure that the transboundary movement of hazardous wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(u) Parties shall require that information about a proposed transboundary movement of hazardous wastes be provided to the States concerned, according to Annex IV A of this Convention, and clearly state the potential dangers of the wastes on human health and the environment.

4. Furthermore

(a) Parties shall undertake to enforce the obligations of this Convention against offenders and infringements according to relevant national laws and/or international law;

(b) Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order to better protect human health and the environment;

(c) This Convention recognizes the sovereignty of States over their territorial sea, waterways, and air space established in accordance with international law, and jurisdiction which States have in their exclusive economic zone and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigation rights and freedoms as provided for in international law and as reflected in relevant international instruments.

Article 5

Designation of Competent Authorities, Focal Point and Dumpwatch

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designations made by them under paragraph 2 above.

4. Appoint a national body to act as a Dumpwatch. In such capacity as a Dumpwatch, the designated national body only will be required to co-ordinate with the concerned governmental and non-governmental bodies.

Article 6

Transboundary Movement and Notification Procedures

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes. Such notification shall contain the declarations and information specified in Annex IV A of this Convention, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The Party of import shall respond to the notifier in writing consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned.

3. The State of export shall not allow the transboundary movement until it has received:

(a) written consent of the State of import; and

(b) from the State of import, written confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit.

5. In the case of a transboundary movement of hazardous wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 8 of this Article that apply to the importer or disposer and the State if import shall apply mutatis mutandis to the exporter and State of export, respectively;

(b) By the Party of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and Party of import, respectively; or

(c) By any State of transit which is a Party to this Convention, the provisions of paragraph 4 of this Article shall apply to such State.

6. The State of export shall use a shipment specific notification even where hazardous wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of entry of the State of import, and in the case of transit, via the same customs office of entry and exit of the State or States of transit; specific notification of each and every shipment shall be required and contain the information in Annex IV A of this Convention.

7. Each Party to this Convention shall limit their points or ports of entry and notify the Secretariat to this effect for distribution to all Contracting Parties. Such point and ports shall be the only ones permitted for the transboundary movement of hazardous wastes.

8. The Parties to this Convention shall require that each person who takes charge of a transboundary movement of hazardous wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

9. The notification and response required by this Article shall be transmitted to the competent authority of the States concerned or to such governmental authority as may be appropriate in the case of non-Parties.

10. Any transboundary movement of hazardous wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit.

Article 7

Transboundary Movement from a Party through States which are not Parties

Paragraphs 2 and 4 of Article 6 of this Convention shall apply mutatis mutandis to transboundary movements of hazardous wastes from a Party through a State or States which are not Parties.

Article 8

Duty to Re-import

When a transboundary movement of hazardous wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner within a maximum of 90 days from the time that the importing State informed the State of export and the Secretariat. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

Article 9

Illegal traffic

1. For the purpose of this Convention, any transboundary movement of hazardous wastes under the following situations shall be deemed illegal traffic:

(a) if carried out without notification, pursuant to the provisions of this Convention, to all States concerned; or

(b) if carried out without the consent, pursuant to the provisions of this Convention, of a State concerned; or

(c) if consent is obtained from States concerned through falsification, misrepresentation or fraud; or

(d) if it does not conform in a material way with the documents; or

(e) if it results in deliberate disposal of hazardous wastes in contravention of this Convention and of general principles of international law.

2. Each Party shall introduce appropriate national legislation for imposing criminal penalties on all persons who have planned, committed, or assisted in such illegal imports. Such penalties shall be sufficiently high to both punish and deter such conduct.

3. In case of a transboundary movement of hazardous wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are taken back by the exporter or generator or if necessary by itself into the State of export, within 30 days from the time the State of export has been informed about the illegal traffic. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export and appropriate legal action shall be taken against the contravenor(s).

4. In the case of a transboundary movement of hazardous wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the Party of import shall ensure that the wastes in question are returned to the exporter by the importer and that legal proceedings according to the provisions of this Convention are taken against the contravenor(s).

Article 10

Intra-African Co-operation

1. The Parties to this Convention shall co-operate with one another and with relevant African organizations, to improve and achieve the environmentally sound management of hazardous wastes.

2. To this end, the Parties shall:

(a) Make available information, whether on a bilateral or multilateral basis, with a view to promoting clean production methods and the environmentally sound management of hazardous wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;

(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound clean production technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new and improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice;

(f) Co-operate in the exchange and dissemination of information on the movement of hazardous wastes in conformity with Article 13 of this Convention.

Article 11

International Co-operation Bilateral, Multilateral, and Regional Agreements

1. Parties to this Convention may enter into bilateral, multilateral, or regional agreements or arrangements regarding the transboundary movement and management of hazardous wastes generated in Africa with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are no less environmentally sound than those provided for by this Convention.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 of this Article and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements of hazardous wastes generated in Africa which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes as required by this Convention.

3. Each Contracting Party shall prohibit vessels flying its flag or aircraft registered in its territory from carrying out activities in contravention of this Convention.

4. Parties shall use appropriate measures to promote South-South co-operation in the implementation of this Convention.

5. Taking into account the needs of developing countries, co-operation between international organizations is encouraged in order to promote, among other things, public awareness, the development of rational management of hazardous waste, and the adoption of new and non/less polluting technologies.

Article 12

Liabilities and Compensation

The Conference of Parties shall set up an Ad Hoc expert organ to prepare a draft Protocol setting out appropriate rules and procedures in the field of liabilities and compensation for damage resulting from the transboundary movement of hazardous wastes.

Article 13

Transmission of Information

1. The Parties shall ensure that in the case of an accident occurring during the transboundary movement of hazardous wastes or their disposal which is likely to present risks to human health and the environment in other States, those States are immediately informed.

2. The States shall inform each other, through the Secretariat, of:

   (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5 of this Convention;

   (b) Changes in their national definition of hazardous wastes, pursuant to Article 3 of this Convention;

   (c) Decisions made by them to limit or ban the import of hazardous wastes;

   (d) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall set up information collection and dissemination mechanisms on hazardous wastes. They shall transmit such information through the Secretariat, to the Conference of the Parties established under Article 15 of this Convention, before the end of each calendar year, in a report on the previous calendar year, containing the following information:

(a) Competent authorities, Dumpwatch, and focal points that have been designated by them pursuant to Article 5 of this Convention;

(b) Information regarding transboundary movements of hazardous wastes in which they have been involved, including:

(i) The quantity of hazardous wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the notification;

(ii) The amount of hazardous wastes imported, their category, characteristics, origin, and disposal methods;

(iii) Disposals which did not proceed as intended;

(iv) Efforts to achieve a reduction of the amount of hazardous wastes subject to transboundary movement;

(c) Information on the measures adopted by them in the implementation of this Convention;

(d) Information on available qualified statistics - which have been compiled by them on the effects on human health and the environment of the generation, transportation, and disposal of hazardous wastes - as part of the information required in conformity with Article 4 Section 3 (a) of this Convention;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movements, treatment and disposal of hazardous wastes and on the measures undertaken to deal with them;

(g) Information on treatment and disposal options operated within the area under their national jurisdiction;

(h) Information on measures undertaken for the development of clean production methods, including clean production technologies, for the reduction and/or elimination of the production of hazardous wastes; and

(i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes, and the response to it, are sent to the Secretariat.

Article 14

Financial Aspects

1. The regular budget of the Conference of Parties, as required in Article 15 and 16 of this Convention, shall be prepared by the Secretariat and approved by the Conference.

2. Parties shall, at the first meeting of the Conference of the Parties, agree on a scale of contributions to the recurrent budget of the Secretariat.

3. The Parties shall also consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from disasters or accidents arising from transboundary movements of hazardous wastes or during the disposal of such wastes.

4. The Parties agree that, according to the specific needs of different regions and sub-regions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and the minimization of their generation should be established, as well as appropriate funding mechanisms of voluntary nature.

Article 15

Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Secretary-General of the OAU not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. The Conference of the Parties shall adopt Rules of Procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties to this Convention.

3. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine and inland waters environments in the context of this Convention.

4. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and in addition, shall:

(a) promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes;

(b) consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, inter alia, available scientific, technical, economic and environmental information;

(c) consider and undertake any additional action that may be required for the achievement of the purpose of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11 of this Convention;

(d) consider and adopt protocols as required;

(e) establish such subsidiary bodies as are deemed necessary for the implementation of this Convention; and

(f) make decisions for the peaceful settlement of disputes arising from the transboundary movement of hazardous wastes, if need be, according to international law.

5. Organizations may be represented as observers at meetings of the Conference of the Parties. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes which has informed the Secretariat, may be represented as an observer at a meeting of the Conference of the Parties. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 16

Secretariat

1. The functions of the Secretariat shall be:

(a) To arrange for, and service, meetings provided for in Articles 15 and 17 of this Convention;

(b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11, and 13 of this Convention as well as upon information derived from meetings of subsidiary bodies established under Article 15 of this Convention as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

(c) To prepare reports on its activities carried out in the implementation of its functions under this Convention and present them to the Conference of the Parties;

(d) To ensure the necessary co-ordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(e) To communicate with focal points, competent authorities and Dumpwatch established by the Parties in accordance with Article 5 of this Convention as well as appropriate inter-governmental and non-governmental organizations which may provide assistance in the implementation of this Convention;

(f) To compile information concerning approved national sites and facilities of Parties available for the disposal of their hazardous wastes and to circulate this information;

(g) To receive and convey information from and to Parties on:

-sources of technical assistance and training;

-available technical and scientific know-how;

-sources of advice and expertise; and

-availability of resources;

With a view to assisting them in such areas as:

-the handling of the notification system of this Convention;

-the management of hazardous wastes;

-environmentally sound clean production methods relating to hazardous wastes, such as clean production technologies;

-the assessment of disposal capabilities and sites;

-the monitoring of hazardous wastes; and

-emergency responses;

(h) To provide Parties to this Convention with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them with examining a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes with the relevant notification, and/or whether the proposed disposal facilities for hazardous wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examinations would not be at the expense of the Secretariat;

(i) To assist Parties to this Convention in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;

(j) To co-operate with Parties to this Convention and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and

(k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The Secretariat's functions will be carried out on an interim basis by the OAU jointly with the United Nations Economic Commission for Africa (ECA) until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15 of this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

Article 17

Amendment of the Convention and of Protocols

1. Any Party may propose amendments to this Convention and any Party to a Protocol may propose amendments to that Protocol. Such amendments shall take due account, inter alia, of relevant scientific, technical, environmental and social considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any Protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any Protocol, except as may otherwise be provided in such Protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for their information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depository to all Parties for ratification, approval, formal confirmation or acceptance.

Amendment of Protocols to this Convention

4. The procedure specified in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that Protocol present and voting at the meeting shall suffice for their adoption.

General Provisions

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depository. Amendments adopted in accordance with paragraph 3 or 4 above shall enter into force between Parties having accepted them, on the ninetieth day after the receipt by the Depository of the instrument of ratification, approval, formal confirmation or acceptance by at least two-thirds of the Parties who accepted the amendments to the Protocol concerned, except as may otherwise be provided in such Protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 18

Adoption and Amendment of Annexes

1. The annexes to this Convention or to any Protocol shall form an integral part of this Convention or of such Protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its Protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention and its Protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 1, 2, 3, and 4 of this Convention;

(b) Any Party that is unable to accept an additional annex to this Convention or an annex to any Protocol to which it is Party shall so notify the Depository, in writing, within six months from the date of the communication of the adoption by the Depository. The Depository shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(c) Upon the expiration of six months from the date of the circulation of the communication by the Depository, the annex shall become effective for all Parties to this Convention or to any Protocol concerned, which have not submitted a notification in accordance with the provision of sub-paragraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any Protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a Protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any Protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the Protocol enters into force.

Article 19

Verification

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention must inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. The Secretariat shall carry out a verification of the substance of the allegation and submit a report thereof to all the Parties to this Convention.

Article 20

Settlement of Disputes

1. In case of dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any Protocol thereto, the Parties shall seek a settlement of the dispute through negotiations or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute as provided in paragraph 1 of this Article, the dispute shall be submitted either to an Ad Hoc organ set up by the Conference for this purpose, or to the International Court of Justice.

3. The conduct of arbitration of disputes between Parties by the Ad Hoc organ provided for in paragraph 2 of this Article shall be as provided in Annex V of this Convention.

Article 21

Signature

This Convention shall be open for signature by Member States of the OAU for a period of six months from 30 January 1991 to 30 July 1991.

Article 22

Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance, formal confirmation, or approval by Member States of the OAU. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depository.

2. Parties shall be bound by all obligations of this Convention.

Article 23

Accession

This Convention shall be open for accession by Member States of the OAU from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depository.

Article 24

Right to Vote

Each Contracting Party to this Convention shall have one vote.

Article 25

Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the tenth instrument of ratification from Parties signatory to this Convention.

2. For each State which ratifies this Convention or accedes thereto after the date of the deposit of the tenth instrument of ratification, it shall enter into force on the ninetieth day after the date of deposit by such State of its instrument of accession or ratification.

Article 26

Reservations and Declarations

1. No reservations or exceptions may be made to this Convention.

2. Paragraph 1 of this Article does not preclude a State when signing, ratifying, or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

Article 27

Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depository.

2. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.

3. Withdrawal shall not exempt the withdrawing Party from fulfilling any obligations it might have incurred under this Convention.

Article 28

Depository

The Secretary-General of the Organization of African Unity shall be the Depository for this Convention and of any Protocol thereto.

Article 29

Registration

This Convention, as soon as it enters into force, shall be registered with the Secretary-General of the United Nations (UN) in conformity with Article 102 of the Charter of the UN.

Article 30

Authentic Texts

The Arabic, English, French and Portuguese texts of this Convention are equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Adopted in Bamako, Mali, on 29 January 1991.

ANNEX I

CATEGORIES OF WASTES WHICH ARE HAZARDOUS WASTES

Waste Streams:

Y0 All wastes containing or contaminated by radionuclides, the concentration or properties of which result from human activity

Y1 Clinical wastes from medical care in hospitals, medical centers and clinics

Y2 Wastes from the production and preparation of pharmaceutical products

Y3 Waste pharmaceuticals, drugs and medicines

Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals

Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals

Y6 Wastes from the production, formulation and use of organic solvents

Y7 Wastes from heat treatment and tempering operations containing cyanides

Y8 Waste mineral oils unfit for their originally intended use

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish

Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known

Y15 Wastes of an explosive nature not subject to other legislation

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials

Y17 Wastes resulting from surface treatment of metals and plastics

Y18 residues arising from industrial waste disposal operations

Y46 Wastes collected from households, including sewage and sewage sludges

Y47 Residues arising from the incineration of household wastes

Wastes having as constituents:

Y19 Metal carbonyls

Y20 Beryllium; beryllium compounds

Y21 Hexavalent chromium compounds

Y22 Copper compounds

Y23 Zinc compounds

Y24 Arsenic; arsenic compounds

Y25 Selenium; selenium compounds

Y26 Cadmium; cadmium compounds

Y27 Antimony; antimony compounds

Y28 Tellurium; tellurium compounds

Y29 Mercury; mercury compounds

Y30 Thallium; thallium compounds

Y31 Lead; lead compounds

Y32 Inorganic fluorine compounds excluding calcium fluoride

Y33 Inorganic cyanides

Y34 Acidic solutions or acids in solid form

Y35 Basic solutions or bases in solid form

Y36 Asbestos (dust and fibres)

Y37 Organic phosphorous compounds

Y38 Organic cyanides

Y39 Phenols; phenolcompounds including chlorophenols

Y40 Ethers

Y41 Halogenated organic solvents

Y42 Organic solvents excluding halogenated solvents

Y43 Any congener of polychlorinated dibenzo-furan

Y44 Any congener of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g., Y39, Y41, Y42, Y43, Y44).

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

UN Class*	Code	Characteristics
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction or producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 degrees C, closed-cup test, or not more than 65.6 degrees C, open-cup test. (Since the results of open-cup tests and closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such difference would be within the spirit of this definition).
4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1	Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen, cause or contribute to the combustion of other materials.
5.2	H5.2	Organic peroxides Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

* Corresponds to the hazardous classification system included in the United Nations Recommendations on the transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988).

6.2	H6.2	Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

ANNEX III

DISPOSAL OPERATIONS

D1 Deposit into or onto land, (e.g., landfill, etc.)

D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)

D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds, or lagoons, etc.)

D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D6 Release into a water body except seas/oceans

D7 Release into seas/oceans including sea-bed insertion

D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Annex III

D9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Annex III, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)

D10 Incineration on land

D11 Incineration at sea

D12 Permanent storage, (e.g., emplacement of containers in a mine, etc.)

D13 Blending or mixing prior to submission to any of the operations in Annex III

D14 Repackaging prior to submission to any of the operations in Annex III

D15 Storage pending any of the operations in Annex III

D16 Use as a fuel (other than in direct incineration) or other means to generate energy

D17 Solvent reclamation/regeneration

D18 Recycling/reclamation of organic substances which are not used as solvents

D19 Recycling/reclamation of metals and metal compounds

D20 Recycling/reclamation of other inorganic materials

D21 Regeneration of acids and bases

D22 Recovery of components used for pollution abatement

D23 Recovery of components from catalysts

D24 Used oil re-refining or other reuses of previously used oil

D25 Land treatment resulting in benefit to agriculture or ecological improvement

D26 Uses of residual materials obtained from any of the operations numbered D1-D25

D27 Exchange of wastes for submission to any of the operations numbered D1-D26

D28 Accumulation of material intended for any operation in Annex III

ANNEX IV A

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export

2. Exporter of the waste 1/

3. Generator(s) of the waste and site of generation 1/

4. Importer and Disposer of the waste and actual site of disposal 1/

5. Intended carrier(s) of the waste or their agents, if known 1/

6. Country of export of the waste
   Competent authority 2/

7. Countries of transit
   Competent authority 2/

8. Country of import of the waste
Competent authority 2/

9. Projected date of shipment and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit)

10. Means of transport envisaged (road, rail, sea, air, inland waters)

11. Information relating to insurance 3/

12. Designation and physical description of the waste including Y number and UN number and its composition 4/ and information on any special handling requirements including emergency provisions in case of accidents.

13. Type of packaging envisaged (e.g., bulk, drummer, tanker)

14. Estimated quantity in weight/volume

15. Process by which the waste is generated 5/

16. Waste classifications from Annex II of this Convention: Hazardous characteristics, H number, and UN class.

17. Method of disposal as per Annex III of this Convention.

18. Declaration by the generator and exporter that the information is correct.

19. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import.

20. Information concerning the contract between the exporter and disposer.

Notes

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex, or telefax number of the person to be contacted.

2/ Full name and address, telephone, telex or telefax number.

3/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier, and disposer.

4/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

5/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

ANNEX IV B

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/

2. Generator(s) of the waste and site of generation 1/

3. Disposer of the waste and actual site of disposal 1/

4. Carrier(s) of the waste 1/ or his agent(s)

5. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste

6. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated

7. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)

8. Information on special handling requirements including emergency provisions in case of accidents

9. Type and number of packages

10. Quantity in weight/volume

11. Declaration by the generator or exporter that the information is correct

12. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned

13. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the appropriate date of disposal.

Notes

The information required on the movement document shall where possible be integrated into one document with that required under transport rules. Where this is not possible, the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

ANNEX V

ARBITRATION

Article 1

Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

Article 2

The claimant Party shall notify the Secretariat that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 1 or paragraph 2 of Article 20 and include, in particular, the Articles of the Convention, and the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in one of the Parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the OAU shall, at the request of either Party, designate him within a further two months period.

2. If one of the Parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other Party may inform the Secretary-General of the OAU who shall designate the chairman of the arbitral tribunal within a further two months period. Upon designation, the chairman of the arbitral tribunal shall request the Party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the OAU who shall make this appointment within a further two month's period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal both on procedure and on substance, shall be taken by majority vote of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the Parties, recommend essential interim measures of protection.

3. The Parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a Party in the dispute shall not constitute an impediment to the proceedings.

Article 7

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the Parties.

Article 9

Any Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 10

1. The tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the Parties to the dispute.

3. Any dispute which may arise between the Parties concerning the interpretation or execution of the award may be submitted by either Party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

Convention on the Protection of the Marine Environment of the Baltic Sea Area, Helsinki, 1992

Done at Helsinki 9 April 1992

Not in force

Depositary: Finland

Primary source citation: Copy of text provided by the Embassy of the Government of Finland

Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992

THE CONTRACTING PARTIES,

CONSCIOUS of the indispensable values of the marine environment of the Baltic Sea Area, its exceptional hydrographic and ecological characteristics and the sensitivity of its living resources to changes in the environment;

BEARING in mind the historical and present economic, social and cultural values of the Baltic Sea Area for the well-being and development of the peoples of that region;

NOTING with deep concern the still ongoing pollution of the Baltic Sea Area;

DECLARING their firm determination to assure the ecological restoration of the Baltic Sea, ensuring the possibility of self-regeneration of the marine environment and preservation of its ecological balance;

RECOGNIZING that the protection and enhancement of the marine environment of the Baltic Sea Area are tasks that cannot effectively be accomplished by national efforts alone but by close regional co-operation and other appropriate international measures;

APPRECIATING the achievements in environmental protection within the framework of the 1974 Convention on the Protection of the Marine Environment of the Baltic Sea Area, and the role of the Baltic Marine Environment Protection Commission therein;

RECALLING the pertinent provisions and principles of the 1972 Declaration of the Stockholm Conference on the Human Environment and the 1975 Final Act of the Conference on Security and Co-operation in Europe (CSCE);

DESIRING to enhance co-operation with competent regional organizations such as the International Baltic Sea Fishery Commission established by the 1973 Gdansk Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts;

WELCOMING the Baltic Sea Declaration by the Baltic and other interested States, the European Economic Community and co-operating international financial institutions assembled at Ronneby in 1990, and the Joint Comprehensive Programme aimed at a joint action plan in order to restore the Baltic Sea Area to a sound ecological balance;

CONSCIOUS of the importance of transparency and public awareness as well as the work by non-governmental organizations for successful protection of the Baltic Sea Area;

WELCOMING the improved opportunities for closer co-operation which have been opened by the recent political developments in Europe on the basis of peaceful co-operation and mutual understanding;

DETERMINED to embody developments in international environmental policy and environmental law into a new Convention to extend, strengthen and modernize the legal regime for the protection of the Marine Environment of the Baltic Sea Area;

HAVE AGREED as follows:

Article 1
Convention Area

This Convention shall apply to the Baltic Sea Area. For the purposes of this Convention the "Baltic Sea Area" shall be the Baltic Sea and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57° 44.43'N. It includes the internal waters, i.e., for the purpose of this Convention waters on the landward side of the base lines from which the breadth of the territorial sea is measured up to the landward limit according to the designation by the Contracting Parties.

A Contracting Party shall, at the time of the deposit of the instrument of ratification, approval or accession inform the Depositary of the designation of its internal waters for the purpose of this Convention.

Article 2
Definitions

For the purposes of this Convention:

1. "Pollution" means introduction by man, directly or indirectly, of substances or energy into the sea, including estuaries, which are liable to create hazards to human health, to harm living resources and marine ecosystems, to cause hindrance to legitimate uses of the sea including fishing, to impair the quality for use of sea water, and to lead to a reduction of amenities;

2. "Pollution from land-based sources" means pollution of the sea by point or diffuse inputs from all sources on land reaching the sea waterborne, airborne or directly from the coast. It includes pollution from any deliberate disposal under the seabed with access from land by tunnel, pipeline or other means;

3. "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms;

4. a) "Dumping" means:

   i) any deliberate disposal at sea or into the seabed of wastes or other matter from ships, other man-made structures at sea or aircraft;

   ii) any deliberate disposal at sea of ships, other man-made structures at sea or aircraft;

   b) "Dumping" does not include:

   i) the disposal at sea of wastes or other matter incidental to, or derived from the normal operations of ships, other man-made structures at sea or aircraft and their equipment, other than wastes or other matter transported by or to ships, other man-made structures at sea or aircraft, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such ships, structures or aircraft;

ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of the present Convention;

5. "Incineration" means the deliberate combustion of wastes or other matter at sea for the purpose of their thermal destruction. Activities incidental to the normal operation of ships or other man-made structures are excluded from the scope of this definition;

6. "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

7. "Harmful substance" means any substance, which, if introduced into the sea, is liable to cause pollution;

8. "Hazardous substance" means any harmful substance which due to its intrinsic properties is persistent, toxic or liable to bio-accumulate;

9. "Pollution incident" means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil or other harmful substances and which poses or may pose a threat to the marine environment of the Baltic Sea or to the coastline or related interests of one or more Contracting Parties, and which requires emergency actions or other immediate response;

10. "Regional economic integration organization" means any organization constituted by sovereign states, to which their member states have transferred competence in respect of matters governed by this Convention, including the competence to enter into international agreements in respect of these matters;

11. The "Commission" means the Baltic Marine Environment Protection Commission referred to in Article 19.

Article 3
Fundamental principles and obligations

1. The Contracting Parties shall individually or jointly take all appropriate legislative, administrative or other relevant measures to prevent and eliminate pollution in order to promote the ecological restoration of the Baltic Sea Area and the preservation of its ecological balance.

2. The Contracting Parties shall apply the precautionary principle, i.e., to take preventive measures when there is reason to assume that substances or energy introduced, directly or indirectly, into the marine environment may create hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea even when there is no conclusive evidence of a causal relationship between inputs and their alleged effects.

3. In order to prevent and eliminate pollution of the Baltic Sea Area the Contracting Parties shall promote the use of Best Environmental Practice and Best Available Technology. If the reduction of inputs, resulting from the use of Best Environmental Practice and Best Available Technology, as described in Annex II, does not lead to environmentally acceptable results, additional measures shall be applied.

4. The Contracting Parties shall apply the polluter-pays principle.

5. The Contracting Parties shall ensure that measurements and calculations of emissions from point sources to water and air and of inputs from diffuse sources to water and air are carried out in a scientifically appropriate manner in order to assess the state of the marine environment of the Baltic Sea Area and ascertain the implementation of this Convention.

6. The Contracting Parties shall use their best endeavours to ensure that the implementation of this Convention does not cause transboundary pollution in areas outside the Baltic Sea Area. Furthermore, the relevant measures shall not lead either to unacceptable environmental strains on air quality and the atmosphere or on waters, soil and ground water, to unacceptably harmful or increasing waste disposal, or to increased risks to human health.

Article 4
Application

1. This Convention shall apply to the protection of the marine environment of the Baltic Sea Area which comprises the water-body and the seabed including their living resources and other forms of marine life.

2. Without prejudice to its sovereignty each Contracting Party shall implement the provisions of this Convention within its territorial sea and its eternal waters through its national authorities.

3. This Convention shall not apply to any warship, naval auxiliary, military aircraft or other ship and aircraft owned or operated by a state and used, for the time being, only on government non-commercial service.

However, each Contracting Party shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships and aircraft owned or operated by it, that such ships and aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

Article 5
Harmful substances

The Contracting Parties undertake to prevent and eliminate pollution of the marine environment of the Baltic Sea Area caused by harmful substances from all sources, according to the provisions of this Convention and, to this end, to implement the procedures and measures of Annex I.

Article 6
Principles and obligations concerning pollution from land-based sources

1. The Contracting Parties undertake to prevent and eliminate pollution of the Baltic Sea Area from land-based sources by using, inter alia, Best Environmental Practice for all sources and Best Available Technology for point sources. The relevant measures to this end shall be taken by each Contracting Party in the catchment area of the Baltic Sea without prejudice to its sovereignty.

2. The Contracting Parties shall implement the procedures and measures set out in Annex III. To this end they shall, inter alia, as appropriate co-operate in the development and adoption of specific programmes, guidelines, standards or regulations concerning emissions and inputs to water and air, environmental quality, and products containing harmful substances and materials and the use thereof.

3. Harmful substances from point sources shall not, except in negligible quantities, be introduced directly or indirectly into the marine environment of the Baltic Sea Area, without a prior special permit, which may be periodically reviewed, issued by the appropriate national authority in accordance with the principles contained in Annex III, Regulation 3. The Contracting Parties shall ensure that authorized emissions to water and air are monitored and controlled.

4. If the input from a watercourse, flowing through the territories of two or more Contracting Parties or forming a boundary between them, is liable to cause pollution of the marine environment of the Baltic Sea Area, the Contracting Parties concerned shall jointly and, if possible, in co-operation with a third state interested or concerned, take appropriate measures in order to prevent and eliminate such pollution.

Article 7
Environmental impact assessment

1. Whenever an environmental impact assessment of a proposed activity that is likely to cause a significant adverse impact on the marine environment of the Baltic Sea Area is required by international law or supra-national regulations applicable to the Contracting Party of origin, that Contracting Party shall notify the Commission and any Contracting Party which may be affected by a transboundary impact on the Baltic Sea Area.

2. The Contracting Party of origin shall enter into consultations with any Contracting Party which is likely to be affected by such transboundary impact, whenever consultations are required by international law or supra-national regulations applicable to the Contracting Party of origin.

3. Where two or more Contracting Parties share transboundary waters within the catchment area of the Baltic Sea, these Parties shall cooperate to ensure that potential impacts on the marine environment of the Baltic Sea Area are fully investigated within the environmental impact assessment referred to in paragraph 1 of this Article. The Contracting Parties concerned shall jointly take appropriate measures in order to prevent and eliminate pollution including cumulative deleterious effects.

Article 8
Prevention of pollution from ships

1. In order to protect the Baltic Sea Area from pollution from ships, the Contracting Parties shall take measures as set out in Annex IV.

2. The Contracting Parties shall develop and apply uniform requirements for the provision of reception facilities for ship-generated wastes, taking into account, inter alia, the special needs of passenger ships operating in the Baltic Sea Area.

Article 9
Pleasure craft

The Contracting Parties shall, in addition to implementing those provisions of this Convention which can appropriately be applied to pleasure craft, take special measures in order to abate harmful effects on the marine environment of the Baltic Sea Area caused by pleasure craft activities. The measures shall, inter alia, deal with air pollution, noise and hydrodynamic effects as well as with adequate reception facilities for wastes from pleasure craft.

Article 10
Prohibition of incineration

1. The Contracting Parties shall prohibit incineration in the Baltic Sea Area.

2. Each Contracting Party undertakes to ensure compliance with the provisions of this Article by ships:

   a) registered in its territory or flying its flag;

   b) loading, within its territory or territorial sea, matter which is to be incinerated; or

   c) believed to be engaged in incineration within its internal waters and territorial sea.

3. In case of suspected incineration the Contracting Parties shall co-operate in investigating the matter in accordance with Regulation 2 of Annex IV.

Article 11
Prevention of dumping

1. The Contracting Parties shall, subject to exemptions set forth in paragraphs 2 and 4 of this Article, prohibit dumping in the Baltic Sea Area.

2. Dumping of dredged material shall be subject to a prior special permit issued by the appropriate national authority in accordance with the provisions of Annex V.

3. Each Contracting Party undertakes to ensure compliance with the provisions of this Article by ships and aircraft:

a) registered in its territory or flying its flag;

b) loading, within its territory or territorial sea, matter which is to be dumped; or

c) believed to be engaged in dumping within its internal waters and territorial sea.

4. The provisions of this Article shall not apply when the safety of human life or of a ship or aircraft at sea is threatened by the complete destruction or total loss of the ship or aircraft, or in any case which constitutes a danger to human life, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life.

5. Dumping made under the provisions of paragraph 4 of this Article shall be reported and dealt with in accordance with Annex VII and shall be reported forthwith to the Commission in accordance with the provisions of Regulation 4 of Annex V.

6. In case of dumping suspected to be in contravention of the provisions of this Article the Contracting Parties shall co-operate in investigating the matter in accordance with Regulation 2 of Annex IV.

Article 12
Exploration and exploitation of the seabed and its subsoil

1. Each Contracting Party shall take all measures in order to prevent pollution of the marine environment of the Baltic Sea Area resulting from exploration or exploitation of its part of the seabed and the subsoil thereof or from any associated activities thereon as well as to ensure that adequate preparedness is maintained for immediate response actions against pollution incidents caused by such activities.

2. In order to prevent and eliminate pollution from such activities the Contracting Parties undertake to implement the procedures and measures set out in Annex VI, as far as they are applicable.

Article 13
Notification and consultation on pollution incidents

1. Whenever a pollution incident in the territory of a Contracting Party is likely to cause pollution to the marine environment of the Baltic Sea Area outside its territory and adjacent maritime area in which it exercises sovereign rights and jurisdiction according to international law, this Contracting Party shall notify without delay such Contracting Parties whose interests are affected or likely to be affected.

2. Whenever deemed necessary by the Contracting Parties referred to in paragraph 1, consultations should take place with a view to preventing, reducing and controlling such pollution.

3. Paragraphs 1 and 2 shall also apply in cases where a Contracting Party has sustained such pollution from the territory of a third state.

Article 14
Co-operation in combatting marine pollution

The Contracting Parties shall individually and jointly take, as set out in Annex VII, all appropriate measures to maintain adequate ability and to respond to pollution incidents in order to eliminate or minimize the consequences of these incidents to the marine environment of the Baltic Sea Area.

Article 15
Nature conservation and biodiversity

The Contracting Parties shall individually and jointly take all appropriate measures with respect to the Baltic Sea Area and its coastal ecosystems influenced by the Baltic Sea to conserve natural habitats and biological diversity and to protect ecological processes. Such measures shall also be taken in order to ensure the sustainable use of natural resources within the Baltic Sea Area. To this end, the Contracting Parties shall aim at adopting subsequent instruments containing appropriate guidelines and criteria.

Article 16
Reporting and exchange of information

1. The Contracting Parties shall report to the Commission at regular intervals on:

   a) the legal, regulatory, or other measures taken for the implementation of the provisions of this Convention, of its Annexes and of recommendations adopted thereunder;

   b) the effectiveness of the measures taken to implement the provisions referred to in sub-paragraph a) of this paragraph; and

   c) problems encountered in the implementation of the provisions referred to in sub-paragraph a) of this paragraph.

2. On the request of a Contracting Party or of the Commission, the Contracting Parties shall provide information on discharge permits, emission data or data on environmental quality, as far as available.

Article 17
Information to the public

1. The Contracting Parties shall ensure that information is made available to the public on the condition of the Baltic Sea and the waters in its catchment area, measures taken or planned to be taken to prevent and eliminate pollution and the effectiveness of those measures. For this purpose, the Contracting Parties shall ensure that the following information is made available to the public:

   a) permits issued and the conditions required to be met;

   b) results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with water-quality objectives or permit conditions; and

   c) water-quality objectives.

2. Each Contracting Party shall ensure that this information shall be available to the public at all reasonable times and shall provide members of the public with reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in its registers.

Article 18
Protection of information

1. The provisions of this Convention shall not affect the right or obligation of any Contracting Party under its national law and applicable supra-national regulation to protect information related to intellectual property including industrial and commercial secrecy or national security and the confidentiality of personal data.

2. If a Contracting Party nevertheless decides to supply such protected information to another Contracting Party, the Party receiving such protected information shall respect the confidentiality of the information received and the conditions under which it is supplied, and shall use that information only for the purposes for which it was supplied.

Article 19
Commission

1. The Baltic Marine Environment Protection Commission referred to as "the Commission", is established for the purposes of this Convention.

2. The Baltic Marine Environment Protection Commission, established pursuant to the Convention on the Protection of the Marine Environment of the Baltic Sea Area of 1974, shall be the Commission.

3. The chairmanship of the Commission shall be given to each Contracting Party in turn in alphabetical order of the names of the Contracting Parties in the English language. The Chairman shall serve for a period of two years, and cannot during the period of chairmanship serve as a representative of the Contracting Party holding the chairmanship.

Should the chairman fail to complete his term, the Contracting Party holding the chairmanship shall nominate a successor to remain in office until the term of that Contracting Party expires.

4. Meetings of the Commission shall be held at least once a year upon convocation by the Chairman. Extraordinary meetings shall, upon the request of any Contracting Party endorsed by another Contracting Party, be convened by the Chairman to be held as soon as possible, however, not later than ninety days after the date of submission of the request.

5. Unless otherwise provided under this Convention, the Commission shall take its decisions unanimously.

Article 20
The duties of the Commission

1. The duties of the Commission shall be:

   a) to keep the implementation of this Convention under continuous observation;

   b) to make recommendations on measures relating to the purposes of this Convention;

   c) to keep under review the contents of this Convention including its Annexes and to recommend to the Contracting Parties such amendments to this Convention including its Annexes as may be required including changes in the lists of substances and materials as well as the adoption of new Annexes;

   d) to define pollution control criteria, objectives for the reduction of pollution, and objectives concerning measures, particularly those described in Annex III;

   e) to promote in close co-operation with appropriate governmental bodies, taking into consideration sub-paragraph f) of this Article, additional measures to protect the marine environment of the Baltic Sea Area for this purpose:

      i) to receive, process, summarize and disseminate relevant scientific, technological and statistical information from available sources; and

      ii) to promote scientific and technological research; and

   f) to seek, when appropriate, the services of competent regional and other international organizations to collaborate in scientific and technological research as well as other relevant activities pertinent to the objectives of this Convention.

2. The Commission may assume such other functions as it deems appropriate to further the purposes of this Convention.

Article 21
Administrative provisions for the Commission

1. The working language of the Commission shall be English.

2. The Commission shall adopt its Rules of Procedure.

3. The office of the Commission, known as "the Secretariat", shall be in Helsinki.

4. The Commission shall appoint an Executive Secretary and make provisions for the appointment of such other personnel as may be necessary, and determine the duties, terms and conditions of service of the Executive Secretary.

5. The Executive Secretary shall be the chief administrative official of the Commission and shall perform the functions that are necessary for the administration of this Convention, the work of the Commission and other tasks entrusted to the Executive Secretary by the Commission and its Rules of Procedure.

Article 22
Financial provisions for the Commission

1. The Commission shall adopt its Financial Rules.

2. The Commission shall adopt an annual or biennial budget of proposed expenditures and consider budget estimates for the fiscal period following thereafter.

3. The total amount of the budget, including any supplementary budget adopted by the Commission shall be contributed by the Contracting Parties other than the European Economic Community, in equal parts, unless unanimously decided otherwise by the Commission.

4. The European Economic Community shall contribute no more than 2.5% of the administrative costs to the budget.

5. Each Contracting Party shall pay the expenses related to the participation in the Commission of its representatives, experts and advisers.

Article 23
Right to vote

1. Except as provided for in Paragraph 2 of this Article, each Contracting Party shall have one vote in the Commission.

2. The European Economic Community and any other regional economic integration organization, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member states which are Contracting Parties to this Convention. Such organizations shall not exercise their right to vote if their member states exercise theirs, and vice versa.

Article 24
Scientific and technological co-operation

1. The Contracting Parties undertake directly, or when appropriate through competent regional or other international organizations, to co-operate in the fields of science, technology and other research, and to exchange data and other scientific information for the purposes of this Convention. In order to facilitate research and monitoring activities in the Baltic Sea Area the Contracting Parties undertake to harmonize their policies with respect to permission procedures for conducting such activities.

2. Without prejudice to Article 4, paragraph 2 of this Convention the Contracting Parties undertake directly, or when appropriate, through competent regional or other international organizations, to promote studies and to undertake, support or contribute to programmes aimed at developing methods assessing the nature and extent of pollution, pathways, exposures, risks and remedies in the Baltic Sea Area. In particular, the Contracting Parties undertake to develop alternative methods of treatment, disposal and elimination of such matter and substances that are likely to cause pollution of the marine environment of the Baltic Sea Area.

3. Without prejudice to Article 4, Paragraph 2 of this Convention the Contracting Parties undertake directly, or when appropriate through competent regional or other international organizations, and, on the basis of the information and data acquired pursuant to paragraphs 1 and 2 of this Article, to co-operate in developing inter-comparable observation methods, in performing baseline studies and in establishing complementary or joint programmes for monitoring.

4. The organization and scope of work connected with the implementation of tasks referred to in the preceding paragraphs should primarily be outlined by the Commission.

Article 25
Responsibility for damage

The Contracting Parties undertake jointly to develop and accept rules concerning responsibility for damage resulting from acts or omissions in contravention of this Convention, including, inter alia, limits of responsibility, criteria and procedures for the determination of liability and available remedies.

Article 26
Settlement of disputes

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention, they should seek a solution by negotiation. If the Parties concerned cannot reach agreement they should seek the good offices of or jointly request mediation by a third Contracting Party, a qualified international organization or a qualified person.

2. If the Parties concerned have not been able to resolve their dispute through negotiation or have been unable to agree on measures as described above, such disputes shall be, upon common agreement, submitted to an ad hoc arbitration tribunal, to a permanent arbitration tribunal, or to the International Court of Justice.

Article 27
Safeguard of certain freedoms

Nothing in this Convention shall be construed as infringing upon the freedom of navigation, fishing, marine scientific research and other legitimate uses of the high seas, as well as upon the right of innocent passage through the territorial sea.

Article 28
Status of Annexes

The Annexes attached to this Convention form an integral part of this Convention.

Article 29
Relation to other Conventions

The provisions of this Convention shall be without prejudice to the rights and obligations of the Contracting Parties under existing and future treaties which further and develop the general principles of the Law of the Sea underlying this Convention and, in particular, provisions concerning the prevention of pollution of the marine environment.

Article 30
Conference for the revision or amendment of the Convention

A conference for the purpose of a general revision of or an amendment to this Convention may be convened with the consent of the Contracting Parties or at the request of the Commission.

Article 31
Amendments to the Articles of the Convention

1. Each Contracting Party may propose amendments to the Articles of this Convention. Any such proposed amendment shall be submitted to the Depositary and communicated by it to all Contracting Parties, which shall inform the Depositary of either their acceptance or rejection of the amendment as soon as possible after receipt of the communication.

A proposed amendment shall, at the request of a Contracting Party, be considered in the Commission. In such a case Article 19 paragraph 4 shall apply. If an amendment is adopted by the Commission, the procedure in paragraph 2 of this Article shall apply.

2. The Commission may recommend amendments to the Articles of this Convention. Any such recommended amendment shall be submitted to the Depositary and communicated by it to all Contracting Parties, which shall notify the Depositary of either their acceptance or rejection of the amendment as soon as possible after receipt of the communication.

3. The amendment shall enter into force ninety days after the Depositary has received notifications of acceptance of that amendment from all Contracting Parties.

Article 32
Amendments to the Annexes and the adoption of Annexes

1. Any amendment to the Annexes proposed by a Contracting Party shall be communicated to the other Contracting Parties by the Depositary and considered in the Commission. If adopted by the Commission, the amendment shall be communicated to the Contracting Parties and recommended for acceptance.

2. Any amendment to the Annexes recommended by the Commission shall be communicated to the Contracting Parties by the Depositary and recommended for acceptance.

3. Such amendment shall be deemed to have been accepted at the end of a period determined by the Commission unless within that period any one of the Contracting Parties has, by written notification to the Depositary, objected to the amendment. The accepted amendment shall enter into force on a date determined by the Commission.

The period determined by the Commission shall be prolonged for an additional period of six months and the date of entry into force of the amendment postponed accordingly, if, in exceptional cases, any Contracting Party informs the Depositary before the expiration of the period determined by the Commission that, although it intends to accept the amendment, the constitutional requirements for such an acceptance are not yet fulfilled.

4. An Annex to this Convention may be adopted in accordance with the provisions of this Article.

Article 33
Reservations

1. The provisions of this Convention shall not be subject to reservations.

2. The provision of paragraph 1 of this Article does not prevent a Contracting Party from suspending for a period not exceeding one year the application of an Annex of this Convention or part thereof or an amendment thereto after the Annex in question or the amendment thereto has entered into force. Any Contracting Party to the 1974 Convention on the Protection of the Marine Environment of the Baltic Sea Area, which upon the entry into force of this Convention, suspends the application of an Annex or part thereof, shall apply the corresponding Annex or part thereof to the 1974 Convention for the period of suspension.

3. If after the entry into force of this Convention a Contracting Party invokes the provisions of paragraph 2 of this Article it shall inform the other Contracting Parties, at the time of the adoption by the Commission of an amendment to an Annex, or a new Annex, of those provisions which will be suspended in accordance with paragraph 2 of this Article.

Article 34
Signature

This Convention shall be open for signature in Helsinki from 9 April 1992 until 9 October 1992 by States and by the European Economic Community participating in the Diplomatic Conference on the Protection of the Marine Environment of the Baltic Sea Area held in Helsinki on 9 April 1992.

Article 35
Ratification, approval and accession

1. This Convention shall be subject to ratification or approval.

2. This Convention shall, after its entry into force, be open for accession by any other State or regional economic integration organization interested in fulfilling the aims and purposes of this Convention, provided that this State or organization is invited by all the Contracting Parties. In the case of limited competence of a regional economic integration organization, the terms and conditions of its participation may be agreed upon between the Commission and the interested organization.

3. The instruments of ratification, approval or accession shall be deposited with the Depositary.

4. The European Economic Community and any other regional economic integration organization which becomes a Contracting Party to this Convention shall in matters within their competence, on their own behalf, exercise the rights and fulfill the responsibilities which this Convention attributes to their member states. In such cases, the member states of these organizations shall not be entitled to exercise such rights individually.

Article 36
Entry into force

1. This Convention shall enter into force two months after the deposit of the instruments of ratification or approval by all signatory States bordering the Baltic Sea and by the European Economic Community.

2. For each State which ratifies or approves this Convention before or after the deposit of the last instrument of ratification or approval referred to in paragraph 1 of this Article, this Convention shall enter into force two months after the date of deposit by such State of its instrument of ratification or approval or on the date of the entry into force of this Convention, whichever is the latest date.

3. For each acceding State or regional economic integration organization this Convention shall enter into force two months after the date of deposit by such State or regional economic integration organization of its instrument of accession.

4. Upon entry into force of this Convention the Convention on the Protection of the Marine Environment of the Baltic Sea Area, signed in Helsinki on 22 March 1974 as amended, shall cease to apply.

5. Notwithstanding paragraph 4 of this Article, amendments to the annexes of the said Convention adopted by the Contracting Parties to the said Convention between the signing of this Convention and its entry into force, shall continue to apply until the corresponding annexes of this Convention have been amended accordingly.

6. Notwithstanding paragraph 4 of this Article, recommendations and decisions adopted under the said Convention shall continue to be applicable to the extent that they are compatible with, or not explicitly terminated by this Convention or any decision adopted thereunder.

Article 37
Withdrawal

1. At any time after the expiry of five years from the date of entry into force of this Convention any Contracting Party may, by giving written notification to the Depositary, withdraw from this Convention. The withdrawal shall take effect for such Contracting Party on the thirtieth day of June of the year which follows the year in which the Depositary was notified of the withdrawal.

2. In case of notification of withdrawal by a Contracting Party the Depositary shall convene a meeting of the Contracting Parties for the purpose of considering the effect of the withdrawal.

Article 38
Depositary

The Government of Finland, acting as Depositary, shall:

a) notify all Contracting Parties and the Executive Secretary of:

   i) the signatures;

   ii) the deposit of any instrument of ratification, approval or accession;

   iii) any date of entry into force of this Convention;

   iv) any proposed or recommended amendment to any Article or Annex or the adoption of a new Annex as well as the date on which such amendment or new Annex enters into force;

   v) any notification, and the date of its receipt, under Articles 31 and 32;

   vi) any notification of withdrawal and the date on which such withdrawal takes effect;

   vii) any other act or notification relating to this Convention;

b) transmit certified copies of this Convention to acceding States and regional economic integration organizations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Helsinki, this ninth day of April one thousand nine hundred and ninety two in a single authentic copy in the English language which shall be deposited with the Government of Finland. The Government of Finland shall transmit certified copies to all Signatories.

ANNEX I

Harmful substances

PART 1 GENERAL PRINCIPLES

1.0 Introduction

In order to fulfil the requirements of relevant parts of this Convention the following procedure shall be used by the Contracting Parties in identifying and evaluating harmful substances, as defined in Article 2, paragraph 7.

1.1 Criteria on the allocation of substances

The identification and evaluation of substances shall be based on the intrinsic properties of substances, namely:

- persistency;
- toxicity or other noxious properties;
- tendency to bio-accumulation;

as well as on characteristics liable to cause pollution, such as

- the ratio between observed concentrations and concentrations having no observed effect;
- anthropogenically caused risk of eutrophication;
- transboundary or long-range significance;
- risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;
- radioactivity;
- serious interference with harvesting of sea-foods or with other legitimate uses of the sea;
- distribution pattern (i.e. quantities involved, use pattern and liability to reach the marine environment);
- proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment.

These characteristics are not necessarily of equal importance for the identification and evaluation of a particular substance or group of substances.

1.2 Priority groups of harmful substances

The Contracting Parties shall, in their preventive measures, give priority to the following groups of substances which are generally recognized as harmful substances:

a) heavy metals and their compounds;

b) organohalogen compounds;

c) organic compounds of phosphorus and tin;

d) pesticides, such as fungicides, herbicides, insecticides, slimicides and chemicals used for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles;

e) oils and hydrocarbons of petroleum origin;

f) other organic compounds especially harmful to the marine environment;

g) nitrogen and phosphorus compounds;

h) radioactive substances, including wastes;

i) persistent materials which may float, remain in suspension or sink;

j) substances which cause serious effects on taste and/or smell of products for human consumption from the sea, or effects on taste, smell, colour, transparency or other characteristics of the water.

PART 2 BANNED SUBSTANCES

In order to protect the Baltic Sea Area from hazardous substances, the Contracting Parties shall prohibit, totally or partially, the use of the following substances or groups of substances in the Baltic Sea Area and its catchment area:

2.1 Substances banned for all final uses, except for drugs

DDT (1,1,1-trichloro-2,2-bis-(chlorophenyl)-ethane) and its derivatives DDE and DDD;

2.2 Substances banned for all uses, except in existing closed system equipment until the end of service life or for research, development and analytical purposes

a) PCB's (polychlorinated biphenyls);

b) PCT's (polychlorinated terphenyls).

2.3 Substances banned for certain applications

Organotin compounds for antifouling paints for pleasure craft under 25 m and fish net cages.

PART 3 PESTICIDES

In order to protect the Baltic Sea Area from hazardous substances, the Contracting Parties shall endeavour to minimize and, whenever possible, to ban the use of the following substances as pesticides in the Baltic Sea Area and its catchment area:

	CAS-number
Acrylonitrile	107131
Aldrin	309002
Aramite	140578
Cadmium-compounds	-
Chlordane	57749
Chlordecone	143500
Chlordimeform	6164983
Chloroform	67663
1,2-Dibromoethane	106934
Dieldrin	60571
Endrin	72208
Fluoroacetic acid and derivatives	7664393, 144490
Heptachlor	76448
Isobenzane	297789
Isodrin	465736
Kelevan	4234791
Lead-compounds	-
Mercury-compounds	-

Morfamquat	4636833
Nitrophen	1836755
Pentachlorophenol	87865
Polychlorinated terpenes	8001501
Quintozene	82688
Selenium-compounds	-
2,4,5-T	93765
Toxaphene	8001352

ANNEX II

Criteria for the use of Best Environmental Practice and Best Available Technology

Regulation 1; General provisions

1. In accordance with the relevant parts of this Convention the Contracting Parties shall apply the criteria for Best Environmental Practice and Best Available Technology described below.

2. In order to prevent and eliminate pollution the Contracting Parties shall use Best Environmental Practice for all sources and Best Available Technology for point sources, minimizing or eliminating inputs to water and air from all sources by providing control strategies.

Regulation 2; Best Environmental Practice

1. The term "Best Environmental Practice" is taken to mean the application of the most appropriate combination of measures. In selecting for individual cases, at least the following graduated range of measures should be considered:

- provision of information and education to the public and to users about the environmental consequences of choosing particular activities and products, their use and final disposal;
- the development and application of Codes of Good Environmental Practice covering all aspects of activity in the product's life;
- mandatory labels informing the public and users of environmental risks related to a product, its use and final disposal;
- availability of collection and disposal systems;
- saving of resources, including energy;
- recycling, recovery and re-use;
- avoiding the use of hazardous substances and products and the generation of hazardous waste;
- application of economic instruments to activities, products or groups of products and emissions;
- a system of licencing involving a range of restrictions or a ban.

2. In determining in general or individual cases what combination of measures constitute Best Environmental Practice, particular consideration should be given to:

- the precautionary principle;
- the ecological risk associated with the product, its production, use and final disposal;

- avoidance or substitution by less polluting activities or substances;
- scale of use;
- potential environmental benefit or penalty of substitute materials or activities;
- advances and changes in scientific knowledge and understanding;
- time limits for implementation;
- social and economic implications.

Regulation 3; Best Available Technology

1. The term "Best Available Technology" is taken to mean the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges.

2. In determining whether a set of processes, facilities and methods of operation constitute the Best Available Technology in general or individual cases, special consideration should be given to:

- comparable processes, facilities or methods of operation which have recently been successfully tried out;
- technological advances and changes in scientific knowledge and understanding;
- the economic feasibility of such technology;
- time limits for application;
- the nature and volume of the emissions concerned;
- non-waste/low-waste technology;
- the precautionary principle.

Regulation 4; Future developments

It therefore follows that "Best Environmental Practice" and "Best Available Technology" will change with time in the light of technological advances and economic and social factors, as well as changes in scientific knowledge and understanding.

Annex III

Criteria and measures concerning the prevention of pollution from land-based sources

Regulation 1; General provisions

In accordance with the relevant parts of this Convention the Contracting Parties shall apply the criteria and measures in this Annex in the whole catchment area and take into account Best Environmental Practice (BEP) and Best Available Technology (BAT) as described in Annex II.

Regulation 2; Specific requirements

1. Municipal sewage water shall be treated at least by biological or other methods equally effective with regard to reduction of significant parameters. Substantial reduction shall be introduced for nutrients.

2. Water management in industrial plants should aim at closed water systems or at a high rate of circulation in order to avoid waste water wherever possible.

3. Industrial waste waters should be separately treated before mixing with diluting waters.

4. Waste waters continuing hazardous substances or other relevant substances shall not be jointly treated with other waste waters unless an equal reduction of the pollutant load is achieved compared to the separate purification of each waste water stream. The improvement of waste water quality shall not lead to a significant increase in the amount of harmful sludge.

5. Limit values for emissions containing harmful substances to water and air shall be stated in special permits.

6. Industrial plants and other point sources connected to municipal treatment plants shall use Best Available Technology in order to avoid hazardous substances which cannot be made harmless in the municipal sewage treatment plant or which may disturb the processes in the plant. In addition, measures according to Best Environmental Practice shall be taken.

7. Pollution from fish-farming shall be prevented and eliminated by promoting and implementing Best Environmental Practice and Best Available Technology.

8. Pollution from diffuse sources, including agriculture, shall be eliminated by promoting and implementing Best Environmental Practice.

9. Pesticides use shall comply with the criteria established by the Commission.

Regulation 3; Principles for issuing permits for industrial plants

The Contracting Parties undertake to apply the following principles and procedures when issuing the permits referred to in Article 6, paragraph 3 of this Convention:

1. The operator of the industrial plant shall submit data and information to the appropriate national authority using a form of application. It is recommended that the operator negotiates with the appropriate national authority concerning the data required for the application before submitting the application to the authority (agreement on the scope of required information and surveys).

At least the following data and information shall be included in the application:

General information

- name, branch, location and number of employees.

Actual situation and/or planned activities

- site of discharge and/or emission;
- type of production, amount of production and/or processing;
- production processes;
- type and amount of raw materials, agents and/or intermediate products;
- amount and quality of untreated wastewater and raw gas from all relevant sources (e.g. process water, cooling water);
- treatment of wastewater and raw gas with respect to type process and efficiency of pretreatment and/or final treatment;

- treated wastewater and raw gas with respect to amount and quality at the outlet of the pretreatment and/or final treatment facilities;

- amount and quality of solid and liquid wastes generated during the process and the treatment of wastewater and raw gas;

- treatment of solid and liquid wastes;

- information about measures to prevent process failures and accidental spills;

- present status and possible impact on the environment.

Alternatives and their various impacts concerning, e.g., ecological, economic and safety aspects, if necessary

- other possible production processes;

- other possible raw materials, agents and/or intermediate products;

- other possible treatment technologies.

2. The appropriate national authority shall evaluate the present status and potential impact of the planned activities on the environment.

3. The appropriate national authority issues the permit after comprehensive assessment with special consideration of the above mentioned aspects. At least the following shall be laid down in the permit:

- characterizations of all components (e.g. production capacity) which influence the amount and quality of discharge and/or emissions;

- limit values for amount and quality (load and/or concentration) of direct and indirect discharges and emissions;

- instructions concerning:

    - construction and safety;

    - production processes and/or agents;

    - operation and maintenance of treatment facilities;

    - recovery of materials and substances and waste disposal;

    - type and extent of control to be performed by the operator (self-control);

    - measures to be taken in case of process failures and accidental spills;

    - analytical methods to be used;

    - schedule for modernization, retrofitting and investigations done by the operator;

    - schedule for reports of the operator on monitoring and/or self-control, retrofitting and investigation measures.

4. The appropriate national authority or an independent institution authorized by the appropriate national authority shall:

- inspect the amount and quality of discharges and/or emissions by sampling and analysing;

- control the attainment of the permit requirements;

- arrange monitoring of the various impacts of wastewater discharges and emissions into the atmosphere;
- review the permit when necessary.

Annex IV

Prevention of pollution from ships

Regulation 1; Co-operation

The Contracting Parties shall, in matters concerning the protection of the Baltic Sea Area from pollution by ships, co-operate:

a) within the International Maritime Organization, in particular in promoting the development of international rules, based, inter alia, on the fundamental principles and obligations of this Convention which also includes the promotion of the use of Best Available Technology and Best Environmental Practice as defined in Annex II;

b) in the effective and harmonized implementation of rules adopted by the International Maritime Organization.

Regulation 2; Assistance in investigations

The Contracting Parties shall, without prejudice to Article 4, paragraph 3 of this Convention, assist each other as appropriate in investigating violations of the existing legislation on anti-pollution measures, which have occurred or are suspected to have occurred within the Baltic Sea Area. This assistance may include but is not limited to inspection by the competent authorities of oil record books, cargo record books, log books and engine log books and taking oil samples for analytical identification purposes.

Regulation 3; Definitions

For the purposes of this Annex:

1. "Administration" means the Government of the Contracting Party under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

2. a) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;

   b) "Discharge" does not include:

      i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter done at London on 29 December 1972; or

      ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or

      iii) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.

3. The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law.

4. The term "jurisdiction" shall be interpreted in accordance with international law in force at the time of application or interpretation of this Annex.

5. The term "MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto.

Regulation 4; Application of the Annexes of MARPOL 73/78

Subject to Regulation 5 the Contracting Parties shall apply the provisions of the Annexes of MARPOL 73/78.

Regulation 5; Sewage

The Contracting Parties shall apply the provisions of paragraphs A to D and F and G of this Regulation on discharge of sewage from ships while operating in the Baltic Sea Area.

A. Definitions

For the purposes of this Regulation:

1. "Sewage" means:

   a) drainage and other wastes from any form of toilets, urinals, and WC scuppers;

   b) drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;

   c) drainage from spaces containing living animals; or

   d) other waste waters when mixed with the drainages defined above.

2. "Holding tank" means a tank used for the collection and storage of sewage.

B. Application

The provisions of this Regulation shall apply to:

a) ships of 200 tons gross tonnage and above;

b) ships of less than 200 tons gross tonnage which are certified to carry more than 10 persons;

c) ships which do not have a measured gross tonnage and are certified to carry more than 10 persons.

C. Discharge of sewage

1. Subject to the provisions of paragraph D of this Regulation, the discharge of sewage into the sea is prohibited, except when:

   a) the ship is discharging comminuted and disinfected sewage using a system approved by the Administration at a distance of more than 4 nautical miles from the nearest land or sewage which is not comminuted or disinfected at a distance of more than 12 nautical miles from the nearest land, provided that in any case the sewage that has been stored in holding tanks shall not be discharged instantaneously but at a moderate rate when the ship is en route and proceeding at not less than 4 knots; or

b) the ship has in operation a sewage treatment plant which has been approved by the Administration, and

i) the test results of the plant are laid dawn in a document carried by the ship;

ii) additionally, the effluent shall not produce visible floating solids in, nor cause discolouration of the surrounding water.

2. When the sewage is mixed with wastes or waste water having different discharge requirements, the more stringent requirements shall apply.

D. Exceptions

Paragraph C of this Regulation shall not apply to:

a) the discharge of sewage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

b) the discharge of sewage resulting from damage to a ship or its equipment if all reasonable precautions have been taken before and after the occurrence of the damage for the purpose of preventing or minimizing the discharge.

E. Reception facilities

1. Each Contracting Party undertakes to ensure the provision of facilities at its ports and terminals of the Baltic Sea Area for the reception of sewage, without causing undue delay to ships, adequate to meet the needs of the ships using them.

2. To enable pipes of reception facilities to be connected with the ship's discharge pipeline, both lines shall be fitted with a standard discharge connection in accordance with the following table:

STANDARD DIMENSIONS OF FLANGES FOR DISCHARGE CONNECTIONS

Description	Dimension
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes 18 mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 18 mm
Flange thickness	16 mm
Bolts and nuts: quantity and diameter	4, each of 16 mm diameter and of suitable length

The flange is designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 6 kg/cm^2.

For ships having a moulded depth of 5 meters and less, the inner diameter of the discharge connection may be 38 millimetres.

F. Surveys

1. Ships which are engaged in international voyages in the Baltic Sea Area shall be subject to surveys as specified below:

   a) An initial survey before the ship is put into service or before the Certificate required under paragraph G of this Regulation is issued for the first time including a survey of the ship which shall be such as to ensure that:

      i) when the ship is equipped with a sewage treatment plant the plant shall meet operational requirements based on the standards and test methods recommended by the Commission and shall be approved by the Administration;

      ii) when the ship is fitted with a system to comminute and disinfect the sewage, such system shall meet operational requirements based on the standards and test methods recommended by the Commission and shall be approved by the Administration;

      iii) when the ship is equipped with a holding tank the capacity of such tank shall be to the satisfaction of the Administration for the retention of all sewage, having regard to the operation of the ship, the number of persons on board and other relevant factors. The holding tank shall meet operational requirements based on the standards and test methods recommended by the Commission and shall be approved by the Administration; and

      iv) the ship is equipped with a pipeline to discharge sewage to a reception facility. The pipeline should be fitted with a standard shore connection in accordance with paragraph E, or for ships in dedicated trades, alternatively with other standards which can be accepted by the Administration such as quick connection couplings.

   This survey shall be such as to ensure that equipment, fittings, arrangements and materials fully comply with the applicable requirements of this Regulation.

   The Administration shall recognize the "Certificate of Type Test" for sewage treatment plants issued under the authority of other Contracting Parties.

   b) Periodical surveys at intervals specified by the Administration but not exceeding five years which shall be such as to ensure that the equipment, fittings, arrangements and materials fully comply with the applicable requirements of this Regulation.

2. Surveys of the ship as regards enforcement of the provisions of this Regulation shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned fully guarantees the completeness and efficiency of the surveys.

3. After any survey of the ship has been completed, no significant change shall be made in the equipment, fittings, arrangements, or material covered by the survey without the approval of the Administration, except the direct replacement of such equipment or fittings.

G. Certificate

1. A Sewage Pollution Prevention Certificate shall be issued to ships certified to carry more than 50 persons which are engaged in international voyages in the Baltic Sea Area, after survey in accordance with the provisions of paragraph F of this Regulation.

2. Such Certificate shall be issued either by the Administration or by any person or organization duly authorized by it. In every case the Administration assumes full responsibility for the Certificate.

3. The Sewage Prevention Certificate shall be drawn up in a form corresponding to the model given in the appendix to Annex IV of MARPOL 73/78. If the language is not English, the text shall include a translation into English.

4. A Sewage Pollution Prevention Certificate shall be issued for a period certified by the Administration, which shall not exceed five years.

5. A Certificate shall cease to be valid if significant alterations have taken place in the equipment, fittings, arrangements or materials required without the approval of the Administration except the direct replacement of such equipment or fittings.

Annex V

Exemptions from the general prohibition of dumping of waste and other matter in the Baltic Sea Area

Regulation 1

In accordance with Article 11, paragraph 2 of this Convention the prohibition of dumping shall not apply to the disposal at sea of dredged materials provided that:

a) the dumping of dredged material containing harmful substances indicated in Annex I is only permitted according to the guidelines adopted by the Commission; and

b) the dumping is carried out under a prior special permit issued by the appropriate national authority, either

   i) within the area of internal waters and the territorial sea of the Contracting Party; or

   ii) outside the area of internal waters and the territorial sea, whenever necessary, after prior consultations in the Commission.

When issuing such permits the Contracting Party shall comply with the provisions in Regulation 3 of this Annex.

Regulation 2

1. The appropriate national authority referred to in Article 11, paragraph 2 of of this Convention shall:

   a) issue the special permits provided for in Regulation 1 of this Annex;

   b) keep records of the nature and quantities of matter permitted to be dumped and the location, time and method of dumping;

   c) collect available information concerning the nature and quantities of matter that has been dumped in the Baltic Sea Area recently and up to the coming into force of this Convention, provided that the dumped matter in question could be liable to contaminate water or organisms in the Baltic Sea Area, to be caught by fishing equipment, or otherwise to give rise to harm, and information concerning the location, time and method of such dumping.

2. The appropriate national authority shall issue special permits in accordance with Regulation 1 of this Annex in respect of matter intended for dumping in the Baltic Sea Area:

   a) loaded in its territory;

b) loaded by a ship or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State which is not a Contracting Party to this Convention.

3. Each Contracting Party shall report to the Commission, and where appropriate to other Contracting Parties, the information specified in sub-paragraph 1 c) of Regulation 2 of this Annex. The procedure to be followed and the nature of such reports shall be determined by the Commission.

Regulation 3

When issuing special permits according to Regulation 1 of this Annex the appropriate national authority shall take into account:

a) the quantity of dredged material to be dumped;

b) the content of harmful substances as referred to in Annex I;

c) the location (e.g. co-ordinates of the dumping area, depth and distance from the coast) and its relation to areas of special interest (e.g. amenity areas, spawning, nursery and fishing areas, etc.);

d) the water characteristics, if dumping is carried out outside the territorial sea, consisting of:

i) hydrographic properties (e.g. temperature, salinity, density, profile);

ii) chemical properties (e.g. pH, dissolved oxygen, nutrients);

iii) biological properties (e.g. primary production and benthic animals);

the data should include sufficient information on the annual mean levels and seasonal variation of the properties mentioned in this paragraph; and

e) the existence and effects of other dumping which may have been carried out in the dumping area.

Regulation 4

Reports made in accordance with Article 11, paragraph 5 of this Convention shall include the information to be provided in the Reporting Form to be determined by the Commission.

Annex VI

Prevention of pollution from offshore activities

Regulation 1; Definitions

For the purposes of this Annex:

1. "Offshore activity" means any exploration and exploitation of oil and gas by a fixed or floating offshore installation or structure including all associated activities thereon;

2. "Offshore unit" means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil;

3. "Exploration" includes any drilling activity but not seismic investigations;

4. "Exploitation" includes any production, well testing or stimulation activity.

Regulation 2; Use of Best Available Technology and Best Environmental Practice

The Contracting Parties undertake to prevent and eliminate pollution from offshore activities by using the principles of Best Available Technology and Best Environmental Practice as defined in Annex II.

Regulation 3; Environmental impact assessment and monitoring

1. An environmental impact assessment shall be made before an offshore activity is permitted to start. In case of exploitation referred to in Regulation 5 the outcome of this assessment shall be notified to the Commission before the offshore activity is permitted to start.

2. In connection with the environmental impact assessment the environmental sensitivity of the sea area around a proposed offshore unit should be assessed with respect to the following:

a) the importance of the area for birds and marine mammals;

b) the importance of the area as fishing or spawning grounds for fish and shellfish, and for aquaculture;

c) the recreational importance of the area;

d) the composition of the sediment measured as: grain size distribution, dry matter, ignition loss, total hydrocarbon content, and Ba, Cr, Pb, Cu, Hg and Cd content;

e) the abundance and diversity of benthic fauna and the content of selected aliphatic and aromatic hydrocarbons.

3. In order to monitor the consequent effects of the exploration phase of the offshore activity studies, at least those referred to in sub-paragraph d) above, shall be carried out before and after the operation.

4. In order to monitor the consequent effects of the exploitation phase of the offshore activity studies, at least those referred to in sub-paragraphs d) and e) above, shall be carried out before the operation, at annual intervals during the operation, and after the operation has been concluded.

Regulation 4; Discharges on the exploration phase

1. The use of oil-based drilling mud or muds containing other harmful substances shall be restricted to cases where it is necessary for geological, technical or safety reasons and only after prior authorization by the appropriate national authority. In such cases appropriate measures shall be taken and appropriate installations provided in order to prevent the discharge of such muds into the marine environment.

2. Oil-based drilling muds and cuttings arising from the use of oil-based drilling muds should not be discharged in the Baltic Sea Area but taken ashore for final treatment or disposal in an environmentally acceptable manner.

3. The discharge of water-based mud and cuttings shall be subject to authorization by the appropriate national authority. Before authorization the content of the water-based mud must be proven to be of low toxicity.

4. The discharge of cuttings arising from the use of water-based drilling mud shall not be permitted in specifically sensitive parts of the Baltic Sea Area such as confined or shallow areas with limited water exchange and areas characterized by rare, valuable or particularly fragile ecosystems.

Regulation 5; Discharges on the exploitation phase

In addition to the provisions of Annex IV the following provisions shall apply to discharges:

a) all chemicals and materials shall be taken ashore and may be discharged only exceptionally after obtaining permission from the appropriate national authority in each individual operation;

b) the discharge of production water and displacement water is prohibited unless its oil content is proven to be less than 15 mg/l measured by the methods of analysis and sampling to be adopted by the Commission;

c) if compliance with this limit value cannot be achieved by the use of Best Environmental Practice and Best Available Technology the appropriate national authority may require adequate additional measures to prevent possible pollution of the marine environment of the Baltic Sea Area and allow, if necessary, a higher limit value which shall, however, be as low as possible and in no case exceed 40 mg/l; the oil content shall be measured as provided in sub-paragraph b) above.

d) the permitted discharge shall not, in any case, create any unacceptable effects on the marine environment;

e) in order to benefit from the future development in cleaning and production technology, discharge permits shall be regularly reviewed by the appropriate national authority and the discharge limits shall be revised accordingly.

Regulation 6; Reporting procedure

Each Contracting Party shall require that the operator or any other person having charge of the offshore unit shall report in accordance with the provisions of Regulation 5.1 of Annex VII of this Convention.

Regulation 7; Contingency planning

Each offshore unit shall have a pollution emergency plan approved in accordance with the procedure established by the appropriate national authority. The plan shall contain information on alarm and communication systems, organization of response measures, a list of prepositioned equipment and a description of the measures to be taken in different types of pollution incidents.

Regulation 8; Disused offshore units

The Contracting Parties shall ensure that abandoned, disused offshore units and accidentally wrecked offshore units are entirely removed and brought ashore under the responsibility of the owner and that disused drilling wells are plugged.

Regulation 9; Exchange of information

The Contracting Parties shall continuously exchange information through the Commission on the location and nature of all planned or accomplished offshore activities and on the nature and amounts of discharges as well as on contingency measures that are undertaken.

ANNEX VII

Response to pollution incidents

Regulation 1; General Provisions

1. The Contracting Parties undertake to maintain the ability to respond to pollution incidents threatening the marine environment of the Baltic Sea Area. This ability shall include adequate equipment, ships and manpower prepared for operations in coastal waters as well as on the high sea.

2. a) In addition to the incidents referred to in Article 13 the Contracting Party shall also notify without delay those pollution incidents occurring within its response region, which affect or are likely to affect the interests of other Contracting Parties.

b) In the event of a significant pollution incident other Contracting Parties and the Commission shall also be informed as soon as possible.

3. The Contracting Parties agree that subject to their capabilities and the availability of relevant resources, they shall co-operate in responding to pollution incidents when the severity of such incidents so justify.

4. In addition the Contracting Parties shall take other measures to:

a) conduct regular surveillance outside their coastlines; and

b) otherwise co-operate and exchange information with other Contracting Parties in order to improve the ability to respond to pollution incidents.

Regulation 2; Contingency Planning

Each Contracting Party shall draw up a national contingency plan and in co-operation with other Contracting Parties as appropriate, bilateral or multilateral plans for a joint response to pollution incidents.

Regulation 3; Surveillance

1. In order to prevent violations of the existing regulations on prevention of pollution from ships the Contracting Parties shall develop and apply individually or in co-operation, surveillance activities covering the Baltic Sea Area in order to spot and monitor oil and other substances released in to the sea.

2. The Contracting Parties shall undertake appropriate measures to conduct the surveillance referred to in Paragraph 1. by using, inter alia, airborne surveillance equipped with remote sensing systems.

Regulation 4; Response Regions

The Contracting Parties shall as soon as possible agree bilaterally or multilaterally on those regions of the Baltic Sea Area in which they shall conduct surveillance activities and take action to respond whenever a significant pollution incident has occurred or is likely to occur. Such agreements shall not prejudice any other agreements concluded between Contracting Parties concerning the same subject. Neighboring States shall ensure the harmonization of different agreements. Contracting Parties shall inform other Contracting Parties and the Commission about such agreements.

Regulation 5; Reporting Procedure

1. a) Each Contracting Party shall require masters or other persons having charge of ships flying its flag to report without delay any event on their ship involving a discharge or probable discharge of oil or other harmful substances.

b) The report shall be made to the nearest coastal state and in accordance with the provisions of Article 8 and Protocol I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 related thereto (MARPOL 73/78).

c) The Contracting Parties shall request masters or other persons having charge of ships and pilots of aircraft to report without delay and in accordance with this system on significant spillages of oil or other harmful substances observed at sea. Such reports should as far as possible contain the following data: time, position, wind and sea conditions, and kind, extent and probable source of the spill observed.

2. The provisions of paragraph 1. b) shall also be applied with regard to dumping made under the provisions of Article 11, paragraph 4 of this Convention.

Regulation 6; Emergency Measures on Board Ships

1. Each Contracting Party shall require that ships entitled to fly its flag have on board a shipboard oil pollution emergency plan as required by and in accordance with the provisions of MARPOL 73/78.

2. Each Contracting Party shall request masters of ships flying its flag or, in case of fixed or floating platforms operating under its jurisdiction, the persons having charge of platforms to provide, in case of a pollution incident and on request by the proper authorities, such detailed information about the ship and its cargo or in case of platform its production which is relevant to actions for preventing or responding to pollution of the sea, and to co-operate with these authorities.

Regulation 7; Response Measures

1. The Contracting Party shall, when a pollution incident occurs in its response region, make the necessary assessments of the situation and take adequate response action in order to avoid or minimize subsequent pollution effects.

2. a) The Contracting Parties shall, subject to sub-paragraph b), use mechanical means to respond to pollution incidents.

b) Chemical agents may be used only in exceptional cases and after authorization, in each individual case, by the appropriate national authority.

3. When such a spillage is drifting or is likely to drift into a response region of another Contracting Party, that Party shall without delay be informed of the situation and the actions that have been taken.

Regulation 8; Assistance

1. According to the provisions of paragraph 3 of Regulation 1:

a) a Contracting Party is entitled to call for assistance by other Contracting Parties when responding to a pollution incident at sea; and

b) Contracting Parties shall use their best endeavours to bring such assistance.

2. Contracting Parties shall take necessary legal or administrative measures to facilitate:

a) the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to a pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

b) the expeditious movement into, through, and out of its territory of personnel, cargoes, materials and equipment referred to in sub-paragraph a).

Regulation 9; Reimbursement of Cost of Assistance

1. The Contracting Parties shall bear the costs of assistance referred to in Regulation 8 in accordance with this Regulation.

2. a) If the action was taken by one Contracting Party at the express request of another Contracting Party, the requesting Party shall reimburse to the assisting Party the costs of the action of the assisting Party. If the request is cancelled the requesting Party shall bear the costs already incurred or committed by the assisting Party.

b) If the action was taken by a Contracting Party on its own initiative, this Party shall bear the costs of its action.

c) The principles laid down above in sub-paragraphs a) and b) shall apply unless the Parties concerned otherwise agree in any individual case.

3. Unless otherwise agreed, the costs of the action taken by a Contracting Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.

4. The provisions of this regulation shall not be interpreted as in any way prejudicing the rights of Contracting Parties to recover from third parties the costs of actions taken to deal with pollution incidents under other applicable provisions and rules of international law and national or supra-national regulations.

Regulation 10; Regular Co-operation

1. Each Contracting Party shall provide information to the other Contracting Parties and the Commission about:

a) its organization for dealing with spillages at sea of oil and other harmful substances;

b) its regulations and other matters which have a direct bearing on preparedness and response to pollution at sea by oil and other harmful substances;

c) the competent authority responsible for receiving and dispatching reports of pollution at sea by oil and other harmful substances;

d) the competent authorities for dealing with questions concerning measures for mutual assistance, information and co-operation between the Contracting Parties according to this Annex; and

e) actions taken in accordance with Regulations 7 and 8 of this Annex.

2. The Contracting Parties shall exchange information on research and development programs, results concerning ways in which pollution by oil and other harmful substances at sea may be dealt with and experiences in surveillance activities and in responding to such pollution.

3. The Contracting Parties shall on a regular basis arrange joint operational combatting exercises as well as alarm exercises.

4. The Contracting Parties shall co-operate within the International Maritime Organization in matters concerning the implementation and further development of the International Convention on Oil Pollution Preparedness, Response and Co-operation.

Regulation 11; HELCOM Combatting Manual

The Contracting Parties agree to apply, as far as practicable, the principles and rules included in the Manual on Co-operation in Combatting Marine Pollution, detailing this Annex and adopted by the Commission or by the Committee designated by the Commission for this purpose.

Convention on the Protection of the Black Sea Against Pollution, Bucharest, 1992

Done at Bucharest 22 April 1992

Not in force

Depositary: Romania

Primary source citation: Copy of text provided by the U.S. Department of State

CONVENTION
ON THE PROTECTION OF THE BLACK SEA AGAINST POLLUTION

The Contracting Parties,

Determined to act with a view to achieve progress in the protection of the marine environment of the Black Sea and in the conservation of its living resources,

Conscious of the importance of the economic, social and health values of the marine environment of the Black Sea,

Convinced that the natural resources and amenities of the Black Sea can be preserved primarily through joint efforts of the Black Sea countries,

Taking into account the generally accepted rules and regulations of international law,

Having in mind the principles, customs and rules of general international law regulating the protection and preservation of the marine environment and the conservation of the living resources thereof,

Taking into account the relevant provisions of the Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972 as amended; the International Convention on Prevention of Pollution from Ships of 1973 as modified by the Protocol of 1978 relating thereto as amended; the Convention on Control of Transboundary Movement of Hazardous Wastes and Their Disposal of 1989 and the International Convention on Oil Pollution Preparedness, Response and Cooperation of 1990,

Recognizing the significance of the principles adopted by the Conference on Security and Cooperation in Europe,

Taking into account their interest in the conservation, exploitation and development of the bioproductive potential of the Black Sea,

Bearing in mind that the Black Sea coast is a major international resort area where Black Sea Countries have made large investments in public health and tourism,

Taking into account the special hydrological and ecological characteristics of the Black Sea and the hypersensitivity of its flora and fauna to changes in the temperature and composition of the sea water,

Noting that pollution of the marine environment of the Black Sea also emanates from land-based sources in other countries of Europe, mainly through rivers,

Reaffirming their readiness to cooperate in the preservation of the marine environment of the Black Sea and the protection of its living resources against pollution,

Noting the necessity of scientific, technical and technological cooperation for the attainment of the purposes of the Convention,

Noting that existing international agreements do not cover all aspects of pollution of the marine environment of the Black Sea emanating from third countries,

Realizing the need for close cooperation with competent international organizations based on a concerted regional approach for the protection and enhancement of the marine environment of the Black Sea,

Have agreed as follows:

Article I
Area of application

1. This Convention shall apply to the Black Sea proper with the southern limit constituted for the purposes of this Convention by the line joining Capes Kelagra and Dalyan.

2. For the purposes of this Convention the reference to the Black Sea shall include the territorial sea and exclusive economic zone of each Contracting Party in the Black Sea. However, any Protocol to this Convention may provide otherwise for the purposes of that Protocol.

Article II
Definitions

For the purposes of this Convention:

1. "Pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazard to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.

2. a) "Vessel" means seaborne craft of any type. This expression includes hydrofoil boats, aircushion vehicles, submersibles, floating craft whether self-propelled or not and platforms and other man-made structures at sea.

b) "Aircraft" means airborne craft of any type.

3. a) "Dumping" means:

i) any deliberate disposal of wastes or other matter from vessels or aircraft;

ii) any deliberate disposal of vessels or aircraft;

b) "Dumping" does not include:

i) the disposal of wastes or other matter incidental to or derived from the normal operations of vessels or aircraft and their equipment, other than wastes or other matter transported by or to vessels or aircraft operating for purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels or aircraft;

ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

4. "Harmful substance" means any hazardous, noxious or other substance, the introduction of which into the marine environment would result in pollution or adversely affect the biological processes due to its toxicity and/or persistence and/or bioaccumulation characteristics.

Article III
General provisions

The Contracting Parties take part in this Convention on the basis of full equality in rights and duties, respect for national sovereignty and independence, non-interference in their internal affairs, mutual benefit and other relevant principles and norms of international law.

Article IV
Sovereign immunity

This Convention does not apply to any warship, naval auxiliary or other vessels or aircraft owned or operated by a State and used, for the time being, only on government noncommercial service.

However, each Contracting Party shall ensure, by the adoption of appropriate measures not impairing operations of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is practicable, with this Convention.

Article V
General undertakings

1. Each Contracting Party shall ensure the application of the Convention in those areas of the Black Sea where it exercises its sovereignty as well as its sovereign rights and jurisdiction without prejudice to the rights and obligations of the Contracting Parties arising from the rules of international law.

Each Contracting Party, in order to achieve the purposes of this Convention, shall bear in mind the adverse effect of pollution within its internal waters on the marine environment of the Black Sea.

2. The Contracting Parties shall take individually or jointly, as appropriate, all necessary measures consistent with international law and in accordance with the provisions of this Convention to prevent, reduce and control pollution thereof in order to protect and preserve the marine environment of the Black Sea.

3. The Contracting Parties will cooperate in the elaboration of additional Protocols and Annexes other than those attached to this Convention, as necessary for its implementation.

4. The Contracting Parties, when entering bilateral or multilateral agreements for the protection and preservation of the marine environment of the Black Sea, shall endeavour to ensure that such agreements are consistent with this Convention. Copies of such agreements shall be transmitted to the other Contracting Parties through the Commission as defined in Article XVII of this Convention.

5. The Contracting Parties will cooperate in promoting, within international organizations found to be competent by them, the elaboration of measures contributing to the protection and preservation of the marine environment of the Black Sea.

Article VI
Pollution by hazardous substances and matter

Each Contracting Party shall prevent pollution of the marine environment of the Black Sea from any source by substances or matter specified in the Annex to this Convention.

Article VII
Pollution from land-based sources

The Contracting Parties shall prevent, reduce and control pollution of the marine environment of the Black Sea from land-based sources, in accordance with the Protocol on the Protection of the Black Sea Marine Environment Against Pollution from Land-based Sources which shall form an integral part of this Convention.

Article VIII
Pollution from vessels

The Contracting Parties shall take individually or, when necessary, jointly, all appropriate measures to prevent, reduce and control pollution of the marine environment of the Black Sea from vessels in accordance with generally accepted international rules and standards.

Article IX
Cooperation in combating pollution in emergency situations

The Contracting Parties shall cooperate in order to prevent, reduce and combat pollution of the marine environment of the Black Sea resulting from emergency situations in accordance with the Protocol on Cooperation in Combating Pollution of the Black Sea by Oil and Other Harmful Substances in Emergency Situations which shall form an integral part of this Convention.

Article X
Pollution by dumping

1. The Contracting Parties shall take all appropriate measures and cooperate in preventing, reducing and controlling pollution caused by dumping in accordance with the Protocol on the Protection of the Black Sea Marine Environment Against Pollution by Dumping which shall form an integral part of this Convention.

2. The Contracting Parties shall not permit, within areas under their respective jurisdiction, dumping by natural or juridical persons of non–Black Sea States.

Article XI
Pollution from activities on the continental shelf

1. Each Contracting Party shall, as soon as possible, adopt laws and regulations and take measures to prevent, reduce and control pollution of the marine environment of the Black Sea caused by or connected with activities on its continental shelf, including the exploration and exploitation of the natural resources of the continental shelf.

The Contracting Parties shall inform each other through the Commission of the laws, regulations and measures adopted by them in this respect.

2. The Contracting Parties shall cooperate in this field, as appropriate, and endeavour to harmonize the measures referred to in paragraph 1 of this Article.

Article XII
Pollution from or through the atmosphere

The Contracting Parties shall adopt laws and regulations and take individual or agreed measures to prevent, reduce and control pollution of the marine environment of the Black Sea from or through the atmosphere, applicable to the airspace above their territories and to vessels flying their flag or vessels and aircraft registered in their territory.

Article XIII
Protection of the marine living resources

The Contracting Parties, when taking measures in accordance with this Convention for the prevention, reduction and control of the pollution of the marine environment of the Black Sea, shall pay particular attention to avoiding harm to marine life and living resources, in particular by changing their habitats and creating hindrance to fishing and other legitimate uses of the Black Sea, and in this respect shall give due regard to the recommendations of competent international organizations.

Article XIV
Pollution by hazardous wastes in transboundary movement

The Contracting Parties shall take all measures consistent with international law and cooperate in preventing pollution of the marine environment of the Black Sea due to hazardous wastes in transboundary movement, as well as in combatting illegal traffic thereof, in accordance with the protocol to be adopted by them.

Article XV
Scientific and technical cooperation and monitoring

1. The Contracting Parties shall cooperate in conducting scientific research aimed at protecting and preserving the marine environment of the Black Sea and shall undertake, where appropriate, joint programmes of scientific research, and exchange relevant scientific data and information.

2. The Contracting Parties shall cooperate in conducting studies aimed at developing ways and means for the assessment of the nature and extent of pollution and of its effect on the ecological system in the water column and sediments, detecting polluted areas, examining and assessing risks and finding remedies, and in particular, they shall develop alternative methods of treatment, disposal, elimination or utilization of harmful substances.

3. The Contracting Parties shall cooperate through the Commission in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards, and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment of the Black Sea.

4. The Contracting Parties shall, inter alia, establish through the Commission and, where appropriate, in cooperation with international organizations they consider to be competent, complementary or joint monitoring programmes covering all sources of pollution and shall establish a pollution monitoring system for the Black Sea including, as appropriate, programmes at bilateral or multilateral level for observing, measuring, evaluating and analyzing the risks or effects of pollution of the marine environment of the Black Sea.

5. When the Contracting Parties have reasonable grounds for believing that activities under their jurisdiction or control may cause substantial pollution or significant and harmful changes to the marine environment of the Black

Sea, they shall, before commencing such activities, assess their potential effects on the basis of all relevant information and monitoring data and shall communicate the results of such assessments to the Commission.

6. The Contracting Parties shall co-operate as appropriate, in the development, acquisition and introduction of clean and low-waste technology, inter alia, by adopting measures to facilitate the exchange of such technology.

7. Each Contracting Party shall designate the competent national authority responsible for scientific activities and monitoring.

Article XVI
Responsibility and liability

1. The Contracting Parties are responsible for the fulfillment of their international obligations concerning the protection and the preservation of the marine environment of the Black Sea.

2. Each Contracting Party shall adopt rules and regulations on the liability for damage caused by natural or juridical persons to the marine environment of the Black Sea in areas where it exercises, in accordance with international law, its sovereignty, sovereign rights or jurisdiction.

3. The Contracting Parties shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief for damage caused by pollution of the marine environment of the Black Sea by natural or juridical persons under their jurisdiction.

4. The Contracting Parties shall cooperate in developing and harmonizing their laws, regulations and procedures relating to liability, assessment of and compensation for damage caused by pollution of the marine environment of the Black Sea, in order to ensure the highest degree of deterrence and protection for the Black Sea as a whole.

Article XVII
The Commission

1. In order to achieve the purposes of this Convention, the Contracting Parties shall establish a Commission on the Protection of the Black Sea Against Pollution, hereinafter referred to as "the Commission".

2. Each Contracting Party shall be represented in the Commission by one Representative who may be accompanied by Alternate Representatives, Advisers and Experts.

3. The Chairmanship of the Commission shall be assumed by each Contracting Party, in turn, in the alphabetical order of the English language. The first Chairman of the Commission shall be the Representative of the Republic of Bulgaria.

The Chairman shall serve for one year, and during his term he cannot act in the capacity of Representative of his country. Should the Chairmanship fall vacant, the Contracting Party chairing the Commission shall appoint a successor to remain in office until the term of its Chairmanship expires.

4. The Commission shall meet at least once a year. The Chairman shall convene extraordinary meetings upon the request of any Contracting Party.

5. Decisions and recommendations of the Commission shall be adopted unanimously by the Black Sea States.

6. The Commission shall be assisted in its activities by a permanent Secretariat. The Commission shall nominate the Executive Director and other officials of the Secretariat. The Executive Director shall appoint the technical staff in accordance with the rules to be established by the Commission. The Secretariat shall be composed of nationals of all Black Sea States.

The Commission and the Secretariat shall have their headquarters in Istanbul. The location of the headquarters may be changed by the Contracting Parties by consensus.

7. The Commission shall adopt its Rules of Procedure for carrying out its functions, decide upon the organization of its activities and establish subsidiary bodies in accordance with the provisions of this Convention.

8. Representatives, Alternate Representatives, Advisers and Experts of the Contracting Parties shall enjoy in the territory of the respective Contracting Party diplomatic privileges and immunities in accordance with international law.

9. The privileges and immunities of the officials of the Secretariat shall be determined by agreement among the Contracting Parties.

10. The Commission shall have such legal capacity as may be necessary for the exercise of its functions.

11. The Commission shall conclude a Headquarters Agreement with the host Contracting Party.

Article XVIII
Functions of the Commission

The Commission shall:

1. Promote the implementation of this Convention and inform the Contracting Parties of its work.

2. Make recommendations on measures necessary for achieving the aims of this Convention.

3. Consider questions relating to the implementation of this Convention and recommend such amendments to the Convention and to the Protocols as may be required, including amendments to Annexes of this Convention and the Protocols.

4. Elaborate criteria pertaining to the prevention, reduction and control of pollution of the marine environment of the Black Sea and to the elimination of the effects of pollution, as well as recommendations on measures to this effect.

5. Promote the adoption by the Contracting Parties of additional measures needed to protect the marine environment of the Black Sea, and to that end receive, process and disseminate to the Contracting Parties relevant scientific, technical and statistical information and promote scientific and technical research.

6. Cooperate with competent international organizations, especially with a view to developing appropriate programmes or obtaining assistance in order to achieve the purposes of this Convention.

7. Consider any questions raised by the Contracting Parties.

8. Perform other functions as foreseen in other provisions of this Convention or assigned unanimously to the Commission by the Contracting Parties.

Article XIX
Meetings of the Contracting Parties

1. The Contracting Parties shall meet in conference upon recommendation by the Commission. They shall also meet in Conference within ten days at the request of one Contracting Party under extraordinary circumstances.

2. The primary function of the meetings of the Contracting Parties shall be the review of the implementation of this Convention and of the Protocols upon the report of the Commission.

3. A non–Black Sea State which accedes to this Convention may attend the meetings of the Contracting Parties in an advisory capacity.

Article XX
Adoption of amendments to the Convention and/or to the Protocols

1. Any Contracting Party may propose amendments to the articles of this Convention.

2. Any Contracting Party to this Convention may propose amendments to any Protocol.

3. Any such proposed amendment shall be transmitted to the depositary and communicated by it through diplomatic channels to all the Contracting Parties and to the Commission.

4. Amendments to this Convention and to any Protocol shall be adopted by consensus at a Diplomatic Conference of the Contracting Parties to be convened within 90 days after the circulation of the proposed amendment by the depositary.

5. The amendments shall enter into force 30 days after the depositary has received notifications of acceptance of these amendments from all Contracting Parties.

Article XXI
Annexes and amendments to Annexes

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol, as the case may be.

2. Any Contracting Party may propose amendments to the Annexes to this Convention or to the Annexes of any Protocol through its Representative in the Commission. Such amendments shall be adopted by the Commission on the basis of consensus. The depositary, duly informed by the Chairman of the Commission of its decision, shall without delay communicate the amendments so adopted to all the Contracting Parties. Such amendments shall enter into force 30 days after the depositary has received notifications of acceptance from all Contracting Parties.

3. The provisions of paragraph 2 of this Article shall apply to the adoption and entry into force of a new Annex to this Convention or to any Protocol.

Article XXII
Notification of entry into force of amendments

The depositary shall inform, through diplomatic channels, the Contracting Parties of the date on which amendments adopted under Articles XX and XXI enter into force.

Article XXIII
Financial rules

The Contracting Parties shall decide upon all financial matters on the basis of unanimity, taking into account the recommendations of the Commission.

Article XXIV
Relation to other international instruments

Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea, established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelf in accordance with international law, and the exercise by

ships and aircraft of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

Article XXV
Settlement of disputes

In case of a dispute between Contracting Parties concerning the interpretation and implementation of this Convention, they shall seek a settlement of the dispute through negotiations or any other peaceful means of their own choice.

Article XXVI
Adoption of additional Protocols

1. At the request of a Contracting Party or upon a recommendation by the Commission, a Diplomatic Conference of the Contracting Parties may be convened with the consent of all Contracting Parties in order to adopt additional Protocols.

2. Signature, ratification, acceptance, approval, accession to, entry into force, and denounciation of additional Protocols shall be done in accordance with procedures contained, respectively, in Articles XXVIII, XXIX, and XXX of this Convention.

Article XXVII
Reservations

No reservations may be made to this Convention.

Article XXVIII
Signature, ratification, acceptance, approval and accession

1. This Convention shall be open for signature by the Black Sea States.

2. This Convention shall be subject to ratification, acceptance or approval by the States which have signed it.

3. This Convention shall be open for accession by any non–Black Sea State interested in achieving the aims of this Convention and contributing substantially to the protection and preservation of the marine environment of the Black Sea provided the said State has been invited by all Contracting Parties. Procedures with regard to the invitation for accession will be dealt with by the depositary.

4. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary. The depositary of this Convention shall be the Government of Romania.

Article XXIX
Entry into force

This Convention shall enter into force 60 days after the date of deposit with the depositary of the fourth instrument of ratification, acceptance or approval.

For a State acceding to this Convention in accordance with Article XXVIII, the Convention shall enter into force 60 days after the deposit of its instrument of accession.

Article XXX
Denounciation

After the expiry of five years from the date of entry into force of this Convention, any Contracting Party may, by written notification addressed to the depositary, denounce this Convention. The denounciation shall take effect on the thirty-first day of December of the year which follows the year in which the depositary was notified of the denounciation.

Done in English, on the twenty-first day of the month of April of one thousand nine hundred and ninety two, in Bucharest.

Annex

1. Organotin compounds.
2. Organohalogen compounds, e.g. DDT, DDE, DDD, PCB's.
3. Persistent organophosphorus compounds.
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Persistent substances with proven toxic, carcinogenic, teratogenic or mutagenic properties.
7. Used lubricating oils.
8. Persistent synthetic materials which may float, sink or remain in suspension.
9. Radioactive substances and wastes, including used radioactive fuel.
10. Lead and lead compounds.

Protocol on Protection of the Black Sea Marine Environment Against Pollution from Land Based Sources, Bucharest, 1992

Done at Bucharest 22 April 1992

Not in force

Primary source citation: Copy of text provided by the U.S. Department of State

PROTOCOL ON PROTECTION OF THE BLACK SEA MARINE ENVIRONMENT AGAINST POLLUTION FROM LAND BASED SOURCES

Article 1

In accordance with Article VII of the Convention, the Contracting Parties shall take all necessary measures to prevent, reduce and control pollution of the marine environment of the Black Sea caused by discharges from land-based sources on their territories such as rivers, canals, coastal establishments, other artificial structures, outfalls or run-off, or emanating from any other land-based source, including through the atmosphere.

Article 2

For the purposes of this Protocol, the fresh water limit means the landward part of the line drawn between the endpoints on the right and the left banks of a water course where it reaches the Black Sea.

Article 3

This protocol shall apply to the Black Sea as defined in Article I of the Convention and to the waters landward of the baselines from which the breadth of the territorial sea is measured and in the case of fresh-water courses, up to the fresh-water limit.

Article 4

The Contracting Parties undertake to prevent and eliminate pollution of the marine environment of the Black Sea from land-based sources by substances and matter listed in Annex I to this Protocol.

The Contracting Parties undertake to reduce and, whenever possible, to eliminate pollution of the marine environment of the Black Sea from land-based sources by substances and matter listed in Annex II to this Protocol.

As to water courses that are tributaries to the Black Sea, the Contracting Parties will endeavour to cooperate, as appropriate, with other States in order to achieve the purposes set forth in this Article.

Article 5

Pursuant to the provisions of Article XV of the Convention, each Contracting Party shall carry out, at the earliest possible date, monitoring activities in order to assess the levels of pollution, its sources and ecological effects along its coast, in particular with regard to the substances and matter listed in Annexes I and II to this Protocol. Additional research will be conducted upstream of river sections in order to investigate fresh/salt water interactions.

Article 6

In conformity with Article XV of the Convention, the Contracting Parties shall cooperate in elaborating common guidelines, standards or criteria dealing with special characteristics of marine outfalls and in undertaking research on specific requirements for effluents necessitating separate treatment and concerning the quantities of discharged substances and matter listed in Annexes I and II, their concentration in effluents, and methods of discharging them.

The common emission standards and timetable for the implementation of the programme and measures aimed at preventing, reducing or eliminating, as appropriate, pollution from land-based sources shall be fixed by the Contracting Parties and periodically reviewed for substances and matter listed in Annexes I and II to this Protocol.

The Commission shall define pollution prevention criteria as well as recommend appropriate measures to reduce, control and eliminate pollution of the marine environment of the Black Sea from land-based sources.

The Contracting Parties shall take into consideration the following:

a) The discharge of water from municipal sewage systems should be made such a way as to reduce the pollution of the marine environment of the Black Sea.

b) The pollution load of industrial wastes should be reduced in order to comply with the accepted concentrations of substances and matter listed in Annexes I and II to this Protocol.

c) The discharge of cooling water from nuclear power plants or other industrial enterprises using large amounts of water should be made in such a way as to prevent pollution of the marine environment of the Black Sea.

d) The pollution load from agricultural and forest areas affecting the water quality of the marine environment of the Black Sea should be reduced in order to comply with the accepted concentrations of substances and matter listed in Annexes I and II to this Protocol.

Article 7

The Contracting Parties shall inform one another through the Commission of measures taken, results achieved or difficulties encountered in the application of this Protocol. Procedures for the collection and transmission of such information shall be determined by the Commission.

Annex I

Hazardous Substances and Matter

The following substances or groups of substances or matter are not listed in order of priority. They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation characteristics.

This Annex does not apply to discharges which contain substances and matter listed below that are below the concentration limits defined jointly by the Contracting Parties, not exceeding environmental background concentrations.

1. Organotin compounds.
2. Organohalogen compounds, e.g. DDT, DDE, DDD, PCB's.
3. Persistent organophosphorus compounds.
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Persistent substances with proven toxic carcinogenic, teratogenic or mutagenic properties.
7. Used lubricating oils.
8. Persistent synthetic materials which may float, sink or remain in suspension.
9. Radioactive substances and wastes, including used radioactive fuel.
10. Lead and lead compounds.

Annex II

Noxious Substances and Matter

The following substances and matter have been selected mainly on the basis of criteria used in Annex I, while taking into account the fact that they are less harmful or more readily rendered harmless by natural processes.

The control and strict limitation of the discharges of substances and matter referred to in this Annex shall be implemented in accordance with Annex III to this Protocol.

1. Biocides and their derivatives not covered in Annex I.
2. Cyanides, flourides, and elemental phosphorus.
3. Pathogenic micro-organisms.
4. Nonbiodegradable detergents and their surface-active substances.
5. Alkaline or acid compounds.
6. Thermal discharges.
7. Substances which, although of a non-toxic nature, may become harmful to the marine biota owing to the quantities in which they are discharged, e.g. inorganic phosphorous, nitrogen, organic matter and other nutrient compounds. Also substances which have an adverse effect on the oxygen content in the marine environment.
8. The following elements and their compounds:

Zinc	Selenium	Tin	Vanadium
Copper	Arsenic	Barium	Cobalt
Nickel	Antimony	Beryllium	Thallium
Chromium	Molybdenum	Boron	Tellurium
	Titanium	Uranium	Silver

9. Crude oil and hydrocarbons of any origin.

Annex III

The discharges of substances and matter listed in Annex II to this Protocol shall be subject to restrictions based on the following:

1. Maximum permissible concentrations of the substances and matter immediate before the outlet;
2. Maximum permissible quantity (load, inflow) of the substances and matter per annual cycle or shorter time limit;
3. In case of differences between 1 and 2 above, the stricter restriction should apply.

When issuing a permit for the discharge of wastes containing substances and matter referred to in Annexes I and II to this Protocol, the national authorities will take particular account, as the case may be, of the following factors:

A. CHARACTERISTICS AND COMPOSITION OF THE WASTE

1. Type and size of waste source (e.g. industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume discharged, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.).
6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other harmful substances as appropriate.
7. Physical, chemical and biological properties of the waste.

B. CHARACTERISTICS OF WASTE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation in biological materials and sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen contents and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the marine environment with other seawater constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING MARINE ENVIRONMENT

1. Hydrographic, meteorological, geological and topographic characteristics of the coastal area.
2. Location and type of discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery and fishing areas, shellfish grounds) and other discharges.
3. initial dilution achieved at the point of discharge into the receiving marine environment.
4. Dispersal characteristics such as the effect of currents, tides and winds on horizontal transport and vertical mixing.
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. AVAILABILITY OF WASTE TECHNOLOGIES

The methods of waste reduction and discharge for industrial effluents as well as household sewage should be selected taking into account the availability and feasibility of:

a) Alternative treatment processes;
b) Recycling, re-use, or elimination methods;
c) On-land disposal alternatives; and
d) Appropriate clean and low-waste technologies.

E. POTENTIAL IMPAIRMENT OF MARINE ECOSYSTEMS AND SEA-WATER USES

1. Effects on human life through pollution impact on:

a) Edible marine organisms;
b) Bathing waters;
c) Aesthetics.

Discharges of wastes containing substances and matter listed in Annexes I and II shall be subject to a system of self-monitoring and control by the competent national authorities.

2. Effects on marine ecosystems, in particular living resources, endangered species, and critical habitats.
3. Effects on other legitimate uses of the sea.

Protocol on Cooperation in Combating Pollution of the Black Sea Marine Environment by Oil and Other Harmful Substances in Emergency Situations, Bucharest, 1992

Done at Bucharest 22 April 1992

Not in force

Primary source citation: Copy of text provided by the U.S. Department of State

PROTOCOL ON COOPERATION IN COMBATING POLLUTION OF THE BLACK SEA MARINE ENVIRONMENT BY OIL AND OTHER HARMFUL SUBSTANCES IN EMERGENCY SITUATIONS

Article 1

In accordance with Article IX of the Convention, the Contracting Parties shall take necessary measures and cooperate in cases of grave and imminent danger to the marine environment of the Black Sea or to the coast of one or more of the Parties due to the presence of massive quantities of oil or other harmful substances resulting from accidental causes or from accumulation of small discharges which are polluting or constituting a threat of pollution.

Article 2

The Contracting Parties shall endeavour to maintain and promote, either individually or through bilateral or multilateral cooperation, contingency plans for combating pollution of the sea by oil and other harmful substances. These shall include, in particular, equipment, vessels, aircraft and manpower prepared for operations in emergency situations.

Article 3

Each Contracting Party shall take necessary measures for detecting violations and, within areas under its jurisdiction for enforcing the provisions of this Protocol. Furthermore, the Contracting Parties shall ensure compliance with the provisions of this Protocol by vessels flying their flag.

The Contracting Parties shall promote exchange of information on subjects related to the implementation of this Protocol, including transmission of reports and urgent information which relate to Article 1 thereof.

Article 4

Any Contracting Party which becomes aware of cases where the marine environment of the Black Sea is in imminent danger of being damaged or has been significantly damaged by pollution, it shall immediately notify the other Contracting Parties it deems likely to be affected by such damage as well as the Commission.

Article 5

Each Contracting Party shall indicate to the other Contracting Parties and the Commission, the competent national authorities responsible for controlling and combating of pollution by oil and other harmful substances. Each Contracting Party shall also designate a focal point to transmit and receive reports of incidents which have resulted or may result in a discharge of oil or other harmful substances, in accordance with the provisions of relevant international instruments.

Article 6

1. Each Contracting Party shall issue instructions to the masters of vessels flying its flag and to the pilots of aircraft registered in its territory requiring them to report in accordance with the Annex to this Protocol and by the most rapid and reliable channels, to the Party or Parties that might potentially be affected and to the Commission:

a) The presence, characteristics and extent of spillages of oil or other harmful substances observed at sea which are likely to present a threat to the marine environment of the Black Sea or to the coast of one or more Contracting Parties;

b) All emergency situations causing or likely to cause pollution by oil or other harmful substances.

2. The information collected in accordance with paragraph 1 shall be communicated to the other Parties which are likely to be affected by pollution:

a) by the Contracting Party which has received the information;

b) by the Commission.

ANNEX

Contents of the report to be made pursuant to Article 6

1. Each report shall contain in general:

   a) The identification of the source of pollution;

   b) The geographic position, time and date of occurence of the incident or of the observation;

   c) Land and sea conditions prevailing in the area;

   d) Relevant details with respect to the condition of the vessel polluting the sea.

2. Each report shall contain, whenever possible, in particular:

   a) A clear indication or description of the harmful substances involved, including the correct technical names of such substances;

   b) A statement of estimate of the quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea;

c) A description of packaging and identifying marks;

d) Name of the consignor, consignee, or manufacturer.

3. Each report shall clearly indicate, whenever possible, whether the harmful substances discharged or likely to be discharged are oil or noxious liquid, solid, or gaseous substances and whether such substances were or are carried in bulk or contained in packaged form, freight containers, portable tanks or road and rail tank wagons.

4. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

5. Any of the persons referred to in Article 6 paragraph 1 of this Protocol shall:

a) Supplement the initial report, as far as possible and necessary, with information concerning further developments;

b) Comply as fully as possible with requests from affected Contracting Parties for additional information.

Protocol on the Protection of the Black Sea Marine Environment Against Pollution by Dumping, Bucharest, 1992

Done at Bucharest 22 April 1992

Not in force

Primary source citation: Copy of text provided by the U.S. Department of State

PROTOCOL ON THE PROTECTION OF THE BLACK SEA MARINE ENVIRONMENT AGAINST POLLUTION BY DUMPING

Article 1

In accordance with Article X of the Convention, the Contracting Parties shall take individually or jointly all appropriate measures for the implementation of this Protocol.

Article 2

Dumping in the Black Sea of wastes or other matter containing substances listed in Annex I to this Protocol is prohibited.

The preceding provision does not apply to dredged spoils provided that they contain trace contaminants listed in Annex 1 below the limits of concentration to be defined by the Commission within a 3 year period from the entry into force of the Convention.

Article 3

Dumping in the Black Sea of wastes or other matter containing noxious substances listed in Annex II to this Protocol requires, in each case, a prior special permit from the competent national authorities.

Article 4

Dumping in the Black Sea of all other wastes or matter requires a prior general permit from the competent national authorities.

Article 5

The permits referred to in articles 3 and 4 above shall be issued after a careful consideration of all the factors set forth in Annex III to this protocol by the competent national authorities of the relevant coastal State. The Commission shall receive records of such permits.

Article 6

The provisions of Articles 2, 3 and 4 shall not apply when the safety of human life or of vessel or aircraft at sea is threatened by complete destruction or total loss or in any other case when there is a danger to human life and when dumping appears to be the only way of averting such danger, and if there is every probability that the damage resulting from such dumping will be less than would otherwise occur. Such dumping shall be carried out so as to minimize the likelihood of damage to human or marine life. The Commission shall promptly be informed.

Article 7

1. Each Contracting Party shall designate one or more competent authorities to:

a) issue the permits provided for in Articles 3 and 4;

b) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping.

2. The competent authorities of each Contracting Party shall issue the permits provided for in Article 3 and 4 in respect of the wastes or other matter intended for dumping:

a) loaded within its territory;

b) loaded by a vessel flying its flag or an aircraft registered in its territory when the loading occurs within the territory of another State.

Article 8

1. Each Contracting Party shall take the measures required to implement this Protocol in respect of:

a) vessels flying its flag or aircraft registered in its territory;

b) vessels and aircraft loading in its territory wastes or other matter which are to be dumped;

c) platforms and other man-made structures at sea situated within its territorial sea and exclusive economic zone;

d) dumping within its territorial sea and exclusive economic zone.

Article 9

The Contracting Parties shall cooperate in exchanging information relevant to Articles 5, 6, 7 and 8. Each Contracting Party shall inform the other Contracting Parties which may potentially be affected, in case of suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur.

Annex I

Hazardous Substances and Matter

1. Organohalogen compounds, e.g. DDT, DDE, DDD, PCB's.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Organotin compounds.
5. Persistent synthetic matter which may float, sink or remain in suspension.
6. Used lubricating oils.
7. Lead and lead compounds.
8. Radioactive substances and wastes, including used radioactive fuel.
9. Crude oil and hydrocarbons of any origin.

Annex II

Noxious Substances

The following substances, compounds or matter have been selected mainly on the basis of criteria used in Annex I, while taking into account the fact that they are less harmful or more readily rendered harmless by natural processes.

The control and strict limitation of the dumping of the substances referred to in this Annex shall be implemented in accordance with Annex III of this Protocol.

1. Biocides and their derivatives not covered in Annex I.
2. Cyanides, fluorides, and elemental phosphorus.
3. Pathogenic micro-organisms.
4. Nonbiodegradable detergents and their surface-active substances.
5. Alkaline or acid compounds.
6. Substances which, though of a non-toxic nature, may become harmful to the marine biota owing to the quantities in which they are discharged e.g. inorganic phosphorus, nitrogen, organic matter and other nutrient compounds. Also substances which have an adverse effect on the oxygen content of the marine environment.
7. The following elements and their compounds:

Zinc	Selenium	Tin	Vanadium
Copper	Arsenic	Barium	Cobalt
Nickel	Antimony	Beryllium	Thallium
Chromium	Molybdenum	Boron	Tellurium
	Titanium	Uranium	Silver

8. Sewage Sludge

Annex III

In issuing permits for dumping at sea, the following factors shall be considered:

A. CHARACTERISTICS AND COMPOSITION OF THE MATTER

1. Amount of matter to be dumped (e.g. per year).

2. Average composition of the matter to be dumped.

3. Properties: physical (e.g. solubility, density), chemical and biochemical (e.g. oxygen demand, nutrients), biological (e.g. presence of bacteria, etc.).

The data should include sufficient information on the annual mean levels and seasonal variations of the mentioned properties.

4. Long-term toxicity.

5. Persistence: physical, chemical, biological.

6. Accumulation and transformation in the marine environment.

7. Susceptibility to physical, chemical and biochemical changes and interaction with other dissolved matter.

8. Probability of inducing effects which would reduce the marketability of resources (e.g. fish, shellfish).

B. CHARACTERISTICS OF DUMPING SITE AND DISPOSAL METHOD

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast) and its relation to areas of special interest (e.g. amenity areas, spawning, nursery and fishing grounds).

2. Methods and technologies of packaging and disposal of matter.

3. Dispersal characteristics.

4. Hydrological characteristics and seasonal variations in these characteristics (e.g. temperature, pH, salinity, stratification, turbidity, dissolved oxygen, biochemical oxygen demand, chemical oxygen demand, nutrients, productivity).

5. Bottom characteristics (e.g. topography, geochemical, geological and biological productivity).

6. Cases and effects of other dumping.

C. GENERAL CONSIDERATIONS

1. Possible effects on amenities (e.g. floating or stranded matter, water turbidity, objectionable odour, discoloration, and foaming).

2. Possible effects on marine life, fish stocks, mari-cultures areas, traditional fishing grounds, seaweed harvesting and cultivation sites.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structures, interference with vessel operations or fishing due to floating matter or through deposit of wastes or objects on the sea bed, and difficulties in protecting areas of special interest for scientific research or protection of nature).

4. Practical availability of alternative land disposal methods.

Convention for the Protection of the Marine Environment of the North-East Atlantic, Paris, 1992

Done at Paris 22 September 1992

*Not in force**

Depositary: France

Primary source citation: Copy of text provided by the U.S. Department of State

CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC

THE CONTRACTING PARTIES,

RECOGNISING that the marine environment and the fauna and flora which it supports are of vital importance to all nations;

RECOGNISING the inherent worth of the marine environment of the North-East Atlantic and the necessity for providing coordinated protection for it;

RECOGNISING that concerted action at national, regional and global levels is essential to prevent and eliminate marine pollution and to achieve sustainable management of the maritime area, that is, the management of human activities in such a manner that the marine ecosystem will continue to sustain the legitimate uses of the sea and will continue to meet the needs of present and future generations;

MINDFUL that the ecological equilibrium and the legitimate uses of the sea are threatened by pollution;

CONSIDERING the recommendations of the United Nations Conference on the Human Environment, held in Stockholm in June 1972;

CONSIDERING also the results of the United Nations Conference on the Environment and Development held in Rio de Janeiro in June 1992;

RECALLING the relevant provisions of customary international law reflected in Part XII of the United Nations Law of the Sea Convention and, in particular, Article 197 on global and regional cooperation for the protection and preservation of the marine environment;

CONSIDERING that the common interests of States concerned with the same marine area should induce them to cooperate at regional or sub-regional levels;

* Upon entry into force, this Convention will replace the 1972 Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (see Volume II, page 1808) and the 1974 Convention on the Prevention of Marine Pollution from Land-Based Sources (see Volume II, page 2131).

RECALLING the positive results obtained within the context of the Convention for the prevention of marine pollution by dumping from ships and aircraft signed in Oslo on 15th February 1972, as amended by the protocols of 2nd March 1983 and 5th December 1989, and the Convention for the prevention of marine pollution from land-based sources signed in Paris on 4th June 1974, as amended by the protocol of 26th March 1986;

CONVINCED that further international action to prevent and eliminate pollution of the sea should be taken without delay, as part of progressive and coherent measures to protect the marine environment;

RECOGNISING that it may be desirable to adopt, on the regional level, more stringent measures with respect to the prevention and elimination of pollution of the marine environment or with respect to the protection of the marine environment against the adverse effects of human activities than are provided for in international conventions or agreements with a global scope;

RECOGNISING that questions relating to the management of fisheries are appropriately regulated under international and regional agreements dealing specifically with such questions;

CONSIDERING that the present Oslo and Paris Conventions do not adequately control some of the many sources of pollution, and that it is therefore justifiable to replace them with the present Convention, which addresses all sources of pollution of the marine environment and the adverse effects of human activities upon it, takes into account the precautionary principle and strengthens regional cooperation;

HAVE AGREED as follows:

ARTICLE 1
DEFINITIONS

For the purposes of the Convention:

(a) "Maritime area" means the internal waters and the territorial seas of the Contracting Parties, the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law, and the high seas, including the bed of all those waters and its sub-soil, situated within the following limits:

(i) those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:

(1) the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen,

(2) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5° 36′ west longitude;

(ii) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

(b) "Internal waters" means the waters on the landward side of the baselines from which the breadth of the territorial sea is measured, extending in the case of watercourses up to the freshwater limit.

(c) "Freshwater limit" means the place in a watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater.

(d) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the maritime area which results, or is likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

(e) "Land-based sources" means point and diffuse sources on land from which substances or energy reach the maritime area by water, through the air, or directly from the coast. It includes sources associated

with any deliberate disposal under the sea-bed made accessible from land by tunnel, pipeline or other means and sources associated with man-made structures placed, in the maritime area under the jurisdiction of a Contracting Party, other than for the purpose of offshore activities.

(f) "Dumping" means

(i) any deliberate disposal in the maritime area of wastes or other matter

(1) from vessels or aircraft;

(2) from offshore installations;

(ii) any deliberate disposal in the maritime area of

(1) vessels or aircraft;

(2) offshore installations and offshore pipelines.

(g) "Dumping" does not include:

(i) the disposal in accordance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, or other applicable international law, of wastes or other matter incidental to, or derived from, the normal operations of vessels or aircraft or offshore installations other than wastes or other matter transported by or to vessels or aircraft or offshore installations for the purpose of disposal of such wastes or other matter or derived from the treatment of such wastes or other matter on such vessels or aircraft or offshore installations;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that, if the placement is for a purpose other than that for which the matter was originally designed or constructed, it is in accordance with the relevant provisions of the Convention; and

(iii) for the purposes of Annex III, the leaving wholly or partly in place of a disused offshore installation or disused offshore pipeline, provided that any such operation takes place in accordance with any relevant provision of the Convention and with other relevant international law.

(h) "Incineration" means any deliberate combustion of wastes or other matter in the maritime area for the purpose of their thermal destruction.

(i) "Incineration" does not include the thermal destruction of wastes or other matter in accordance with applicable international law incidental to, or derived from the normal operation of vessels or aircraft, or offshore installations other than the thermal destruction of wastes or other matter on vessels or aircraft or offshore installations operating for the purpose of such thermal destruction.

(j) "Offshore activities" means activities carried out in the maritime area for the purposes of the exploration, appraisal or exploitation of liquid and gaseous hydrocarbons.

(k) "Offshore sources" means offshore installations and offshore pipelines from which substances or energy reach the maritime area.

(l) "Offshore installation" means any man-made structure, plant or vessel or parts thereof, whether floating or fixed to the seabed, placed within the maritime area for the purpose of offshore activities.

(m) "Offshore pipeline" means any pipeline which has been placed in the maritime area for the purpose of offshore activities.

(n) "Vessels or aircraft" means waterborne or airborne craft of any type whatsoever, their parts and other fittings. This expression includes air-cushion craft, floating craft whether self-propelled or not, and other

man-made structures in the maritime area and their equipment, but excludes offshore installations and offshore pipelines.

(o) "Wastes or other matter" does not include:

(i) human remains;

(ii) offshore installations;

(iii) offshore pipelines;

(iv) unprocessed fish and fish offal discarded from fishing vessels.

(p) "Convention" means, unless the text otherwise indicates, the Convention for the Protection of the Marine Environment of the North-East Atlantic, its Annexes and Appendices.

(q) "Oslo Convention" means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft signed in Oslo on 15th February 1972, as amended by the protocols of 2nd March 1983 and 5th December 1989.

(r) "Paris Convention" means the Convention for the Prevention of Marine Pollution from Land-based Sources, signed in Paris on 4th June 1974, as amended by the protocol of 26th March 1986.

(s) "Regional economic integration organisation" means an organisation constituted by sovereign States of a given region which has competence in respect of matters governed by the Convention and has been duly authorised, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the Convention.

ARTICLE 2
GENERAL OBLIGATIONS

1. (a) The Contracting Parties shall, in accordance with the provisions of the Convention, take all possible steps to prevent and eliminate pollution and shall take the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected.

(b) To this end Contracting Parties shall, individually and jointly, adopt programmes and measures and shall harmonise their policies and strategies.

2. The Contracting Parties shall apply:

(a) the precautionary principle, by virtue of which preventive measures are to be taken when where are reasonable grounds for concern that substances or energy introduced, directly or indirectly, into the marine environment may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea, even when there is no conclusive evidence of a causal relationship between the inputs and the effects;

(b) the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter.

3. (a) In implementing the Convention, Contracting Parties shall adopt programmes and measures which contain, where appropriate, time-limits for their completion and which take full account of the use of the latest technological developments and practices designed to prevent and eliminate pollution fully.

(b) To this end they shall:

(i) taking into account the criteria set forth in Appendix 1, define with respect to programmes and measures the application of, *inter alia*,

- best available techniques

- best environmental practice

including, where appropriate, clean technology;

(ii) in carrying out such programmes and measures, ensure the application of best available techniques and best environmental practice as so defined, including, where appropriate, clean technology.

4. The Contracting Parties shall apply the measures they adopt in such a way as to prevent an increase in pollution of the sea outside the maritime area or in other parts of the environment.

5. No provision of the Convention shall be interpreted as preventing the Contracting Parties from taking, individually or jointly, more stringent measures with respect to the prevention and elimination of pollution of the maritime area or with respect to the protection of the maritime area against the adverse affects of human activities.

ARTICLE 3
POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution from land-based sources in accordance with the provisions of the Convention, in particular as provided for in Annex I.

ARTICLE 4
POLLUTION BY DUMPING OR INCINERATION

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution by dumping or incineration of wastes or other matter in accordance with the provisions of the Convention, in particular as provided for in Annex II.

ARTICLE 5
POLLUTION FROM OFFSHORE SOURCES

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution from offshore sources in accordance with the provisions of the Convention, in particular as provided for in Annex III.

ARTICLE 6
ASSESSMENT OF THE QUALITY OF THE MARINE ENVIRONMENT

The Contracting Parties shall, in accordance with the provisions of the Convention, in particular as provided for in Annex IV:

(a) undertake and publish at regular intervals joint assessments of the quality status of the marine environment and of its development, for the maritime area or for regions or sub-regions thereof;

(b) include in such assessments both an evaluation of the effectiveness of the measures taken and planned for the protection of the marine environment and the identification of priorities for action.

ARTICLE 7
POLLUTION FROM OTHER SOURCES

The Contracting Parties shall cooperate with a view to adopting Annexes, in addition to the Annexes mentioned in Articles 3, 4, 5 and 6 above, prescribing measures, procedures and standards to protect the maritime area against pollution from other sources, to the extent that such pollution is not already the subject of effective measures agreed by other international organisations or prescribed by other international conventions.

ARTICLE 8
SCIENTIFIC AND TECHNICAL RESEARCH

1. To further the aims of the Convention, the Contracting Parties shall establish complementary or joint programmes of scientific or technical research and, in accordance with a standard procedure, to transmit to the Commission:

(a) the results of such complementary, joint or other relevant research;

(b) details of other relevant programmes of scientific and technical research.

2. In so doing, the Contracting Parties shall have regard to the work carried out, in these fields, by the appropriate international organisations and agencies.

ARTICLE 9
ACCESS TO INFORMATION

1. The Contracting Parties shall ensure that their competent authorities are required to make available the information described in paragraph 2 of this Article to any natural or legal person, in response to any reasonable request, without that person's having to prove an interest, without unreasonable charges, as soon as possible and at the latest within two months.

2. The information referred to in paragraph 1 of this Article is any available information in written, visual, aural or data-base form on the state of the maritime area, on activities or measures adversely affecting or likely to affect it and on activities or measures introduced in accordance with the Convention.

3. The provisions of this Article shall not affect the right of Contracting Parties, in accordance with their national legal systems and applicable international regulations, to provide for a request for such information to be refused where it affects:

(a) the confidentiality of the proceedings of public authorities, international relations and national defence;

(b) public security;

(c) matters which are, or have been, *sub judice*, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;

(d) commercial and industrial confidentiality, including intellectual property;

(e) the confidentiality of personal data and/or files;

(f) supplied by a third party without that party being under a legal obligation to do so;

(g) material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.

4. The reasons for a refusal to provide the information requested must be given.

ARTICLE 10
COMMISSION

1. A Commission, made up of representatives of each of the Contracting Parties, is hereby established. The Commission shall meet at regular intervals and at any time when, due to special circumstances, it is so decided in accordance with the Rules of Procedure.

2. It shall be the duty of the Commission:

(a) to supervise the implementation of the Convention;

(b) generally to review the condition of the maritime area, the effectiveness of the measures being adopted, the priorities and the need for any additional or different measures;

(c) to draw up, in accordance with the General Obligations of the Convention, programmes and measures for the prevention and elimination of pollution and for the control of activities which may, directly or indirectly, adversely affect the maritime area; such programmes and measure may, when appropriate, include economic instruments;

(d) to establish at regular intervals its programme of work;

(e) to set up such subsidiary bodies as it considers necessary and to define their terms of reference;

(f) to consider and, where appropriate, adopt proposals for the amendment of the Convention in accordance with Articles 15, 16, 17, 18, 19 and 27;

(g) to discharge the functions conferred by Articles 21 and 23 and such other functions as may be appropriate under the terms of the Convention;

3. To these ends the Commission may, *inter alia,* adopt decisions and recommendations in accordance with Article 13.

4. The Commission shall draw up its Rules of Procedure which shall be adopted by unanimous vote of the Contracting Parties.

5. The Commission shall draw up its Financial Regulations which shall be adopted by unanimous vote of the Contracting Parties.

ARTICLE 11
OBSERVERS

1. The Commission may, by unanimous vote of the Contracting Parties, decide to admit as an observer:

(a) any State which is not a Contracting Party to the Convention;

(b) any international governmental or any non-governmental organisation the activities of which are related to the Convention.

2. Such observers may participate in meetings of the Commission but without the right to vote and may present to the Commission any information or reports relevant to the objectives of the Convention.

3. The conditions for the admission and the participation of observers shall be set in the Rules of Procedure of the Commission.

ARTICLE 12
SECRETARIAT

1. A permanent Secretariat is hereby established.

2. The Commission shall appoint an Executive Secretary and determine the duties of that post and the terms and conditions upon which it is to be held.

3. The Executive Secretary shall perform the functions that are necessary for the administration of the Convention and for the work of the Commission as well as the other tasks entrusted to the Executive Secretary by the Commission in accordance with its Rules of Procedure and its Financial Relations.

ARTICLE 13
DECISIONS AND RECOMMENDATIONS

1. Decisions and recommendations shall be adopted by unanimous vote of the Contracting Parties. Should unanimity not be attainable, and unless otherwise provided in the Convention, the Commission may nonetheless adopt decisions or recommendations by a three-quarters majority vote of the Contracting Parties.

2. A decision shall be binding on the expiry of a period of two hundred days after its adoption for those Contracting Parties that voted for it and have not within that period notified the Executive Secretary in writing that they are unable to accept the decision, provided that at the expiry of that period three-quarters of the Contracting Parties have either voted for the decision and not withdrawn their acceptance or notified the Executive Secretary in writing that they are able to accept the decision. Such a decision shall become binding on any other Contracting Party which has notified the Executive Secretary in writing that it is able to accept the decision from the moment of that notification or after the expiry of a period of two hundred days after the adoption of the decision, whichever is later.

3. A notification under paragraph 2 of this Article to the Executive Secretary may indicate that a Contracting Party is unable to accept a decision insofar as it relates to one or more of its dependent or autonomous territories to which the Convention applies.

4. All decisions adopted by the Commission shall, where appropriate, contain provisions specifying the timetable by which the decision shall be implemented.

5. Recommendations shall have no binding force.

6. Decisions concerning any Annex or Appendix shall be taken only by the Contracting Parties bound by the Annex or Appendix concerned.

ARTICLE 14
STATUS OF ANNEXES AND APPENDICES

1. The Annexes and Appendices form an integral part of the Convention.

2. The Appendices shall be of a scientific, technical or administrative nature.

ARTICLE 15
AMENDMENT OF THE CONVENTION

1. Without prejudice to the provisions of paragraph 2 of Article 27 and to specific provisions applicable to the adoption or amendment of Annexes or Appendices, an amendment to the Convention shall be governed by the present Article.

2. Any Contracting Party may propose an amendment to the Convention. The text of the proposed amendment shall be communicated to the Contracting Parties by the Executive Secretary of the Commission at least six months before the meeting of the Commission at which it is proposed for adoption. The Executive Secretary shall also communicate the proposed amendment to the signatories to the Convention for information.

3. The Commission shall adopt the amendment by unanimous vote of the Contracting Parties.

4. The adopted amendment shall be submitted by the Depositary Government to the Contracting Parties for ratification, acceptance or approval. Ratification, acceptance or approval of the amendment shall be notified to the Depositary Government in writing.

5. The amendment shall enter into force for those Contracting Parties which have ratified, accepted or approved it on the thirtieth day after receipt by the Depositary Government of notification of its ratification, acceptance or approval by at least seven Contracting Parties. Thereafter the amendment shall enter into force for any other Contracting Party on the thirtieth day after that Contracting Party has deposited its instrument of ratification, acceptance or approval of the amendment.

ARTICLE 16
ADOPTION OF ANNEXES

The provisions of Article 15 relating to the amendment of the Convention shall also apply to the proposal, adoption and entry into force of an Annex to the Convention, except that the Commission shall adopt any Annex referred to in Article 7 by a three-quarters majority vote of the Contracting Parties.

ARTICLE 17
AMENDMENT OF ANNEXES

1. The provisions of Article 15 relating to the amendment of the Convention shall also apply to an amendment to an Annex to the Convention, except that the Commission shall adopt amendments to any Annex referred to in Articles 3, 4, 5, 6 or 7 by a three-quarters majority vote of the Contracting Parties bound by that Annex.

2. If the amendment of an Annex is related to an amendment to the Convention, the amendment of the Annex shall be governed by the same provisions as apply to the amendment to the Convention.

ARTICLE 18
ADOPTION OF APPENDICES

1. If a proposed Appendix is related to an amendment to the Convention or an Annex, proposed for adoption in accordance with Article 15 or Article 17, the proposal, adoption and entry into force of that Appendix shall be governed by the same provisions as apply to the proposal, adoption and entry into force of that amendment.

2. If a proposed Appendix is related to an Annex to the Convention, proposed for adoption in accordance with Article 16, the proposal, adoption and entry into force of the Appendix shall be governed by the same provisions as apply to the proposal, adoption and entry into force of that Annex.

ARTICLE 19
AMENDMENT OF APPENDICES

1. Any Contracting Party bound by an Appendix may propose an amendment to that Appendix. The text of the proposed amendment shall be communicated to all Contracting Parties to the Convention by the Executive Secretary of the Commission as provided for in paragraph 2 of Article 15.

2. The Commission shall adopt the amendment to an Appendix by a three-quarters majority vote of the Contracting Parties bound by that Appendix.

3. An amendment to an Appendix shall enter into force on the expiry of a period of two hundred days after its adoption for those Contracting Parties which are bound by that Appendix and have not within that period notified the Depositary Government in writing that they are unable to accept that amendment, provided that at the expiry of that period three-quarters of the Contracting Parties bound by that Appendix have either voted for the amendment and not withdrawn their acceptance of have notified the Depositary Government in writing that they are able to accept the amendment.

4. A notification under paragraph 3 of this Article to the Depositary Government may indicate that a Contracting Party is unable to accept the amendment insofar as it relates to one or more of its dependent or autonomous territories to which the Convention applies.

5. An amendment to an Appendix shall become binding on any other Contracting Party bound by the Appendix which has notified the Depositary Government in writing that it is able to accept the amendment from the moment of that notification or after the expiry of a period of two hundred days after the adoption of the amendment, whichever is later.

6. The Depositary Government shall without delay notify all Contracting Parties of any such notification received.

7. If the amendment of an Appendix is related to an amendment to the Convention or an Annex, the amendment of the Appendix shall be governed by the same provisions as apply to the amendment to the Convention or that Annex.

ARTICLE 20
RIGHT TO VOTE

1. Each Contracting Party shall have one vote in the Commission.

2. Notwithstanding the provisions of paragraph 1 of this Article, the European Economic Community and other regional economic integration organisations, within the areas of their competence, are entitled to a number of votes equal to the number of their Member States which are Contracting Parties to the Convention. Those organisations shall not exercise their right to vote in cases where their Member States exercise theirs and conversely.

ARTICLE 21
TRANSBOUNDARY POLLUTION

1. When pollution originating from a Contracting Party is likely to prejudice the interests of one or more of the other Contracting Parties to the Convention, the Contracting Parties concerned shall enter into consultation, at the request of any one of them, with a view to negotiating a cooperation agreement.

2. At the request of any Contracting Party concerned, the Commission shall consider the question and may make recommendations with a view to reaching a satisfactory solution.

3. An agreement referred to in paragraph 1 of this Article may, *inter alia,* define the areas to which it shall apply, the quality objectives to be achieved and the methods for achieving these objectives, including methods for the application of appropriate standards and the scientific and technical information to be collected.

4. The Contracting Parties signatory to such an agreement shall, through the medium of the Commission, inform the other Contracting Parties of its purport and of the progress made in putting it into effect.

ARTICLE 22
REPORTING TO THE COMMISSION

The Contracting Parties shall report to the Commission at regular intervals on:

(a) the legal, regulatory, or other measures taken by them for the implementation of the provisions of the Convention and of decisions and recommendations adopted thereunder, including in particular measures taken to prevent and punish conduct in contravention of those provisions;

(b) the effectiveness of the measures referred to in subparagraph (a) of this Article;

(c) problems encountered in the implementation of the provisions referred to in subparagraph (a) of this Article.

ARTICLE 23
COMPLIANCE

The Commission shall:

(a) on the basis of the periodical reports referred to in Article 22 and any other report submitted by the Contracting Parties, assess their compliance with the Convention and the decisions and recommendations adopted thereunder;

(b) when appropriate, decide upon and call for steps to bring about full compliance with the Convention, and decisions adopted thereunder, and promote the implementation of recommendations, including measures to assist a Contracting Party to carry out its obligations.

ARTICLE 24
REGIONALISATION

The Commission may decide that any decision or recommendation adopted by it shall apply to all, or a specified part, of the maritime area and may provide for different timetables to be applied, having regard to the differences between ecological and economic conditions in the various regions and sub-regions covered by the Convention.

ARTICLE 25
SIGNATURE

The Convention shall be open for signature at Paris from 22nd September 1992 to 30th June 1993 by:

(a) the Contracting Parties to the Oslo Convention or the Paris Convention;

(b) any other coastal State bordering the maritime area;

(c) any State located upstream on watercourses reaching the maritime area;

(d) any regional economic integration organisation having as a member at least one State to which any of the subparagraphs (a) to (c) of this Article applies.

ARTICLE 26
RATIFICATION, ACCEPTANCE OR APPROVAL

The Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the French Republic.

ARTICLE 27
ACCESSIONS

1. After 30th June 1993, the Convention shall be open for accession by the States and regional economic integration organisations referred to in Article 25.

2. The Contracting Parties may unanimously invite States or regional economic integration organisations not referred to in Article 25 to accede to the Convention. In the case of such an accession, the definition of the maritime area shall, if necessary, be amended by a decision of the Commission adopted by unanimous vote of the Contracting Parties. Any such amendment shall enter into force after unanimous approval of all the Contracting Parties on the thirtieth day after the receipt of the last notification by the Depositary Government.

3. Any such accession shall relate to the Convention including any Annex and any Appendix that have been adopted at the date of such accession, except when the instrument of accession contains an express declaration of non-acceptance of one or several Annexes other than Annexes I, II, III and IV.

4. The instruments of accession shall be deposited with the Government of the French Republic.

ARTICLE 28
RESERVATIONS

No reservation to the Convention may be made.

ARTICLE 29
ENTRY INTO FORCE

1. The Convention shall enter into force on the thirtieth day following the date on which all Contracting Parties to the Oslo Convention and all Contracting Parties to the Paris Convention have deposited their instrument of ratification, acceptance, approval or accession.

2. For any State or regional economic integration organisation not referred to in paragraph 1 of this Article, the Convention shall enter into force in accordance with paragraph 1 of this Article, or on the thirtieth day following the date of the deposit of the instrument of ratification, acceptance, approval or accession by that State or regional economic integration organisations, whichever is later.

ARTICLE 30
WITHDRAWAL

1. At any time after the expiry of two years from the date of entry into force of the Convention for a Contracting Party, that Contracting Party may withdraw from the Convention by notification in writing to the Depositary Government.

2. Except as may be otherwise provided in an Annex other than Annexes I to IV to the Convention, any Contracting Party may at any time after the expiry of two years from the date of entry into force of such Annex for that Contracting Party withdraw from such Annex by notification in writing to the Depositary Government.

3. Any withdrawal referred to in paragraphs 1 and 2 of this Article shall take effect one year after the date on which the notification of that withdrawal is received by the Depositary Government.

ARTICLE 31
REPLACEMENT OF THE OSLO AND PARIS CONVENTIONS

1. Upon its entry into force, the Convention shall replace the Oslo and Paris Conventions as between the Contracting Parties.

2. Notwithstanding paragraph 1 of this Article, decisions, recommendations and all other agreements adopted under the Oslo Convention or the Paris Convention shall continue to be applicable, unaltered in their legal nature, to the extent that they are compatible with, or not explicitly terminated by, the Convention, any decisions or, in the case of existing recommendations, any recommendations adopted thereunder.

ARTICLE 32
SETTLEMENT OF DISPUTES

1. Any disputes between Contracting Parties relating to the interpretation or application of the Convention, which cannot be settled otherwise by the Contracting Parties concerned, for instance by means of inquiry or conciliation within the Commission, shall at the request of any of those Contracting Parties, be submitted to arbitration under the conditions laid down in this Article.

2. Unless the parties to the dispute decide otherwise, the procedure of the arbitration referred to in paragraph 1 of this Article shall be in accordance with paragraphs 3 to 10 of this Article.

3. (a) At the request addressed by one Contracting Party to another Contracting Party in accordance with paragraph 1 of this Article, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including in particular the Articles of the Convention, the interpretation or application of which is in dispute.

(b) The applicant party shall inform the Commission that it has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the Articles of the Convention the interpretation or application of which, in its opinion, is in dispute. The Commission shall forward the information thus received to all Contracting Parties to the Convention.

4. The arbitral tribunal shall consist of three members: each of the parties to the dispute shall appoint an arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

5. (a) If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall, at the request of either party, designate him within a further two months' period.

(b) If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the President of the International Court of Justice who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the President of the International Court of Justice who shall make this appointment within a further two months' period.

6. (a) The arbitral tribunal shall decide according to the rules of international law and, in particular, those of the Convention.

(b) Any arbitral tribunal constituted under the provisions of this Article shall draw up its own rules of procedure.

(c) In the event of a dispute as to whether the arbitral tribunal has jurisdiction, the matter shall be decided by the decision of the arbitral tribunal.

7. (a) The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority voting of its members.

(b) The arbitral tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

(c) If two or more arbitral tribunals constituted under the provisions of this Article are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.

(d) The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

(e) The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

8 Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

9. Any Contracting Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

10. (a) The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

(b) Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.

ARTICLE 33
DUTIES OF THE DEPOSITARY GOVERNMENT

The Depositary Government shall inform the Contracting Parties and the signatories to the Convention:

(a) of the deposit of instruments of ratification, acceptance, approval or accession, of declarations of non-acceptance and of notifications of withdrawal in accordance with Articles 26, 27 and 30;

(b) of the date on which the Convention comes into force in accordance with Article 29;

(c) of the receipt of notifications of acceptance, of the deposit of instruments of ratification, acceptance, approval or accession and of the entry into force of amendments to the Convention and of the adoption and amendment of Annexes or Appendices, in accordance with Articles 15, 16, 17, 18 and 19.

ARTICLE 34
ORIGINAL TEXT

The original of the Convention, of which the French and English texts shall be equally authentic, shall be deposited with the Government of the French Republic which shall send certified copies thereof to the Contracting Parties and the signatories to the Convention and shall deposit a certified copy with the Secretary General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

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

DONE at Paris, on the twenty-second day of September 1992.

ANNEX I
ON THE PREVENTION AND ELIMINATION OF POLLUTION FROM LAND-BASED SOURCES

ARTICLE 1

1. When adopting programmes and measures for the purpose of this Annex, the Contracting Parties shall require, either individually or jointly, the use of

- best available techniques for point sources
- best environmental practice for point and diffuse sources

including, where appropriate, clean technology.

2. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given in Appendix 2.

3. The Contracting Parties shall take preventive measures to minimise the risk of pollution caused by accidents.

4. When adopting programmes and measures in relation to radioactive substances, including waste, the Contracting Parties shall also take account of:

(a) the recommendations of the other appropriate international organisations and agencies;

(b) the monitoring procedures recommended by these international organisations and agencies.

ARTICLE 2

1. Point source discharges to the maritime area, and releases into water or air which reach and may affect the maritime area, shall be strictly subject to authorisation or regulation by the competent authorities of the Contracting Parties. Such authorisation or regulation shall, in particular, implement relevant decisions of the Commission which bind the relevant Contracting Party.

2. The Contracting Parties shall provide for a system of regular monitoring and inspection by their competent authorities to assess compliance with authorisations and regulations of releases into water or air.

ARTICLE 3

For the purposes of this Annex, it shall, *inter alia,* be the duty of the Commission to draw up:

(a) plans for the reduction and phasing out of substances that are toxic, persistent and liable to bioaccumulate arising from land-based sources;

(b) when appropriate, programmes and measures for the reduction of inputs of nutrients from urban, municipal, industrial, agricultural and other sources.

ANNEX II
ON THE PREVENTION AND ELIMINATION OF POLLUTION BY DUMPING OR INCINERATION

ARTICLE 1

This Annex shall not apply to any deliberate disposal in the maritime area of:

(a) wastes or other matter from offshore installations;

(b) offshore installations and offshore pipelines.

ARTICLE 2

Incineration is prohibited.

ARTICLE 3

1. The dumping of all wastes or other matter is prohibited, except for those wastes or other matter listed in paragraphs 2 and 3 of this Article.

2. The list referred to in paragraph 1 of this Article is as follows:

(a) dredged material;

(b) inert materials of natural origin, that is solid, chemically unprocessed geological material the chemical constituents of which are unlikely to be released into the marine environment;

(c) sewage sludge until 31st December 1998;

(d) fish waste from industrial fish processing operations;

(e) vessels or aircraft until, at the least, 31st December 2004.

3. (a) The dumping of low and intermediate level radioactive substances, including wastes, is prohibited.

(b) As an exception to subparagraph 3(a) of this Article, those Contracting Parties, the United Kingdom and France, who wish to retain the option of an exception to subparagraph 3(a) in any case not before the expiry of a period of 15 years from 1st January 1993, shall report to the meeting of the Commission at Ministerial level in 1997 on the steps taken to explore alternative land-based options.

(c) Unless, at or before the expiry of this period of 15 years, the Commission decides by a unanimous vote not to continue the exception provided in subparagraph 3(b), it shall take a decision pursuant to Article 13 of the Convention on the prolongation for a period of 10 years after 1st January 2008 of the prohibition, after which another meeting of the Commission at Ministerial level shall be held. Those Contracting Parties mentioned in subparagraph 3(b) of this Article still wishing to retain the option mentioned in subparagraph 3(b) shall report to the Commission meetings to be held at Ministerial level at two yearly intervals from 1999 onwards about the progress in establishing alternative land-based

options and on the results of scientific studies which show that any potential dumping operations would not result in hazards to human health, harm to living resources or marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

ARTICLE 4

1. The Contracting Parties shall ensure that:

(a) no wastes or other matter listed in paragraph 2 of Article 3 of this Annex shall be dumped without authorisation by their competent authorities, or regulation;

(b) such authorisation or regulation is in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with Article 6 of this Annex;

(c) with the aim of avoiding situations in which the same dumping operation is authorised or regulated by more than one Contracting Party, their competent authorities shall, as appropriate, consult before granting an authorisation or applying regulation.

2. Any authorisation or regulation under paragraph 1 of this Article shall not permit the dumping of vessels or aircraft containing substances which result or are likely to result in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

3. Each Contracting Party shall keep, and report to the Commission records of the nature and the quantities of wastes or other matter dumped in accordance with paragraph 1 of this Article, and of the dates, places and methods of dumping.

ARTICLE 5

No placement of matter in the maritime area for a purpose other than that for which it was originally designed or constructed shall take place without authorisation or regulation by the competent authority of the relevant Contracting Party. Such authorisation or regulation shall be in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with Article 6 of this Annex. This provision shall not be taken to permit the dumping of wastes or other matter otherwise prohibited under this Annex.

ARTICLE 6

For the purposes of this Annex, it shall, *inter alia*, be the duty of the Commission to draw up and adopt criteria, guidelines and procedures relating to the dumping of wastes or other matter listed in paragraph 2 of Article 3, and to the placement of matter referred to in Article 5, of this Annex, with a view to preventing and eliminating pollution.

ARTICLE 7

The provisions of this Annex concerning dumping shall not apply in case of *force majeure*, due to stress of weather or any other cause, when the safety of human life or of a vessel or aircraft is threatened. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life and shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the waste or other matter dumped.

ARTICLE 8

The Contracting Parties shall take appropriate measures, both individually and within relevant international organisations, to prevent and eliminate pollution resulting from the abandonment of vessels or aircraft in the maritime area caused by accidents. In the absence of relevant guidance from such international organisations, the measures taken by individual Contracting Parties should be based on such guidelines as the Commission may adopt.

ARTICLE 9

In an emergency, if a Contracting Patty considers that wastes or other matter the dumping of which is prohibited under this Annex cannot be disposed of on land without unacceptable danger or damage, it shall forthwith consult other Contracting Parties with a view to finding the most satisfactory methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Contracting Party shall inform the Commission of the steps adopted following this consultation. The Contracting Parties pledge themselves to assist one another in such situations.

ARTICLE 10

1. Each Contracting Party shall ensure compliance with the provisions of this Annex:

   (a) by vessels or aircraft registered in its territory;

   (b) by vessels or aircraft loading in its territory the wastes or other matter which are to be dumped or incinerated;

   (c) by vessels or aircraft believed to be engaged in dumping or incineration within its internal waters or within its territorial sea or within that part of the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law.

2. Each Contracting Party shall issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the maritime area which give rise to suspicions that dumping in contravention of the provisions of the present Annex has occurred or is about to occur. Any Contracting Party whose authorities receive such a report shall, if it considers it appropriate, accordingly inform any other Contracting Party concerned.

3. Nothing in this Annex shall abridge the sovereign immunity to which certain vessels are entitled under international law.

ANNEX III
ON THE PREVENTION AND ELIMINATION OF POLLUTION FROM OFFSHORE SOURCES

ARTICLE 1

This Annex shall not apply to any deliberate disposal in the maritime area of:

   (a) wastes or other matter from vessels or aircraft;

   (b) vessels or aircraft.

ARTICLE 2

1. When adopting programmes and measures for the purpose of this Annex, the Contracting Parties shall require, either individually or jointly, the use of:

   (a) best available techniques

   (b) best environmental practice

including, where appropriate, clean technology.

2. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given in Appendix 2.

ARTICLE 3

1. Any dumping of wastes or other matter from offshore installations is prohibited.

2. This prohibition does not relate to discharges or emissions from offshore sources.

ARTICLE 4

1. The use on, or the discharge or emission from, offshore sources of substances which may reach and affect the maritime area shall be strictly subject to authorisation or regulation by the competent authorities of the Contracting Parties. Such authorisation or regulation shall, in particular, implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention.

2. The competent authorities of the Contracting Parties shall provide for a system of monitoring and inspection to assess compliance with authorisation or regulation as provided for in paragraph 1 of Article 4 of this Annex.

ARTICLE 5

1. No disused offshore installation or disused offshore pipeline shall be dumped and no disused offshore installation shall be left wholly or partly in place in the maritime area without a permit issued by the competent authority of the relevant Contracting Party on a case-by-case basis. The Contracting Parties shall ensure that their authorities, when granting such permits, shall implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention.

2. No such permit shall be issued if the disused offshore installation or disused offshore pipeline contains substances which result or are likely to result in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

3. Any Contracting Party which intends to take the decision to issue a permit for the dumping of a disused offshore installation or a disused offshore pipeline placed in the maritime area after 1st January 1998 shall, through the medium of the Commission, inform the other Contracting Parties of its reasons for accepting such dumping, in order to make consultation possible.

4. Each Contracting Party shall keep, and report to the Commission, records of the disused offshore installations and disused offshore pipelines dumped and of the disused offshore installations left in place in accordance with the provisions of this Article, and of the dates, places and method of dumping.

ARTICLE 6

Articles 3 and 5 of this Annex shall not apply in case of *force majeure*, due to stress of weather or any other cause, when the safety of human life or of an offshore installation is threatened. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life and shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the matter dumped.

ARTICLE 7

The Contracting Parties shall take appropriate measures, both individually and within relevant international organisations, to prevent and eliminate pollution resulting from the abandonment of offshore installations in the maritime area caused by accidents. In the absence of relevant guidance from such international organisations, the measures taken by individual Contracting Parties should be based on such guidelines as the Commission may adopt.

ARTICLE 8

No placement of a disused offshore installation or a disused offshore pipeline in the maritime area for a purpose other than that for which it was originally designed or constructed shall take place without authorisation or regulation by the competent authority of the relevant Contracting Party. Such authorisation or regulation shall be in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with subparagraph (d) of Article 10 of this Annex. This provision shall not be taken to permit the dumping of disused offshore installations or disused offshore pipelines in contravention of the provisions of this Annex.

ARTICLE 9

1. Each Contracting Party shall issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the maritime area which give rise to suspicions that a contravention of the provisions of the present Annex has occurred or is about to occur. Any Contracting Party whose authorities receive such a report shall, if it considers it appropriate, accordingly inform any other Contracting Party concerned.

2. Nothing in this Annex shall abridge the sovereign immunity to which certain vessels are entitled under international law.

ARTICLE 10

For the purposes of this Annex, it shall, *inter alia*, be the duty of the Commission:

(a) to collect information about substances which are used in offshore activities and, on the basis of that information, to agree, lists of substances for the purposes of paragraph 1 of Article 4 of this Annex;

(b) to list substances which are toxic, persistent and liable to bioaccumulate and to draw up plans for the reduction and phasing out of their use on, or discharge from, offshore sources;

(c) to draw up criteria, guidelines and procedures for the prevention of pollution from dumping of disused offshore installations and of disused offshore pipelines, and the leaving in place of offshore installations, in the maritime area;

(d) to draw up criteria, guidelines and procedures relating to the placement of disused offshore installations and disused offshore pipelines referred to in Article 8 of this Annex, with a view to preventing and eliminating pollution.

ANNEX IV
ON THE ASSESSMENT OF THE QUALITY OF THE MARINE ENVIRONMENT

ARTICLE 1

1. For the purposes of this Annex "monitoring" means the repeated measurement of:

(a) the quality of the marine environment and each of its compartments, that is, water, sediments and biota;

(b) activities or natural and anthropogenic inputs which may affect the quality of the marine environment;

(c) the effects of such activities and inputs.

2. Monitoring may be undertaken either for the purposes of ensuring compliance with the Convention, with the objective of identifying patterns and trends or for research purposes.

ARTICLE 2

For the purposes of this Annex, the Contracting Parties shall:

(a) cooperate in carrying out monitoring programmes and submit the resulting data to the Commission;

(b) comply with quality assurance prescriptions and participate in intercalibration exercises;

(c) use and develop, individually or preferably jointly, other duly validated scientific assessment tools, such as modelling, remote sensing and progressive risk assessment strategies;

(d) carry out, individually or preferably jointly, research which is considered necessary to assess the quality of the marine environment, and to increase knowledge and scientific understanding of the marine environment and, in particular, of the relationship between inputs, concentration and effects;

(e) take into account scientific progress which is considered to be useful for such assessment purposes and which has been made elsewhere either on the initiative of individual researchers and research institutions, or through other national and international research programmes or under the auspices of the European Economic Community or other regional economic integration organisations.

ARTICLE 3

For the purposes of this Annex, it shall, *inter alia*, be the duty of the Commission:

(a) to define and implement programmes of collaborative monitoring and assessment-related research, to draw up codes of practice for the guidance of participants in carrying out these monitoring programmes and to approve the presentation and interpretation of their results;

(b) to carry out assessments taking into account the results of relevant monitoring and research and the data relating to inputs of substances or energy into the maritime area which are provided by virtue of other Annexes to the Convention, as well as other relevant information;

(c) to seek, where appropriate, the advice or services of competent regional organisations and other competent international organisations and competent bodies with a view to incorporating the latest results of scientific research;

(d) to cooperate with competent regional organisations and other competent international organizations in carrying out quality status assessments.

APPENDIX 1
CRITERIA FOR THE DEFINITION OF PRACTICES AND TECHNIQUES MENTIONED IN PARAGRAPH 3(b)(i) OF ARTICLE 2 OF THE CONVENTION

BEST AVAILABLE TECHNIQUES

1. The use of the best available techniques shall emphasize the use of non-waste technology, if available.

2. The term "best available techniques" means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:

(a) comparable processes, facilities or methods of operation which have recently been successfully tried out;

(b) technological advances and changes in scientific knowledge and understanding;

(c) the economic feasibility of such techniques;

(d) time limits for installation in both new and existing plants;

(e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what is "best available techniques" for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.

5. "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

BEST ENVIRONMENTAL PRACTICE

6. The term "best environmental practice" means the application of the most appropriate combination of environmental control measures and strategies. In making a selection for individual cases, at least the following graduated range of measures should be considered:

(a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;

(b) the development and application of codes of good environmental practice which covers all aspects of the activity in the product's life;

(c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;

(d) saving resources, including energy;

(e) making collection and disposal systems available to the public;

(f) avoiding the use of hazardous substances or products and the generation of hazardous waste;

(g) recycling, recovery and re-use;

(h) the application of economic instruments to activities, products or groups of products;

(i) establishing a system of licensing, involving a range of restrictions or a ban.

7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

(a) the environmental hazard of the product and its production, use and ultimate disposal;

(b) the substitution by less polluting activities or substances;

(c) the scale of use;

(d) the potential environmental benefit or penalty of substitute materials or activities;

(e) advances and changes in scientific knowledge and understanding;

(f) time limits for implementation;

(g) social and economic implications.

8. It therefore follows that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

APPENDIX 2
CRITERIA MENTIONED IN PARAGRAPH 2 OF ARTICLE 1 OF ANNEX I AND IN PARAGRAPH 2 OF ARTICLE 2 OF ANNEX III

1. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given below:

(a) persistency;

(b) toxicity or other noxious properties;

(c) tendency to bioaccumulation;

(d) radioactivity;

(e) the ratio between observed or (where the results of observations are not yet available) predicted concentrations and no observed effect concentrations;

(f) anthropogenically caused risk of eutrophication;

(g) transboundary significance;

(h) risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;

(i) interference with harvesting of sea-foods or with other legitimate uses of the sea;

(j) effects on the taste and/or smell of products for human consumption from the sea, or effects on smell, colour, transparency or other characteristics of the water in the marine environment;

(k) distribution pattern (i.e., quantities involved, use pattern and liability to reach the marine environment);

(l) non-fulfilment of environmental quality objectives.

2. These criteria are not necessarily of equal importance for the consideration of a particular substance or group of substances.

3. The above criteria indicate that substances which shall be subject to programmes and measures include:

(a) heavy metals and their compounds;

(b) organohalogen compounds (and substances which may form such compounds in the marine environment);

(c) organic compounds of phosphorus and silicon;

(d) biocides such as pesticides, fungicides, herbicides, insecticides, slimicides and chemicals used, *inter alia*, for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles;

(e) oils and hydrocarbons of petroleum origin;

(f) nitrogen and phosphorus compounds;

(g) radioactive substances, including wastes;

(h) persistent synthetic materials which may float, remain in suspension or sink.

MULTILATERAL

MARINE SCIENCE AND EXPLORATION

Statutes of the Intergovernmental Oceanographic Commission, Paris, 1960, as Revised, Paris, 1970, and Amended, Paris, 1987

Done at Paris 15 December 1960;
revised at Paris 13 November 1970;
amended at Paris 18 November 1987

Entered into force 15 December 1960

Primary source citation: Copy of text provided by the Intergovernmental Oceanographic Commission

1. STATUTES OF THE COMMISSION

Article 1

1. (a) The Intergovernmental Oceanographic Commission, hereafter called the Commission, is established as a body with functional autonomy within the United Nations Educational, Scientific and Cultural Organization.

   (b) It guides the conception and follows the implementation of its programme as approved by the General Conference in the framework of the latter's adopted budget.

2. The purpose of the Commission is to promote marine scientific investigations and related ocean services, with a view to learning more about the nature and resources of the oceans through the concerted action of its members.

3. The Commission shall seek to collaborate with all international organizations concerned with the work of the Commission and especially closely with those organizations of the United Nations system which are prepared to contribute to the Commission's Secretariat, to sustain the work of the Commission through the relevant parts of the programmes of such organizations, and to use the Commission for advice and review in the area of marine science.

Article 2

The functions of the Commission shall be to:

1. (a) define those problems the solution of which requires international co-operation in the field of scientific investigation of the oceans and review the results of such investigations;

   (b) develop, recommend and co-ordinate international programmes for scientific investigation of the oceans and related ocean services which call for concerted actions by its members;

(c) develop, recommend and co-ordinate with interested international organizations, international programmes for scientific investigation of the oceans and related ocean services which call for concerted action with interested organizations;

(d) make recommendations to international organizations concerning activities of such organizations which relate to the Commission's programme;

(e) promote and make recommendations for the exchange of oceanographic data and the publication and dissemination of results of scientific investigation of the oceans;

(f) promote and co-ordinate the development and transfer of marine science and its technology, particularly to developing countries;

(g) make recommendations to strengthen education and training in marine science and its technology, and promote relevant projects in these fields as components of each of its programmes;

(h) develop and make recommendations for assistance programmes in marine science and its technology;

(i) make recommendations and provide technical guidance as to the formulation and execution of the marine science programmes of the United Nations Educational, Scientific and Cultural Organization;

(j) promote scientific investigation of the oceans and application of the results thereof for the benefit of all mankind, and assist, on request, Member States wishing to co-operate to these ends. Activities undertaken under this sub-paragraph shall be subject, in accordance with international law, to the regime for marine scientific research in zones under national jurisdiction;

(k) promote, plan and co-ordinate observing and monitoring systems on the properties and quality of the marine environment, as well as the preparation and dissemination of processed oceanographic data and information, and of assessment studies;

(l) promote, recommend and co-ordinate, with international organizations, as appropriate, the development of standards, reference materials and nomenclature for use in marine science and related ocean services;

(m) undertake, as appropriate, any other action compatible with its purpose and functions concerning the scientific investigation of the ocean and its interfaces.

2. The Commission, in carrying out its functions, shall take into account the special needs and interests of developing countries, including in particular the need to further the capabilities of these countries in marine science and technology.

3. Nothing in this Article shall imply the adoption of a position by the Commission regarding the nature or extent of the jurisdiction of coastal States in general or of any coastal State in particular.

Article 3

1. The Commission shall give due attention to supporting the objectives of the international organizations with which it collaborates. On the other hand, the Commission may request these organizations to take its requirements into account in planning and executing their own programmes.

2. The Commission may act also as a joint specialized mechanism of the organizations of the United Nations system that have agreed to use the Commission for discharging certain of their responsibilities in the fields of marine science and ocean services, and have agreed accordingly to sustain the work of the Commission.

Article 4

1. Membership of the Commission shall be open to any Member State of any one of the organizations of the United Nations system.

2. States covered by the terms of paragraph 1 above shall acquire membership of the Commission by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organization, either directly or through the executive head of any organization of the United Nations system. Membership will take effect from the date of receipt by the Director-General of the United Nations Educational, Scientific and Cultural Organization of such notification.

3. Any Member State of the Commission may withdraw from it by giving notice of its intention to do so to the Director-General of the United Nations Educational, Scientific and Cultural Organization. The date of such notice shall be that of its receipt by the Director-General. The notice shall take effect on the first day of the next ordinary session of the Assembly following the date of notice of withdrawal if the notice is given more than one year before the first day of said session; if the notice of withdrawal is given less than one year before the first day of the said session, it shall take effect one year after the date of notice of withdrawal.

4. A Member State of the Commission which practises apartheid may be suspended from exercise of the rights and privileges entailed by membership of the Commission by decision of the General Conference. Exercise of those rights and privileges may be restored by decision of the General Conference.

5. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the Chairman of the Commission, the executive heads of the organizations of the United Nations system and Member States of the Commission of all notifications received by him under the present Article.

Article 5

1. The Commission shall consist of an Assembly, an Executive Council, a Secretariat and such subsidiary bodies as it may establish.

2. The Assembly shall be the principal organ of the Commission and, without prejudice to the provisions of paragraph 3 of this Article, shall make all decisions necessary to accomplish the purpose of the Commission.

3. The Executive Council shall exercise the responsibilities delegated to it by the Assembly and act on its behalf in the implementation of decisions of the Assembly; for these purposes the Executive Council shall provide guidance to the Secretariat of the Commission. It shall convene as is laid down in the Rules of Procedure. It shall, in any case, convene when five of its members or the Chairman so request.

4. During the course of each ordinary session, the Assembly, taking into account the principles of geographical distribution, shall elect:

   (a) a Chairman and four Vice-Chairmen who shall be the officers of the Commission, its Assembly and its Executive Council;

   (b) a number of Member States to the Executive Council, which number shall not exceed one quarter of the Member States of the Commission; each Member State so elected shall designate its representative on the Executive Council.

5. The Chairman, the four Vice-Chairmen and the representatives of the Member States so elected shall constitute the Executive Council.

   (a) Each member of the Executive Council shall represent his State.

   (b) Each member of the Executive Council shall have one vote.

   (c) Members of the Executive Council may be accompanied by alternates and advisers.

(d) The Executive Council may not include among its members more than one national of a Member State.

6. The term of office of the members of the Executive Council shall commence at the end of the session of the Assembly during which they have been elected and expire at the end of the next ordinary session of the Assembly.

Article 6

The Commission may create, for the examination and execution of specific projects, committees or other subsidiary bodies composed of Member States interested in such projects, or of individual experts. Committees or other bodies composed of Member States or individual experts may also be established or convened by the Commission jointly with other organizations.

Article 7

1. The Assembly shall be convened in ordinary session every two years. Extraordinary sessions may be convened under conditions specified in the Rules of Procedure.

2. Each Member State shall have one vote and may send such representatives, alternates and advisers as it deems necessary to sessions of the Assembly.

3. The Assembly shall determine the Commission's Rules of Procedure.

Article 8

Subject to provisions in the Rules of Procedure regarding closed meetings, participation in the meetings of the Assembly, of the Executive Council and subsidiary bodies, without the right to vote, is open to:

(a) representatives of Member States of organizations in the United Nations system which are not members of the Commission;

(b) representatives of the organizations in the United Nations system;

(c) representatives of such other intergovernmental and non-governmental organizations as may be invited subject to conditions to be determined in the Rules of Procedure.

Article 9

1. With due regard to the applicable Staff Regulations and Rules of the United Nations Educational, Scientific and Cultural Organization, the Secretariat of the Commission shall consist of a Secretary and such other staff as may be necessary, provided by the United Nations Educational, Scientific and Cultural Organization, as well as such personnel as may be provided, at their expense, by the United Nations, the World Meteorological Organization and the International Maritime Organization and other organizations of the United Nations system.

2. The Secretary of the Commission shall be appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization following consultation with the Executive Council of the Commission.

Article 10

1. The programmes sponsored and co-ordinated by the Commission and recommended to its Member States for their concerted action shall be carried out with the aid of the resources of participating Member States, in accordance with the obligations that each State is willing to assume.

2. The expenditure of the Commission shall be financed from funds appropriated for this purpose by the General Conference of the United Nations Educational, Scientific and Cultural Organization, from contributions by Member States of the Commission that are not Member States of the United Nations Educational, Scientific and Cultural Organization, as well as from such additional resources as may be made available by other organizations of the United Nations system and by Member States, and from other sources.

3. Voluntary contributions may be accepted and established as trust funds in accordance with the financial regulations of the United Nations Educational, Scientific and Cultural Organization and administered by the Director-General of the Organization. Such contributions shall be allocated by the Commission for its programmes.

Article 11

The Commission may decide upon the mechanism through which it may obtain scientific advice.

Article 12

The Commission shall prepare regular reports on its activities, which shall be submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization. These reports shall also be addressed to the Member States of the Commission as well as to the organizations within the United Nations system covered by paragraph 3 of Article 1.

Article 13

The General Conference of the United Nations Educational, Scientific and Cultural Organization may amend these Statutes following a recommendation of, or after consultation with, the Commission. Unless otherwise provided by the General Conference, an amendment to these Statutes shall enter into force on the date of its adoption by the General Conference.

Convention for the International Council for the Exploration of the Sea, Copenhagen, 1964

Done at Copenhagen 12 September 1964

Entered into force 22 July 1968

Depositary: Denmark

Primary source citation: 24 UST 1080, TIAS 7628

CONVENTION
for the International Council for the Exploration of the Sea

Preamble

The Governments of the States Parties to this Convention

Having participated in the work of the International Council for the Exploration of the Sea, which was established at Copenhagen in 1902 as a result of conferences held in Stockholm in 1899 and in Christiania in 1901 and entrusted with the task of carrying out a programme of international investigation of the sea

Desiring to provide a new constitution for the aforesaid Council with a view to facilitating the implementation of its programme

Have agreed as follows:

Article 1

It shall be the duty of the International Council for the Exploration of the Sea, hereinafter referred to as the "Council",

(a) to promote and encourage research and investigations for the study of the sea particularly those related to the living resources thereof;

(b) to draw up programmes required for this purpose and to organise, in agreement with the Contracting Parties, such research and investigation as may appear necessary;

(c) to publish or otherwise disseminate the results of research and investigations carried out under its auspices or to encourage the publication thereof.

Article 2

The Council shall be concerned with the Atlantic Ocean and its adjacent seas and primarily concerned with the North Atlantic.

Article 3

(1) The Council shall be maintained in accordance with the provisions of this Convention.

(2) The seat of the Council shall remain at Copenhagen.

Article 4

The Council shall seek to establish and maintain working arrangements with other international organisations which have related objectives and cooperate, as far as possible, with them, in particular in the supply of scientific information requested.

Article 5

The Contracting Parties undertake to furnish to the Council information which will contribute to the purposes of this Convention and can reasonably be made available and, wherever possible, to assist in carrying out the programmes of research coordinated by the Council.

Article 6

(1) Each Contracting Party shall be represented at the Council by not more than two delegates.

(2) A delegate who is not present at a meeting of the Council may be replaced by a substitute who shall have all the powers of the delegate for that meeting.

(3) Each Contracting Party may appoint such experts and advisers as it may determine to assist in the work of the Council.

Article 7

(1) The Council shall meet in ordinary session once a year. This session shall be held in Copenhagen, unless the Council decides otherwise.

(2) Extraordinary sessions of the Council may be called by the Bureau at such place and time as it may determine and shall be so called on the request of at least one-third of the Contracting Parties.

Article 8

(1) Each Contracting Party shall have one vote in the Council.

(2) Decisions of the Council shall, except where otherwise in this Convention specially provided, be taken by a simple majority of the votes cast for or against. If there is an even division of votes on any matter which is subject to a simple majority decision the proposal shall be regarded as rejected.

Article 9

(1) Subject to the provisions of this Convention the Council shall draw up its own Rules of Procedure which shall be adopted by a two-thirds majority of the Contracting Parties.

(2) English and French shall be the working languages of the Council.

Article 10

(1) The Council shall elect from among the delegates its President, a first Vice-President and a further 5 Vice-Presidents. This last number may be augmented by a decision taken by the Council by a two-thirds majority.

(2) The President and the Vice-Presidents shall assume office on the first day of November next following their election, for a term of three years. They are eligible for re-election according to the Rules of Procedure.

(3) On assuming office the President shall cease forthwith to be a delegate.

Article 11

(1) The President and Vice-Presidents shall together constitute the Bureau of the Council.

(2) The Bureau shall be the Executive Committee of the Council and shall carry out the decisions of the Council, draw up its agenda and convene its meetings. It shall also prepare the budget. It shall invest the reserve funds and carry out the tasks entrusted to it by the Council. It shall account to the Council for its activities.

Article 12

There shall be a Consultative Committee, a Finance Committee and such other committees as the Council may deem necessary for the discharge of its functions with the duties respectively assigned to them in the Rules of Procedure.

Article 13

(1) The Council shall appoint a General Secretary on such terms and to perform such duties as it may determine.

(2) Subject to any general directions of the Council the Bureau shall appoint such other staff as may be required for the purposes of the Council on such terms and to perform such duties as it may determine.

Article 14

(1) Each Contracting Party shall pay the expenses of the delegates, experts and advisers appointed by it, except in so far as the Council may otherwise determine.

(2) The Council shall approve an annual budget of the proposed expenditure of the Council.

(3) In the first and second financial gears after this Convention enters into force in accordance with Article 16 of this Convention the Contracting Parties shall contribute to the expenses of the Council such sums as they respectively contributed, or undertook to contribute, in respect of the year preceding the entry into force of this Convention.

(4) In respect of the third and subsequent financial years the Contracting Parties shall contribute sums calculated in accordance with a scheme to be prepared by the Council and accepted by all the Contracting Parties. This scheme may be modified by the Council with the agreement of all Contracting Parties.

(5) A Government acceding to this Convention shall contribute to the expenses of the Council such sum as may be agreed between that Government and the Council in respect of each financial year until the scheme under paragraph 4 provides for contributions from that Government.

(6) A Contracting Party which has not paid its contribution for two consecutive years shall not enjoy any rights under this Convention until it has fulfilled its financial obligations.

Article 15

(1) The Council shall enjoy, in the territories of the Contracting Parties, such legal capacity as may be agreed between the Council and the Government of the Contracting Party concerned.

(2) The Council, delegates and experts, the General Secretary and other officials shall enjoy in the territories of the Contracting Parties such privileges and immunities, necessary for the fulfilment of their functions, as may be agreed between the Council and the Government of the Contracting Party concerned.

Article 16

(1) This Convention shall be open until 31st December, 1964, for signature on behalf of the Governments of all states which participate in the work of the Council.

(2) This Convention is subject to ratification or approval by the signatory Governments in accordance with their respective constitutional procedures. The instruments of ratification or approval shall be deposited with the Government of Denmark, who will act as the depository Government.

(3) This Convention shall enter into force on the 22nd July next following the deposit of the instruments of ratification or approval by all signatory Governments. If, however, on the 1st January, 1968, all the signatory Governments have not ratified this Convention, but not less than three quarters of the signatory Governments have deposited instruments of ratification or approval, these latter Governments may agree among themselves by special protocol on the date on which this Convention shall enter into force and on other related matters; and in that case this Convention shall enter into force, with respect to any other signatory Government that ratifies or approves thereafter, on the date of deposit of its instrument of ratification or approval.

(4) After the entry into force of this Convention in accordance with paragraph 3 of this Article, the Government of any State may apply to accede to this Convention by addressing a written application to the Government of Denmark. It shall be permitted to deposit an instrument of accession with that Government after the approval of the Governments of three quarters of the states which have already deposited their instruments of ratification, approval or accession, has been notified to the Government of Denmark. For any acceding Government this Convention shall enter into force on the date of deposit of its instrument of accession.

Article 17

At any time after two years from the date on which this Convention has come into force any Contracting Party may denounce the Convention by means of a notice in writing addressed to the Government of Denmark. Any such notice shall take effect twelve months after the date of its receipt.

Article 18

When the present Convention comes into force it shall be registered by the depository Government with the Secretariat of the United Nations Organisation in accordance with Article 102 of its Charter.

Final Clause

IN WITNESS WHEREOF the undersigned being duly authorised have signed the present Convention :

DONE at Copenhagen this twelfth day of September 1964, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of Denmark who shall forward certified true copies to all signatory and acceding Governments.

Protocol to the Convention for the International Council for the Exploration of the Sea, Copenhagen, 1970

Done at Copenhagen 13 August 1970

Entered into force 12 November 1975

Primary source citation: 27 UST 1022, TIAS 8238

PROTOCOL TO THE CONVENTION FOR THE INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA

The Governments of the States Parties to the Convention for the International Council for the Exploration of the Sea, signed at Copenhagen on the twelfth day of September 1964 (hereinafter referred to as "the Convention"),

Desiring to amend certain provisions of the Convention

Have agreed as follows:–

Article I

Paragraph (2) of Article 14 of the Convention shall be amended to read as follows:–

"(2) the Council shall by a 2/3 majority vote of all the Contracting Parties approve an annual budget of the Council".

Article II

(1) This Protocol shall be open for signature on behalf of the Governments of all States Parties to the Convention with or without reservation as to ratification or approval.

(2) Instruments of ratification or approval shall be deposited with the Government of Denmark.

(3) This Protocol shall enter into force on the date of which the Governments of all States Parties to the Convention have become Parties to this Protocol.

(4) The Government of Denmark shall inform the Governments of the States Parties to the convention of each signature, ratification or approval of this Protocol and of the date of the entry into force of the Protocol.

IN WITNESS WHEREOF the undersigned being duly authorized have signed this Protocol.

DONE at Copenhagen this thirteenth day of August 1970, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of Denmark who shall forward certified true copies to the Governments of all States Parties to the Convention.

Convention on the International Hydrographic Organisation, Monaco, 1967

Done at Monaco 3 May 1967

Entered into force 22 September 1970

Depositary: Monaco

Primary source citation: 21 UST 1857, TIAS 6933

CONVENTION
on the International Hydrographic Organisation

The Governments Parties to this Convention,

CONSIDERING that the International Hydrographic Bureau was established in June 1921 to contribute to making navigation easier and safer throughout the world by improving nautical charts and documents;

DESIRING to pursue on an intergovernmental basis their cooperation in hydrography;

HAVE AGREED as follows:

ARTICLE I

There is hereby established an International Hydrographic Organisation, hereinafter referred to as the Organisation, the seat of which shall be in Monaco.

ARTICLE II

The Organisation shall have a consultative and purely technical nature. It shall be the object of the Organisation to bring about :

(a) The coordination of the activities of national hydrographic offices ;

(b) The greatest possible uniformity in nautical charts and documents ;

(c) The adoption of reliable and efficient methods of carrying out and exploiting hydrographic surveys ;

(d) The development of the sciences in the field of hydrography and the techniques employed in descriptive oceanography.

ARTICLE III

The Members of the Organisation are the Governments Parties to this Convention.

ARTICLE IV

The Organisation shall comprise :

— The International Hydrographic Conference, hereinafter referred to as the Conference;

— The International Hydrographic Bureau, hereinafter referred to as the Bureau, administered by the Directing Committee.

ARTICLE V

The functions of the Conference shall be :

(a) To give general directives on the functioning and work of the Organisation ;

(b) To elect the members of the Directing Committee and its President ;

(c) To examine the reports submitted to it by the Bureau ;

(d) To make decisions in respect of all proposals of a technical or administrative nature submitted by the Member Governments or by the Bureau ;

(e) To approve the budget by a majority of two thirds of the Member Governments represented at the Conference ;

(f) To adopt, by a two thirds majority of the Member Governments, amendments to the General Regulations and Financial Regulations ;

(g) To adopt, by the majority prescribed in the preceding paragraph, any other particular regulations that may prove to be necessary, notably on the status of the directors and staff of the Bureau.

ARTICLE VI

1. The Conference shall be composed of representatives of the Member Governments. It shall meet in ordinary session every five years. An extraordinary session of the Conference may be held at the request of a Member Government or of the Bureau, subject to approval by the majority of the Member Governments.

2. The Conference shall be convened by the Bureau on at least six months' notice. A provisional agenda shall be submitted with the notice.

3. The Conference shall elect its President and Vice-President.

4. Each Member Government shall have one vote. However, for the voting on the questions referred to in Article V (b), each Member Government shall have a number of votes determined by a scale established in relation to the tonnage of its fleets.

5. Conference decisions shall be taken by a simple majority of the Member Governments represented at the Conference, except where this Convention provides otherwise. When voting for or against is evenly divided, the President of the Conference shall be empowered to make a decision. In the case of resolutions to be inserted in the Repertory of Technical Resolutions, the majority shall in any event include the affirmative votes of not less than one third of the Member Governments.

6. Between sessions of the Conference the Bureau may consult the Member Governments by correspondence on questions concerning the technical functioning of the Organisation. The voting procedure shall conform to that provided for in paragraph 5 of this Article, the majority being calculated in this case on the basis of the total membership of the Organisation.

7. The Conference shall constitute its own Committees, including the Finance Committee referred to in Article VII.

ARTICLE VII

1. The supervision of the financial administration of the Organisation shall be exercised by a Finance Committee on which each Member Government may be represented by one delegate.

2. The Committee shall meet during sessions of the Conference. It may meet in extraordinary session.

ARTICLE VIII

For the fulfilment of the objects defined in Article II it shall be the responsibility of the Bureau, in particular :

(a) To bring about a close and permanent association between national hydrographic offices ;

(b) To study any matters relating to hydrography and the allied sciences and techniques, and to collect the necessary papers ;

(c) To further the exchange of nautical charts and documents between hydrographic offices of Member Governments ;

(d) To circulate the appropriate documents;

(e) To tender guidance and advice upon request, in particular to countries engaged in setting up or expanding their hydrographic service;

(f) To encourage coordination of hydrographic surveys with relevant oceanographic activities ;

(g) To extend and facilitate the application of oceanographic knowledge for the benefit of navigators ;

(h) To cooperate with international organisations and scientific institutions which have related objectives.

ARTICLE IX

The Bureau shall be composed of the Directing Committee and the technical and administrative staff required by the Organisation.

ARTICLE X

1. The Directing Committee shall administer the Bureau in accordance with the provisions of this Convention and the Regulations and with directives given by the Conference.

2. The Directing Committee shall be composed of three members of different nationality elected by the Conference, which shall further elect one of them to fill the office of President of the Committee. The term of office of the Directing Committee shall be five years. If a post of director falls vacant during the period between two Conferences, a by-election may be held by correspondence as provided for in the General Regulations.

3. The President of the Directing Committee shall represent the Organisation.

ARTICLE XI

The functioning of the Organization shall be set forth in detail in the General Regulations and Financial Regulations, which are annexed to this Convention but do not form an integral part thereof.

ARTICLE XII

The official languages of the Organisation shall be English and French.

ARTICLE XIII

The Organisation shall have juridical personality. In the territory of each of its Members it shall enjoy, subject to agreement with the Member Government concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its object.

ARTICLE XIV

The expenses necessary for the functioning of the Organisation shall be met :

(a) From the ordinary annual contributions of Member Governments in accordance with a scale based on the tonnage of their fleets ;

(b) From donations, bequests, subventions and other sources, with the approval of the Finance Committee.

ARTICLE XV

Any Member Government which is two years in arrears in its contributions shall be denied all rights and benefits conferred on Member Governments by the Convention and the Regulations until such time as the outstanding contributions have been paid.

ARTICLE XVI

The budget of the Organisation shall be drafted by the Directing Committee, studied by the Finance Committee and approved by the Conference.

ARTICLE XVII

Any dispute concerning the interpretation or application of this Convention which is not settled by negotiation or by the good offices of the Directing Committee shall, at the request of one of the parties to the dispute, be referred to an arbitrator designated by the President of the International Court of Justice.

ARTICLE XVIII

1. This Convention shall be open in Monaco on 3 May 1967, and subsequently at the Legation of the Principality of Monaco in Paris from 1 June until 31 December 1967, for signature by any Government which participates in the work of the Bureau on 3 May 1967.

2. The Governments referred to in paragraph 1 above may become Parties to the present Convention :

(a) By signature without reservation as to ratification or approval, or

(b) By signature subject to ratification or approval and the subsequent deposit of an instrument of ratification or approval.

3. Instruments of ratification or approval shall be handed to the Legation of the Principality of Monaco in Paris to be deposited in the Archives of the Government of the Principality of Monaco.

4. The Government of the Principality of Monaco shall inform the Governments referred to in paragraph 1 above, and the President of the Directing Committee, of each signature and of each deposit of an instrument of ratification or approval.

ARTICLE XIX

1. This Convention shall enter into force three months after the date on which twenty-eight Governments have become Parties in accordance with the provisions of Article XVIII, paragraph 2.

2. The Government of the Principality of Monaco shall notify this date to all signatory Governments and the President of the Directing Committee.

ARTICLE XX

After it has entered into force this Convention shall be open for accession by the Government of any maritime state which applies to the Government of the Principality of Monaco specifying the tonnage of its fleets, and whose admission is approved by two thirds of the Member Governments. Such approval shall be notified by the Government of the Principality of Monaco to the Government concerned. The Convention shall enter into force for that Government on the date on which it has deposited its instrument of accession with the Government of the Principality of Monaco which shall inform the Member Governments and the President of the Directing Committee.

ARTICLE XXI

1. Any Contracting Party may propose amendments to this Convention.

2. Proposals of amendment shall be considered by the Conference and decided upon by a majority of two thirds of the Member Governments represented at the Conference. When a proposed amendment has been approved by the Conference, the President of the Directing Committee shall request the Government of the Principality of Monaco to submit it to all Contracting Parties.

3. The amendment shall enter into force for all Contracting Parties three months after notifications of approval by two thirds of the Contracting Parties have been received by the Government of the Principality of Monaco. The latter shall inform the Contracting Parties and the President of the Directing Committee of the fact, specifying the date of entry into force of the amendment.

ARTICLE XXII

1. Upon expiration of a period of five years after its entry into force, this Convention may be denounced by any Contracting Party by giving at least one year's notice, in a notification addressed to the Government of the Principality of Monaco. The denunciation shall take effect upon 1 January next following the expiration of the notice and shall involve the abandonment by the Government concerned of all rights and benefits of membership in the Organisation.

2. The Government of the Principality of Monaco shall inform the Contracting Parties and the President of the Directing Committee of any notification of denunciation it receives.

ARTICLE XXIII

After the present Convention enters into force it shall be registered by the Government of the Principality of Monaco with the Secretariat of the United Nations in accordance with Article 102 of its Charter.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

DONE at Monaco on the third day of May nineteen hundred and sixty-seven, in a single copy in the English and French languages, each text being equally authentic, which shall be deposited in the Archives of the Government of the Principality of Monaco, which shall transmit certified copies thereof to all signatory and acceding Governments and to the President of the Directing Committee.

GENERAL REGULATIONS

ARTICLE 1

The Organisation is a consultative agency. It has no authority over the hydrographic offices of the Governments Parties to the Convention.

ARTICLE 2

The activities of the Organisation are of a scientific or technical nature and shall not include matters involving questions of international policy.

INTERNATIONAL HYDROGRAPHIC CONFERENCE

ARTICLE 3

The International Hydrographic Conference shall meet in ordinary session every five years at the seat of the Organisation at a date fixed at the close of the previous session.

ARTICLE 4

The International Hydrographic Conference shall be prepared and organised by the Bureau.

ARTICLE 5

Each Member Government may be represented at the Conference by one or more delegates, one of whom should preferably be the head of the national hydrographic office. Travelling and hotel expenses of delegates shall be defrayed by their respective Governments.

ARTICLE 6

The Directing Committee shall be authorized to invite observers from:

(a) Governments that are not Parties to the Convention: one or two observers each, if proposed by a Member Government or the Directing Committee and subject to approval by two thirds of the Member Governments.

(b) International organisations whose activities are connected with those of the Bureau: one or exceptionally two observers each. A list of such organisations shall be notified by the Directing Committee to Member Governments in advance, so that they may have opportunity to raise objections or suggest additions.

(c) National organisations of Member Governments which have had or are likely to have occasion to collaborate with the Bureau, under the conditions prescribed in the preceding paragraph.

ARTICLE 7

The working languages of the Conference shall be English, French and Spanish.

ARTICLE 8

(a) The Conference shall examine the reports of the Bureau on its work since the previous Conference. These reports shall be submitted to Member Governments by the Bureau at least two months before the Conference.

(b) Committees shall be designated to study the reports. The committees' conclusions shall be submitted to the appropriate plenary session of the Conference.

ARTICLE 9

(a) Twelve months before the opening of the Conference, the Bureau shall invite representatives of Member Governments to submit the proposals that they wish to discuss at the Conference. At least eight months before the Conference these proposals, as well as those submitted by the Bureau, shall be circulated to all Member Governments.

(b) Proposals submitted after that date shall be accepted only if they are signed by representatives of at least three Member Governments.

(c) Proposals may also be submitted during the Conference. They must be signed by three delegations and submitted to the President of the Conference; they may not be discussed less than twenty-four hours after being officially announced.

ARTICLE 10

(a) Unless the ordinary International Hydrographic Conference has specifically decided otherwise, the foregoing rules of procedure shall apply to extraordinary sessions.

(b) Government delegates to extraordinary sessions shall be chosen as far as possible in the light of the questions submitted for consideration.

FINANCE COMMITTEE

ARTICLE 11

(a) Between conferences, the Finance Committee may meet in extraordinary session on the request of three Governments or of the Directing Committee. The Directing Committee may also consult the Finance Committee by correspondence.

(b) Dates of meetings of the Finance Committee shall be fixed by its Chairman in arrangement with the Directing Committee.

(c) The Chairman of the Finance Committee shall be elected for five years by the Conference.

ARTICLE 12

During its ordinary session, the Committee shall:

— examine and approve the administrative accounts for the preceding financial period,

— examine the budget for the coming financial period and submit it to the Conference.

ARTICLE 13

The Committee shall take decisions by a majority of two thirds of the Members present. Each delegate shall have one vote.

ARTICLE 14

The accounts shall be audited annually by an external auditor designated by the Committee.

INTERNATIONAL HYDROGRAPHIC BUREAU

ARTICLE 15

In accordance with the provisions of article VIII of the Convention, the Bureau shall undertake the scientific and technical activities necessary for the attainment of the objectives of the Organisation.

ARTICLE 16

For its relations with the Bureau, each Member Government shall designate an official representative, perferably the head of its hydrographic office.

ARTICLE 17

The Bureau shall keep in close communication with the hydrographic offices of Member Governments. It may also correspond with related scientific organisations of Member Governments, provided that it informs the official representative of the Government concerned (article 16 above). Furthermore it may correspond with similar bodies of other Governments and with international organisations.

ARTICLE 18

The Bureau shall bring to the notice of the hydrographic or other competent offices of the Member Governments any hydrographic work of an international character and problems of general interest that it might be useful to study or to undertake. It shall strive for the solution of such problems or the undertaking of such work by seeking the necessary collaboration between Member Governments.

ARTICLE 19

To enable the Bureau to achieve its purpose, the hydrographic offices of Member Governments shall forward copies of their new publications and new editions of their charts, as well as works or documents published by them or by other offices in their countries which may be of interest.

ARTICLE 20

The Bureau shall satisfy as far as possible all requests from representatives of Member Governments for information or advice related to its work. Matters which can be dealt with directly between two national hydrographic offices should not normally be referred to the Bureau.

ARTICLE 21

The Bureau shall issue and distribute the publications referred to in articles 32 to 35 and any other documents requested by the Conference.

ARTICLE 22

In their communications with the Bureau, representatives of Member Governments may use languages other than the official languages of the Organisation, but the Bureau shall not be held responsible for any delay or misinterpretation which may ensue.

DIRECTING COMMITTEE

ARTICLE 23

(a) The Directing Committee shall administer the Bureau in accordance with the provisions of the Convention and the Regulations and with directives given by the Conference.

(b) It shall be responsible for the carrying out by the Bureau of the scientific and technical assignments entrusted to it.

ARTICLE 24

In the period between two Conferences, should no appropriate provision be made in the Convention or the Regulations, the Committee shall make any administrative or technical decisions which may be necessary, with the reservation that they be referred to the next Conference.

ARTICLE 25

(a) If the Committee considers that any question should be referred to the Member Governments for solution, it shall send a circular letter to their representatives, in accordance with article VI (6) of the Convention, requesting them to notify the Bureau of the opinion of their respective Governments.

(b) When voting for or against is evenly divided, the question shall be deferred to the next Conference.

ARTICLE 26

If circumstances preclude observation of the procedure prescribed in the Regulations, the Committee shall make the necessary decisions and give Member Governments an immediate account of the fact.

ARTICLE 27

(a) The directors shall be elected for a period of five years, in accordance with articles 36 to 47.

(b) The directors shall be eligible for re-election for a second five-year period.

(c) A candidate must be less than sixty-six years old in the year of his election or re-election.

(d) When a director is elected to fill a vacancy occurring between Conferences, his term of office shall end at the same time as his predecessor's would have done had he retained the post.

ARTICLE 28

The duties of the Directing Committee shall terminate on the last day of the third month following that in which the new Directing Committee has been elected.

ARTICLE 29

A director who has been incapacitated for duty for six consecutive months, or otherwise for an aggregate of twelve months, during his term of office shall automatically cease to be a director.

ARTICLE 30

Each director shall have particular responsibility for one or more branches of the work of the Bureau, but the Committee shall deliberate on all important questions. If only two directors attend a meeting of the Committee and a decision cannot be postponed until a full meeting, the view of the President or the acting President shall prevail.

ARTICLE 31

The staff of the Bureau shall be under the control of the Directing Committee. It shall consist of technical and administrative assistance and employees. The staff shall be appointed by the Committee as necessary.

PUBLICATIONS

ARTICLE 32

At the beginning of each year the Bureau shall publish a report on its activities.

ARTICLE 33

(a) The Bureau shall issue a Yearbook giving all necessary information on the hydrographic offices of the Member Governments and, insofar as such information can be obtained, on those of other Governments.

(b) The Yearbook shall include the addresses of the official representatives designated in accordance with Article 16, and the following information:

(i) A list of Governments which have participated in the work of the Bureau between the date of its creation and the date of entry into force of the Convention.

(ii) A list of Member Governments.

(iii) A list of Governments which have denounced the Convention pursuant to Article XXII.

(iv) A table of tonnages of Member Government's fleets.

(v) A table showing the shares, contributions and number of votes of the Member Governments.

ARTICLE 34

(a) The Bureau shall issue two periodical publications: the International Hydrographic Review and the International Hydrographic Bulletin.

(b) The International Hydrographic Review shall contain articles on hydrography and allied sciences and techniques, and on any other subjects of general interest to the Organisation and to the various hydrographic offices.

(c) The International Hydrographic Bulletin shall appear more frequently than the Review, and shall contain matters of the moment and information of a temporary or urgent nature. This publication shall also contain information on work carried out and projected by Members.

ARTICLE 35

The Bureau shall issue special publications on technical subjects of interest to hydrographic offices.

ELECTIONS

ARTICLE 36

The directors shall be elected by the Conference in accordance with the provisions of Articles V (b), VI (4) and X (2) of the Convention. The election shall be held by secret ballot at the end of the Conference.

ARTICLE 37

(a) For the election of the directors, each Member Government shall have two votes; those Governments which have 100 000 tons of shipping or more shall have supplementary votes in accordance with the following scale:

Gross tonnage	Supplementary votes
100 000 – 499 999	1
500 000 – 1 999 999	2
2 000 000 – 7 999 999	3
8 000 000 and above	4

(b) The estimates of tonnage shall be made in accordance with article 5 of the Financial Regulations.

ARTICLE 38

Each Member Government may nominate one or more candidates who may be of the nationality of any Contracting Party. If possible, nominations should reach the Bureau at least three months before the Conference. The list of candidates shall be closed ten days prior to the opening of the Conference.

ARTICLE 39

Every candidate should have had considerable sea experience and have extensive knowledge of practical hydrography and navigation. In the elections, the technical and administrative ability only of the candidates should be taken into consideration. No particular rank or other standing is required of them.

ARTICLE 40

Every nomination shall be accompanied by a note giving the candidate's qualifications for the position. To facilitate comparison of the candidates' qualifications the statements of service shall be compiled in a uniform manner as follows:

General

1. Name.
2. Nationality.
3. Date of birth.
4. Titles and decorations.

Education and Promotions

5. Education (periods, including specialised or special qualifications).
6. Languages (speaking and reading knowledge).
7. Promotions.

Service

8. Hydrographic service.
   (a) Sea service (periods and posts).
   (b) Shore service (periods and posts).
9. Non-hydrographic service.
   (a) Sea service (periods and posts).
   (b) Shore service (periods and posts).

Scientific activities

10. Publications.
11. Research work and awards.
12. Scientific societies (member of, past and present).

Additional information

(Signature of candidate and of forwarding authority)

ARTICLE 41

(a) The names of the candidates, with the statements of service, shall be published by the Directing Committee as soon as they are received.

(b) The Bureau shall collate the lists of names submitted and present them, together with the statements of service, to each delegation at the opening of the Conference.

ARTICLE 42

(a) To register their votes for electing the members of the Directing Committee, the delegations shall inscribe on a number of voting papers equal to the number of votes to which each is entitled the names of only those three candidates whom they wish to elect.

(b) The three candidates inscribed on each of the voting papers must be of different nationality.

(c) Any voting paper not completed in strict accordance with paragraphs (a) and (b) shall be nullified.

ARTICLE 43

(a) The three candidates of different nationality receiving the largest number of votes shall be considered elected.

(b) In the event of two or more candidates receiving an equal number of votes making it impossible to fill the three posts under the conditions prescribed in the preceding paragraph, a new ballot shall be held to determine the relative positions only of those candidates who obtained the same number of votes.

ARTICLE 44

(a) When the three directors have been elected, a separate ballot shall be held to elect one of them as President of the Directing Committee. For this purpose, delegations shall inscribe on their allotted number of voting papers the name of the director they wish to make President.

(b) The number of votes actually received by each director shall determine the order in which they may be called upon to replace the President elected.

(c) In the case of a tie, a second ballot shall be held to determine the relative positions of the directors who obtained the same number of votes.

ARTICLE 45

When voting has been completed, the President of the Conference shall invite the newly-elected directors to take up their duties on the first day of the fourth month following the month of their election.

ARTICLE 46

(a) If a post of director falls vacant during the period between two Conferences and more than two years before the next Conference is due to meet, the Directing Committee shall conduct a bye-election by correspondence to fill the vacancy.

(b) In such a case, the Bureau shall invite Member Governments to send lists of candidates in accordance with articles 38 to 40. On receipt of these lists the election shall be held observing a procedure closely modelled on that described in articles 41 to 43.

(c) On completion of the above-mentioned procedure, the Committee shall immediately notify Member Governments of the result of the ballot and invite the director elected to take up his duties.

ARTICLE 47

A director elected to fill a vacancy shall take third place among the directors.

FINANCIAL REGULATIONS

ARTICLE 1

The financial administration of the Bureau shall be effected in accordance with the provisions of articles V, VII, XIV and XVI of the Convention and Articles 11 to 14 of the General Regulations.

ORDINARY BUDGET

ARTICLE 2

(a) The budget shall be established for five years and calculated on the basis of the gold franc adopted by the International Monetary Convention of 1885; namely, 1 gold franc = 0.290 322 58 gr. or 0.009 334 086 5 ounces troy of fine gold.

(b) The financial year of the Bureau shall coincide with the Gregorian calendar year.

ARTICLE 3

Any balancing of income and expenditure shall be prohibited in the presenting of the budget.

ARTICLE 4

The annual contributions of Governments Parties to the Convention shall be based on the standard of the gold franc as defined in article 2 and shall be paid into the Bureau's bank accounts. Such contributions shall be fixed by the following rules :

(a) Each Government shall subscribe two shares of 2 000 gold francs each ;

(b) Those Governments which have 100 000 gross tons of shipping or more shall contribute supplementary shares of the same value in accordance with the following scale :

Gross Tonnage	Supplementary Shares (2 000 gold francs each)
100 000 – 249 999	1
250 000 – 454 999	2
455 000 – 719 999	3
720 000 – 1 049 999	4
1 050 000 – 1 449 999	5
1 450 000 – 1 924 999	6
1 925 000 – 2 479 999	7
2 480 000 – 3 119 999	8
3 120 000 – 3 849 999	9
3 850 000 – 4 674 999	10
4 675 000 – 5 599 999	11
5 600 000 – 6 629 999	12
6 630 000 – 7 769 999	13
7 770 000 – 9 024 999	14
9 025 000 – 10 399 999	15
10 400 000 – 11 899 999	16

Gross Tonnage	Supplementary Shares (2 000 gold francs each)
11 900 000 – 13 529 999	17
13 530 000 – 15 294 999	18
15 295 000 – 17 199 999	19
17 200 000 – 19 249 999	20
19 250 000 – 21 449 999	21
21 450 000 – 23 804 999	22
23 805 000 – 26 319 999	23
26 320 000 – 28 999 999	24
29 000 000 and above	25 (max.)

ARTICLE 5

In application of the Convention and its Regulations, the tonnage figures of the Member Governments shall be obtained by adding to 6/7 of the displacement tonnage of ships of war the gross tonnage of all other vessels exceeding 100 tons.

ARTICLE 6

(a) The table of tonnage determining the contributions of Governments shall be brought up to date by the Directing Committee before each ordinary Conference. Twelve months before the Conference, the Bureau shall ask Governments to supply their tonnage figures as of 1 January of the year preceding that of the Conference. Six months before the Conference the Bureau shall distribute to Governments a revised table of tonnages.

(b) The table of tonnages and that of shares, contributions and votes shall be submitted to the Conference for approval, and shall enter into force on 1 January of the year following that of the Conference. Except as provided for in paragraphs (c) and (d) below, these tables shall remain in force until 31 December of the year of the subsequent Conference.

(c) When a Government desires to accede to the Convention, it shall declare the amount of tonnage of its fleets. The Directing Committee shall enter this amount in the table of tonnages as soon as accession becomes effective.

(d) A Government wishing to amend its tonnage figure as it appears in the table of tonnages must give notice of the amended tonnage at least 6 months before the start of the next financial year.

ARTICLE 7

The Principality of Monaco shall enjoy special treatment. In consideration of the fact that it provides the Bureau with premises free of charge, it shall not pay any contribution but shall retain its right of vote.

ARTICLE 8

The Directing Committee shall draw up the estimated budget and forward it to the Member Governments for examination by the Finance Committee at least three months in advance of the Finance Committee's Session.

ARTICLE 9

The Directing Committee shall carry the budget into effect. Subject to the provisions of article 11, the Directing Committee shall ensure that expenditure and commitments conform with the budgetary provisions.

ARTICLE 10

Transfers of credit from one chapter to another shall require authorization by the Finance Committee.

ARTICLE 11

After the close of the financial period corresponding to a budget, no further financial obligations under it may be incurred. Outstanding obligations may be met for a further period of three months.

TREASURY - WORKING CAPITAL

ARTICLE 12

All Bureau funds shall be under the control of the Directing Committee. No expenditure exceeding 1 000 gold francs may be incurred without the prior approval of one of the members of the Directing Committee. Payments exceeding 10 000 gold francs require the prior approval of the full Committee.

ARTICLE 13

(a) Governments' annual contributions to the ordinary budget as specified in Article 4 shall be due on 1 January of the corresponding financial year. Payment must be punctual.

(b) The rate of exchange to be applied is that on the date of dispatch of the contribution ; notice of such date must be promptly given to the Bureau.

ARTICLE 14

A Government acceding to the Convention shall be liable to pay its contribution for that year only if its accession takes effect before 1 July. If its accession takes effect on or after that date it shall be liable only for half that contribution.

ARTICLE 15

Outstanding contributions shall be shown in a table annexed to the report on financial administration which is submitted to the Finance Committee by the Directing Committee.

ARTICLE 16

The suspension of the rights of a Member Government pursuant to the provisions of article XV of the Convention shall be notified by the Directing Committee to the Government concerned on or shortly after 1 July of the year in which a third annual contribution would be due. Any Member Government thus deprived of its rights of membership shall remain obligated to the Bureau for the two years' contributions outstanding at the time of suspension.

ARTICLE 17

(a) Any Member Government which pays only part of its contribution shall be given two years in which to make good the deficit, starting from the first notice given by the Bureau. At the end of this period its rights and benefits of membership shall be suspended until the balance due is paid.

(b) The suspension of rights under the term of paragraph (a) above shall become effective as of 1 July of the year in which the two-year period expires.

ARTICLE 18

To ensure the financial stability of the Bureau, and to avoid any treasury difficulties, the Bureau shall have at its disposal a working capital, the amount of which shall correspond, at the beginning of each year, to not less than half the total annual contributions of Member Governments.

RESERVE FUND

ARTICLE 19

The Bureau shall have at its disposal a reserve fund, the amount of which shall be fixed by the Conference. This fund is exclusively designed to enable the Organisation to meet extraordinary expenditure. It shall only be used in exceptional circumstances.

CONTROL

ARTICLE 20

Every year the Directing Committee shall submit to the Member Governments a report on the financial administration over the past financial year. At the same time, the Directing Committee shall give information on the value of the movable and immovable property of the Organisation.

ARTICLE 21

The external auditor designated under the terms of article 14 of the General Regulations shall ensure that expenditures are appropriate and conform to the directives given by the Conference and that they are correctly entered into the books. Such auditing may be carried out at any time.

DISSOLUTION

ARTICLE 22

In the event of dissolution, the balance of the accounts of the Organisation shall be divided amongst the Governments which are still Parties to the Convention on the day when the latter ceases to have effect. Any credit balance shall be divided amongst these Governments in proportion to the total amount of their contributions since 1921. Any debit balance shall be divided amongst these Governments in proportion to their last annual contribution.

[Seal]

Amendments to the Convention on the International Hydrographic Organisation, Monaco, 1987

Done at Monaco 5–15 May 1987

Not in force

Primary source citation: Copy of text provided by the U.S. Department of State

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DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

LS NO. 130514
RHC
French

Principality of Monaco

Foreign Relations Service
Office of the Director

No. 3926

Convention on the International Hydrographic Organization
Done at Monaco May 3, 1967

The Office of the Director of the Foreign Relations Service of the Principality of Monaco presents its compliments to the Ministries of Foreign Affairs of the States Party to the aforementioned Convention and has the honor to recall that, during the Thirteenth International Hydrographic Conference held at Monaco May 5–15, 1987, a proposed amendment to Article X(2) of the Convention was approved.

This proposal of amendment resulted from Decision No. 5 of the Conference, which reads as follows insofar as the Convention is concerned:

Article X(2) of the Convention

Delete the first sentence and replace it with the following text:

"The Directing Committee shall be composed of three Directors, one the President and two other Directors, each of different nationality, elected by the Conference. The Conference shall first elect the President and then the other two Directors."

Under the terms of Article XXI(2 and 3) of the Convention:

"Proposals of amendment shall be considered by the Conference and decided upon by a majority of two thirds of the Member Governments represented at the Conference. When a proposed amendment has been approved by the Conference, the President of the Directing Committee shall request the Government of the Principality of Monaco to submit it to all Contracting Parties.

"The amendment shall enter into force for all Contracting Parties three months after notifications of approval by two thirds of the Contracting Parties have been received by the Government of the Principality of Monaco. The latter shall inform the Contracting Parties and the President of the Directing Committee of the fact, specifying the date of entry into force of the amendment."

In conformity with the provisions shown above, the Office of the Director of the Foreign Relations Service of the Principality of Monaco would be most obliged if the Ministries of Foreign Affairs of the States Party to the Convention on the International Hydrographic Organization would notify it whether the proposal of amendment in question receives the approval of their Governments.

The Office of the Director avails itself of this opportunity to renew to them the assurances of its high consideration.

Monaco, May 6, 1988

[Initialed]

[Office stamp]

Agreement Relating to the Conduct of a Joint Programme of Marine Geoscientific Research and Mineral Resource Studies of the South Pacific Region, Washington, 1984

Done at Washington 19 September 1984

*Entered into force 19 September 1984**

Primary source citation: TIAS 11395

AGREEMENT BETWEEN THE GOVERNMENTS OF UNITED STATES OF AMERICA, AUSTRALIA AND NEW ZEALAND IN COOPERATION WITH THE COMMITTEE FOR THE COORDINATION OF JOINT PROSPECTING FOR MINERAL RESOURCES IN SOUTH PACIFIC OFFSHORE AREAS RELATING TO THE CONDUCT OF A JOINT PROGRAMME OF MARINE GEOSCIENTIFIC RESEARCH AND MINERAL RESOURCE STUDIES OF THE SOUTH PACIFIC REGION

SECOND PHASE

The Governments of the United States of America, Australia and New Zealand (hereinafter referred to as the Parties) in cooperation with the Committee for the Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (CCOP/SOPAC):

Recalling that interested Pacific Island countries, namely the Cook Islands, Fiji, Kiribati, Papua New Guinea, Solomon Islands, the Kingdom of Tonga, Tuvalu, Vanuatu and Western Samoa have requested CCOP/SOPAC to initiate a second phase of programmes of geoscientific investigations with respect to the hydrocarbon and mineral potential of the ocean floor in the South Pacific Ocean (hereinafter referred to as the "Second Phase of the Joint Programme");

Recognizing that CCOP/SOPAC has sought the assistance of the Governments of the United States, Australia and New Zealand in funding and implementing the Second Phase of the Joint Programme;

Noting that the member Governments of CCOP/SOPAC at their eleventh meeting at Wellington in November 1982 identified in Annex VI of the proceedings of the meeting certain basic guidelines and priorities for the Second Phase of the Joint Programme;

* This Agreement expired on 19 September 1987.

Noting further that CCOP/SOPAC has indicated its willingness to contribute to and cooperate in the Second Phase of the Joint Programme and that details of its participation are contained in Annex A to this Agreement; and

Convinced that the Second Phase of the Joint Programme represents a significant expansion of hydrocarbon and mineral exploration activities being conducted for the benefit of Pacific Island countries;

Have agreed as follows:

ARTICLE I

The Parties shall establish and maintain the Second Phase of the Joint Programme in accordance with the provisions of this Agreement and the scientific and technical programmes set out in Annex B to this Agreement.

ARTICLE II

The objectives of the Second Phase of the Joint Programme shall be consistent with those identified in the First Phase, and shall be specifically:

(a) To assist interested Pacific Island countries to investigate the mineral potential, including hydrocarbons, of the shelves, platforms, and ocean floor in the South Pacific Ocean;

(b) To take account of survey work, data reassessment and CCOP/SOPAC programmes to design ocean and related land research programmes in the South Pacific region focusing on:

(i) Search for hydrocarbons;

(ii) Analysis of regional tectonics;

(iii) Search for metalliferous resources;

(c) To provide advanced ocean research vessels and teams of skilled scientific manpower and technicians, drawing upon combined resources available to the Signatories with highest available and suitable level of technological inputs, advanced scientific equipment, data processing facilities, laboratory and office work, data interpretation and reporting of final analyses;

(d) To provide opportunities to scientists and trainees from interested Pacific Island countries in whose areas research is conducted for involvement in data collection, processing, and analysis;

(e) To arrange a continuing framework of consultations among the Parties enabling adequate monitoring, evaluation, and review of the Second Phase of the Joint Programme to provide for consideration of the need for further investigations, modifications and extensions in specified areas;

(f) To provide end–data in readily usable form under distribution and copyright arrangements agreed between the Parties and acceptable to the interested Pacific Island countries.

ARTICLE III

The Second Phase of the Joint Programme shall commence in 1984 and include three advanced marine geoscientific research cruises and related land work as follows:

(a) The programme of R/V S.P. Lee shall consist of a 90–day marine geophysical and geological cruise to investigate the hydrocarbon potential of selected areas offshore of Tonga, Fiji, Vanuatu, Solomon Islands and Papua New Guinea. Offshore investigations shall include collection of geophysical data with multi–channel and single channel, deep penetration and high resolution, continuous seismic–reflection, magnetic and gravimetric profiling systems. Where

desirable, selected seabed rock and sediment samples, underwater photographs and side–scan profiles shall be collected. Requisite navigation control shall be maintained throughout the survey. All data shall be copied and supplied to appropriate programme participants. The United States Geological Service (USGS) shall send one copy each of microfilm and reproducible copies of all data collected to CCOP/SOPAC and the national coordinators of Australia and New Zealand for copying and distribution of data sets to their participants. All data shall be processed and analyzed and results shall be printed in reports within two years after the completion of the last leg of the ship's cruise, subject to any extension of the above period of time to be agreed upon by the Parties by an exchange of letters. Appropriate maps, cross–sections, tables, and text shall be used to explain the hydrocarbon potential and geological hazards in the investigation areas.

(b) The programme of R/V Moana Wave shall consist of a 90–day marine geological and geophysical cruise to investigate regional tectonics, sedimentation, metallogenesis and mineralization in the Line Islands, Phoenix Islands, Manihiki Plateau, the Fiji Plateau and the Manus Basin area. The ship shall collect geophysical data with single channel continuous seismic reflection, gravity, magnetics and bathymetric systems. Extensive sampling using corers and dredges shall be carried out in all areas, with bottom photography when appropriate. Sea Marc II swath mapping shall be used as appropriate to determine distribution of rock types, sediment reflectivity, tectonic grain and for bathymetric studies. Requisite navigation control shall be maintained throughout the survey. All data shall be copied and supplied to appropriate programme participants. The Hawaii Institute of Geophysics will send one copy each of microfilm and reproducible copies of all data collected to CCOP/SOPAC and the national coordinators of Australia and New Zealand for copying and distribution of data sets to their participants. All data shall be processed and analyzed and results shall be printed in reports within two years after the completion of the last leg of the ship's cruise, subject to any extension of the above period of time to be agreed upon by the Parties, by an exchange of letters.

(c) The cruise programme of HMNZS Tui shall consist of a 30 day marine geological and geophysical investigation of the regional tectonics, sedimentation, metallogenesis and mineralization in the Cook Islands and Tonga. The ship shall collect geophysical data including single channel seismic reflection, gravity, magnetics and bathymetry. Extensive sampling using dredges, corers and underwater photography shall be carried out where appropriate. Satellite navigation shall be used throughout the survey. All data shall be copied and supplied to appropriate programme participants. The New Zealand Geological Survey shall send one copy each of microfilm and reproducible copies of all data collected to CCOP/SOPAC and the national coordinators of the United States and Australia for copying and distribution of data sets to their participants. All data shall be processed and analysed and the results shall be printed in reports within two years, after the completion of the last leg of the ship's cruise, subject to any extension of the above period of time to be agreed upon by the Parties by an exchange of letters.

ARTICLE IV

(a) Upon completion of data collection, the data processing, analysis and reproduction work shall be expeditiously carried to completion and the results disseminated as provided in Article II(f).

(b) As far as possible, all work shall be completed by 31 December 1986. Consultations among the Parties to consider the possibility of subsequent phases of the Joint Programme shall be consistent with Article II(e) and take place before expiration of the Agreement.

ARTICLE V

(a) The Parties shall work closely with the CCOP/SOPAC Technical Secretariat in accordance with Annex A. In particular, they shall use the CCOP/SOPAC Secretariat as a channel for securing from interested Pacific Island countries:

(i) Logistic assistance and other related cooperation;

(ii) Data and other scientific material that would assist research teams and planners in their investigations; and

(iii) Other general cooperation and liaison.

(b) The Parties shall not be responsible for the costs of travel and per diem expenses for travel within the region of Pacific Island representatives and CCOP/SOPAC personnel participating in the Second Phase of the Joint Programme. No charges shall be made, however, for accommodation and food supplied to such personnel on board R/V S.P. Lee, R/V Moana Wave, and HMNZS Tui.

ARTICLE VI

The Government of Australia agrees to provide funds, goods and services up to a value of US$1,850,000 for the purposes of:

(a) Securing appropriately qualified scientists including, marine geophysicists, marine and land geologists, petroleum geologists, geochemists, petrologists, sedimentologists, and micropalaeontologists, to participate in the planning, data collection, and data processing and analysis phases of this programme;

(b) Funding travel, accommodation and per diem allowances for the scientists referred to in the previous subparagraph;

(c) Meeting the costs of data processing, analysis and reproduction within Australia related to the specialist areas for which the Government of Australia provides scientists;

(d) Making the following contributions toward cruise costs for the research vessels to be employed in the Second Phase of the Joint Programme:

(i) A sum of US$455,000 to finance 35 days research time for high technology resource exploration research activity by R/V S.P. Lee;

(ii) A sum of US$185,000 to finance 17 days research time in the geological/geophysical research programme of R/V Moana Wave; and

(iii) A sum of US$65,000 to finance 10 days of research time devoted to marine minerals investigations by HMNZS Tui.

(e) The Government of Australia further agrees to consider meeting appropriate travel and related expenses associated with the participation of Tripartite co–chief scientists at Australian geological and geophysical laboratories where work relating to the Second Phase of the Joint Programme is in progress and for other persons with special interest in the Second Phase of the Joint Programme including trainees who are nominated by interested Pacific Island countries.

ARTICLE VII

The Government of New Zealand shall provide funds, goods and services up to a value of US$549,000 for the purposes of:

(a) Making available the services of the research vessel HMNZS Tui suitably equipped for geological and geophysical ocean research for use in the Second Phase of the Joint Programme;

(b) Arranging all fitment, provisioning and logistics for the planned initial cruises and providing suitably skilled technicians to operate and maintain the basic and high technology equipment on board;

(c) Making available appropriately qualified scientists, including marine geophysicists, marine and land geologists, petroleum geologists, petrologists, sedimentologists and micropalaeontologists, to participate in the planning, data collection and data processing and analysis phases of the Second Phase of the Joint Programme;

(d) Funding travel, accommodation and per diem allowances for the scientists referred to in the previous subparagraph;

(e) Meeting the costs of data processing, analysis and reproduction related to the specialist areas for which the Government of New Zealand agrees to provide experts;

(f) Assisting as appropriate with travel and related expenses of participants from Pacific Island countries in the Second Phase of the Joint Programme, who are nominated by interested Pacific Island countries. In particular, the Government of New Zealand shall assist with these expenses where associated with work in New Zealand and elsewhere, at geological and geophysical laboratories and institutions, in areas of interest to the countries concerned;

(g) Making the following contributions towards the operations of the research vessel HMNZS Tui:

(i) Vessel transit costs to and from mutually acceptable start and finish ports;

(ii) a sum of approximately US$65,000 to finance ten days of research time devoted to marine minerals investigations.

ARTICLE VIII

The United States Government agrees to provide funds, goods and services under this Agreement up to a value of US$5,400,000 for the purposes of:

(a) Securing the services of two research vessels suitably equipped for geological and geophysical ocean research, R/V Moana Wave and R/V S.P. Lee, for use in the Second Phase of the Joint Programme;

(b) Arranging all fitment, provisioning and logistics for the planned cruises and providing suitably skilled technicians to operate and maintain the basic and high technology equipment on board;

(c) Securing appropriately qualified scientists and technicians, including marine geophysicists, land and marine geologists, sedimentologists, geochemists, petrologists, electronic and marine technicians, computer operators, precision location navigators, and laboratory technicians to participate in the planning, data collection, data processing and analysis stages of the Second Phase of the Joint Programme;

(d) Funding travel, accommodation and per diem allowances for the scientists and technicians referred to in the previous paragraph. All costs of data processing, analysis and reproduction related to the specialist areas for which the United States agrees to provide scientists shall also be borne by the United States Government;

(e) Making the following contributions for the operation of the research vessels:

(i) Vessel transit costs to and from mutually acceptable start and finish ports;

(ii) Cruise costs other than those to which the Government of Australia shall contribute for R/V S.P. Lee while engaged in ocean research and while travelling and while in port between legs of the cruise; and

(iii) Cruise costs other than those to which the Government of Australia shall contribute for R/V Moana Wave while engaged in the geological/geophysical research programme; and

(iv) A sum of US$65,000 to finance 10 days of research time devoted to marine minerals investigation by HMNZS Tui.

(f) Meeting appropriate travel and living expenses of two CCOP/SOPAC Co–Chief Scientists to, in and from the United States for the purpose of attendance at geological/geophysical laboratories and institutes. Persons nominated by interested Pacific Island governments and scientists of countries party to this Agreement, with special interest in the Second Phase of the Joint Programme shall be afforded opportunities to participate in data analysis being undertaken in the United States.

ARTICLE IX

(a) The Parties agree that pre– and post–cruise technical meetings for each cruise leg of the Second Phase of the Joint Programme shall take place to facilitate cruise planning, analysis and interpretation of data, synthesis of results, and publications.

(b) Two pre–cruise planning sessions shall be held. The first meeting shall be held as far in advance of each leg as possible (at least two months) to facilitate planning and shall include the Co–Chief Scientists and as many of the other principal members of the scientific party as possible. The second meeting shall be held one or two days before the start of each cruise leg at the port of embarkation with the objective of briefing the scientific party and making minor adjustments to the cruise plans based on recently acquired information. It shall be attended by all participating scientists and pertinent support staff.

(c) A post–cruise debriefing shall be held upon arrival at the port of disembarkation, prior to dispersal, with the purpose of determining responsibility for the analysis and interpretation of the various data sets acquired during the leg, and for planning the timing of subsequent post cruise meetings. After sufficient time has elapsed to enable reduction and analysis of data, as determined at the post–cruise debriefing, at least one other post–cruise synthesis meeting shall be held involving all principal scientific participants of the cruise. These meetings shall have access, as far as possible, to cruise data to facilitate synthesis of results and preparation of reports and could involve non–shipboard scientific investigators who are also engaged in the data analysis. *Ad hoc* meetings of those involved in specific aspects shall also take place if required to complete the synthesis and preparation of these reports.

ARTICLE X

(a) A Joint Programme Coordinator designated by CCOP/SOPAC shall ensure appropriate administrative support and facilitate execution of the Second Phase of the Joint Programme.

(b) The Government of Australia shall appoint a national coordinating committee whose chairman shall serve as a point of contact to facilitate communication and Australian participation.

(c) The Government of New Zealand shall designate a person as a national coordinator to serve as a point of contact to facilitate communications and New Zealand participation.

(d) The Government of the United States shall appoint a national coordination committee whose chairman shall serve as a point of contact to facilitate communication and United States participation. In addition, the United States Geological Survey and the University of Hawaii shall each designate a cruise coordinator who shall serve as respective points of contact for coordination of particular research vessel operations and participation of their respective agencies in specific cruises.

(e) *Ad hoc* meetings of the Parties and/or of the national or cruise coordinators shall be held as necessary to review and evaluate progress and to discuss modifications or extensions to the Second Phase of the Joint Programme. The results of these meetings shall be communicated to all Parties.

ARTICLE XI

(a) The United States and New Zealand institutions providing the research vessels to the Second Phase of the Joint Programme may nominate from their institutions one of the two Co–Chief Scientists for each cruise leg or for the entire cruise.

(b) The Parties understand that CCOP/SOPAC will nominate in consultation with and mutual agreement of the Parties the other Co–Chief Scientist for each leg from available qualified scientific manpower resources within CCOP/SOPAC, the interested Pacific Island countries and the countries party to this Agreement.

ARTICLE XII

(a) If the funds made available under this agreement are exhausted prior to the completion of the Second Phase of the Joint Programme, the Parties shall consider providing any additional funds required for the purpose in a manner to be mutually agreed by them.

(b) To the extent that the carrying out of any activity or implementation of any part of this Agreement by the United States Government depends on availability of funds for fiscal year 1984 and beyond, such activity or implementation shall be subject to the availability of such funds.

(c) In the event that any Party is unable to carry out its obligations under this Agreement due to the circumstances stated in sub–paragraph (b) above, or to similar circumstances, such Party may avail itself of its rights under the provisions of Article XIV (a) (iii).

ARTICLE XIII

(a) The responsibility for assigning original data and samples at the conclusion of each leg of each cruise rests with the Co–Chief Scientists who shall also ensure that copies of underway data and representative splits of samples as appropriate (where this is possible without detriment to their scientific value) are supplied to the Parties.

(b) Subject to the laws, regulations or guidelines in force in any of the countries party to this Agreement and to the laws, regulations and guidelines in force in the country from whose waters any samples are collected, at the date of entry into force of this Agreement, all data and samples collected are proprietary to programme participants for the first two and a half years following completion of the cruise and permission for use by other than programme participants is required from CCOP/SOPAC. After 2–1/2 years, permission is not required to use the data or samples but, subject to the laws, regulations or guidelines in force as stated above, CCOP/SOPAC shall be informed of the purpose of the use at the time the data or samples are provided and shall be acknowledged in and receive copies of any publications resulting from or including the data or samples.

(c) At least one publication describing each cruise leg and its results shall be the responsibility of, and be co–authored by, the Co–Chief Scientists. This may include joint authorship by other programme participants and contributors.

(d) Following the above publications, and subject to the laws, regulations and guidelines in force in any of the countries party to this Agreement, other publications authored or co–authored by programme participants using programme data should appear as a joint contribution from the author's institution and CCOP/ SOPAC, acknowledging the cruise sponsorship.

(e) Copies of all manuscripts shall be provided at the prepublication stage through the national coordinators to all agencies and organisations participating in the cruises.

(f) For the purposes of this article, programme participants are defined as individuals on the cruises and their sponsoring agencies or organisations.

(g) With the consent of Co–Chief Scientists, other scientists not participating on the cruises may be invited to assist in data reduction, processing, interpretation, and report writing as long as paragraph (b) of this article is adhered to and the contribution does not adversely impact the overall programme.

ARTICLE XIV

(a) The cruises and related responsibilities under this Agreement may be suspended or terminated in the event of:

(i) The mechanical or electrical failure or loss of scientific equipment essential to the cruise;

(ii) Acts of God, acts of public enemy, war, strikes, civil disturbances and other similar events;

(iii) Non–availability of funds; or

(iv) Mutual consent of the Parties.

(b) In the event of termination or suspension of the Second Phase of the Joint Programme or part therof in accordance with the above provisions, the Parties and CCOP/SOPAC shall consult and endeavour jointly to resolve any attendant difficulties.

ARTICLE XV

(a) This Agreement shall enter into force on the date of signature and shall remain in force for three years. A Party may terminate this Agreement earlier with regard to itself by giving six months' written notice to the other Parties.

(b) The Parties, by an exchange of letters, may amend this Agreement at any time.

(c) Amendments to Annex B to this Agreement may be made at any time by mutual agreement between the Joint Programme Coordinator and the national coordinators.

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

DONE at Washington, in triplicate, this nineteenth day of September, 1984.

ANNEX A

COMMITTEE FOR CO-ORDINATION OF JOINT PROSPECTING FOR MINERAL RESOURCES IN SOUTH PACIFIC OFFSHORE AREAS

7 August, 1984

The Ambassador of Australia to the United States of America,

The Ambassador of New Zealand to the United States of America,

The Assistant Secretary of State for East Asian and Pacific Affairs of the United States of America.

Dear Sirs:

Acting at the request of the Governments of the Cook Islands, Fiji, Kiribati, Papua New Guinea, Solomon Islands, The Kingdom of Tonga, Tuvalu, Vanuatu and Western Samoa, I have the honour to refer to discussions with the Governments of Australia, New Zealand and the United States of America concerning the implementation of the second phase of the joint programme of marine geoscientific research and mineral resources studies endorsed by the member governments of CCOP/SOPAC at the eleventh meeting at Wellington in November, 1982.

In accordance with those discussions, CCOP/SOPAC is prepared to participate in the second phase of the joint programme as follows:

1. The CCOP/SOPAC Technical Secretariat will cooperate closely with the Governments of Australia, New Zealand and the United States of America (the contributing governments) with respect to the provision by CCOP/SOPAC of administrative support and coordination for Phase II of the joint programme. In particular, CCOP/SOPAC will act as a channel for the contributing governments to secure from interested Pacific Island countries.

(A) Logistic assistance and other related cooperation.

(B) Data and other scientific material that would assist research teams and planners in their investigations and

(C) Other general cooperation and liaison.

2. CCOP/SOPAC will be responsible for the costs of travel and per diem expenses for travel within the region of Pacific Island representatives and CCOP/SOPAC personnel participating in the second phase of the joint programme.

3. In order to promote maximum realization of the agreed objectives to the second phase of the joint programme, CCOP/SOPAC from reserves available to it will contribute $40,000 (U.S.) towards the total costs of the second phase of the joint programme.

4. CCOP/SOPAC will designate a joint programme coordinator who will ensure appropriate administrative support and facilitate the execution of the second phase of the joint programme.

5. CCOP/SOPAC shall nominate in consultation with the contributing governments the other co–chief scientist for each cruise leg from available qualified scientific manpower resources within CCOP/SOPAC, the interested Pacific Island countries and the countries party to this agreement.

6. In the event of termination of the agreement before its expiration or in the event that a contributing government exercises its right to suspend or cancel its contribution to a cruise, CCOP/SOPAC will consult with the contributing governments and endeavour jointly to resolve any attendant difficulties.

I avail myself of this opportunity to renew to your excellencies the assurance of my highest consideration.

Yours sincerely,

Sione Tongilava
Chairman of CCOP/SOPAC

ANNEX B

CCOP/SOPAC TRIPARTITE JOINT PROGRAMME

PART A. Hydrocarbon Investigations

Overview:

A four–leg cruise of R/V S.P. Lee to consist of approximately 90 survey days plus 30 port and inter–area transit days has been defined for the Southwest Pacific CCOP/SOPAC region. This survey will be undertaken to assess primarily the hydrocarbon potential and geological hazards in the offshore areas of Tonga, Fiji, Vanuatu, Solomon Islands, and Papua New Guinea. Resources for this programme, including collection, processing and interpretation of data and publication of the results will be from the U.S. Geological Survey, the U.S. Agency for International Development, the Governments of Australia and New Zealand and CCOP/SOPAC. It is envisaged that CCOP/SOPAC, Australian, New Zealand and United States scientists with supporting technicians will participate in the cruise programme.

Pre– and post–cruise meetings will be scheduled to carry out detailed planning, make staffing arrangements, and ensure appropriate coordination of sample and data analysis at the various laboratories.

General Problems:

The investigation to be undertaken by R/V S.P. Lee will address geoscientific problems identified in ANNEX VI to the proceedings of the Eleventh Session of CCOP/SOPAC held in Wellington, New Zealand, 9–17 November 1982. These problems are specifically related to hydrocarbon resource evaluation and are referred to in ANNEX VI as CCSP/TG 5 for Tonga, CCSP/FJ 1 for Fiji, CCSP/VA 2 for Vanuatu, CCSP/SI 2 and CCSP/SI 10 for the Solomon Islands, and CCSP/PN 7 for Papua New Guinea.

Objectives:

Determine and describe hydrocarbon potential for Tonga, Fiji, Vanuatu, Solomon Islands, and Papua New Guinea with special attention to:

Location of structural and stratigraphic traps;

Buried reef identification;

Gas detection;

Geologic hazards assessment;

Correlation of onshore geology with seismic stratigraphy.

Investigative Techniques and Instruments:

Geophysical:

Multi–channel (24 channel) seismic profiles;

Intermediate penetration single–channel seismic reflection profiles;

High–resolution seismic reflection (Uniboom) profiles;

High–resolution 3.5 kHz bathymetric profiling system;

Proton–precession magnetometer profiles;

Stable platform gravity–meter profile;

Sidescan Sonar System.

Geological:

Dredge samples;

Core samples;

Miscellaneous seafloor samples;

Underwater photographs;

Underwater TV system;

Onboard organic geochemistry analysis.

Navigation:

Integrated satellite location system;

Sonar doppler positioning system;

RADAR;

LORAN.

Model Schedule:

Pre–survey transit:

Christchurch to Suva, Fiji

5 to 7 days transit time;

3 days port time in Suva

Leg 1–Suva, Fiji to Suva, Fiji

1 day port time in Nuku'alofa

28 days survey work on Southern Tonga platform and Lau Ridge;

4 days port time in Suva

4 days transit time to Port Vila, Vanuatu, with collection of single channel seismic data.

Leg 2–Port Vila to Honiara, Solomon Islands

2 days port time in Vila;

27 days survey work in the Central Basin, the Central Banks, and Torres Islands of Vanuatu and the Santa Cruz Islands of the Eastern Solomons Province

3 days transit time with collection of some multi–channel and single–channel seismic reflection data.

Leg 3–Honiara, Solomon Islands to Rabaul, Papua New Guinea

4 days port time in Honiara;

17 days survey time in the Central Solomons Trough and the Indispensable Strait of the Solomon Islands, and Buka–Nissan Island area of Papua New Guinea.

Leg 4–Rabaul, Papua New Guinea to Rabaul, Papua New Guinea

2 days port time in Rabaul

18 days survey work in the New Ireland Basin of Papua New Guinea

3 days port time in Rabaul.

Post cruise transit:

5 days transit time to next survey region

Staffing:

Leg 1–USGS Co–Chief Scientist–David Scholl

CCOP/SOPAC Co–Chief–Richard Herzer (N.Z. Geological Survey)

Leg 2–USGS Co–Chief Scientist–Gary Greene

CCOP/SOPAC Co–Chief–Alexander Macfarlane (Vanuatu)

Leg 3–USGS Co–Chief Scientist–John Vedder

CCOP/SOPAC Co–Chief–James Colwell (BMR, Australia)

Leg 4–USGS Co–Chief Scientist–Michael Marlow

CCOP/SOPAC Co–Chief–Neville Exon (BMR, Australia)

Desirable scientific disciplines of cruise participants, in order of priority:

a. Marine sedimentologists, petrologists, and paleontologists with experience in collecting and interpreting geologic samples collected from the sea floor;

b. Marine geophysicists with experience in collection, processing and interpretation of multichannel seismic reflection data, and understanding of regional tectonic problems and deep structural framework;

c. Marine geophysicists with experience in collection, processing, and interpretation of single channel seismic reflection profiles, and assessing geological hazards;

d. Marine geophysicists with experience in collection, processing and interpretation of magnetic and gravity data.

e. Organic geochemists with experience in assessing types of hydrocarbon gases collected with seafloor corers.

PART B. Mineral Resource Investigations

Overview

A five leg programme has been defined totaling 120 days, including port inter–area transit days, of marine geoscience investigations leading towards evaluations of the occurrence, distribution, and geological setting of mineral accumulations within the region. Vessels to be used in the programme are the HMNZS Tui (one leg) and R/V Moana Wave (four legs). Resources for this programme, including subsequent analysis and publication of the data, will be from the U.S. Agency for International Development, the Governments of Australia and New Zealand, CCOP/SOPAC and the Hawaii Institute of Geophysics, University of Hawaii. It is envisaged that CCOP/SOPAC, Australian, New Zealand and United States scientists with supporting technicians will participate in the cruise programme.

Pre– and post–cruise meetings will be scheduled to carry out detailed planning and make staffing arrangements and ensure appropriate coordination of sample and data analysis at the various laboratories.

A. HMNZS TUI LEG

General Problems

The investigations to be undertaken by HMNZS Tui will address the geoscientific problems identified in Annex VI to the proceedings of the 11th Session of the CCOP/SOPAC held in Wellington, New Zealand, 9–17 November 1982. Most problems are specifically related to mineral resource evaluation and are referred to in Annex VI as CCSP/CK 1 and CCSP/CK 7 for the Cook Islands and CCSP/TG 10 for Tonga.

Objectives

1. Determine the areal distribution, abundance and metal content of co–rich manganese crusts on seamounts and margins of the Manihiki Plateau and seamounts east of Tonga, including Capricorn Seamount;

2. To complete manganese nodules sampling in the Penrhyn Basin;

3. To sample sediments in the Lau Basin near Ata Island overlying the magma chamber detected by R/V S.P. Lee during the 1982 cruises;

4. To establish the real extent of erosion on the eastern margin of the Manihiki Plateau associated with the Western Boundary Current and sample exposed areas of bedrock for mineralization known to be associated here with volcanic basement;

5. Investigative areas of interest include: geomorphology, seafloor structure, geochemistry, geochronology, sedimentology igneous petrology, physical oceanography.

Investigative Techniques and Instruments:

Geophysical:

12kHz echo sounding;

Continuous seismic reflection profiling–single channel;

Magnetic field intensity;

Gravity;

Dual channel satellite navigation.

Geological:

Dredges;

Miscellaneous seafloor samplers;

Gravity cores;

Underwater camera.

Model Schedule:

Rarotonga, Cook Islands to Nuku'alofa, Tonga during calendar year 1985; 2 port days, 28 sea days.

Staffing

Co–Chief scientists–NZ and CCOP/SOPAC

B. R/V MOANA WAVE LEGS:

LEGS 1 and 2 Investigation of cobalt–rich manganese crusts, manganese nodules, and metalliferous sediment in eastern Kiribati and the northern Cook Islands (Manihiki Plateau)

General Problems:

The investigations to be undertaken by R/V Moana Wave will address geoscientific problems identified in Annex VI to the proceedings of the Eleventh Session of CCOP/SOPAC held in Wellington, New Zealand, 9–17 November 1982. These problems are specifically related to mineral resource evaluation and are referred to in Annex VI as CCSP/CK 1 for the Cook Islands, CCSP/KI 5 for Kiribati and CCSP/TG 1 for Tonga.

Cruise Objectives

1. Examine the latitudinal, age and depth dependency and degree of co–enrichment of manganese crusts on seamounts in the Central Pacific;

2. Determine the areal distribution, abundance, and grade of manganese nodules in the Line Islands and Phoenix Islands region; and

3. Ascertain the distribution and nature of mineralization within and above volcanic basement on the Manihiki Plateau.

Investigative areas of interest include: geomorphology, seafloor structure, sedimentology, igneous petrology, geochemistry.

Model Schedule

Honolulu, Hawaii via Christmas Island, Kinbati or Apia, Western Samoa to Suva, Fiji; Late 1984–Calendar year 1985; 4 in–port days, 41 sea days.

Staffing:

Co–chief scientist University of Hawaii/Hawaii Institute of Geophysics (UH/HIG) and CCOP/SOPAC

LEG 3 Metallogenesis in the North Fiji Basin

General Problems

The investigations to be undertaken by R/V Moana Wave will address geoscientific problems identified in Annex VI to the proceedings of the Eleventh Session of CCOP/SOPAC held in Wellington, New Zealand, 9–17 November 1982. These problems specifically related to mineral resource evaluation are referred to in Annex VI as CCSP/FJ 16 and FJ 17 for Fiji and CCSP/VA 1 for Vanuatu.

Cruise Objectives

1. To conduct detailed side scan and bathymetric surveys using Sea Marc II to locate possible sampling sites thought favourable for massive sulphide deposition on the active spreading centers;

2. To photograph massive sulphide accumulations to help select the most promising areas to sample;

3. To core sediments along rift valleys to determine the degree of metal enrichment;

4. To dredge rift valley floors and fault scarps in areas of possible massive sulphide accumulations; and

5. To detect active hydrothermal plumes using methane (CH_4) and helium 3 (^3He) contents in hydrocast water samples.

Investigative areas of interest include: geomorphology, sedimentology, igneous petrology, geochemistry, existence and distribution of hydrothermal sources.

Model Schedule

Suva, Fiji to Honiara, Solomon Islands; Calendar year 1985; 3 in–port days; 22 sea days.

Staffing:

Co–Chief scientists–UH/HIG and CCOP/SOPAC

LEG 4 Metallogenesis in the Manus Basin

General Problems:

The investigations to be undertaken by R/V Moana Wave will address geoscientific problems identified in Annex VI to the proceedings of the Eleventh Session of CCOP/SOPAC held in Wellington, New Zealand, 9–17 November 1982. These problems are specifically related to mineral resource evaluation and are referred to in Annex VI as CCSP/PN 8 for Papua New Guinea.

Cruise Objectives:

1. To conduct detailed side scan and bathymetric surveys using Sea Marc II to locate possible sampling sites thought favourable for massive sulphide deposition on the active spreading centres;

2. To photograph massive sulphide accumulations to help select the most promising areas to sample;

3. To core sediments along rift valleys to determine the degree of metal enrichment;

4. To dredge rift valley floors and fault scarps in areas of possible massive sulphide accumulations; and

5. To detect active hydrothermal plumes using methane (CH_4) and helium 3 (^3He) contents in hydrocast water samples.

Investigative areas of interest include: geomorphology, seafloor structure, sedimentology, igneous petrology, thermal regimes.

Model Schedule:

Honiara, Solomon Islands to Guam; Calendar Year 1985; 3 in–port days, 17 sea days.

Staffing

Co–Chief scientist–UH/HIG and CCOP/SOPAC

INVESTIGATIVE TECHNIQUES AND INSTRUMENTS FOR ALL R/V MOANA WAVE CRUISE LEGS:

During R/V Moana Wave cruise legs, the vessel will operate normal underway geophysical systems except when on station or when conducting Sea Marc II surveys. The Sea Marc II system is a side scan acoustic imaging and bathymetric mapping system.

Geophysical systems include:

3.5 kHz echo sounding (12 kHz available);

Continuous seismic reflection profiling–single channel;

Gravity;

Magnetic field intensity;

Satellite navigation, Omega, Loran C;

Digital data logging.

Geological systems include:

Piston corers;

Rock dredges;

Bottom camera.

Agreement Concerning the Continuation of Marine Geoscientific Research and Mineral Resource Studies in the South Pacific Region, Washington, 1990

Done at Washington 10 September 1990

Entered into force 10 September 1990

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT AMONG THE GOVERNMENTS OF THE UNITED STATES OF AMERICA, NEW ZEALAND AND AUSTRALIA CONCERNING THE CONTINUATION OF MARINE GEOSCIENTIFIC RESEARCH AND MINERAL RESOURCE STUDIES IN THE SOUTH PACIFIC REGION

The Governments of the United States of America, New Zealand and Australia,

Recalling the Agreement among our three Governments in cooperation with the Committee for the Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (CCOP/SOPAC) relating to the Conduct of a Joint Programme of Marine Geoscientific Research and Mineral Resource Studies in the South Pacific Region - Second Phase ("the Phase II Agreement"), done at Washington on 19 September 1984, which Agreement expired by its terms on 19 September 1987.

Noting that work under the Programme has in fact continued since the expiration of that Agreement, and

Recognizing that CCOP/SOPAC has been recently reconstituted as the South Pacific Applied Geoscience Commission (SOPAC),

Have agreed as follows:

ARTICLE I

This Agreement shall be referred to as the "Tripartite Phase II Extended Agreement".

ARTICLE II

The Parties shall continue the Second Phase of the Joint Programme in accordance with the provisions of this Agreement. The scientific and technical programmes which may be conducted in implementation of this Agreement are set forth in the attached Annex. Amendments may be made to this Annex by mutual arrangement between the Joint Programme Coordinator and the national coordinators.

ARTICLE III

For the purposes of this Agreement the following provisions of the Phase II Agreement shall apply:

Article I;
Article II(a), (d), (e), and (f);
Article IV(a);
Article V(a);
Article X;
Article XII;
Article XIII(b), (c), (d), (e), and (f);
Article XIV; and
Annex A.

ARTICLE IV

All activities to be carried out under this Agreement are subject to the availability of funds.

ARTICLE V

This Agreement shall enter into force on the date of signature and shall remain in force for five years. A Party may withdraw from this Agreement at any time by giving six months notice in writing to the other Parties.

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

Done at Washington, in triplicate, this tenth day of September, 1990.

ANNEX

The scientific and technical objectives of the Tripartite Phase II Extended Agreement are set forth below and will be implemented in association with SOPAC personnel:

OBJECTIVE A: PRESENTATION OF RESULTS

This objective is to present to SOPAC technical staff and pertinent country officials and their technical staffs briefing sessions/workshops reporting upon the results of Tripartite I and II cruises (supplemented by other data where appropriate). These briefings, made in-country, by Tripartite and SOPAC scientific experts, will be presented in non-technical terms and will be adequately illustrated to inform the audience of mineral and hydrocarbon potential, and geohazards, as presently known. During the workshop phase Tripartite scientists will assemble camera-ready information that can be used for an informational brochure. It is anticipated that the island countries will use this material for distribution to industry and other likely interested parties. Approximately three to four days will be spent in each briefing session/workshop.

Project Element 1: Hydrocarbons

Appropriate teams of experts could be sent to Solomon Islands, Tonga, and Vanuatu. Each team would probably include one representative from SOPAC and another from the U.S. Geological Survey (USGS). A representative from the Australian Bureau of Mineral Resources (BMR) could be provided for the Vanuatu team, and a representative from the New Zealand Department of Scientific and Industrial Research (DSIR) for the Tonga team. If invited, the Tripartite group would consider joining missions to publicize island country petroleum potential to prospective investors.

Project Element 2: Cobalt Enriched Crusts and Manganese Nodules

If requested, a team of experts could be sent to the Cook Islands, Kiribati, and Tuvalu. This team could consist of representatives from SOPAC, Hawaii Institute of Geophysics (HIG), USGS, East-West Center, and Adelaide University or the DSIR.

OBJECTIVE B: COMPILATION AND SYNTHESIS OF DATA

This objective involves the compilation and synthesis of all available geological and geophysical data in the SOPAC regions. Data acquired during Tripartite I and II would be supplemented by data acquired from other non-Tripartite sources including French, German, Japanese, and U.S. institutes, and the private sector in the following categories:

Project Element 1: Petroleum

Tripartite scientists could assist SOPAC staff and country organizations in the analysis and interpretation of existing geophysical and geological data, especially multichannel seismic and geochemical data, in order to prepare country-specific reports on the hydrocarbon potential of the Solomon Islands, Tonga, and Vanuatu for their use. Geopotential modelling of existing geophysical data could be carried out by Tripartite scientists. Source rock, physical property and age evaluation of new drill cores obtained by those island countries of SOPAC with petroleum potential could be carried out by Tripartite scientists. It is envisaged that twelve months of Tripartite scientists' time would be required plus computer, analytical, incidentals (communication, etc) and travel funds; some support for training island nationals is also anticipated. Responsibilities for major compilations are expected to be as follows:

Solomon Islands:	SOPAC to deal with Iron Bottom Sound region, and USGS and BMR with regional prospects
Tonga:	Tonga Department of Lands, Survey and Mineral Resources, SOPAC, DSIR, and USGS
Vanuatu:	SOPAC, USGS, and BMR

Project Element 2: Cobalt Enriched Crusts and Manganese Nodules

SOPAC and Tripartite scientists would analyze and interpret existing geological, geophysical and geochemical data, particularly on the distribution and potential distribution of grades and thicknesses or abundances of crusts and nodules, over the next two years in order to prepare country specific reports on the offshore mineral potential of the Cook Islands, Kiribati, and Tuvalu for their use. It is envisaged that four months of Tripartite scientists' time would be needed, plus computer, incidentals (communication, etc) and travel funds; some support for island nationals is also anticipated. Responsibilities, in coordination with SOPAC, are expected to be as follows:

Cook Islands:	DSIR and HIG
Kiribati:	HIG, Adelaide University, USGS and SOPAC
Tuvalu:	HIG and Adelaide University

Project Element 3: Swath-mapping Atlases

Tripartite scientists, in conjunction with SOPAC and island countries, would prepare and publish atlases of swath-mapping data, consisting generally of plates showing imagery and bathymetry, for the Manus Basin (PNG), Woodlark Basin (Solomon Islands), North Fiji Basin (Fiji and Vanuatu). The need for an atlas of the Manihiki Plateau (Cook Islands) is being reviewed. It is envisaged that three months of Tripartite scientists' time would be needed, plus computer, incidental and publication funds. Responsibilities are expected to be as follows:

Manus Basin: HIG

Woodlark Basin: HIG, ANU, BMR

North Fiji Basin: HIG

Manihiki Plateau: HIG

Kiribati: HIG

Project Element 4: Review of Samoan Geophysical Data

Single-channel seismic data and SeaMARC II swath-mapping imagery would be synthesized and presented in a report. A layman's presentation on the results could be made in Samoa if requested. It is envisaged that six weeks of Tripartite scientists' time, plus computer, incidental and possible travel funds, would be needed. Responsibilities would be:

Seismic data: SOPAC, HIG

SeaMARC II data: HIG

Report: SOPAC, HIG

Project Element 5: Hydrothermal Minerals

If requested, Tripartite scientists could analyze and interpret existing geophysical, geological and geochemical data on the distribution and potential distribution of hydrothermal minerals, especially massive sulfides, associated with back arc spreading systems and arc volcanism, in order to prepare country-specific reports on the offshore mineral potential of Fiji, PNG, Solomon Islands, Tonga, and Vanuatu.

OBJECTIVE C: ASSESSMENT OF NEEDS FOR FURTHER DATA COLLECTION

Throughout the information dissemination and synthesis activities described in Objectives A and B, efforts will be made to identify areas and topics where additional data could significantly increase the understanding of the hydrocarbon and mineral potential of the region.

OBJECTIVE D: PROVISION OF ADVICE RELATIVE TO GEOHAZARDS

Throughout the information dissemination and synthesis activities described in Objectives A and B, Pacific Island countries and SOPAC will be informed of any geohazards identified.

OBJECTIVE E: TRAINING OF PACIFIC ISLAND COUNTRY NATIONALS

Efforts would be made to provide training and educational opportunities in the evaluation and interpretation of Tripartite data, for Pacific Island country nationals identified by SOPAC member governments. Such training is expected to take place at the institutions participating in the Phase II extended programme.

OBJECTIVE F: ENCOURAGEMENT OF FOCUSSED INVESTIGATIONS AND ASSESSMENTS

During the synthesis of the data gathered by Tripartite I and II with other data, areas may be identified that would benefit from focussed data acquisition. Opportunities to use ocean research platforms to enhance the prospectivity of resources thus far discovered will be considered, if appropriate, on a case-by-case basis.

FUNDING

The allocation of funds necessary to implement objectives A, B, C, and D above is estimated at U.S. $300,000. Tripartite members will make their best efforts to identify appropriate sources of funds to support these activities.

Agreement Concerning Interim Arrangements Relating to Polymetallic Nodules of the Deep Sea Bed, Washington, 1982

Done at Washington 2 September 1982

Entered into force 2 September 1982

Depositary: United States

Primary source citation: 34 UST 3451, TIAS 10562

AGREEMENT CONCERNING INTERIM ARRANGEMENTS RELATING TO POLYMETALLIC NODULES OF THE DEEP SEA BED

THE PARTIES TO THIS AGREEMENT:

-- HAVING regard to investments made in exploration, research and other pioneer activities relating to the polymetallic nodules of the deep sea bed;

-- NOTING the adoption by the Third United Nations Conference on the Law of the Sea of a Convention on the Law of the Sea and of a Resolution Governing Preparatory Investment in Pioneer Activities Relating to Polymetallic Nodules prior to the entry into force of the Convention on the Law of the Sea, and the provision of that Resolution concerning resolution of conflicts among pioneer operators;

-- RECALLING the interim character of legislation with respect to deep sea bed operations enacted by certain Parties;

-- DESIRING to make appropriate provisions for avoiding overlaps in the areas claimed for future pioneer activities in the deep sea bed and to ensure that, during the interim period, such activities are carried out in an orderly and peaceful manner;

-- EMPHASIZING that this Agreement is without prejudice to the decisions of the Parties with respect to the Convention on Law of the Sea adopted by the Third United Nations Conference on the Law of the Sea;

-- DESIRING also to avoid any discrimination among Parties in the implementation of this Agreement;

-- DESIRING further to insure that adequate areas containing polymetallic nodules remain available for operations by other states and entities in conformity with international law;

HAVE AGREED AS FOLLOWS:

1. The object of the present Agreement is to facilitate the identification and resolution of conflicts which may arise from the filing and processing of applications for authorizations made by Pre-Enactment Explorers (PEEs) on or before March 12, 1982 under legislation in respect of deep sea bed operations enacted by any of the Parties.

2. In the case of a conflict between the areas claimed in such applications, the Parties shall afford the applicants adequate opportunity, and shall encourage them, to resolve such conflict in a timely manner by voluntary procedures.

3. The Parties with whom applications for authorizations have been made by PEEs on or before March 12, 1982 shall follow the procedures set out in Part I of the Schedule hereto in respect of such applications.

4. The Parties shall consult together:

(a) with a view to coordinating and reviewing implementation of this Agreement;

(b) before issuing any authorization under their respective laws relating to deep sea bed operations;

(c) in regard to consideration of any arrangement to facilitate mutual recognitions of such authorizations, it being understood that any such arrangement shall not enter into force before January 1, 1983;

(d) before entering into any other bilateral or any multilateral arrangement between themselves or any arrangement with other States, with respect to deep sea bed operations.

5. In the event that any of the Parties with whom applications for authorizations have been made by PEEs on or before March 12, 1982 enter into an agreement for the mutual recognition of authorizations granted under their respective laws in respect of deep sea bed operations, the Parties concerned shall apply the procedures and impose the requirements set out in Part II of the Schedule hereto.

6. To the extent permissible under national law, a Party shall maintain the confidentiality of the coordinates of application areas and other proprietary or confidential commercial information received in confidence from any other Party in pursuance of cooperation under this Agreement in accordance with the principles set out in Part III of the Schedule hereto.

7. The Parties shall settle any dispute arising from the interpretation or application of this Agreement by appropriate means. The Parties to the dispute shall consider the possibility of recourse to binding arbitration and, if they agree, shall have recourse to it.

8. The Schedule hereto is an integral part of this Agreement and Part IV thereof shall apply for the interpretation of this Agreement.

9. The Parties shall not enter into any supplementary international agreement inconsistent with this Agreement.

10. This Agreement may be amended by written agreement of all the Parties.

11. This Agreement shall enter into force upon signature.

12. After entry into force of this Agreement, additional States may be invited to accede to this Agreement at any time with the consent of all Parties.

13. Any Party may denounce this Agreement on 30 days' notice to the Government of the United States of America, and in no case shall the denunciation have effect before January 3, 1983.

DONE at Washington this second day of September, 1982, in the English, German and French languages, all texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the United States of America, which will transmit a duly certified copy to each of the other signatory Governments.

THE SCHEDULE

PART I

APPLICATION PROCEDURES FOR PRE-ENACTMENT EXPLORERS

1. Each Party as provided in paragraph 3 of the Agreement shall forthwith inform the other Parties of entities which have filed applications with it.

2. Any application filed on or before March 12, 1982 shall be deemed to be filed on that date.

3. Each Party shall with all dispatch determine whether:

   (a) each application filed with it fulfills its domestic requirements;

   (b) the applicant is a PEE with respect to the area applied for (an applicant filing on behalf of a PEE shall itself be deemed a PEE for that application);

   (c) the area is bounded by a continuous boundary;

   (d) the area is reasonably compact.

4. Each Party shall:

   (a) notify the other Parties of the results of the initial processing under paragraph 3 above;

   (b) with the other Parties establish the final list of applications to which this Agreement applies;

   (c) inform the other Parties whether the applicant has applied for the same area, or substantially the same area, to one or more other Parties;

   (d) if the applicant agrees, inform the other Parties of the coordinates of the area specified in any application filed with it;

   (e) endeavor to determine the exact locations of any conflicts.

5. No Party shall issue any authorization before January 3, 1983.

6. Where it is informed of the relevant coordinates, each Party shall notify each of its applicants who is involved in a conflict that a conflict exists. Such notification shall include coordinates identifying the areas in conflict and the identity of each applicant with whom conflict has arisen.

7. Each Party shall ensure that domestic conflicts are resolved pursuant to its respective domestic requirements. Upon agreement of the applicants, domestic conflicts may be resolved in accordance with the international conflict resolution procedures specified in the Schedule. The Parties shall enter into consultations if it appears that the resolution of a domestic conflict might affect the international conflict resolution procedures, or vice versa.

8. (1) Each Party shall accept amendments to applications to which this Agreement applies only if they:

   (a) pertain to areas with respect to which the applicant is a PEE (the area applied for in an amendment need not be adjacent to the area applied for in the original application); and

   (b) are made in order to resolve an existing conflict with respect to that application.

   (2) Each Party shall process any amendment filed pursuant to this paragraph in accordance with the procedures described in the foregoing provisions of this Part except that paragraphs 2, 3(c), 3(d), and 4(c) shall not apply to amendments.

   (3) Amendments filed under paragraph 8 of the Schedule shall be eligible for mutual recognition in accordance with the terms of an agreement entered into by any of the Parties pursuant to paragraph 5 of the Agreement.

PART II

CONFLICT RESOLUTION FOR PRE-ENACTMENT EXPLORERS

9. (1) Where there is an international conflict, the Parties shall use their good offices to assist the applicants to resolve the conflict by voluntary procedures.

(2) If, within six months from the entry into force of an agreement between the Parties referred to in paragraph 5 of the Agreement, notwithstanding the good offices of the Parties, all applicants involved in an international conflict have not resolved that conflict, or are not parties to a written agreement submitting the conflict to a specified binding conflict resolution procedure, the conflict shall be resolved by binding arbitration in accordance with Appendices 1 and 2 if a Party so elects.

(3) The procedures provided in the Appendices shall commence ten days after a Party notifies the other Party or Parties of the decision to elect arbitration.

PART III

PRINCIPLES OF CONFIDENTIALITY

10. In implementing the provisions of paragraph 6 of the Agreement, Parties shall apply the following principles:

(a) The confidentiality of the coordinates of application areas shall be maintained until any conflict involving such area is resolved and the relevant authorization is issued, except on the basis of a demonstrated need to know and adequate assurances that the confidentiality of the information shall be maintained by the recipient;

(b) The confidentiality of other proprietary or confidential commercial information shall be maintained in accordance with domestic law as long as such information retains its character as such.

PART IV

DEFINITIONS

11. In this Agreement:

(a) "activities" means the undertakings, commitments of resources, investigations, findings, research, engineering development, and other activities relevant to the identification, discovery, and systematic analysis and evaluation of polymetallic nodules and to the determination of the technical and economic feasibility of exploitation;

(b) "authorization" means any license, permit, or other authorization issued under the national law of a Party which authorizes the holder to engage in deep sea bed operations in a specified area or areas;

(c) "conflict" means the existence of more than one application or amendment covered by this Agreement submitted by different applicants:

(1) whether filed with the same Party or with more than one Party; and

(2) in which the deep sea bed areas applied for overlap in whole or part, to the extent of the overlap;

"international conflict" means a conflict arising from applications or amendments filed with more than one Party;

"domestic conflict" means any other conflict;

(d) a "pre-enactment explorer" ("PEE") is an entity which was engaged, prior to the earliest date of enactment of domestic legislation by any Party, in deep sea bed polymetallic nodule exploration by substantial surveying activity with respect to the area applied for; and

(e) "polymetallic nodules" means any deposit or accretion on or just below the surface of the deep sea bed consisting of nodules which contain manganese, nickel, cobalt, or copper.

APPENDIX 1

Arbitration Procedure

1. In this Appendix, "Party" means a Party to this Agreement which is also concerned in the arbitration, and "other Party" includes any such Party or Parties.

2. The parties presenting the case shall seek to agree in writing within sixty days after the expiry of the ten-day period provided by paragraph 9(3) of the Schedule on three arbitrators, or, if they agree to have only one arbitrator, on that one arbitrator.

3. Any Party may object to the choice of any arbitrator or arbitrators under paragraph 2, by written notice received by the other Party within thirty days after the expiry of the period provided by paragraph 2 above. Upon objection to any arbitrator by a Party, the other Party may, when three arbitrators have been chosen under paragraph 2, object to either or both of the other arbitrators by written notice received by the other Party within fifteen days after the expiry of the period provided by the immediately preceding sentence.

4. If a Party objects to the choice of any arbitrator in accordance with paragraph 3 or if an arbitrator becomes unable to act, the parties presenting the case shall seek to agree on a replacement in writing within sixty days after receipt of the notice of objection or after the date when the arbitrator becomes unable to act.

If agreement is reached, a Party may object to the choice of a replacement by written notice received by the other Party within thirty days. If the parties presenting the case have not reached agreement, or if a Party objects to the choice of a replacement in accordance with this paragraph, the Secretary-General of the Permanent Court of Arbitration shall appoint a replacement without delay.

5. If the parties presenting the case fail to agree on three arbitrators (or an arbitrator) within the period provided by paragraph 2, three arbitrators shall, on request of a Party, be appointed without delay by the Secretary-General of the Permanent Court of Arbitration.

6. Any arbitrator appointed by the Secretary-General of the Permanent Court of Arbitration shall not be a citizen of a Party, shall have international standing and expertise, and shall have personal characteristics which place him in a neutral position with respect to the subject of the dispute. The Secretary-General shall not be confined to any particular list of arbitrators in making this selection. Appointments by the Secretary-General shall not be open to challenge.

7. Insofar as any matter is not dealt with by Appendix 2 and other relevant provisions of this Agreement, the arbitrator or arbitrators shall, consistent with Appendix 2, be guided by the general principles of law as recognized by the Parties, which, where the case is presented by a Party or Parties means the general principles of public international law (lex lata) as recognized by the Parties.

8. The arbitrator or arbitrators shall decide where he or they shall sit and shall, in consultation with the parties presenting the case, adopt rules of procedure consistent with this Appendix.

9. The case will be presented by a Party or by its applicants involved in the conflict, at the option of the Party and each side of the case shall be represented as it sees fit.

10. A Party may intervene as of right.

11. An arbitrator may not abstain from voting on the award. If there are three arbitrators, their award shall be made by a majority vote.

12. The award of the arbitrator or arbitrators shall be rendered within one year from the date of the final appointment of the arbitrator or arbitrators unless all Parties or parties presenting the case otherwise agree or unless the arbitrator or arbitrators for good cause extend the deadline for the making of the award for one or more 30 day periods, in any case not to exceed 120 days.

The award shall be final and binding on the applicants involved in the conflict and on the Parties and shall be enforced by the Parties. The applicants involved in the conflict shall without delay file amendments to their applications consistent with the arbitral award. Within two months of the date of the award, a Party or any applicant represented in the arbitration may request an interpretation of the award. Such interpretation shall be provided within four months of the request.

13. The expense of the arbitration, including the remuneration of the arbitrators, shall be borne by the parties presenting the case. Unless the arbitrator or arbitrators determine otherwise because of the particular circumstances of the case, the parties presenting the case shall bear the expenses in equal shares.

14. If an applicant of a Party is involved in conflicts with two or more applicants of two or more States Parties to this Agreement, every effort shall be made to consolidate the arbitration proceedings.

APPENDIX 2

Principles for Resolution of Conflicts

1. In determining the issue as to which applicant involved in a conflict shall be awarded all or part of each area in conflict, the arbitral tribunal shall find a solution which is fair and equitable, having regard, with respect to each applicant involved in the conflict, to the following factors:

(a) the continuity and extent of activities relevant to each area in conflict and the application area of which it is a part;

(b) the data on which each applicant involved in the conflict or predecessor in interest or component organization thereof commenced activities at sea in the application area;

(c) the financial cost of activities relevant to each area in conflict and to the application area of which it is a part, measured in constant terms;

(d) the time when activities were carried out, and the quality of activities; and

(e) such additional factors as the arbitral tribunal determines to be relevant, but excluding a consideration of the future plans of work of the applicants involved in the conflict.

2. When considering the factors specified in paragraph 1, the arbitral tribunal shall hear, and shall, except for purposes of apportionment pursuant to paragraph 3, limit its consideration to all evidence based on the activities specified in paragraph 1, which were conducted on or before January 1, 1982, provided, however, that an applicant must prove at-sea prospecting in the conflict area prior to June 28, 1980 as a pre-condition to presentation of further evidence to the arbitral tribunal regarding activities in the conflict area.

3. In making its determination, the arbitral tribunal may award the entire area in conflict to one applicant involved in the conflict, or the arbitral tribunal may apportion the area among any or all of the applicants involved in the conflict. If, after applying the provisions of paragraph 1 of this Appendix, the arbitral tribunal determines the area in conflict should be apportioned, then the arbitral tribunal shall, to the maximum extent practicable consistent with its application of those provisions, apportion the area in a manner designed to satisfy the plan of work set forth in the application of each applicant which is awarded part of the area.

Provisional Understanding Regarding Deep Seabed Matters, Geneva, 1984

Done at Geneva 3 August 1984

Entered into force 2 September 1984

Primary source citation: TIAS 11066

PROVISIONAL UNDERSTANDING REGARDING DEEP SEABED MATTERS

1. (1) No Party shall issue an authorization in respect of an application, or seek registration, for an area included:

(a) within an area which is covered in another application filed in conformity with the agreements for voluntary conflict resolution reached on 18 May 1983 and 15 December 1983 and being still under consideration by another Party;

(b) within an area claimed in any other application which has been filed in conformity with national law and this Agreement,

(i) prior to the signature of this Agreement, or

(ii) earlier than the application or request for registration in question, and which is still under consideration by another Party; or

(c) within an authorization granted by another Party in conformity with this Agreement.

(2) No Party shall itself engage in deep seabed operations in an area for which, in accordance with this paragraph, it shall not issue an authorization or seek registration.

2. The Parties shall, as far as possible, process applications without delay. To this end, each Party shall, with reasonable dispatch, make an initial examination of each application to determine whether it complies with requirements for minimum content of applications under its national law, and thereafter determine the applicant's eligibility for the issuance of an authorization.

3. Each Party shall immediately notify the other Parties of each application for an authorization which it accepts, including applications already received, and of each amendment to such an application. Each Party shall also immediately notify the other Parties after it has taken action subsequently with respect to an application or any action with respect to an authorization.

4. No Party shall authorize, or itself engage in, exploitation of the hard mineral resources of the deep seabed before 1 January 1988.

5. (1) The Parties shall consult together:

(a) prior to the issuance of any authorization or before themselves engaging in deep seabed operations or seeking registration for an area;

(b) with regard to any arrangements between one or more Parties and another State or States for the avoidance of overlapping in deep seabed operations;

(c) with regard to relevant legal provisions and any modification thereof; and

(d) generally with a view to coordinating and reviewing the implementation of this Agreement.

(2) The relevant Parties shall consult together in the event that two or more applications are filed simultaneously.

6. (1) To the extent permissible under national law, a Party shall maintain the confidentiality of the coordinates of application areas and other proprietary or confidential commercial information received in confidence from any other Party in pursuance of cooperation in regard to deep seabed operations. In particular:

(a) the confidentiality of the coordinates of application areas shall be maintained until any overlap involving such an area is resolved and the relevant authorization is issued; and

(b) the confidentiality of other proprietary or confidential commercial information shall be maintained in accordance with national law as long as such information retains its character as such.

(2) Denunciation or other action by a Party pursuant to paragraph 14 of this Agreement shall not affect the Parties' obligations under this paragraph.

7. (1) The rights and interests of an applicant or of the grantee of an authorization may be transferred, in whole or in part, consistent with national law. Subject to national law, the rights, interests, and obligations of the transferee shall be as set forth in an agreement between the transferor and the transferee.

(2) For the purposes of this Agreement, the transferee is deemed to stand in the same position as that of the transferor for his rights and interests including the right of priority to the extent those rights and interests represent in whole or in part the original rights and interests of the transferor.

8. The Parties shall seek consistency in their application requirements and operating standards.

9. The Parties shall implement this Agreement in accordance with relevant national laws and regulations.

10. The Parties shall settle any dispute arising from the interpretation or application of this Agreement by appropriate means. The Parties to the dispute shall consider the possibility of recourse to binding arbitration and, if they agree, shall have recourse to it.

11. This Agreement, which includes Appendices I and II, may be amended only by written agreement of all Parties.

12. (1) This Agreement shall enter into force 30 days after signature.

(2) A Party which has not adopted the necessary legal provisions for the issue of authorizations may, by a declaration relating to its signature of this Agreement, limit the application of this Agreement to the parts thereof other than those relating to the issue of authorizations. Where such a Party adopts legal provisions which, in the view of the other Parties, are similar in aims and effects to their own legal provisions, the first mentioned Party shall notify all other Parties that it accepts fully the provisions of this Agreement. Such a Party may also declare, upon signature, that, for constitutional reasons, this Agreement shall become effective for it only after notification to all other Parties.

13. After entry into force of this Agreement, additional States may, with the consent of all Parties, be invited to accede to this Agreement.

14. (1) A Party may denounce this Agreement by written notice to all other Parties, subject to the provisions of paragraph 6. Such denunciation shall become effective 180 days from the date of the latest receipt of such notice.

(2) A Party may, for good cause related to the implementation of this Agreement, after consultation, serve written notice on another Party that, from a date not less than 90 days thereafter, it will cease to give effect to paragraph 1 of this Agreement in respect of such other Party. The rights and obligations of these two Parties towards the other Parties remain unaffected by such notice.

(3) Subsequent to such notice referred to in subparagraphs (1) and (2), the Parties concerned shall seek, to the extent possible, to mitigate adverse effects resulting therefrom.

15. This Agreement is without prejudice to, nor does it affect, the positions of the Parties, or any obligations assumed by any of the Parties, in respect of the United Nations Convention on the Law of the Sea.

3 August 1984, Geneva

JOINT RECORD

Following the signature of the Provisional Understanding Regarding Deep Seabed Matters, the Parties notified each other of the identities of the applicants and the dates of receipt of the applications already received. Having regard to the assurance of the representatives of the Federal Republic of Germany that the area of the application filed on their own behalf by Metallgesellschaft AG, Preussag AG, and Salzgitter AG, as partners of Arbeitsgemeinschaft Meerestechnisch gewinnbare Rohnstoffe (AMR) is outside the Clarion Clipperton Zone, the Parties to the Provisional Understanding noted that that application falls under paragraph 1 (1) (b) (i) of the Provisional Understanding.

3 August 1984, Geneva

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Delegation Permanente de la Belgique auprès de l'Office des Nations Unies et auprès des Institutions Spécialisées
38, rue de Moillebeau, 1211 Genève 19

August 3d

Belgium is gratified by the conclusion of an arrangement under which the signatories undertake to act, in a very special and totally new area of endeavor, as States concerned with one another's rights, and under which they have also agreed to take appropriate measures to ensure, concretely, that such rights are respected.

In affixing its signature to the documents in which these measures are contained, Belgium must nonetheless declare, in accordance with paragraph 12 (2) of the Provisional Understanding that, insofar as it is concerned, it can for the moment implement only those provisions of the Agreement that do not involve the issuance of permits. It is well known to all that Belgium has not thus far promulgated any law governing this subject. It must be added that should such a law be promulgated, Belgium would immediately consider itself to be morally bound by all the provisions of the Agreement.

Belgium also declares that, for constitutional reasons this Agreement will enter into force for Belgium only following notification to all other Parties, in accordance with paragraph 12 (2) of the Provisional Understanding.

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Ministero degli Affari Esteri

1. With reference to what is provided for under paragraph 12 (2) of the Provisional Understanding Regarding Deep Seabed Matters, Italy, upon signature of this Provisional Understanding, declares as follows:

A. Awaiting the adoption by the Parliament of the legal provisions regulating the activities of prospecting and mining of deep sea-bed mineral resources by Italian nationals, including provisions relating to the issue of authorizations, the Government of Italy will limit the application of this Agreement to the parts thereof other than those relating to the issue of authorizations.

B. Upon the adoption of the legal provisions regulating the prospecting and mining of deep sea-bed mineral resources by Italian nationals, the Italian Government will notify all other Parties that it accepts all the provisions of this Agreement.

2. Moreover, the Government of Italy declares that, upon the adoption of the legal provisions regulating the prospecting and mining activities of deep sea-bed mineral resources by Italian nationals, it will notify all other Parties that the Memorandum of Implementation annexed to the Provisional Understanding Regarding Deep Seabed Matters has become applicable to Italy.

Emilio F. Destefanis

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Translation

DER STÄNDIGE VERTRETER
DER BUNDESREPUBLIK DEUTSCHLAND
BEI DEM BORO DER VEREINTEN NATIONEN
UND BEI DEN ANDEREN INTERNATIONALEN ORGANISATIONEN
GENF

Geneva, 3 August 1984

His Excellency
Mr. James L. Malone
Assistant Secretary of State
Department of State of the
United States of America

Excellency,

In connexion with today's signing of the PROVISIONAL UNDERSTANDING REGARDING DEEP SEABED MATTERS and the MEMORANDUM related thereto, I have the honour to declare on behalf of the Government of the Federal Republic of Germany that the said UNDERSTANDING and the MEMORANDUM shall also apply to Land Berlin from the date on which they enter into force for the Federal Republic of Germany.

Accept, Excellency, the expression of my highest consideration.

signed
(Hans Arnold)
Ambassador
Permanent Representative

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UNITED STATES MISSION
GENEVA, SWITZERLAND

August 3, 1984

No. 164

The Permanent Mission of the United States of America to the Office of the United Nations and Other International Organizations in Geneva presents its compliments to the Permanent Mission of the United Kingdom to the Office of the United Nations and Other International Organizations in Geneva and has the honor to request the Permanent Mission of the United Kingdom to confirm, on behalf of the Government of the United Kingdom, the understanding of the Government of the United States of America that both exploration and commercial recovery of deep seabed mineral resources are regulated by the Deep Seabed Mining (Temporary Provisions) Act 1981, and therefore the Provisional Understanding Regarding Deep Seabed Matters will be implemented accordingly.

The Permanent Mission of the United States of America takes this opportunity to renew to the Permanent Mission of the United Kingdom the assurance of its highest consideration.

[Initials]
[Seal]

The Permanent Mission of the
United States of America,
Geneva

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UNITED KINGDOM MISSION
37-39 rue de Vermont, 1202 GENEVA
Telex: 22956
Telegrams: Prodrome, Geneva
Telephone: 34.38.00, 33.23.85

3 August 1984

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the Office of the United Nations and other International Organisations in Geneva present their compliments to the Permanent Mission of the United States of America to the Office of the United Nations and other International Organisations in Geneva and have the honour to refer to their Note No 164 of 3 August 1984, and to confirm, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, the understanding of the Government of the United States of America that both exploration and commercial recovery of Deep Seabed Mineral Resources are regulated by the Deep Seabed Mining (Temporary Provisions) Act 1981, and therefore the Provisional Understanding regarding Deep Seabed matters will be implemented accordingly.

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland avail themselves of this opportunity to renew to the Permanent Mission of the United States of America the assurances of their highest consideration.

[Initials]

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UNITED STATES MISSION
GENEVA, SWITZERLAND

August 3, 1984

No. 165

The Permanent Mission of the United States of America to the Office of the United Nations and Other International Organizations in Geneva presents its compliments to the Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and Other International Organizations in Geneva and has the honor to request the Permanent Mission of the Federal Republic of Germany to confirm, on behalf of the Government of the Federal Republic of Germany, the understanding of the Government of the United States of America that both exploration and commercial recovery of deep seabed mineral resources are regulated by the Act on the Interim Regulation of Deep Seabed Mining of 16 August 1980, as amended, and therefore the Provisional Understanding Regarding Deep Seabed Matters will be implemented accordingly.

The Permanent Mission of the United States of America takes this opportunity to renew to the Permanent Mission of the Federal Republic of Germany the assurance of its highest consideration.

[Initials]
[Seal]

The Permanent Mission of the
United States of America,
Geneva

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Ständige Vertretung der Bundesrepublik Deutschland
Mission permanente de la République fédérale d'Allemagne
Permanent Mission of the Federal Republic of Germany

Geneva, 3 August 1984

To the Permanent Mission of the
United States of America
to the United Nations Office
and other International Organizations
G e n e v a

The Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and to the other International Organizations at Geneva presents its compliments to the Permanent Mission of the United States of America to the United Nations Office and other International Organizations at Geneva and, with reference to the Note Verbale of the Permanent Mission of the United States of America to the United Nations Office at Geneva dated 3 August 1984 has the honour to confirm, on behalf of the Government of the Federal Republic of Germany, the United States' Mission's understanding that both exploration and commercial recovery of deep seabed mineral resources are regulated by the act of the interim regulation of deep seabed mining of 16 August 1980, as amended, and therefore the provisional understanding regarding deep seabed matters will be implemented accordingly.

The Permanent Mission of the Federal Republic of Germany avails itself of this opportunity to renew to the Permanent Mission of the United States of America the assurances of its highest consideration.

[Seal]

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UNITED STATES MISSION
GENEVA, SWITZERLAND

August 3, 1984

No. 166

The Permanent Mission of the United States of America to the Office of the United Nations and Other International Organizations in Geneva presents its compliments to the Permanent Mission of France to the Office of the United Nations and Other International Organizations in Geneva and has the honor to request the Permanent Mission of France, to confirm, on behalf of the Government of France, the understanding of the Government of the United States of America that both exploration and commercial recovery of deep seabed mineral resources are regulated by the Law on The Exploration and Mining of Major Sea-bed Mineral Resources, December 1981, and therefore the Provisional Understanding Regarding Deep Seabed Matters will be implemented accordingly.

The Permanent Mission of the United States of America takes this opportunity to renew to the Permanent Mission of France the assurance of its highest consideration.

[Initials]
[Seal]

The Permanent Mission of the
United States of America,
Geneva

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TRANSLATION

Permanent Mission of France
to the Office of the United Nations in Geneva
36, Route de Pregny
1292 Chambesy

Geneva, August 3, 1984

Permanent Mission of the United States
11, route de Pregny
1292 Chambesy

No. 193

The Permanent Mission of France to the Office of the United Nations in Geneva presents its compliments to the United States Mission in Geneva and has the honor to refer to the U.S. note dated August 3, 1984.

The French Mission confirms, on behalf of the French Government, that both exploration and mining of deep seabed mineral resources are regulated by the Law on the Exploration and Mining of Major Seabed Mineral Resources of December 23, 1981, and therefore the Provisional Understanding regarding Deep Seabed Matters will be implemented accordingly.

The Permanent Mission of France to the Office of the United Nations in Geneva avails itself of this opportunity to renew to the United States Mission to the Office of the United Nations in Geneva the assurances of its very high consideration.

[Initials]
[Mission stamp]

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UNITED STATES MISSION
GENEVA, SWITZERLAND

August 3, 1984

No. 167

The Permanent Mission of the United States of America to the Office of the United Nations and Other International Organizations in Geneva presents its compliments to the Permanent Mission of Japan to the Office of the United Nations and Other International Organizations in Geneva and has the honor to request the Permanent Mission of Japan to confirm, on behalf of the Government of Japan, the understanding of the Government of the United States of America that both exploration and commercial recovery of deep seabed mineral resources are regulated by the Law on Interim Measures for Deep Seabed Mining, July 1982, and therefore the Provisional Understanding Regarding Deep Seabed Matters will be implemented accordingly.

The Permanent Mission of the United States of America takes this opportunity to renew to the Permanent Mission of Japan the assurance of its highest consideration.

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[Seal]

The Permanent Mission of the
United States of America,
Geneva

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MISSION PERMANENTE DU JAPON
AUPRÈS DES ORGANISATIONS INTERNATIONALES
GENÈVE - SUISSE

Geneva, August 3, 1984

The Permanent Mission
of the United States of America
to the International Organizations
in Geneva

TM/DLG/324

NOTE VERBALE

The Permanent Mission of Japan to the International Organizations in Geneva presents its compliments to the Permanent Mission of the United States of America and, with reference to the latter's Note Verbale dated August 3, 1984, has the honor to confirm on behalf of the Government of Japan, the understanding of the Government of the United States of America that both exploration and commercial recovery of deep seabed mineral resources are regulated by the Law on Interim Measures for Deep Seabed Mining, July 1982, and therefore the Provisional Understanding Regarding Deep Seabed Matters will be implemented accordingly.

[Initials]
[Seal]

Convention for a North Pacific Marine Science Organization (PICES), Ottawa, 1990

Done at Ottawa 12 December 1990

Entered into force 24 March 1992

Depositary: Canada

Primary source citation: Senate Treaty Document 102-9, 102d Congress, 1st Session, U.S. Government Printing Office, Washington, 1991

Convention for a North Pacific Marine Science Organization (PICES)

PREAMBLE

The contracting parties, recognizing the need for improved scientific understanding of the North Pacific Ocean and its processes, living resources, and oceanographic features;

Aware that due to the vast expanse of the North Pacific Ocean, scientific understanding of the area can be best achieved through a spirit of international scientific cooperation on a mutually beneficial basis;

Desiring to establish an appropriate intergovernmental organization to promote and facilitate such scientific cooperation and avoid duplication of effort;

Acknowledging that the activity of the organization must be based on the principles and rules of the international law of the sea applicable to marine scientific research;

Have agreed as follows:

Article I

ESTABLISHMENT OF THE ORGANIZATION

The Contracting Parties hereby establish an intergovernmental organization entitled the North Pacific Marine Science Organization (PICES), hereinafter referred to as the "Organization."

ARTICLE II

THE AREA CONCERNED

The area which the activities of the Organization concern shall be the temperate and sub-Arctic region of the North Pacific Ocean and its adjacent seas, especially northward from 30 degrees North Latitude, hereinafter referred to as the "area concerned". Activities of the Organization, for scientific reasons, may extend farther southward in the North Pacific Ocean.

ARTICLE III

PURPOSE OF THE ORGANIZATION

The purpose of the Organization shall be:

(a) to promote and coordinate marine scientific research in order to advance scientific knowledge of the area concerned and of its living resources, including but not necessarily limited to research with respect to the ocean environment and its interactions with land and atmosphere, its role in and response to global weather and climate change, its flora, fauna and ecosystems, its uses and resources, and impacts upon it from human activities; and

(b) to promote the collection and exchange of information and data related to marine scientific research in the area concerned.

ARTICLE IV

STRUCTURE OF THE ORGANIZATION

The Organization shall consist of:

(a) a Governing Council (the "Council");

(b) such permanent or *ad hoc* scientific groups and committees as the Council may establish from time to time; and

(c) a Secretariat.

ARTICLE V

FUNCTIONS OF THE GOVERNING COUNCIL

1. The scientific functions of the Council shall be, *inter alia*:

(a) to identify research priorities and problems pertaining to the area concerned, as well as appropriate methods for their solution;

(b) to recommend coordinated research programmes and related activities pertaining to the area concerned, which shall be undertaken through the national efforts of the participating Contracting Parties;

(c) to promote and facilitate the exchange of scientific data, information, and personnel;

(d) to consider requests to develop scientific advice pertaining to the area concerned;

(e) to organize scientific symposia and other scientific events; and

(f) to foster the discussion of problems of mutual scientific interest.

2. The administrative functions of the Council shall be, *inter alia*:

(a) to adopt and, if necessary, to amend the Rules of Procedure and financial regulations of the Organization;

(b) to consider and recommend amendments to the Convention;

(c) to adopt the annual report of the Organization;

(d) to examine and adopt the annual budget and final accounts of the Organization;

(e) to determine the location of the Secretariat;

(f) to appoint the Executive Secretary;

(g) to maintain contact with other relevant international organizations; and

(h) to manage the activities of the Organization.

3. The Council shall take such other decisions as may be necessary or desirable to enable the Organization to carry out its activities efficiently and effectively.

ARTICLE VI

COMPOSITION AND PROCEDURES OF THE GOVERNING COUNCIL

1. Each Contracting Party shall be a member of the Council and shall appoint to the Council not more than two delegates, who may be accompanied as appropriate by alternates, experts and advisers.

2. The Council shall elect a Chairman and a Vice-Chairman, taking due account of the principle of rotation among Contracting Parties. The Chairman and Vice-Chairman shall be representatives of different Contracting Parties. During his term the Chairman shall cease to be part of his national delegation.

3. The Chairman of the Council shall convene a regular annual meeting of the Organization. The annual meetings shall ordinarily be held at the seat of the Organization, unless otherwise decided by the Council.

4. Any meeting of the Council, other than the annual meeting, shall be called by the Chairman at such time and place as the Chairman may determine, upon the request of the Council.

5. The Council may invite other states, organizations, and experts to attend scientific meetings of the Organization, or to participate in activities of the Organization on such terms as the Council may establish.

ARTICLE VII

DECISION MAKING IN THE GOVERNING COUNCIL

1. Each Contracting Party shall have one vote in the proceedings of the Council.

2. The Council shall make every effort to take decisions on the basis of consensus. For the purpose of this Convention, consensus means the absence of a formal objection.

3. If all efforts at consensus have been exhausted, and no agreement has been reached, decisions of the Council may be adopted by a three-quarters majority vote of the Contracting Parties present and voting.

4. Notwithstanding paragraph 3, consensus shall be required for the following:

(a) the establishment of permanent or *ad hoc* scientific groups and committees;

(b) the appointment of an Executive Secretary;

(c) the adoption of the annual budget of the Organization;

(d) recommendations for amendment of this Convention;

(e) the holding of any meeting of the Council other than the annual meeting; and

(f) other matters of substance that the Council may agree upon.

ARTICLE VIII

THE SECRETARIAT

The Council shall appoint an Executive Secretary on such terms and with such duties as it may determine. The staff of the Secretariat shall be appointed by the Executive Secretary in accordance with such rules, procedures, and requirements as may be determined by the Council.

ARTICLE IX

FINANCIAL PROVISIONS

1. The Council shall adopt an annual budget for the Organization.

2. Each Contracting Party shall contribute to the annual budget. Contributions shall be paid in the currency of the state in which the Secretariat is located in accordance with the respective laws and regulations of each Contracting Party.

3. The Council shall consider at its annual meeting the failure of any Contracting Party to discharge its financial obligations under this Convention. A Contracting Party that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Council unless the Council decides otherwise.

ARTICLE X

WORKING AND OFFICIAL LANGUAGE

The working and official language of the Council shall be English.

ARTICLE XI

PRIVILEGES AND IMMUNITIES

1. The Organization shall enjoy such legal personality and capacity as may be agreed between the Organization and the Contracting Party in whose territory the Secretariat is located.

2. The Organization, its officers and employees, together with delegates to the Council, shall enjoy such privileges and immunities, necessary for the fulfillment of their functions, as may be agreed between the Organization and the Contracting Party in whose territory the Secretariat is located.

ARTICLE XII

NO PREJUDICE TO EXISTING RIGHTS

1. Nothing in this Convention, nor activities of the Organization taking place pursuant to it, shall prejudice or in any way affect:

(a) the sovereignty, sovereign rights and jurisdiction of a Contracting Party under international law over its territorial sea, 200 nautical mile zone, or continental shelf, including its jurisdiction over marine scientific research;

(b) the rights of a Contracting Party to manage its national research programs;

(c) other international agreements, bilateral or multilateral, to which Contracting Parties are party.

2. Nothing in this Convention shall be construed as authorizing the Organization to regulate the activities of the Contracting Parties.

ARTICLE XIII

SIGNATURE AND RATIFICATION, ACCEPTANCE OR APPROVAL

1. The Convention shall be open for signature at Ottawa, Canada, from March 1,1991 until December 31,1991 by Canada, the People's Republic of China, Japan, the Union of Soviet Socialist Republics and the United States of America.

2. The Convention shall be subject to ratification, acceptance or approval by the signatory states in accordance with their domestic laws and procedures. Instruments of ratification, acceptance or approval shall be deposited with the Government of Canada, which shall act as the Depository.

ARTICLE XIV

ENTRY INTO FORCE AND ACCESSION

1. The Convention shall enter into force sixty days after the date on which three of the signatory states have deposited instruments of ratification, acceptance or approval with the Depository.

2. After the Convention has entered into force, it shall be open for accession by any non-signatory state. States desiring to accede to the Convention may so notify the Depository which shall notify the Contracting Parties. In the absence of a written objection by a Contracting Party within 90 days of receipt of such notification, a state may accede by deposit of an instrument of accession with the Depository and accession shall take effect sixty days following deposit.

ARTICLE XV

AMENDMENTS

Any Contracting Party or the Council may propose amendments to this Convention. The text of a proposed amendment shall be transmitted to all Contracting Parties by the Depository at least 90 days prior to the meeting at which the amendment is proposed to be considered. Amendments shall enter into force sixty days after the deposit

of instruments of ratification, acceptance or approval by all of the Contracting Parties in accordance with their domestic laws and procedures.

ARTICLE XVI

WITHDRAWAL

A Contracting Party may withdraw from this Convention at any time by giving written notice of withdrawal to the Depository. The withdrawal shall be effective six months after receipt of the notice of withdrawal by the Depository.

ARTICLE XVII

TERMINATION

1. This Convention shall be terminated upon the withdrawal of three of the signatory states listed in Article XIII.

2. The effective date of termination shall be one year after the deposit with the Depository of the number of withdrawals required to terminate the Convention in accordance with paragraph 1 above.

ARTICLE XVIII

AUTHENTIC TEXTS AND CERTIFIED COPIES

The original of the present Convention in the English and French languages, each version being equally authentic, shall be deposited with the Depository, which shall transmit certified copies thereof to all of the signatory states.

In witness whereof, the undersigned, duly authorized by their respective Governments, have signed this Convention.

Done in duplicate, at Ottawa, this 12th day of December, 1990, in the English and French languages, each version being equally authentic.

Memorandum of Understanding on the Avoidance of Overlaps and Conflicts Relating to Deep Seabed Areas, New York, 1991

Done at New York 22 February 1991

Entered into force 22 February 1991

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING ON THE AVOIDANCE OF OVERLAPS AND CONFLICTS RELATING TO DEEP SEABED AREAS

The Government of the Kingdom of Belgium, the Government of Canada, the Government of the Federal Republic of Germany, the Government of the Republic of Italy, the Government of the Kingdom of the Netherlands, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America, on the one hand, and the Government of the People's Republic of China, on the other hand, hereinafter referred to as the "Parties";

Considering that an entity sponsored by the People's Republic of China has submitted to the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea, hereinafter referred to as the "Preparatory Commission", an application for registration as a pioneer investor in respect of an area the coordinates of which are shown in Annex I to this Memorandum of Understanding, hereinafter referred to as the "Memorandum";

Taking into account the interests of the entities mentioned in Paragraph 1(a) (ii) of Resolution II of the Third United Nations Conference on the Lain of the Sea, in areas the coordinates of which have been published in Law of the Sea Bulletins 7, 11, and 12, and which coordinates are shown in Annex II to this Memorandum;

Taking note with satisfaction that there are no overlaps among the above-mentioned areas;

Wishing to ensure mutual respect for those areas in order to avoid possible conflict in the future;

Have agreed as follows:

Article 1

(1) Upon attribution by the Preparatory Commission, to the entity sponsored by the People's Republic of China as a pioneer investor, of the area referred to in Annex I to this Memorandum, the Governments of Belgium, Canada, Germany, Italy, the Netherlands, the United Kingdom and the United States shall respect that area.

(2) The Government of the People's Republic of China shall respect the areas referred to in Annex II to this Memorandum.

(3) The obligations referred to in paragraphs 1 and 2 above shall not apply to those areas relinquished by the Parties in the future.

Article 2

(1) The Governments of Belgium, Canada, Germany, Italy, the Netherlands, the United Kingdom and the United States shall not act, themselves or in association with third parties, in a manner that could prevent registration of the application which has been submitted by the People's Republic of China to the Preparatory Commission, for the area referred to in Annex I to this Memorandum.

(2) The People's Republic of China shall not act, itself or in association with third parties, in a manner that could prevent registration of applications which may be submitted in the future by any or all the other Parties for any or all of the areas referred to in Annex II to this Memorandum.

Article 3

The Parties shall not engage in, or support by action of their domestic authorities or in concert with third parties, the exploration and exploitation of hard mineral resources in the areas mentioned in Article 1 in a manner incompatible with the obligation contained in that Article.

Article 4

The Parties shall take all appropriate measures to ensure that there is no physical interference with the activities of each other relating to the exploration and exploitation of hard mineral resources in the areas referred to in Article 1.

Article 5

When necessary, the Parties will consult on questions connected with the implementation of this Memorandum.

Article 6

(1) This Memorandum shall enter into force on the date of its signature, and shall remain in force until otherwise agreed by the Parties. The Annexes to this Memorandum are an integral part thereof.

(2) Any Party may declare, upon signature, that this Memorandum shall enter into force for that Party only after notification to all other Parties that all legal requirements have been met. This Memorandum shall enter into force for that Party upon receipt of such notification by all other Parties.

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

DONE at New York this 22nd day of February, 1991 in eight originals, each in the Chinese, Dutch, English, French, German and Italian languages, all texts being equally authentic.

Annex I

Coordinates of the Turning Points of the Application Area of China

	Turning Point	Latitude (N)	Longitude (W)
CA1	1	10° 37.50′	156° 52.50′
	2	10° 37.50′	156° 22.50′
	3	10° 52.50′	156° 22.50′
	4	10° 52.50′	156° 07.50′
	5	10° 22.50′	156° 07.50′
	6	10° 22.50′	155° 52.50′
	7	10° 07.50′	155° 52.50′
	8	10° 07.50′	156° 07.50′
	9	09° 52.50′	156° 07.50′
	10	09° 52.50′	155° 07.50′
	11	10° 07.50′	155° 07.50′
	12	10° 07.50′	155° 37.50′
	13	10° 37.50′	155° 37.50′
	14	10° 37.50′	155° 52.50′
	15	11° 07.50′	155° 52.50′
	16	11° 07.50′	154° 37.50′
	17	10° 52.50′	154° 37.50′
	18	10° 52.50′	154° 52.50′
	19	09° 07.50′	154° 52.50′
	20	09° 07.50′	155° 07.50′
	21	09° 22.50′	155° 07.50′
	22	09° 22.50′	155° 22.50′
	23	09° 07.50′	155° 22.50′
	24	09° 07.50′	155° 37.50′
	25	09° 22.50′	155° 37.50′
	26	09° 22.50′	155° 52.50′
	27	09° 07.50′	155° 52.50′
	28	09° 07.50′	156° 22.50′
	29	08° 37.50′	156° 22.50′
	30	08° 37.50′	156° 07.50′
	31	07° 52.50′	156° 07.50′
	32	07° 52.50′	156° 37.50′
	33	08° 37.50′	156° 37.50′
	34	08° 37.50′	156° 52.50′
	35	09° 52.50′	156° 52.50′
	36	09° 52.50′	156° 22.50′
	37	10° 07.50′	156° 22.50′
	38	10° 07.50′	156° 52.50′
	1	10° 37.50′	156° 52.50′
CB1	1	10° 35.00′	154° 52.50′
	2	10° 35.00′	154° 07.50′
	3	10° 07.50′	154° 07.50′

	Turning Point	Latitude (N)	Longitude (W)
	4	10° 07.50′	153° 52.50′
	5	09° 52.50′	153° 52.50′
	6	09° 52.50′	153° 37.50′
	7	09° 37.50′	153° 37.50′
	8	09° 37.50′	153° 22.50′
	9	09° 22.50′	153° 22.50′
	10	09° 22.50′	154° 07.50′
	11	09° 37.50′	154° 07.50′
	12	09° 37.50′	154° 37.50′
	13	09° 22.50′	154° 37.50′
	14	09° 22.50′	154° 22.50′
	15	09° 07.50′	154° 22.50′
	16	09° 07.50′	153° 52.50′
	17	08° 52.50′	153° 52.50′
	18	08° 52.50′	154° 00.00′
	19	08° 37.50′	154° 00.00′
	20	08° 37.50′	154° 37.50′
	21	08° 22.50′	154° 37.50′
	22	08° 22.50′	154° 52.50′
	23	08° 52.50′	154° 52.50′
	24	08° 52.50′	154° 37.50′
	25	09° 07.50′	154° 37.50′
	26	09° 07.50′	154° 52.50′
	1	10° 35.00′	154° 52.50′
CS1	1	10° 52.50′	154° 52.50′
	2	10° 52.50′	154° 22.50′
	3	11° 07.50′	154° 22.50′
	4	11° 07.50′	154° 07.50′
	5	10° 52.50′	154° 07.50′
	6	10° 52.50′	153° 52.50′
	7	10° 22.50′	153° 52.50′
	8	10° 22.50′	153° 37.50′
	9	10° 07.50′	153° 37.50′
	10	10° 07.50′	153° 22.50′
	11	09° 37.50′	153° 22.50′
	12	09° 37.50′	153° 07.50′
	13	09° 22.50′	153° 07.50′
	14	09° 22.50′	152° 52.50′
	15	09° 37.50′	152° 52.50′
	16	09° 37.50′	152° 37.50′
	17	09° 52.50′	152° 37.50′
	18	09° 52.50′	152° 54.83′
	19	10° 07.50′	152° 54.83′
	20	10° 07.50′	152° 37.50′
	21	10° 22.50′	152° 37.50′

	Turning Point	Latitude (N)	Longitude (W)
	22	10° 22.50′	152° 22.50′
	23	09° 10.00′	152° 22.50′
	24	09° 10.00′	152° 55.20′
	25	08° 52.50′	152° 55.20′
	26	08° 52.50′	153° 37.50′
	27	09° 07.50′	153° 37.50′
	28	09° 07.50′	154° 22.50′
	29	09° 22.50′	154° 22.50′
	30	09° 22.50′	154° 37.50′
	31	09° 37.50′	154° 37.50′
	32	09° 37.50′	154° 07.50′
	33	09° 22.50′	154° 07.50′
	34	09° 22.50′	153° 22.50′
	35	09° 37.50′	153° 22.50′
	36	09° 37.50′	153° 37.50′
	37	09° 52.50′	153° 37.50′
	38	09° 52.50′	153° 52.50′
	39	10° 07.50′	153° 52.50′
	40	10° 07.50′	154° 07.50′
	41	10° 35.00′	154° 07.50′
	42	10° 35.00′	154° 52.50′
	1	10° 52.50′	154° 52.50′
CB2	1	11° 22.50′	152° 22.50′
	2	11° 22.50′	151° 52.50
	3	11° 07.50′	151° 52.50′
	4	11° 07.50′	152° 07.50′
	5	10° 22.50′	152° 07.50′
	6	10° 22.50′	151° 22.50′
	7	10° 52.50′	151° 22.50′
	8	10° 52.50′	151° 07.50′
	9	09° 52.50′	151° 07.50′
	10	09° 52.50′	151° 37.50′
	11	09° 37.50′	151° 37.50′
	12	09° 37.50′	151° 07.50′
	13	09° 10.00′	151° 07.50′
	14	09° 10.00′	151° 52.50′
	15	09° 22.50′	151° 52.50′
	16	09° 22.50′	152° 22.50′
	17	10° 22.50′	152° 22.50′
	18	10° 22.50′	152° 52.50′
	19	10° 37.50′	152° 52.50′
	20	10° 37.50′	153° 22.50′
	21	10° 52.50′	153° 22.50′
	22	10° 52.50′	152° 22.50′
	1	11° 22.50′	152° 22.50′

	Turning Point	Latitude (N)	Longitude (W)
CA2	1	12° 22.50′	145° 52.50′
	2	12° 22.50′	145° 37.50′
	3	12° 37.50′	145° 37.50′
	4	12° 37.50′	145° 22.50′
	5	12° 22.50′	145° 22.50′
	6	12° 22.50′	145° 07.50′
	7	12° 07.50′	145° 07.50′
	8	12° 07.50′	144° 37.50′
	9	11° 52.50′	144° 37.50′
	10	11° 52.50′	145° 37.50′
	11	11° 37.50′	145° 37.50′
	12	11° 37.50′	145° 52.50′
	1	12° 22.50′	145° 52.50′
CA3	1	12° 42.50′	142° 30.00′
	2	12° 42.50′	142° 10.00′
	3	12° 52.50′	142° 10.00′
	4	12° 52.50′	141° 55.00′
	5	12° 19.00′	141° 55.00′
	6	12° 19.00′	142° 10.00′
	7	12° 32.50′	142° 10.00′
	8	12° 32.50′	142° 30.00′
	1	12° 42.50′	142° 30.00′
CA4	1	12° 44.00′	140° 46.00′
	2	12° 44.00′	140° 06.00′
	3	12° 22.50′	140° 06.00′
	4	12° 22.50′	140° 22.50′
	5	11° 37.50′	140° 22.50′
	6	11° 37.50′	139° 52.50′
	7	12° 21.00′	139° 52.50′
	8	12° 21.00′	139° 46.00′
	9	12° 39.87′	139° 46.00′
	10	12° 39.87′	139° 30.00′
	11	11° 07.50′	139° 30.00′
	12	11° 07.50′	140° 07.50′
	13	11° 22.50′	140° 07.50′
	14	11° 22.50′	140° 22.50′
	15	11° 07.50′	140° 22.50′
	16	11° 07.50′	140° 52.50′
	17	10° 52.50′	140° 52.50′
	18	10° 52.50′	141° 07.50′
	19	11° 07.50′	141° 07.50′
	20	11° 07.50′	141° 37.50′
	21	11° 25.00′	141° 37.50′
	22	11° 25.00′	140° 46.00′

	Turning Point	Latitude (N)	Longitude (W)
	23	11° 37.50′	140° 46.00′
	24	11° 37.50′	140° 37.50′
	25	12° 22.50′	140° 37.50′
	26	12° 22.50′	140° 46.00′
	1	12° 44.00′	140° 46.00′
CB3	1	08° 52.50′	148° 52.50′
	2	08° 52.50′	148° 22.50′
	3	08° 37.50′	148° 22.50′
	4	08° 37.50′	147° 22.50′
	5	08° 22.50′	147° 22.50′
	6	08° 22.50′	147° 52.50′
	7	08° 07.50′	147° 52.50′
	8	08° 07.50′	148° 22.50′
	9	08° 22.50′	148° 22.50′
	10	08° 22.50′	148° 37.50′
	11	08° 37.50′	148° 37.50′
	12	08° 37.50′	148° 52.50′
	1	08° 52.50′	148° 52.50′
CS2	1	08° 45.00′	147° 22.50′
	2	08° 45.00′	146° 37.50′
	3	07° 52.50′	146° 37.50′
	4	07° 52.50′	146° 52.50′
	5	08° 22.50′	146° 52.50′
	6	08° 22.50′	147° 22.50′
	1	08° 45.00′	147° 22.50′
CB4	1	08° 45.00′	146° 37.50′
	2	08° 45.00′	146° 00.00′
	3	08° 30.00′	146° 00.00′
	4	08° 30.00′	146° 07.50′
	5	08° 37.50′	146° 07.50′
	6	08° 37.50′	146° 22.50′
	7	08° 07.50′	146° 22.50′
	8	08° 07.50′	146° 07.50′
	9	07° 52.50′	146° 07.50′
	10	07° 52.50′	145° 37.50′
	11	08° 07.50′	145° 37.50′
	12	08° 07.50′	145° 52.50′
	13	08° 30.00′	145° 52.50′
	14	08° 30.00′	145° 30.00′
	15	08° 37.50′	145° 30.00′
	16	08° 37.50′	145° 07.50′
	17	08° 22.50′	145° 07.50′
	18	08° 22.50′	144° 52.50′

	Turning Point	Latitude (N)	Longitude (W)
	19	08° 07.50′	144° 52.50′
	20	08° 07.50′	144° 37.50′
	21	07° 37.50′	144° 37.50′
	22	07° 37.50′	144° 52.50′
	23	07° 22.50′	144° 52.50′
	24	07° 22.50′	145° 07.50′
	25	08° 07.50′	145° 07.50′
	26	08° 07.50′	145° 22.50′
	27	07° 37.50′	145° 22.50′
	28	07° 37.50′	146° 37.50′
	1	08° 45.00′	146° 37.50′
CS3	1	08° 22.50′	144° 52.50′
	2	08° 22.50′	144° 22.50′
	3	07° 52.50′	144° 22.50′
	4	07° 52.50′	143° 52.50′
	5	08° 07.50′	143° 52.50′
	6	08° 07.50′	143° 37.50′
	7	08° 22.50′	143° 37.50′
	8	08° 22.50′	142° 07.50′
	9	08° 37.50′	142° 07.50′
	10	08° 37.50′	141° 52.50′
	11	08° 22.50′	141° 52.50′
	12	08° 22.50′	141° 22.50′
	13	08° 07.50′	141° 22.50′
	14	08° 07.50′	141° 37.50′
	15	07° 52.50′	141° 37.50′
	16	07° 52.50′	142° 07.50′
	17	08° 07.50′	142° 07.50′
	18	08° 07.50′	142° 52.50′
	19	07° 52.50′	142° 52.50′
	20	07° 52.50′	142° 27.83′
	21	07° 22.50′	142° 27.83′
	22	07° 22.50′	142° 37.50′
	23	07° 37.50′	142° 37.50′
	24	07° 37.50′	143° 07.50′
	25	07° 22.50′	143° 07.50′
	26	07° 22.50′	143° 52.50′
	27	07° 37.50′	143° 52.50′
	28	07° 37.50′	144° 37.50′
	29	08° 07.50′	144° 37.50′
	30	08° 07.50′	144° 52.50′
	1	08° 22.50′	144° 52.50′
CB5	1	09° 07.50′	145° 21.95′
	2	09° 07.50′	143° 52.50′

	Turning Point	Latitude (N)	Longitude (W)
	3	09° 22.50′	143° 52.50′
	4	09° 22.50′	144° 22.50′
	5	09° 37.50′	144° 22.50′
	6	09° 37.50′	143° 52.50′
	7	09° 52.50′	143° 52.50′
	8	09° 52.50′	144° 00.00′
	9	10° 00.00′	144° 00.00′
	10	10° 00.00′	143° 45.00′
	11	09° 15.00′	143° 45.00′
	12	09° 15.00′	142° 45.00′
	13	09° 22.50′	142° 45.00′
	14	09° 22.50′	142° 22.50′
	15	09° 07.50′	142° 22.50′
	16	09° 07.50′	142° 07.50′
	17	09° 37.50′	142° 07.50′
	18	09° 37.50′	141° 52.50′
	19	08° 37.50′	141° 52.50′
	20	08° 37.50′	142° 07.50′
	21	08° 22.50′	142° 07.50′
	22	08° 22.50′	143° 22.50′
	23	08° 52.50′	143° 22.50′
	24	08° 52.50′	144° 07.50′
	25	08° 37.50′	144° 07.50′
	26	08° 37.50′	144° 22.50′
	27	08° 52.50′	144° 22.50′
	28	08° 52.50′	145° 21.95′
	1	09° 07.50′	145° 21.95′
CA5	1	10° 52.50′	140° 52.50′
	2	10° 37.50′	140° 52.50′
	3	10° 37.50′	140° 22.50′
	4	10° 22.50′	140° 22.50′
	5	10° 22.50′	141° 07.50′
	6	10° 07.50′	141° 07.50′
	7	10° 07.50′	140° 52.50′
	8	09° 52.50′	140° 52.50′
	9	09° 52.50′	140° 37.50′
	10	10° 07.50′	140° 37.50′
	11	10° 07.50′	139° 37.50′
	12	10° 22.50′	139° 37.50′
	13	10° 22.50′	140° 07.50′
	14	10° 50.00′	140° 07.50′
	15	10° 50.00′	139° 22.50′
	16	10° 07.50′	139° 22.50′
	17	10° 07.50′	139° 07.50′
	18	10° 37.50′	139° 07.50′

Turning Point	Latitude (N)	Longitude (W)
19	10° 37.50′	139° 01.58′
20	10° 50.00′	139° 01.58′
21	10° 50.00′	138° 37.50′
22	10° 07.50′	138° 37.50′
23	10° 07.50′	138° 52.50′
24	09° 52.50′	138° 52.50′
25	09° 52.50′	138° 37.50′
26	09° 37.50′	138° 37.50′
27	09° 37.50′	139° 22.50′
28	09° 22.50′	139° 22.50′
29	09° 22.50′	139° 07.50′
30	09° 07.50′	139° 07.50′
31	09° 07.50′	138° 22.50′
32	08° 52.50′	138° 22.50′
33	08° 52.50′	139° 22.50′
34	08° 37.50′	139° 22.50′
35	08° 37.50′	139° 37.50′
36	09° 07.50′	139° 37.50′
37	09° 07.50′	140° 07.50′
38	09° 37.50′	140° 07.50′
39	09° 37.50′	140° 52.50′
40	09° 22.50′	140° 52.50′
41	09° 22.50′	140° 37.50′
42	09° 07.50′	140° 37.50′
43	09° 07.50′	140° 22.50′
44	08° 52.50′	140° 22.50′
45	08° 52.50′	139° 52.50′
46	08° 37.50′	139° 52.50′
47	08° 37.50′	140° 07.50′
48	08° 22.50′	140° 07.50′
49	08° 22.50′	139° 52.50′
50	08° 07.50′	139° 52.50′
51	08° 07.50′	140° 07.50′
52	07° 52.50′	140° 07.50′
53	07° 52.50′	141° 22.50′
54	07° 37.50′	141° 22.50′
55	07° 37.50′	141° 37.50′
56	08° 07.50′	141° 37.50′
57	08° 07.50′	141° 22.50′
58	08° 22.50′	141° 22.50′
59	08° 22.50′	141° 52.50′
60	08° 37.50′	141° 52.50′
61	08° 37.50′	141° 37.50′
62	09° 37.50′	141° 37.50′
63	09° 37.50′	141° 22.50′
64	09° 52.50′	141° 22.50′

Turning Point	Latitude (N)	Longitude (W)
65	09° 52.50′	142° 15.00′
66	10° 07.50′	142° 15.00′
67	10° 07.50′	141° 37.50′
68	10° 22.50′	141° 37.50′
69	10° 22.50′	142° 15.00′
70	10° 37.50′	142° 15.00′
71	10° 37.50′	141° 52.50′
72	10° 52.50′	141° 52.50′
1	10° 52.50′	140° 52.50′

Annex II

To Memorandum of Understanding on the Avoidance of Overlaps and Conflicts Relating to Deep Seabed Areas

1. Coordinates of the seabed mining area of Arbeitsgemeinschaft meerestechnisch gewinnbare Rohstoffe (AMR) as trustee for Ocean Management Inc.:

Sub-Area #1 :	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	1.	14.	15.0 N	138.	22.412 W
	2.	14.	15.0 N	136.	00.0 W
	3.	12.	30.0 N	136.	00.0 W
	4.	12.	30.0 N	137.	50.0 W
	5.	10.	50.0 N	137.	50.0 W
	6.	10.	50.0 N	138.	22.412 W
	1.	14.	15.0 N	138.	22.412 W

Sub-Area #2 :	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	1.	13.	26.0 N	119.	25.0 W
	2.	13.	26.0 N	118.	00.0 W
	3.	12.	00.0 N	118.	00.0 W
	4.	12.	00.0 N	116.	04.0 W
	5.	9.	45.0 N	116.	04.0 W
	6.	9.	45.0 N	119.	25.0 W
	1.	13.	26.0 N	119.	25.0 W

2. Coordinates of the seabed mining area of Carborundum Company Ltd. on behalf of the Kennecott Consortium:

Point #	Latitude Deg.	min.	Longitude Deg.	min.
1.	11.	00.0 N	116.	04.0 W
2.	12.	00.0 N	116.	04.0 W
3.	12.	00.0 N	118.	00.0 W
4.	13.	26.0 N	118.	00.0 W
5.	13.	26.0 N	118.	40.0 W
6.	13.	30.0 N	118.	40.0 W
7.	13.	30.0 N	119.	15.0 W
8.	13.	45.0 N	119.	15.0 W
9.	13.	45.0 N	119.	30.0 W
10.	14.	30.0 N	119.	30.0 W
11.	14.	30.0 N	118.	15.0 W
12.	14.	45.0 N	118.	15.0 W
13.	14.	45.0 N	117.	15.0 W
14.	14.	58.0 N	117.	15.0 W
15.	14.	58.0 N	116.	00.0 W
16.	14.	00.0 N	116.	00.0 W
17.	14.	00.0 N	115.	00.0 W
18.	13.	00.0 N	115.	00.0 W
19.	13.	00.0 N	115.	20.0 W
20.	11.	00.0 N	115.	20.0 W
1.	11.	00.0 N	116.	04.0 W

3. Coordinates of the seabed mining area of the Kennecott Consortium:

Point #	Latitude Deg.	min.	Longitude Deg.	min.
1.	14.	20.0 N	128.	00.0 W
2.	14.	20.0 N	126.	15.0 W
3.	13.	45.0 N	126.	15.0 W
4.	13.	45.0 N	125.	20.0 W
5.	12.	15.0 N	125.	20.0 W
6.	12.	15.0 N	127.	00.0 W
7.	11.	40.0 N	127.	00.0 W
8.	11.	40.0 N	127.	43.0 W
9.	12.	00.0 N	127.	43.0 W
10.	12.	00.0 N	128.	00.0 W
1.	14.	20.0 N	128.	00.0 W

4. Coordinates of the seabed mining area of Ocean Minerals Company:

a. Operating Area:

Sub-Area #1:	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	1.	13.	20.2 N	128.	35.0 W
	2.	11.	40.0 N	128.	35.0 W
	3.	11.	40.0 N	131.	15.0 W
	4.	11.	30.0 N	131.	15.0 W
	5.	11.	30.0 N	131.	30.0 W
	6.	11.	00.0 N	131.	30.0 W
	7.	11.	00.0 N	132.	30.0 W
	8.	10.	30.0 N	132.	30.0 W
	9.	10.	30.0 N	133.	30.0 W
	10.	11.	00.0 N	133.	30.0 W
	11.	11.	00.0 N	133.	40.0 W
	12.	11.	40.0 N	133.	40.0 W
	13.	11.	40.0 N	133.	50.0 W
	14.	12.	11.6 N	133.	50.0 W
	15.	12.	11.6 N	134.	04.0 W
	16.	12.	30.0 N	134.	04.0 W
	17.	12.	30.0 N	134.	15.0 W
	18.	13.	00.0 N	134.	15.0 W
	19.	13.	00.0 N	134.	00.0 W
	20.	12.	50.0 N	134.	00.0 W
	21.	12.	50.0 N	133.	30.6 W
	22.	12.	31.1 N	133.	30.6 W
	23.	12.	31.1 N	132.	15.0 W
	24.	13.	29.0 N	132.	15.0 W
	25.	13.	29.0 N	131.	00.0 W
	26.	13.	20.0 N	131.	00.0 W
	27.	13.	20.0 N	130.	00.0 W
	28.	13.	20.2 N	130.	00.0 W
	1.	13.	20.2 N	128.	35.0 W

Sub-Area #2:	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	1.	11.	00.0 N	145.	00.0 W
	2.	11.	00.0 N	143.	37.9 W
	3.	11.	50.0 N	143.	37.9 W
	4.	11.	50.0 N	143.	15.0 W
	5.	10.	45.0 N	143.	15.0 W
	6.	10.	45.0 N	142.	15.0 W
	7.	9.	45.0 N	142.	15.0 W
	8.	9.	45.0 N	142.	45.0 W
	9.	9.	15.0 N	142.	45.0 W
	10.	9.	15.0 N	143.	45.0 W
	11.	10.	00.0 N	143.	45.0 W

Sub-Area #2:	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	12.	10.	00.0 N	144.	00.0 W
	13.	9.	45.0 N	144.	00.0 W
	14.	9.	45.0 N	144.	45.0 W
	15.	9.	30.0 N	144.	45.0 W
	16.	9.	30.0 N	145.	00.0 W
	1.	11.	00.0 N	145.	00.0 W

b. Area reserved for the Benefit of Another Entity:

Sub-Area #1:	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	1.	11.	50.0 N	145.	00.0 W
	2.	11.	50.0 N	143.	37.9 W
	3.	11.	00.0 N	143.	37.9 W
	4.	11.	00.0 N	145.	00.0 W
	1.	11.	50.0 N	145.	00.0 W

Sub-Area #2:	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	1.	12.	50.0 N	133.	30.6 W
	2.	12.	31.1 N	133.	30.6 W
	3.	12.	31.1 N	132.	15.0 W
	4.	12.	50.0 N	132.	15.0 W
	1.	12.	50.0 N	133.	30.6 W

Sub-Area #3:	Point #	Latitude Deg.	min.	Longitude Deg.	min.
	1.	13.	40.0 N	130.	00.0 W
	2.	13.	40.0 N	128.	35.0 W
	3.	13.	20.2 N	128.	35.0 W
	4.	13.	20.2 N	130.	00.0 W
	1.	13.	40.0 N	130.	00.0 W

5. Coordinates of the seabed mining area of Ocean Management Inc.:

a. Operating Area:

Point #	Latitude Deg.	min.	Longitude Deg.	min.
1.	15.	25.0 N	134.	00.0 W
2.	14.	00.0 N	134.	00.0 W
3.	14.	00.0 N	133.	50.0 W
4.	13.	30.0 N	133.	50.0 W
5.	13.	30.0 N	134.	45.0 W

Point #	Latitude Deg.	min.	Longitude Deg.	min.
6.	11.	30.0 N	134.	45.0 W
7.	11.	30.0 N	136.	00.0 W
8.	10.	50.0 N	136.	00.0 W
9.	10.	50.0 N	137.	50.0 W
10.	12.	30.0 N	137.	50.0 W
11.	12.	30.0 N	136.	00.0 W
12.	15.	25.0 N	136.	00.0 W
1.	15.	25.0 N	134.	00.0 W

b. Area Reserved for the Benefit of Another Entity:

Point #	Latitude Deg.	min.	Longitude Deg.	min.
1.	13.	30.0 N	134.	45.0 W
2.	13.	30.0 N	133.	50.0 W
3.	12.	50.0 N	133.	50.0 W
4.	12.	50.0 N	134.	00.0 W
5.	13.	00.0 N	134.	00.0 W
6.	13.	00.0 N	134.	15.0 W
7.	12.	30.0 N	134.	15.0 W
8.	12.	30.0 N	134.	04.0 W
9.	12.	11.6 N	134.	04.0 W
10.	12.	11.6 N	133.	50.0 W
11.	11.	30.0 N	133.	50.0 W
12.	11.	30.0 N	134.	45.0 W
1.	13.	30.0 N	134.	45.0 W

6. Coordinates of the seabed mining area of Ocean Mining Associates:

a. Operating Area:

Point #	Latitude Deg.	min.	Longitude Deg.	min.
1.	15.	20.0 N	128.	35.0 W
2.	15.	20.0 N	127.	50.0 W
3.	15.	15.0 N	127.	50.0 W
4.	15.	15.0 N	127.	46.0 W
5.	15.	44.0 N	127.	46.0 W
6.	15.	44.0 N	125.	20.0 W
7.	16.	14.0 N	125.	20.0 W
8.	16.	14.0 N	124.	20.0 W
9.	16.	04.0 N	124.	20.0 W
10.	16.	04.0 N	123.	25.0 W
11.	15.	44.0 N	123.	25.0 W
12.	15.	44.0 N	122.	20.0 W
13.	14.	10.0 N	122.	20.0 W
14.	14.	10.0 N	122.	45.0 W

Point #	Latitude Deg.	min.		Longitude Deg.	min.
15.	13.	21.0 N		122.	45.0 W
16.	13.	21.0 N		123.	00.0 W
17.	12.	56.0 N		123.	00.0 W
18.	12.	56.0 N		123.	35.0 W
19.	14.	05.0 N		123.	35.0 W
20.	14.	05.0 N		125.	00.0 W
21.	13.	45.0 N		125.	00.0 W
22.	13.	45.0 N		126.	15.0 W
23.	14.	20.0 N		126.	15.0 W
24.	14.	20.0 N		128.	00.0 W
25.	12.	00.0 N		128.	00.0 W
26.	12.	00.0 N		127.	43.0 W
27.	11.	40.0 N		127.	43.0 W
28.	11.	40.0 N		128.	35.0 W
29.	13.	34.6 N		128.	35.0 W
30.	13.	34.6 N		128.	15.0 W
31.	13.	55.0 N		128.	15.0 W
32.	13.	55.0 N		128.	10.0 W
33.	14.	00.0 N		128.	10.0 W
34.	14.	00.0 N		128.	05.0 W
35.	14.	15.0 N		128.	05.0 W
36.	14.	15.0 N		128.	09.1 W
37.	14.	37.5 N		128.	09.1 W
38.	14.	37.5 N		128.	12.5 W
39.	14.	45.0 N		128.	12.5 W
40.	14.	45.0 N		128.	35.0 W
1.	15.	20.0 N		128.	35.0 W

b. Area Reserved for the Benefit of Another Entity:

Point #	Latitude Deg.	min.		Longitude Deg.	min.
1.	13.	34.6 N		128.	35.0 W
2.	13.	34.6 N		128.	15.0 W
3.	13.	55.0 N		128.	15.0 W
4.	13.	55.0 N		128.	10.0 W
5.	14.	00.0 N		128.	10.0 W
6.	14.	00.0 N		128.	05.0 W
7.	14.	15.0 N		128.	05.0 W
8.	14.	15.0 N		128.	09.1 W
9.	14.	37.5 N		128.	09.1 W
10.	14.	37.5 N		128.	12.5 W
11.	14.	45.0 N		128.	12.5 W
12.	14.	45.0 N		128.	35.0 W
1.	13.	34.6 N		128.	35.0 W

7. Coordinates of the seabed mining area of Arbeitsgemeinschaft meerestechnisch gewinnbare Rohstoffe (AMR):

Point #	Latitude Deg.	min.	Longitude Deg.	min.
1.	6.	30.0 S	90.	50.0 W
2.	6.	30.0 S	90.	20.0 W
3.	6.	50.0 S	90.	20.0 W
4.	6.	50.0 S	89.	40.0 W
5.	7.	30.0 S	89.	40.0 W
6.	7.	30.0 S	89.	20.0 W
7.	7.	10.0 S	89.	20.0 W
8.	7.	10.0 S	88.	40.0 W
9.	7.	30.0 S	88.	40.0 W
10.	7.	30.0 S	88.	20.0 W
11.	8.	00.0 S	88.	20.0 W
12.	8.	00.0 S	88.	40.0 W
13.	8.	20.0 S	88.	40.0 W
14.	8.	20.0 S	89.	10.0 W
15.	8.	40.0 S	89.	10.0 W
16.	8.	40.0 S	88.	10.0 W
17.	10.	50.0 S	88.	10.0 W
18.	10.	50.0 S	89.	20.0 W
19.	10.	30.0 S	89.	20.0 W
20.	10.	30.0 S	90.	50.0 W
21.	10.	00.0 S	90.	50.0 W
22.	10.	00.0 S	91.	10.0 W
23.	9.	40.0 S	91.	10.0 W
24.	9.	40.0 S	92.	40.0 W
25.	8.	00.0 S	92.	40.0 W
26.	8.	00.0 S	92.	10.0 W
27.	7.	20.0 S	92.	10.0 W
28.	7.	20.0 S	91.	20.0 W
29.	8.	00.0 S	91.	20.0 W
30.	8.	00.0 S	90.	40.0 W
31.	8.	10.0 S	90.	40.0 W
32.	8.	10.0 S	90.	20.0 W
33.	9.	00.0 S	90.	20.0 W
34.	9.	00.0 S	89.	50.0 W
35.	9.	30.0 S	89.	50.0 W
36.	9.	30.0 S	89.	20.0 W
37.	8.	20.0 S	89.	20.0 W
38.	8.	20.0 S	89.	50.0 W
39.	8.	00.0 S	89.	50.0 W
40.	8.	00.0 S	90.	10.0 W
41.	7.	50.0 S	90.	10.0 W
42.	7.	50.0 S	90.	40.0 W
43.	7.	30.0 S	90.	40.0 W
44.	7.	30.0 S	90.	50.0 W
1.	6.	30.0 S	90.	50.0 W

Memorandum of Understanding on the Avoidance of Overlaps and Conflicts Relating to Deep Sea-Bed Areas, New York, 1991

Done at New York 20 August 1991

Entered into force 28 August 1991

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING ON THE AVOIDANCE OF OVERLAPS AND CONFLICTS RELATING TO DEEP SEA-BED AREAS BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM, THE GOVERNMENT OF CANADA, THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY, THE GOVERNMENT OF THE ITALIAN REPUBLIC, THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS, THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA, ON THE ONE HAND, AND THE GOVERNMENT OF THE REPUBLIC OF BULGARIA, THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC, THE GOVERNMENT OF THE REPUBLIC OF POLAND AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS, AS THE CERTIFYING STATES OF THE INTEROCEANMETAL JOINT ORGANIZATION, ON THE OTHER HAND

MEMORANDUM OF UNDERSTANDING ON THE AVOIDANCE OF OVERLAPS AND CONFLICTS RELATING TO DEEP SEA-BED AREAS

The Government of the Kingdom of Belgium, the Government of Canada, the Government of the Federal Republic of Germany, the Government of the Italian Republic, the Government of the Kingdom of the Netherlands, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America, on the one hand, and the Government of the Republic of Bulgaria, the Government of the Czech and Slovak Federal Republic, the Government of the Republic of Poland and the Government of the Union of Soviet

Socialist Republics, as the certifying States of the INTEROCEANMETAL Joint Organization, on the other hand, hereinafter referred to as the "Parties";

Considering that the Republic of Poland acting on behalf of other certifying States of the INTEROCEANMETAL Joint Organization has submitted to the Preparatory Commission for the International Sea-bed Authority and the International Tribunal for the Law of the Sea, hereinafter referred to as the "Preparatory Commission", an application for registration as a pioneer investor in respect of an area the coordinates of which are shown in Annex I to this Memorandum of Understanding, hereinafter referred to as the "Memorandum";

Taking into account the interests of the entities mentioned in Paragraph 1 (a) (ii) of Resolution II of the Third United Nations Conference on the Law of the Sea, in areas the coordinates of which have been published in Law of the Sea Bulletins 7, 11 and 12, and which coordinates are shown in Annex II to this Memorandum;

Taking note with satisfaction that there are no overlaps among the above-mentioned areas;

Wishing to ensure mutual respect for those areas in order to avoid possible conflict in the future;

Have agreed as follows:

Article 1

1. Upon attribution by the Preparatory Commission, to the INTEROCEANMETAL Joint Organization certified by the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics as a pioneer investor, of the area referred to in Annex I to this Memorandum, the Governments of Belgium, Canada, Germany, Italy, the Netherlands, the United Kingdom and the United States shall respect that area.

2. The Governments of the Republic of Bulgaria, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics shall respect the areas referred to in Annex II to this Memorandum.

3. The obligations referred to in paragraphs 1 and 2 above shall not apply to those areas relinquished by the Parties in the future.

Article 2

1. The Governments of Belgium, Canada, Germany, Italy, the Netherlands, the United Kingdom and the United States shall not act, themselves or in association with third parties, in a manner that could prevent registration of the application which has been submitted by the Republic of Poland acting on behalf of other certifying States of the INTEROCEANMETAL Joint Organization to the Preparatory Commission, for the area referred to in Annex I to this Memorandum.

2. The Governments of the Republic of Bulgaria, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics shall not act, themselves or in association with third parties, in a manner that could prevent registration of applications which may be submitted in the future by any or all the other Parties for any or all of the areas referred to in Annex II to this Memorandum.

Article 3

The Parties shall not engage in or support by action of their domestic authorities or in concert with third parties, the exploration and exploitation of hard mineral resources in the areas mentioned in Article 1 in a manner incompatible with the obligation contained in that Article.

Article 4

The Parties shall take all appropriate measures to ensure that there is no physical interference with the activities of each other relating to the exploration and exploitation of hard mineral resources in the areas referred to in Article 1.

Article 5

When necessary, the Parties shall consult on questions connected with the implementation of this Memorandum.

Article 6

1. This Memorandum shall enter into force upon the signatures of the Government of the Kingdom of Belgium, the Government of Canada, the Government of the Federal Republic of Germany, the Government of the Italian Republic, the Government of the Kingdom of the Netherlands, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America, on the one hand, and the Government of the Republic of Bulgaria, the Government of the Czech and Slovak Federal Republic, the Government of the Republic of Poland and the Government of the Union of Soviet Socialist Republics, on the other hand, effective August 20, 1991, and shall remain in force until otherwise agreed by the Parties. The Annexes to this Memorandum are an integral part thereof.

2. Any Party may declare, upon signature, that this Memorandum shall enter into force for that Party only after notification to all other Parties that all legal requirements have been met. This Memorandum shall enter into force for that Party upon receipt of such notification by all other Parties.

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

DONE at New York this 20th day of August 1991 in eleven originals.

ANNEX I

THE LIST OF COORDINATES OF THE INTEROCEANMETAL APPLICATION AREA

Turning points	Lat. (N)		Long. (W)	
1.	7	40	123	35
2.	8	15	123	35
3.	8	15	124	00
4.	9	05	124	00
5.	9	05	122	30
6.	9	20	122	30
7.	9	20	122	00
8.	9	40	122	00
9.	9	40	122	30
10.	9	50	122	30
11.	9	50	123	20
12.	10	30	123	20
13.	10	30	124	30

Turning points	Lat. (N)		Long. (W)	
14.	11	00	124	30
15.	11	00	123	40
16.	11	20	123	40
17.	11	20	122	10
18.	11	00	122	10
19.	11	00	121	30
20.	10	30	121	30
21.	10	30	120	30
22.	10	45	120	30
23.	10	45	121	00
24.	11	00	121	00
25.	11	00	121	10
26.	11	20	121	10
27.	11	20	121	40
28.	12	00	121	40
29.	12	00	123	00
30.	13	21	123	00
31.	13	21	122	30
32.	13	30	122	30
33.	13	30	122	10
34.	14	00	122	10
35.	14	00	122	20
36.	16	20	122	20
37.	16	20	121	20
38.	16	25	121	20
39.	16	25	120	40
40.	15	50	120	40
41.	15	50	120	20
42.	15	40	120	20
43.	15	40	119	50
44.	16	00	119	50
45.	16	00	120	10
46.	16	30.790	120	10
47.	16	30.790	119	00
48.	15	20	119	00
49.	15	20	118	50
50.	14	30	118	50
51.	14	30	119	30
52.	13	50	119	30
53.	13	50	120	20
54.	14	30	120	20
55.	14	30	120	45
56.	14	20	120	45
57.	14	20	121	50
58.	14	00	121	50
59.	14	00	121	20
60.	13	40	121	20

Turning points	Lat. (N)		Long. (W)	
61.	13	40	121	10
62.	13	20	121	10
63.	13	20	119	50
64.	13	10	119	50
65.	13	10	119	25
66.	12	20	119	25
67.	12	20	119	50
68.	11	50	119	50
69.	11	50	119	25
70.	9	45	119	25
71.	9	45	119	00
72.	8	50	119	00
73.	8	50	119	50
74.	8	40	119	50
75.	8	40	121	30
76.	8	55	121	30
77.	8	55	122	00
78.	8	45	122	00
79.	8	45	122	10
80.	8	35	122	10
81.	8	35	122	45
82.	7	40	122	45
1.	7	40	123	35

ANNEX II

To Memorandum of Understanding on the Avoidance of Overlaps and Conflicts Relating to Deep Seabed Areas

1. Coordinates of the seabed mining area of Arbeitsgemeinschaft meerestechnisch gewinnbare Rohstoffe (AMR) as trustee for Ocean Management Inc.:

Sub-Area #1	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	1.	14.	15.0 N	138.	22.412 W
	2.	14.	15.0 N	136.	00.0 W
	3.	12.	30.0 N	136.	00.0 W
	4.	12.	30.0 N	137.	50.0 W
	5.	10.	50.0 N	137.	50.0 W
	6.	10.	50.0 N	138.	22.412 W
	1.	14.	15.0 N	138.	22.412 W

Sub-Area #2	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	1.	13.	26.0 N	119.	25.0 W
	2.	13.	26.0 N	118.	00.0 W

Sub-Area #2	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	3.	12.	00.0 N	118.	00.0 W
	4.	12.	00.0 N	116.	04.0 W
	5.	9.	45.0 N	116.	04.0 W
	6.	9.	45.0 N	119.	25.0 W
	1.	13.	26.0 N	119.	25.0 W

2. Coordinates of the seabed mining area of Carborundum Company Ltd. on behalf of the Kennecott Consortium:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	11.	00.0 N	116.	04.0 W
2.	12.	00.0 N	116.	04.0 W
3.	12.	00.0 N	118.	00.0 W
4.	13.	26.0 N	118.	00.0 W
5.	13.	26.0 N	118.	40.0 W
6.	13.	30.0 N	118.	40.0 W
7.	13.	30.0 N	119.	15.0 W
8.	13.	45.0 N	119.	15.0 W
9.	13.	45.0 N	119.	30.0 W
10.	14.	30.0 N	119.	30.0 W
11.	14.	30.0 N	118.	15.0 W
12.	14.	45.0 N	118.	15.0 W
13.	14.	45.0 N	117.	15.0 W
14.	14.	58.0 N	117.	15.0 W
15.	14.	58.0 N	116.	00.0 W
16.	14.	00.0 N	116.	00.0 W
17.	14.	00.0 N	115.	00.0 W
18.	13.	00.0 N	115.	00.0 W
19.	13.	00.0 N	115.	20.0 W
20.	11.	00.0 N	115.	20.0 W
1.	11.	00.0 N	116.	04.0 W

3. Coordinates of the seabed mining areas of the Kennecott Consortium:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	14.	20.0 N	128.	00.0 W
2.	14.	20.0 N	126.	15.0 W
3.	13.	45.0 N	126.	15.0 W
4.	13.	45.0 N	125.	20.0 W
5.	12.	15.0 N	125.	20.0 W
6.	12.	15.0 N	127.	00.0 W
7.	11.	40.0 N	127.	00.0 W
8.	11.	40.0 N	127.	43.0 W

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
9.	12.	00.0 N	127.	43.0 W
10.	12.	00.0 N	128.	00.0 W
1.	14.	20.0 N	128.	00.0 W

4. Coordinates of the seabed mining area of Ocean Minerals Company:

a. Operating Area:

Sub-Area #1:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	13.	20.2 N	128.	35.0 W
2.	11.	40.0 N	128.	35.0 W
3.	11.	40.0 N	131.	15.0 W
4.	11.	30.0 N	131.	15.0 W
5.	11.	30.0 N	131.	30.0 W
6.	11.	00.0 N	131.	30.0 W
7.	11.	00.0 N	132.	30.0 W
8.	10.	30.0 N	132.	30.0 W
9.	10.	30.0 N	133.	30.0 W
10.	11.	00.0 N	133.	30.0 W
11.	11.	00.0 N	133.	40.0 W
12.	11.	40.0 N	133.	40.0 W
13.	11.	40.0 N	133.	50.0 W
14.	12.	11.6 N	133.	50.0 W
15.	12.	11.6 N	134.	04.0 W
16.	12.	30.0 N	134.	04.0 W
17.	12.	30.0 N	134.	15.0 W
18.	13.	00.0 N	134.	15.0 W
19.	13.	00.0 N	134.	00.0 W
20.	12.	50.0 N	134.	00.0 W
21.	12.	50.0 N	133.	30.6 W
22.	12.	31.1 N	133.	30.6 W
23.	12.	31.1 N	132.	15.0 W
24.	13.	29.0 N	132.	15.0 W
25.	13.	29.0 N	131.	00.0 W
26.	13.	20.0 N	131.	00.0 W
27.	13.	20.0 N	130.	00.0 W
28.	13.	20.2 N	130.	00.0 W
1.	13.	20.2 N	128.	35.0 W

Sub-Area #1:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	11.	00.0 N	145.	00.0 W
2.	11.	00.0 N	143.	37.9 W
3.	11.	50.0 N	143.	37.9 W

Sub-Area #1:	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	4.	11.	50.0 N	143.	15.0 W
	5.	10.	45.0 N	143.	15.0 W
	6.	10.	45.0 N	142.	15.0 W
	7.	9.	45.0 N	142.	15.0 W
	8.	9.	45.0 N	142.	45.0 W
	9.	9.	15.0 N	142.	45.0 W
	10.	9.	15.0 N	143.	45.0 W
	11.	10.	00.0 N	143.	45.0 W
	12.	10.	00.0 N	144.	00.0 W
	13.	9.	45.0 N	144.	00.0 W
	14.	9.	45.0 N	144.	45.0 W
	15.	9.	30.0 N	144.	45.0 W
	16.	9.	30.0 N	145.	00.0 W
	1.	11.	00.0 N	145.	00.0 W

b. Area reserved for the Benefit of Another Entity:

Sub-Area #1:	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	1.	11.	50.0 N	145.	00.0 W
	2.	11.	50.0 N	143.	37.9 W
	3.	11.	00.0 N	143.	37.9 W
	4.	11.	00.0 N	145.	00.0 W
	1.	11.	50.0 N	145.	00.0 W

Sub-Area #2:	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	1.	12.	50.0 N	133.	30.6 W
	2.	12.	31.1 N	133.	30.6 W
	3.	12.	31.1 N	132.	15.0 W
	4.	12.	50.0 N	132.	15.0 W
	1.	12.	50.0 N	133.	30.6 W

Sub-Area #3:	Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
	1.	13.	40.0 N	130.	00.0 W
	2.	13.	40.0 N	128.	35.0 W
	3.	13.	20.2 N	128.	35.0 W
	4.	13.	20.2 N	130.	00.0 W
	1.	13.	40.0 N	130.	00.0 W

5. Coordinates of the seabed mining area of Ocean Management Inc.:

a. Operating Area:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	15.	25.0 N	134.	00.0 W
2.	14.	00.0 N	134.	00.0 W
3.	14.	00.0 N	133.	50.0 W
4.	13.	30.0 N	133.	50.0 W
5.	13.	30.0 N	134.	45.0 W
6.	11.	30.0 N	134.	45.0 W
7.	11.	30.0 N	136.	00.0 W
8.	10.	50.0 N	136.	00.0 W
9.	10.	50.0 N	137.	50.0 W
10.	12.	30.0 N	137.	50.0 W
11.	12.	30.0 N	136.	00.0 W
12.	15.	25.0 N	136.	00.0 W
1.	15.	25.0 N	134.	00.0 W

b. Area Reserved for the Benefit of Another Entity:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	13.	30.0 N	134.	45.0 W
2.	13.	30.0 N	133.	50.0 W
3.	12.	50.0 N	133.	50.0 W
4.	12.	50.0 N	134.	00.0 W
5.	13.	00.0 N	134.	00.0 W
6.	13.	00.0 N	134.	15.0 W
7.	12.	30.0 N	134.	15.0 W
8.	12.	30.0 N	134.	04.0 W
9.	12.	11.6 N	134.	04.0 W
10.	12.	11.6 N	133.	50.0 W
11.	11.	30.0 N	133.	50.0 W
12.	11.	30.0 N	134.	45.0 W
1.	13.	30.0 N	134.	45.0 W

6. Coordinates of the seabed mining area of Ocean Mining Associates:

a. Operating Area

Point #	Latitude Deg.	Min.		Longitude Deg.	Min.	
1.	15.	20.0	N	128.	35.0	W
2.	15.	20.0	N	127.	50.0	W
3.	15.	15.0	N	127.	50.0	W
4.	15.	15.0	N	127.	46.0	W
5.	15.	44.0	N	127.	46.0	W
6.	15.	44.0	N	125.	20.0	W
7.	16.	14.0	N	125.	20.0	W
8.	16.	14.0	N	124.	20.0	W
9.	16.	04.0	N	124.	20.0	W
10.	16.	04.0	N	123.	25.0	W
11.	15.	44.0	N	123.	25.0	W
12.	15.	44.0	N	122.	20.0	W
13.	14.	10.0	N	122.	20.0	W
14.	14.	10.0	N	122.	45.0	W
15.	13.	21.0	N	122.	45.0	W
16.	13.	21.0	N	123.	00.0	W
17.	12.	56.0	N	123.	00.0	W
18.	12.	56.0	N	123.	35.0	W
19.	14.	05.0	N	123.	35.0	W
20.	14.	05.0	N	125.	00.0	W
21.	13.	45.0	N	125.	00.0	W
22.	13.	45.0	N	126.	15.0	W
23.	14.	20.0	N	126.	15.0	W
24.	14.	20.0	N	128.	00.0	W
25.	12.	00.0	N	128.	00.0	W
26.	12.	00.0	N	127.	43.0	W
27.	11.	40.0	N	127.	43.0	W
28.	11.	40.0	N	128.	35.0	W
29.	13.	34.56	N	128.	35.0	W
30.	13.	34.56	N	128.	15.0	W
31.	13.	55.0	N	128.	15.0	W
32.	13.	55.0	N	128.	10.0	W
33.	14.	00.0	N	128.	10.0	W
34.	14.	00.0	N	128.	05.0	W
35.	14.	15.0	N	128.	05.0	W
36.	14.	15.0	N	128.	09.13	W
37.	14.	37.5	N	128.	09.13	W
38.	14.	37.5	N	128.	12.5	W
39.	14.	45.0	N	128.	12.5	W
40.	14.	45.0	N	128.	35.0	W
1.	15.	20.0	N	128.	35.0	W

b. Area Reserved for the Benefit of Another Entity:

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	13.	34.5 N	128.	35.0 W
2.	13.	34.5 N	128.	15.0 W
3.	13.	55.0 N	128.	15.0 W
4.	13.	55.0 N	128.	10.0 W
5.	14.	00.0 N	128.	10.0 W
6.	14.	00.0 N	128.	05.0 W
7.	14.	15.0 N	128.	05.0 W
8.	14.	15.0 N	128.	09.13W
9.	14.	37.5 N	128.	09.13W
10.	14.	37.5 N	128.	12.5 W
11.	14.	45.0 N	128.	12.5 W
12.	14.	45.0 N	128.	35.0 W
1.	13.	34.6 N	128.	35.0 W

7. Coordinates of the seabed mining area of Arbeitsgemeinschaft meerestechnisch gewinnbare Rohstoffe (AMR):

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
1.	6.	30.0 S	90.	50.0 W
2.	6.	30.0 S	90.	20.0 W
3.	6.	50.0 S	90.	20.0 W
4.	6.	50.0 S	89.	40.0 W
5.	7.	30.0 S	89.	40.0 W
6.	7.	30.0 S	89.	20.0 W
7.	7.	10.0 S	89.	20.0 W
8.	7.	10.0 S	88.	40.0 W
9.	7.	30.0 S	88.	40.0 W
10.	7.	30.0 S	88.	20.0 W
11.	8.	00.0 S	88.	20.0 W
12.	8.	00.0 S	88.	40.0 W
13.	8.	20.0 S	88.	40.0 W
14.	8.	20.0 S	89.	10.0 W
15.	8.	40.0 S	89.	10.0 W
16.	8.	40.0 S	88.	10.0 W
17.	10.	50.0 S	88.	10.0 W
18.	10.	50.0 S	89.	20.0 W
19.	10.	30.0 S	89.	20.0 W
20.	10.	30.0 S	90.	50.0 W
21.	10.	00.0 S	90.	50.0 W
22.	10.	00.0 S	91.	10.0 W
23.	9.	40.0 S	91.	10.0 W
24.	9.	40.0 S	92.	40.0 W

Point #	Latitude Deg.	Min.	Longitude Deg.	Min.
25.	8.	00.0 S	92.	40.0 W
26.	8.	00.0 S	92.	10.0 W
27.	7.	20.0 S	92.	10.0 W
28.	7.	20.0 S	91.	20.0 W
29.	8.	00.0 S	91.	20.0 W
30.	8.	00.0 S	90.	40.0 W
31.	8.	10.0 S	90.	40.0 W
32.	8.	10.0 S	90.	20.0 W
33.	9.	00.0 S	90.	20.0 W
34.	9.	00.0 S	89.	50.0 W
35.	9.	30.0 S	89.	50.0 W
36.	9.	30.0 S	89.	20.0 W
37.	8.	20.0 S	89.	20.0 W
38.	8.	20.0 S	89.	50.0 W
39.	8.	00.0 S	89.	50.0 W
40.	8.	00.0 S	90.	10.0 W
41.	7.	50.0 S	90.	10.0 W
42.	7.	50.0 S	90.	40.0 W
43.	7.	30.0 S	90.	40.0 W
44.	7.	30.0 S	90.	50.0 W
1.	6.	30.0 S	90.	50.0 W

MULTILATERAL

MARINE SCIENCE AND EXPLORATION

NON-BINDING DOCUMENTS

Founding Articles for an International Arctic Science Committee, Resolute Bay, 1990

Done at Resolute Bay 28 August 1990

Primary source citation: Copy of text provided by the U.S. Department of State

Founding Articles for an INTERNATIONAL ARCTIC SCIENCE COMMITTEE (IASC) Final Edition, August 1990

Contents

INTERNATIONAL ARCTIC SCIENCE COMMITTEE - IASC

IASC is a non-governmental scientific organization established to encourage and facilitate international consultation and cooperation for scientific research concerned with the Arctic.

The committee covers all fields of Arctic science and provides a forum for discussion, exchange of information and cooperation.

THE ARCTIC

There has been a growing national and international interest in the Arctic, stimulated largely by the recognition of the scientific and political importance as well as its economical potential.

The Arctic region is environmentally sensitive. The Arctic has a major influence on global systems of climate, weather, ocean circulation and other important environmental issues. It may respond more readily than other regions to global changes; processes that occur mainly in the Arctic region can induce significant effects over the entire globe.

There is an increasing need for scientific knowledge of the Arctic region. This is required for the wise development and management of that region and to ensure that Arctic research contributes fully to world science for the benefit of all mankind. This need comprises many fields of science, and is often of a multidisciplinary or interdisciplinary nature.

Some multilateral and bilateral cooperation with regard to scientific activities in the Arctic exists. But increased coordination and information exchange are seriously required.

THE PROPOSAL

This proposal is the result of many preliminary studies, policy statements and discussions within the scientific community and among representatives of science organizations in countries concerned with Arctic science and research.

A preliminary international meeting was held in San Diego, USA, in June 1986. Another meeting took place in Oslo, Norway, in February 1987, involving participants from the eight Arctic countries - Canada, Denmark, Finland, Iceland, Norway, Sweden, USA, USSR. Subsequent meetings were held in Stockholm, Sweden, March 1988, in Leningrad, USSR, December 1988 and in Helsinki, Finland, in May 1989.

Many have contributed and helped in this process. The Planning Group is grateful for all support and constructive suggestions given to members of the Group.

The Planning Group, responsible for the text, has been composed of:

F. A. Mathys/A. Poole	Canada
I. Foighel	Denmark
E. Leppävuori	Finland
M. Magnusson	Iceland
O.R. Rogne	Norway, chairman
A. Karlqvist	Sweden
R. W. Corell	USA
V. M. Kotlyakov	USSR

PREAMBLE

REPRESENTATIVES of national scientific organizations of the Arctic countries - Canada, Denmark, Finland, Iceland, Norway, Sweden, Union of Soviet Socialist Republics and the United States of America;

RECOGNIZING the need to encourage and facilitate international consultation and cooperation for scientific research concerned with the Arctic;

RECOGNIZING the importance of the Arctic in advancing world science;

RECOGNIZING the special interests of the countries of the Arctic Region;

RECOGNIZING the important role of, and the need to work closely with, national scientific organizations from countries outside the Arctic regions which have an active and continuing Arctic research programme;

HAVE DECIDED to establish an International Arctic Science Committee, IASC.

A. GENERAL PRINCIPLES

1. IASC is a non-governmental scientific organization established to encourage and facilitate international consultation and cooperation for scientific research concerned with the Arctic.

2. IASC, in carrying out its activities, will strive for the highest standards of excellence and be guided by the principle of scientific openness.

3. IASC endeavours to cover all subjects and fields of science for the advancement of world science and for the benefit of the Arctic regions.

4. IASC will take into account programmes and activities on Arctic research advanced by other scientific organizations and will cooperate with them whenever appropriate.

5. IASC will not interfere with the scientific activities of any country or group of countries carrying out research in the Arctic, nor commit governments to support or approve programmes or activities.

6. The activities of IASC should be consistent with the regional interests of the Arctic countries.

7. The activities of IASC will in no way affect the rights or obligations of countries under international law with respect to scientific research in areas within their jurisdiction.

B. ORGANIZATION

The IASC is composed of:

- **The Council**
- **The Regional Board**
- **Working Groups**
- **The Arctic Science Conference**
- **A Secretariat**

C. THE COUNCIL

1. **The Council** has as its responsibilities, inter alia to:

i. Develop policies and guidelines for cooperative scientific research concerned with the Arctic.

ii. Establish Working Groups, as needed, and determine the terms of reference for and participation in such groups, and

iii. Endorse plans developed by Working Groups and recommend scientific programmes and projects.

iv. Recommend, in cooperation with the appropriate Working Groups, implementation plans for IASC programmes and activities.

v. Develop plans and facilitate the coordination of logistics and operations for IASC programmes, projects and activities.

vi. Decide on the participation of representatives of national scientific organizations from the non-Arctic countries.

vii. Organize Arctic Science Conferences.

2. **Participation in the Council** will be open to:

i. Representatives of the scientific organizations of the eight Arctic countries,

ii. Representatives of the scientific organizations of any other countries, during such time as those countries are engaged in significant Arctic research.

3. **The representatives on the Council** are appointed by their relevant national organization to represent the scientific community in their countries.

4. **The Council** will carry out its functions on the basis of consensus, taking into account the regional interests of the eight Arctic countries. In matters of special regional interest, the eight Arctic countries may pursue cooperative scientific programs or projects directly, or using IASC as a forum.

D. THE REGIONAL BOARD

1. **The Regional Board** will consider general regional problems and other questions which affect the common interests of the Arctic countries. The purpose of the Board is to ensure that the activities of IASC are consistent with those interests.

2. **The representatives on the Regional Board** are appointed by the relevant national organizations of the eight Arctic countries to represent the scientific community in their countries.

3. **The Board** will normally hold its sessions concurrently with the sessions of the IASC Council.

4. **With respect to IASC proposals** for cooperative scientific research programmes and projects in Arctic areas within the jurisdiction of the Arctic countries that may affect economic, social, environmental and other major interests of the Arctic countries, actions taken by the IASC Council will take into account the recommendations of the Regional Board.

5. **The work of the Regional Board** will be carried out on the basis of consensus.

E. WORKING GROUPS

1. **Working Groups** provide the main fora for the IASC to develop programmes and activities. They are established by the Council to:

i. Exchange information,

ii. Discuss problems, methods and research directions,

iii. Identify opportunities for cooperation.

2. **Working Groups** will develop and recommend proposals for programmes, projects and activities to the Council.

3. **Working Group** participants will be scientists with expertise in the central task of the Group. Each participating country may have one or more members of a Working Group. Working Groups may invite scientists or other experts from any country to assist them in their work, with the Council's approval.

F. THE ARCTIC SCIENCE CONFERENCE

1. **An Arctic Science Conference** will be convened periodically by the IASC to identify key scientific questions and issues. The Conference will provide an international forum to:

i. Review the current status of Arctic Science,

ii. Provide scientific and technical advice,

iii. Promote cooperation and links with other national and international organizations, and

iv. Increase understanding and support for the work of the IASC.

2. **To meet these objectives,** the Conference will seek the participation of scientists from the broad international scientific community involved in Arctic research.

3. **The Conference** will be organized under guidelines and procedures established by the Council.

4. **The Conference** will produce a report and recommendations which will be reviewed by the Council.

G. SECRETARIAT

1. **A Secretariat** will be established to serve the organizational needs of the IASC.

2. **The Secretariat** will be directed by an Executive Secretary responsible to the Council.

3. **The host country** will provide basic funding for the operation of the IASC Secretariat. Basic funding includes salaries for an Executive Secretary, office help, basic office expenses and some travel funds.

4. **The Secretariat** will be located in one of the Arctic countries.

H. RULES AND PROCEDURES

The Council may establish, as needed, Rules and Procedures to guide their work.

I. REVIEW OF FOUNDING ARTICLES

Five years after the entry into effect of the Founding Articles, a meeting will be held to review the activities and the organization of the IASC, and, if necessary, to revise the Founding Articles.

J. ENTRY INTO EFFECT OF THE FOUNDING ARTICLES

1. **The Founding Articles** will take effect when endorsed by the representatives of national scientific organizations of the eight Arctic Countries.

2. **Endorsement** will take the form of signatures by representatives of the national scientific organizations of the Arctic Countries, who have signed below.

Resolute Bay, August 28, 1990

National Scientific Organization:		*Signature:*
Canada:	The Interdepartmental Committee on International Science and Technology Relations	J.E.G. Gibson
Denmark:	The Commission for Scientific Research in Greenland	Karsten Secher
Finland:	The Academy of Finland	Paavo Tulkki
Iceland:	The Icelandic Council of Science	Magnus Magnusson
Norway:	The Norwegian Academy of Sciences and Letters	E.R. Neumann
Sweden:	The Royal Swedish Academy of Sciences	Carl-Olof Jacobson
USA:	The National Academy of Sciences	Philip M. Smith
USSR:	The USSR Academy of Sciences, the Arctic Research Commission	J.S. Gramberg

Legislation has been introduced in Canada's Parliament to establish the Canadian Polar Commission, a non government body with a formal mandate to provide the focus for Arctic science in Canada. When the legislation is passed, the Canadian Polar Commission is expected to be designated as Canada's National Science Organization for IASC.

MULTILATERAL

OTHER

The General Agreement on Tariffs and Trade, Geneva, 1947, as Amended

Done at Geneva 30 October 1947

Entered into force 1 January 1948

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments of the COMMONWEALTH OF AUSTRALIA, the KINGDOM OF BELGIUM, the UNITED STATES OF BRAZIL, BURMA, CANADA, CEYLON, the REPUBLIC OF CHILE, the REPUBLIC OF CHINA, the REPUBLIC OF CUBA, the CZECHOSLOVAK REPUBLIC, the FRENCH REPUBLIC, INDIA, LEBANON, the GRAND-DUCHY OF LUXEMBURG, the KINGDOM OF THE NETHERLANDS, NEW ZEALAND, the KINGDOM OF NORWAY, PAKISTAN, SOUTHERN RHODESIA, SYRIA, the UNION OF SOUTH AFRICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and the UNITED STATES OF AMERICA:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

Have through their Representatives agreed as follows:

PART I

Article I

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, * any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:

(*a*) Preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;

(*b*) Preferences in force exclusively between two or more territories which on July l, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;

(*c*) Preferences in force exclusively between the United States of America and the Republic of Cuba;

(*d*) Preferences in force exclusively between neighbouring countries listed in Annexes E and F.

3. The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 5 † of Article XXV, which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

4. The margin of preference * on any product in respect of which a preference is permitted under paragraph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule annexed to this Agreement shall not exceed:

(*a*) in respect of duties or charges on any product described in such Schedule, the difference between the most-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;

(*b*) in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.

In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in sub-paragraphs (*a*) and (*b*) of this paragraph shall be replaced by the respective dates set forth in that Annex.

Article II

Schedules of Concessions

1. (*a*) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate Schedule annexed to this Agreement.

(*b*) The products described in Part I of the Schedule relating to any contracting party, which are the products of territories of other contracting parties, shall, on their importation into the territory to which the Schedule relates, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for therein. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date.

(*c*) The products described in Part II of the Schedule relating to any contracting party which are the products of territories entitled under Article I to receive preferential treatment upon importation into the territory to which the Schedule relates shall, on their importation into such territory, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for in Part II of that Schedule. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those

† The authentic text erroneously reads "sub-paragraph 5 (*a*)".

directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date. Nothing in this Article shall prevent any contracting party from maintaining its requirements existing on the date of this Agreement as to the eligibility of goods for entry at preferential rates of duty.

2. Nothing in this Article shall prevent any contracting party from imposing at any time on the importation of any product:

(*a*) a charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III * in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(*b*) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI;*

(*c*) fees or other charges commensurate with the cost of services rendered.

3. No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

4. If any contracting party establishes, maintains or authorizes, formally or in effect, a monopoly of the importation of any product described in the appropriate Schedule annexed to this Agreement, such monopoly shall not, except as provided for in that Schedule or as otherwise agreed between the parties which initially negotiated the concession, operate so as to afford protection on the average in excess of the amount of protection provided for in that Schedule. The provisions of this paragraph shall not limit the use by contracting parties of any form of assistance to domestic producers permitted by other provisions of this Agreement.*

5. If any contracting party considers that a product is not receiving from another contracting party the treatment which the first contracting party believes to have been contemplated by a concession provided for in the appropriate Schedule annexed to this Agreement, it shall bring the matter directly to the attention of the other contracting party. If the latter agrees that the treatment contemplated was that claimed by the first contracting party, but declares that such treatment cannot be accorded because a court or other proper authority has ruled to the effect that the product involved cannot be classified under the tariff laws of such contracting party so as to permit the treatment contemplated in this Agreement, the two contracting parties, together with any other contracting parties substantially interested, shall enter promptly into further negotiations with a view to a compensatory adjustment of the matter.

6. (*a*) The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction; *Provided* that the CONTRACTING PARTIES (*i.e.*, the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(*b*) Similar provisions shall apply to any contracting party not a member of the Fund, as from the date on which such contracting party becomes a member of the Fund or enters into a special exchange agreement in pursuance of Article XV.

7. The Schedules annexed to this Agreement are hereby made an integral part of Part I of this Agreement.

PART II

Article III *

National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.*

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.*

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.*

6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party; *Provided* that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be treated as a customs duty for the purpose of negotiation.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

8. (*a*) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(*b*) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.

10. The provisions of this Article shall not prevent any contracting party from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

Article IV

Special Provisions relating to Cinematograph Films

If any contracting party establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas which shall conform to the following requirements:

(*a*) Screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized, over a specified period of not less than one year, in the commercial exhibition of all films of whatever origin, and shall be computed on the basis of screen time per theatre per year or the equivalent thereof;

(*b*) With the exception of screen time reserved for films of national origin under a screen quota, screen time including that released by administrative action from screen time reserved for films of national origin, shall not be allocated formally or in effect among sources of supply;

(*c*) Notwithstanding the provisions of sub-paragraph (*b*) of this Article, any contracting party may maintain screen quotas conforming to the requirements of sub-paragraph (*a*) of this Article which reserve a minimum proportion of screen time for films of a specified origin other than that of the contracting party imposing such screen quotas; *Provided* that no such minimum proportion of screen time shall be increased above the level in effect on April 10, 1947;

(*d*) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination.

Article V

Freedom of Transit

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a contracting party when the passage across such territory, with or without transshipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the contracting party across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit".

2. There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

3. Any contracting party may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, regulations and formalities in connection with transit, each contracting party shall accord to traffic in transit to or from the territory of any other contracting party treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.*

6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had

they been transported from their place of origin to their destination without going through the territory of such other contracting party. Any contracting party shall, however, be free to maintain its requirements of direct consignment existing on the date of this Agreement, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.

7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

Article VI

Anti-dumping and Countervailing Duties

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another

(*a*) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,

(*b*) in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.*

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.*

3. No countervailing duty shall be levied on any product of the territory of any contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or export of any merchandise.*

4. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes.

5. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

6. (*a*) No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.

(*b*) The CONTRACTING PARTIES may waive the requirement of sub-paragraph (*a*) of this paragraph so as to permit a contracting party to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party. The CONTRACTING PARTIES shall waive the requirements of sub-paragraph (*a*) of this paragraph, so as to permit the levying of a countervailing duty, in cases in which they find that a subsidy is causing or threatening material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party.*

(*c*) In exceptional circumstances, however, where delay might cause damage which would be difficult to repair, a contracting party may levy a countervailing duty for the purpose referred to in sub-paragraph (*b*) of this paragraph without the prior approval of the CONTRACTING PARTIES; *Provided* that such action shall be reported immediately to the CONTRACTING PARTIES and that the countervailing duty shall be withdrawn promptly if the CONTRACTING PARTIES disapprove.

7. A system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity, independently of the movements of export prices, which results at times in the sale of the commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be presumed not to result in material injury within the meaning of paragraph 6 if it is determined by consultation among the contracting parties substantially interested in the commodity concerned that:

(*a*) the system has also resulted in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity to buyers in the domestic market, and

(*b*) the system is so operated, either because of the effective regulation of production, or otherwise, as not to stimulate exports unduly or otherwise seriously prejudice the interests of other contracting parties.

Article VII

Valuation for Customs Purposes

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges * or restrictions on importation and exportation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another contracting party review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The CONTRACTING PARTIES may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.

2. (*a*) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.*

(*b*) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.*

(*c*) When the actual value is not ascertainable in accordance with sub-paragraph (*b*) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.*

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

4. (*a*) Except as otherwise provided for in this paragraph, where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency

of another country, the conversion rate of exchange to be used shall be based, for each currency involved, on the par value as established pursuant to the Articles of Agreement of the International Monetary Fund or on the rate of exchange recognized by the Fund, or on the par value established in accordance with a special exchange agreement entered into pursuant to Article XV of this Agreement.

(*b*) Where no such established par value and no such recognized rate of exchange exist, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(*c*) The CONTRACTING PARTIES, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by contracting parties of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any contracting party may apply such rules in respect of such foreign currencies for the purposes of paragraph 2 of this Article as an alternative to the use of par values. Until such rules are adopted by the CONTRACTING PARTIES, any contracting party may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 2 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(*d*) Nothing in this paragraph shall be construed to require any contracting party to alter the method of converting currencies for customs purposes which is applicable in its territory on the date of this Agreement, if such alteration would have the effect of increasing generally the amounts of duty payable.

5. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Article VIII

Fees and Formalities connected with Importation and Exportation *

1. (*a*) All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connexion with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.

(*b*) The contracting parties recognize the need for reducing the number and diversity of fees and charges referred to in sub-paragraph (*a*).

(*c*) The contracting parties also recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements.*

2. A contracting party shall, upon request by another contracting party or by the CONTRACTING PARTIES, review the operation of its laws and regulations in the light of the provisions of this Article.

3. No contracting party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

4. The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to:

(*a*) consular transactions, such as consular invoices and certificates;

(*b*) quantitative restrictions;

(*c*) licensing;

(*d*) exchange control;

(*e*) statistical services;

(*f*) documents, documentation and certification;

(*g*) analysis and inspection; and

(*h*) quarantine, sanitation and fumigation.

Article IX

Marks of Origin

1. Each contracting party shall accord to the products of the territories of other contracting parties treatment with regard to marking requirements no less favourable than the treatment accorded to like products of any third country.

2. The contracting parties recognize that, in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum, due regard being had to the necessity of protecting consumers against fraudulent or misleading indications.

3. Whenever it is administratively practicable to do so, contracting parties should permit required marks of origin to be affixed at the time of importation.

4. The laws and regulations of contracting parties relating to the marking of imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost.

5. As a general rule, no special duty or penalty should be imposed by any contracting party for failure to comply with marking requirements prior to importation unless corrective marking is unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

6. The contracting parties shall co-operate with each other with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of such distinctive regional or geographical names of products of the territory of a contracting party as are protected by its legislation. Each contracting party shall accord full and sympathetic consideration to such requests or representations as may be made by any other contracting party regarding the application of the undertaking set forth in the preceding sentence to names of products which have been communicated to it by the other contracting party.

Article X

Publication and Administration of Trade Regulations

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any other contracting party shall also be published. The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. No measure of general application taken by any contracting party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published.

3. (*a*) Each contracting party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

(*b*) Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; *Provided* that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(*c*) The provisions of sub-paragraph (*b*) of this paragraph shall not require the elimination or substitution of procedures in force in the territory of a contracting party on the date of this Agreement which in fact provide for an objective and impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any contracting party employing such procedures shall, upon request, furnish the CONTRACTING PARTIES with full information thereon in order that they may determine whether such procedures conform to the requirements of this sub-paragraph.

Article XI *

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

2. The provisions of paragraph 1 of this Article shall not extend to the following:

(*a*) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

(*b*) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

(*c*) Import restrictions on any agricultural or fisheries product, imported in any form,* necessary to the enforcement of governmental measures which operate:

(i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or

(iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

Any contracting party applying restrictions on the importation of any product pursuant to sub-paragraph (*c*) of this paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors* which may have affected or may be affecting the trade in the product concerned.

Article XII *

Restrictions to Safeguard the Balance of Payments

1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard its external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

2. (*a*) Import restrictions instituted, maintained or intensified by a contracting party under this Article shall not exceed those necessary:

(i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or

(ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the reserves of such contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

(*b*) Contracting parties applying restrictions under sub-paragraph (*a*) of this paragraph shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph.

3. (*a*) Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of avoiding an uneconomic employment of productive resources. They recognize that, in order to achieve these ends, it is desirable so far as possible to adopt measures which expand rather than contract international trade.

(*b*) Contracting parties applying restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential.

(*c*) Contracting parties applying restrictions under this Article undertake:

(i) to avoid unnecessary damage to the commercial or economic interests of any other contracting party;*

(ii) not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and

(iii) not to apply restrictions which would prevent the importation of commercial samples or prevent compliance with patent, trademark, copyright, or similar procedures.

(*d*) The contracting parties recognize that, as a result of domestic policies directed towards the achievement and maintenance of full and productive employment or towards the development of economic resources, a contracting party may experience a high level of demand for imports involving a threat to its monetary reserves of the sort referred to in paragraph 2 (*a*) of this Article. Accordingly, a contracting party otherwise complying with the provisions of this Article shall not be required to withdraw or modify restrictions on the ground that a change in those policies would render unnecessary restrictions which it is applying under this Article.

4. (*a*) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Article shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before doing so) consult with the CONTRACTING PARTIES as to the nature of its balance of payments difficulties, alternative corrective measures which may be available, and the possible effect of the restrictions on the economies of other contracting parties.

(*b*) On a date to be determined by them,* the CONTRACTING PARTIES shall review all restrictions still applied under this Article on that date. Beginning one year after that date, contracting parties applying import restrictions under this Article shall enter into consultations of the type provided for in sub-paragraph (*a*) of this paragraph with the CONTRACTING PARTIES annually.

(*c*) (i) If, in the course of consultations with a contracting party under sub-paragraph (*a*) or (*b*) above, the CONTRACTING PARTIES find that the restrictions are not consistent with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.

(ii) If, however, as a result of the consultations, the CONTRACTING PARTIES determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any contracting party is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with such provisions within a specified period of time. If such contracting party does not comply with these recommendations within the specified period, the CONTRACTING PARTIES may release any contracting party the trade of which is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(*d*) The CONTRACTING PARTIES shall invite any contracting party which is applying restrictions under this Article to enter into consultations with them at the request of any contracting party which can establish a *prima facie* case that the restrictions are inconsistent with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the CONTRACTING PARTIES have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a result of the consultations with the CONTRACTING PARTIES, no agreement is reached and they determine that the restrictions are being applied inconsistently with such provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the CONTRACTING PARTIES may prescribe, they may release the contracting party initiating the procedure from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(*e*) In proceeding under this paragraph, the CONTRACTING PARTIES shall have due regard to any special external factors adversely affecting the export trade of the contracting party applying restrictions.*

(*f*) Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations.

5. If there is a persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the CONTRACTING PARTIES shall initiate discussions to consider whether other measures might be taken, either by those contracting parties the balances of payments of which are under pressure or by those the balances of payments of which are tending to be exceptionally favourable, or by any appropriate intergovernmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the CONTRACTING PARTIES, contracting parties shall participate in such discussions.

Article XIII *

Non-discriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

2. In applying import restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might be expected to obtain in the absence of such restrictions, and to this end shall observe the following provisions:

(*a*) Wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3 (*b*) of this Article;

(*b*) In cases in which quotas are not practicable, the restrictions may be applied by means of import licences or permits without a quota;

(*c*) Contracting parties shall not, except for purposes of operating quotas allocated in accordance with sub-paragraph (*d*) of this paragraph, require that import licences or permits be utilized for the importation of the product concerned from a particular country or source;

(*d*) In cases in which a quota is allocated among supplying countries, the contracting party applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting parties having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the contracting party concerned shall allot to contracting parties having a substantial interest in supplying the product shares based upon the proportions, supplied by such contracting parties during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any contracting party from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.*

3. (*a*) In cases in which import licences are issued in connection with import restrictions, the contracting party applying the restrictions shall provide, upon the request of any contracting party having an interest in the trade in the product concerned, all relevant information concerning the administration of the restrictions, the import licences granted over a recent period and the distribution of such licences among supplying countries; *Provided* that there shall be no obligation to supply information as to the names of importing or supplying enterprises.

(*b*) In the case of import restrictions involving the fixing of quotas, the contracting party applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value. Any supplies of the product in question which were *en route* at the time at which public notice was given shall not be excluded from entry; *Provided* that they may be counted so far as practicable, against the quantity permitted to be imported in the period in question, and also, where necessary, against the quantities permitted to be imported in the next following period or periods; and *Provided* further that if any contracting party customarily exempts from such restrictions products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the day of such public notice, such practice shall be considered full compliance with this sub-paragraph.

(*c*) In the case of quotas allocated among supplying countries, the contracting party applying the restrictions shall promptly inform all other contracting parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

4. With regard to restrictions applied in accordance with paragraph 2 (*d*) of this Article or under paragraph 2 (*c*) of Article XI, the selection of a representative period for any product and the appraisal of any special factors * affecting the trade in the product shall be made initially by the contracting party applying the restriction; *Provided* that such contracting party shall, upon the request of any other contracting party having a substantial interest in supplying that product or upon the request of the CONTRACTING PARTIES, consult promptly with the other contracting party or the CONTRACTING PARTIES regarding the need for an adjustment of the proportion determined or of the base period selected, or for the reappraisal of the special factors involved, or for the elimination of conditions, formalities or any other provisions established unilaterally relating to the allocation of an adequate quota or its unrestricted utilization.

5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any contracting party, and, in so far as applicable, the principles of this Article shall also extend to export restrictions.

Article XIV *

Exceptions to the Rule of Non-discrimination

1. A contracting party which applies restrictions under Article XII or under Section B of Article XVIII may, in the application of such restrictions, deviate from the provisions of Article XIII in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that contracting party may at that time apply under Article VIII or XIV of the Articles of Agreement of the International Monetary Fund, or under analogous provisions of a special exchange agreement entered into pursuant to paragraph 6 of Article XV.*

2. A contracting party which is applying import restrictions under Article XII or under Section B of Article XVIII may, with the consent of the CONTRACTING PARTIES, temporarily deviate from the provisions of Article XIII in respect of a small part of its external trade where the benefits to the contracting party or contracting parties concerned substantially outweigh any injury which may result to the trade of other contracting parties.*

3. The provisions of Article XIII shall not preclude a group of territories having a common quota in the International Monetary Fund from applying against imports from other countries, but not among themselves, restrictions in accordance with the provisions of Article XII or of Section B of Article XVIII on condition that such restrictions are in all other respects consistent with the provisions of Article XIII.

4. A contracting party applying import restrictions under Article XII or under Section B of Article XVIII shall not be precluded by Articles XI to XV or Section B of Article XVIII of this Agreement from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article XIII.

5. A contracting party shall not be precluded by Articles XI to XV, inclusive, or by Section B of Article XVIII, of this Agreement from applying quantitative restrictions:

(*a*) having equivalent effect to exchange restrictions authorized under Section 3 (*b*) of Article VII of the Articles of Agreement of the International Monetary Fund, or

(*b*) under the preferential arrangements provided for in Annex A of this Agreement, pending the outcome of the negotiations referred to therein.

Article XV

Exchange Arrangements

1. The CONTRACTING PARTIES shall seek co-operation with the International Monetary Fund to the end that the CONTRACTING PARTIES and the Fund may pursue a co-ordinated policy with regard to exchange questions within the jurisdiction of the Fund and questions of quantitative restrictions and other trade measures within the jurisdiction of the CONTRACTING PARTIES.

2. In all cases in which the CONTRACTING PARTIES are called upon to consider or deal with problems concerning monetary reserves, balances of payments or foreign exchange arrangements, they shall consult fully with the International Monetary Fund. In such consultations, the CONTRACTING PARTIES shall accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a contracting party in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement between that contracting party and the CONTRACTING PARTIES. The CONTRACTING PARTIES, in reaching their final decision in cases involving the criteria set forth in paragraph 2 (*a*) of Article XII or in paragraph 9 of Article XVIII, shall accept the determination of the Fund as to what constitutes a serious decline in the contracting party's monetary reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary reserves, and as to the financial aspects of other matters covered in consultation in such cases.

3. The CONTRACTING PARTIES shall seek agreement with the Fund regarding procedures for consultation under paragraph 2 of this Article.

4. Contracting parties shall not, by exchange action, frustrate * the intent of the provisions of this Agreement, nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund.

5. If the CONTRACTING PARTIES consider, at any time, that exchange restrictions on payments and transfers in connexion with imports are being applied by a contracting party in a manner inconsistent with the exceptions provided for in this Agreement for quantitative restrictions, they shall report thereon to the Fund.

6. Any contracting party which is not a member of the Fund shall, within a time to be determined by the CONTRACTING PARTIES after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the CONTRACTING PARTIES. A contracting party which ceases to be a member of the Fund shall forthwith enter into a special exchange agreement with the CONTRACTING PARTIES. Any special exchange agreement entered into by a contracting party under this paragraph shall thereupon become part of its obligations under this Agreement.

7. (*a*) A special exchange agreement between a contracting party and the CONTRACTING PARTIES under paragraph 6 of this Article shall provide to the satisfaction of the CONTRACTING PARTIES that the objectives of this Agreement will not be frustrated as a result of action in exchange matters by the contracting party in question.

(*b*) The terms of any such agreement shall not impose obligations on the contracting party in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

8. A contracting party which is not a member of the Fund shall furnish such information within the general scope of section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund as the CONTRACTING PARTIES may require in order to carry out their functions under this Agreement.

9. Nothing in this Agreement shall preclude:

(*a*) the use by a contracting party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that contracting party's special exchange agreement with the CONTRACTING PARTIES, or

(*b*) the use by a contracting party of restrictions or controls on imports or exports, the sole effect of which, additional to the effects permitted under Articles XI, XII, XIII and XIV, is to make effective such exchange controls or exchange restrictions.

Article XVI *

Subsidies

Section A—Subsidies in General

1. If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the CONTRACTING PARTIES in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization.

Section B—Additional Provisions on Export Subsidies *

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase

the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.*

4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies.*

5. The CONTRACTING PARTIES shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.

Article XVII

State Trading Enterprises

1.* (*a*) Each contracting party undertakes that if it establishes or maintains a State enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges,* such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

(*b*) The provisions of sub-paragraph (*a*) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Agreement, make any such purchases or sales solely in accordance with commercial considerations,* including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other contracting parties adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

(*c*) No contracting party shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (*a*) of this paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (*a*) and (*b*) of this paragraph.

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or use in the production of goods * for sale. With respect to such imports, each contracting party shall accord to the trade of the other contracting parties fair and equitable treatment.

3. The contracting parties recognize that enterprises of the kind described in paragraph 1 (*a*) of this Article might be operated so as to create serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis designed to limit or reduce such obstacles are of importance to the expansion of international trade.*

4. (*a*) Contracting parties shall notify the CONTRACTING PARTIES of the products which are imported into or exported from their territories by enterprises of the kind described in paragraph 1(*a*) of this Article.

(*b*) A contracting party establishing, maintaining or authorizing an import monopoly of a product, which is not the subject of a concession under Article II, shall, on the request of another contracting party having a substantial trade in the product concerned, inform the CONTRACTING PARTIES of the import mark-up * on the product during a recent representative period, or, when it is not possible to do so, of the price charged on the resale of the product.

(*c*) The CONTRACTING PARTIES may, at the request of a contracting party which has reason to believe that its interests under this Agreement are being adversely affected by the operations of an enterprise of the kind described in paragraph 1 (*a*), request the contracting party establishing, maintaining or authorizing such enterprise to supply information about its operations related to the carrying out of the provisions of this Agreement.

(*d*) The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises.

Article XVIII *

Governmental Assistance to Economic Development

1. The contracting parties recognize that the attainment of the objectives of this Agreement will be facilitated by the progressive development of their economies, particularly of those contracting parties the economies of which can only support low standards of living * and are in the early stages of development.*

2. The contracting parties recognize further that it may be necessary for those contracting parties, in order to implement programmes and policies of economic development designed to raise the general standard of living of their people, to take protective or other measures affecting imports, and that such measures are justified in so far as they facilitate the attainment of the objectives of this Agreement. They agree, therefore, that those contracting parties should enjoy additional facilities to enable them (*a*) to maintain sufficient flexibility in their tariff structure to be able to grant the tariff protection required for the establishment of a particular industry * and (*b*) to apply quantitative restrictions for balance of payments purposes in a manner which takes full account of the continued high level of demand for imports likely to be generated by their programmes of economic development.

3. The contracting parties recognize finally that, with those additional facilities which are provided for in Sections A and B of this Article, the provisions of this Agreement would normally be sufficient to enable contracting parties to meet the requirements of their economic development. They agree, however, that there may be circumstances where no measure consistent with those provisions is practicable to permit a contracting party in the process of economic development to grant the governmental assistance required to promote the establishment of particular industries * with a view to raising the general standard of living of its people. Special procedures are laid down in Sections C and D of this Article to deal with those cases.

4. (*a*) Consequently, a contracting party the economy of which can only support low standards of living * and is in the early stages of development * shall be free to deviate temporarily from the provisions of the other Articles of this Agreement, as provided in Sections A, B and C of this Article.

(*b*) A contracting party the economy of which is in the process of development, but which does not come within the scope of sub-paragraph (*a*) above, may submit applications to the CONTRACTING PARTIES under Section D of this Article.

5. The contracting parties recognize that the export earnings of contracting parties, the economies of which are of the type described in paragraph 4 (*a*) and (*b*) above and which depend on exports of a small number of primary commodities, may be seriously reduced by a decline in the sale of such commodities. Accordingly, when the exports of primary commodities by such a contracting party are seriously affected by measures taken by another contracting party, it may have resort to the consultation provisions of Article XXII of this Agreement.

6. The CONTRACTING PARTIES shall review annually all measures applied pursuant to the provisions of Sections C and D of this Article.

Section A

7. (*a*) If a contracting party coming within the scope of paragraph 4 (*a*) of this Article considers it desirable, in order to promote the establishment of a particular industry * with a view to raising the general standard of living of its people, to modify or withdraw a concession included in the appropriate Schedule annexed to this Agreement, it shall notify the CONTRACTING PARTIES to this effect and enter into negotiations with any contracting party with which such concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein. If agreement is reached between such contracting parties concerned, they shall be free to modify or withdraw concessions under the appropriate Schedules to this Agreement in order to give effect to such agreement, including any compensatory adjustments involved.

(*b*) If agreement is not reached within sixty days after the notification provided for in sub-paragraph (*a*) above, the contracting party which proposes to modify or withdraw the concession may refer the matter to the

CONTRACTING PARTIES, which shall promptly examine it. If they find that the contracting party which proposes to modify or withdraw the concession has made every effort to reach an agreement and that the compensatory adjustment offered by it is adequate, that contracting party shall be free to modify or withdraw the concession if, at the same time, it gives effect to the compensatory adjustment. If the CONTRACTING PARTIES do not find that the compensation offered by a contracting party proposing to modify or withdraw the concession is adequate, but find that it has made every reasonable effort to offer adequate compensation, that contracting party shall be free to proceed with such modification or withdrawal. If such action is taken, any other contracting party referred to in sub-paragraph (*a*) above shall be free to modify or withdraw substantially equivalent concessions initially negotiated with the contracting party which has taken the action.*

Section B

8. The contracting parties recognize that contracting parties coming within the scope of paragraph 4 (*a*) of this Article tend, when they are in rapid process of development, to experience balance of payments difficulties arising mainly from efforts to expand their internal markets as well as from the instability in their terms of trade.

9. In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a contracting party coming within the scope of paragraph 4 (*a*) of this Article may, subject to the provisions of paragraphs 10 to 12, control the general level of its imports by restricting the quantity or value of merchandise permitted to be imported; *Provided* that the import restrictions instituted, maintained or intensified shall not exceed those necessary:

(*a*) to forestall the threat of, or to stop, a serious decline in its monetary reserves, or

(*b*) in the case of a contracting party with inadequate monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the reserves of the contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

10. In applying these restrictions, the contracting party may determine their incidence on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of its policy of economic development; *Provided* that the restrictions are so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and *Provided* further that the restrictions are not so applied as to prevent the importation of commercial samples or to prevent compliance with patent, trade mark, copyright or similar procedures.

11. In carrying out its domestic policies, the contracting party concerned shall pay due regard to the need for restoring equilibrium in its balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources. It shall progressively relax any restrictions applied under this Section as conditions improve, maintaining them only to the extent necessary under the terms of paragraph 9 of this Article and shall eliminate them when conditions no longer justify such maintenance; *Provided* that no contracting party shall be required to withdraw or modify restrictions on the ground that a change in its development policy would render unnecessary the restrictions which it is applying under this Section.*

12. (*a*) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Section, shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before doing so) consult with the CONTRACTING PARTIES as to the nature of its balance of payments difficulties, alternative corrective measures which may be available, and the possible effect of the restrictions on the economies of other contracting parties.

(*b*) On a date to be determined by them,* the CONTRACTING PARTIES shall review all restrictions still applied under this Section on that date. Beginning two years after that date, contracting parties applying restrictions under this Section shall enter into consultations of the type provided for in sub-paragraph (*a*) above with the CONTRACTING PARTIES at intervals of approximately, but not less than, two years according to a programme to be drawn up each year by the CONTRACTING PARTIES; *Provided* that no consultation under this sub-paragraph shall take place within two years after the conclusion of a consultation of a general nature under any other provision of this paragraph.

(*c*) (i) If, in the course of consultations with a contracting party under sub-paragraph (*a*) or (*b*) of this paragraph, the CONTRACTING PARTIES find that the restrictions are not consistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.

(ii) If, however, as a result of the consultations, the CONTRACTING PARTIES determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provision of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any contracting party is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with such provisions within a specified period. If such contracting party does not comply with these recommendations within the specified period, the CONTRACTING PARTIES may release any contracting party the trade of which is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(*d*) The CONTRACTING PARTIES shall invite any contracting party which is applying restrictions under this Section to enter into consultations with them at the request of any contracting party which can establish a *prima facie* case that the restrictions are inconsistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the CONTRACTING PARTIES have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a result of the consultations with the CONTRACTING PARTIES no agreement is reached and they determine that the restrictions are being applied inconsistently with such provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the CONTRACTING PARTIES may prescribe, they may release the contracting party initiating the procedure from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(*e*) If a contracting party against which action has been taken in accordance with the last sentence of sub-paragraph (*c*) (ii) or (*d*) of this paragraph, finds that the release of obligations authorized by the CONTRACTING PARTIES adversely affects the operation of its programme and policy of economic development, it shall be free, not later than sixty days after such action is taken, to give written notice to the Executive Secretary to the CONTRACTING PARTIES of its intention to withdraw from this Agreement and such withdrawal shall take effect on the sixtieth day following the day on which the notice is received by him.

(*f*) In proceeding under this paragraph, the CONTRACTING PARTIES shall have due regard to the factors referred to in paragraph 2 of this Article. Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations.

Section C

13. If a contracting party coming within the scope of paragraph 4 (*a*) of this Article finds that governmental assistance is required to promote the establishment of a particular industry * with a view to raising the general standard of living of its people, but that no measure consistent with the other provisions of this Agreement is practicable to achieve that objective, it may have recourse to the provisions and procedures set out in this Section.*

14. The contracting party concerned shall notify the CONTRACTING PARTIES of the special difficulties which it meets in the achievement of the objective outlined in paragraph 13 of this Article and shall indicate the specific measure affecting imports which it proposes to introduce in order to remedy these difficulties. It shall not introduce that measure before the expiration of the time-limit laid down in paragraph 15 or 17, as the case may be, or if the measure affects imports of a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, unless it has secured the concurrence of the CONTRACTING PARTIES in accordance with the provisions of paragraph 18; *Provided* that, if the industry receiving assistance has already started production, the contracting party may, after informing the CONTRACTING PARTIES, take such measures as may be necessary to prevent, during that period, imports of the product or products concerned from increasing substantially above a normal level.*

15. If, within thirty days of the notification of the measure, the CONTRACTING PARTIES do not request the contracting party concerned to consult with them,* that contracting party shall be free to deviate from the relevant provisions of the other Articles of this Agreement to the extent necessary to apply the proposed measure.

16. If it is requested by the CONTRACTING PARTIES to do so,* the contracting party concerned shall consult with them as to the purpose of the proposed measure, as to alternative measures which may be available under this Agreement, and as to the possible effect of the measure proposed on the commercial and economic interests of other contracting parties. If, as a result of such consultation, the CONTRACTING PARTIES agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective outlined in paragraph 13 of this Article, and concur * in the proposed measure, the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to apply that measure.

17. If, within ninety days after the date of the notification of the proposed measure under paragraph 14 of this Article, the CONTRACTING PARTIES have not concurred in such measure, the contracting party concerned may introduce the measure proposed after informing the CONTRACTING PARTIES.

18. If the proposed measure affects a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, the contracting party concerned shall enter into consultations with any other contracting party with which the concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein. The CONTRACTING PARTIES shall concur * in the measure if they agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective set forth in paragraph 13 of this Article, and if they are satisfied:

(*a*) that agreement has been reached with such other contracting parties as a result of the consultations referred to above, or

(*b*) if no such agreement has been reached within sixty days after the notification provided for in paragraph 14 has been received by the CONTRACTING PARTIES, that the contracting party having recourse to this Section has made all reasonable efforts to reach an agreement and that the interests of other contracting parties are adequately safeguarded.*

The contracting party having recourse to this Section shall thereupon be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to permit it to apply the measure.

19. If a proposed measure of the type described in paragraph 13 of this Article concerns an industry the establishment of which has in the initial period been facilitated by incidental protection afforded by restrictions imposed by the contracting party concerned for balance of payments purposes under the relevant provisions of this Agreement, that contracting party may resort to the provisions and procedures of this Section; *Provided* that it shall not apply the proposed measure without the concurrence * of the CONTRACTING PARTIES.*

20. Nothing in the preceding paragraphs of this Section shall authorize any deviation from the provisions of Articles I, II and XIII of this Agreement. The provisos to paragraph 10 of this Article shall also be applicable to any restriction under this Section.

21. At any time while a measure is being applied under paragraph 17 of this Article any contracting party substantially affected by it may suspend the application to the trade of the contracting party having recourse to this Section of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove; * *Provided* that sixty days' notice of such suspension is given to the CONTRACTING PARTIES not later than six months after the measure has been introduced or changed substantially to the detriment of the contracting party affected. Any such contracting party shall afford adequate opportunity for consultation in accordance with the provisions of Article XXII of this Agreement.

Section D

22. A contracting party coming within the scope of sub-paragraph 4 (*b*) of this Article desiring, in the interest of the development of its economy, to introduce a measure of the type described in paragraph 13 of this Article in respect of the establishment of a particular industry * may apply to the CONTRACTING PARTIES for approval of such measure. The CONTRACTING PARTIES shall promptly consult with such contracting party and shall, in making their decision, be guided by the considerations set out in paragraph 16. If the CONTRACTING PARTIES concur * in the proposed measure the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to permit it to apply the measure. If the proposed measure affects a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, the provisions of paragraph 18 shall apply.*

23. Any measure applied under this Section shall comply with the provisions of paragraph 20 of this Article.

Article XIX

Emergency Action on Imports of Particular Products

1. (*a*) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(*b*) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in sub-paragraph (*a*) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the CONTRACTING PARTIES as far in advance as may be practicable and shall afford the CONTRACTING PARTIES and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (*a*) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1 (*b*) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

(*b*) Notwithstanding the provisions of sub-paragraph (*a*) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such concessions or other obligations as may be necessary to prevent or remedy the injury.

Article XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(*a*) necessary to protect public morals;

(*b*) necessary to protect human, animal or plant life or health;

(*c*) relating to the importation or exportation of gold or silver;

(*d*) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(*e*) relating to the products of prison labour;

(*f*) imposed for the protection of national treasures of artistic, historic or archaeological value;

(*g*) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(*h*) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved;*

(*i*) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;

(*j*) essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The CONTRACTING PARTIES shall review the need for this sub-paragraph not later than 30 June 1960.

Article XXI

Security Exceptions

Nothing in this Agreement shall be construed

(*a*) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(*b*) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations; or

(*c*) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article XXII

Consultation

1. Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by another contracting party with respect to any matter affecting the operation of this Agreement.

2. The CONTRACTING PARTIES may, at the request of a contracting party, consult with any contracting party or parties in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

Article XXIII

Nullification or Impairment

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of

(*a*) the failure of another contracting party to carry out its obligations under this Agreement, or

(*b*) the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement, or

(*c*) the existence of any other situation,

the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.

2. If no satisfactory adjustment is effected between the contracting parties concerned within a reasonable time, or if the difficulty is of the type described in paragraph 1 (*c*) of this Article, the matter may be referred to the CONTRACTING PARTIES. The CONTRACTING PARTIES shall promptly investigate any matter so referred to them and shall make appropriate recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate. The CONTRACTING PARTIES may consult with contracting parties, with the Economic and Social Council of the United Nations and with any appropriate inter-governmental organization in cases where they consider such consultation necessary. If the CONTRACTING PARTIES consider that the circumstances are serious enough to justify such action, they may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such concessions or other obligations under this Agreement as they determine to be appropriate in the circumstances. If the application to any contracting party of any concession or other obligation is in fact suspended, that contracting party shall then be free, not later than sixty days after such action is taken, to give written notice to the Executive Secretary to the CONTRACTING PARTIES of its intention to withdraw from this Agreement and such withdrawal shall take effect upon the sixtieth day following the day on which such notice is received by him.

PART III

Article XXIV

Territorial Application—Frontier Traffic—Customs Unions and Free-trade Areas

1. The provisions of this Agreement shall apply to the metropolitan customs territories of the contracting parties and to any other customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application. Each such customs territory shall, exclusively for the purposes of the territorial application of this Agreement, be treated as though it were a contracting party; *Provided* that the provisions of this paragraph shall not be construed to create any rights or obligations as between two or more customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application by a single contracting party.

2. For the purposes of this Agreement a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories.

3. The provisions of this Agreement shall not be construed to prevent:

(*a*) Advantages accorded by any contracting party to adjacent countries in order to facilitate frontier traffic;

(*b*) Advantages accorded to the trade with the Free Territory of Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the Treaties of Peace arising out of the Second World War.

4. The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories.

5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; *Provided* that:

(*a*) with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

(*b*) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free-trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement, as the case may be; and

(*c*) any interim agreement referred to in sub-paragraphs (*a*) and (*b*) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.

6. If, in fulfilling the requirements of sub-paragraph 5 (*a*), a contracting party proposes to increase any rate of duty inconsistently with the provisions of Article II, the procedure set forth in Article XXVIII shall apply. In providing for compensatory adjustment, due account shall be taken of the compensation already afforded by the reductions brought about in the corresponding duty of the other constituents of the union.

7. (*a*) Any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate.

(*b*) If after having studied the plan and schedule included in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of sub-paragraph (*a*), the CONTRACTING PARTIES find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the CONTRACTING PARTIES shall make recommendations to the parties to the agreement. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

(*c*) Any substantial change in the plan or schedule referred to in paragraph 5 (*c*) shall be communicated to the CONTRACTING PARTIES, which may request the contracting parties concerned to consult with them if the change seems likely to jeopardize or delay unduly the formation of the customs union or of the free-trade area.

8. For the purposes of this Agreement:

(*a*) A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that

(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the

trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

(ii) subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union;

(*b*) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

9. The preferences referred to in paragraph 2 of Article I shall not be affected by the formation of a customs union or of a free-trade area but may be eliminated or adjusted by means of negotiations with contracting parties affected.* This procedure of negotiations with affected contracting parties shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 8 (*a*) (i) and paragraph 8 (*b*).

10. The CONTRACTING PARTIES may by a two-thirds majority approve proposals which do not fully comply with the requirements of paragraphs 5 to 9 inclusive, provided that such proposals lead to the formation of a customs union or a free-trade area in the sense of this Article.

11. Taking into account the exceptional circumstances arising out of the establishment of India and Pakistan as independent States and recognizing the fact that they have long constituted an economic unit, the contracting parties agree that the provisions of this Agreement shall not prevent the two countries from entering into special arrangements with respect to the trade between them, pending the establishment of their mutual trade relations on a definitive basis.*

12. Each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory.

Article XXV

Joint Action by the Contracting Parties

1. Representatives of the contracting parties shall meet from time to time for the purpose of giving effect to those provisions of this Agreement which involve joint action and, generally, with a view to facilitating the operation and furthering the objectives of this Agreement. Wherever reference is made in this Agreement to the contracting parties acting jointly they are designated as the CONTRACTING PARTIES.

2. The Secretary-General of the United Nations is requested to convene the first meeting of the CONTRACTING PARTIES, which shall take place not later than March 1, 1948.

3. Each contracting party shall be entitled to have one vote at all meetings of the CONTRACTING PARTIES.

4. Except as otherwise provided for in this Agreement, decisions of the CONTRACTING PARTIES shall be taken by a majority of the votes cast.

5. In exceptional circumstances not elsewhere provided for in this Agreement, the CONTRACTING PARTIES may waive an obligation imposed upon a contracting party by this Agreement; *Provided* that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties. The CONTRACTING PARTIES may also by such a vote

(i) define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations, and

(ii) prescribe such criteria as may be necessary for the application of this paragraph.†

† The authentic text erroneously reads "sub-paragraph".

Article XXVI

Acceptance, Entry into Force and Registration

1. The date of this Agreement shall be 30 October 1947.

2. This Agreement shall be open for acceptance by any contracting party which, on 1 March 1955, was a contracting party or was negotiating with a view to accession to this Agreement.

3. This Agreement, done in a single English original and in a single French original, both texts authentic, shall be deposited with the Secretary-General of the United Nations, who shall furnish certified copies thereof to all interested governments.

4. Each government accepting this Agreement shall deposit an instrument of acceptance with the Executive Secretary to the CONTRACTING PARTIES, who will inform all interested governments of the date of deposit of each instrument of acceptance and of the day on which this Agreement enters into force under paragraph 6 of this Article.

5. (*a*) Each government accepting this Agreement does so in respect of its metropolitan territory and of the other territories for which it has international responsibility, except such separate customs territories as it shall notify to the Executive Secretary to the CONTRACTING PARTIES at the time of its own acceptance.

(*b*) Any government, which has so notified the Executive Secretary under the exceptions in sub-paragraph (*a*) of this paragraph, may at any time give notice to the Executive Secretary that its acceptance shall be effective in respect of any separate customs territory or territories so excepted and such notice shall take effect on the thirtieth day following the day on which it is received by the Executive Secretary.

(*c*) If any of the customs territories, in respect of which a contracting party has accepted this Agreement, possesses or acquires full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, such territory shall, upon sponsorship through a declaration by the responsible contracting party establishing the above-mentioned fact, be deemed to be a contracting party.

6. This Agreement shall enter into force, as among the governments which have accepted it, on the thirtieth day following the day on which instruments of acceptance have been deposited with the Executive Secretary to the CONTRACTING PARTIES on behalf of governments named in Annex H, the territories of which account for 85 per centum of the total external trade of the territories of such governments, computed in accordance with the applicable column of percentages set forth therein. The instrument of acceptance of each other government shall take effect on the thirtieth day following the day on which such instrument has been deposited.

7. The United Nations is authorized to effect registration of this Agreement as soon as it enters into force.

Article XXVII

Withholding or Withdrawal of Concessions

Any contracting party shall at any time be free to withhold or to withdraw in whole or in part any concession, provided for in the appropriate Schedule annexed to this Agreement, in respect of which such contracting party determines that it was initially negotiated with a government which has not become, or has ceased to be, a contracting party. A contracting party taking such action shall notify the CONTRACTING PARTIES and, upon request, consult with contracting parties which have a substantial interest in the product concerned.

Article XXVIII *

Modification of Schedules

1. On the first day of each three-year period, the first period beginning on 1 January 1958 (or on the first day of any other period * that may be specified by the CONTRACTING PARTIES by two-thirds of the votes cast) a contracting party (hereafter in this Article referred to as the "applicant contracting party") may, by negotiation and agreement with any contracting party with which such concession was initially negotiated and with any other contracting party determined by the CONTRACTING PARTIES to have a principal supplying interest* (which two

preceding categories of contracting parties, together with the applicant contracting party, are in this Article hereinafter referred to as the "contracting parties primarily concerned"), and subject to consultation with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest* in such concession, modify or withdraw a concession* included in the appropriate Schedule annexed to this Agreement.

2. In such negotiations and agreement, which may include provision for compensatory adjustment with respect to other products, the contracting parties concerned shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in this Agreement prior to such negotiations.

3. (*a*) If agreement between the contracting parties primarily concerned cannot be reached before 1 January 1958 or before the expiration of a period envisaged in paragraph 1 of this Article, the contracting party which proposes to modify or withdraw the concession shall, nevertheless, be free to do so and if such action is taken any contracting party with which such concession was initially negotiated, any contracting party determined under paragraph 1 to have a principal supplying interest and any contracting party determined under paragraph 1 to have a substantial interest shall then be free not later than six months after such action is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the applicant contracting party.

(*b*) If agreement between the contracting parties primarily concerned is reached but any other contracting party determined under paragraph 1 of this Article to have a substantial interest is not satisfied, such other contracting party shall be free, not later than six months after action under such agreement is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the applicant contracting party.

4. The CONTRACTING PARTIES may, at any time, in special circumstances, authorize* a contracting party to enter into negotiations for modification or withdrawal of a concession included in the appropriate Schedule annexed to this Agreement subject to the following procedures and conditions:

(*a*) Such negotiations* and any related consultations shall be conducted in accordance with the provisions of paragraphs 1 and 2 of this Article.

(*b*) If agreement between the contracting parties primarily concerned is reached in the negotiations, the provisions of paragraph 3 (*b*) of this Article shall apply.

(*c*) If agreement between the contracting parties primarily concerned is not reached within a period of sixty days* after negotiations have been authorized, or within such longer period as the CONTRACTING PARTIES may have prescribed, the applicant contracting party may refer the matter to the CONTRACTING PARTIES.

(*d*) Upon such reference, the CONTRACTING PARTIES shall promptly examine the matter and submit their views to the contracting parties primarily concerned with the aim of achieving a settlement. If a settlement is reached, the provisions of paragraph 3 (*b*) shall apply as if agreement between the contracting parties primarily concerned had been reached. If no settlement is reached between the contracting parties primarily concerned, the applicant contracting party shall be free to modify or withdraw the concession, unless the CONTRACTING PARTIES determine that the applicant contracting party has unreasonably failed to offer adequate compensation.* If such action is taken, any contracting party with which the concession was initially negotiated, any contracting party determined under paragraph 4 (*a*) to have a principal supplying interest and any contracting party determined under paragraph 4 (*a*) to have a substantial interest, shall be free, not later than six months after such action is taken, to modify or withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the applicant contracting party.

5. Before 1 January 1958 and before the end of any period envisaged in paragraph 1 a contracting party may elect by notifying the CONTRACTING PARTIES to reserve the right, for the duration of the next period, to modify the appropriate Schedule in accordance with the procedures of paragraphs 1 to 3. If a contracting party so elects, other contracting parties shall have the right, during the same period, to modify or withdraw, in accordance with the same procedures, concessions initially negotiated with that contracting party.

Article XXVII bis

Tariff Negotiations

1. The contracting parties recognize that customs duties often constitute serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis, directed to the substantial reduction of the general level of tariffs and other charges on imports and exports and in particular to the reduction of such high tariffs as discourage the importation even of minimum quantities, and conducted with due regard to the objectives of this Agreement and the varying needs of individual contracting parties, are of great importance to the expansion of international trade. The CONTRACTING PARTIES may therefore sponsor such negotiations from time to time.

2. (*a*) Negotiations under this Article may be carried out on a selective product-by-product basis or by the application of such multilateral procedures as may be accepted by the contracting parties concerned. Such negotiations may be directed towards the reduction of duties, the binding of duties at then existing levels or undertakings that individual duties or the average duties on specified categories of products shall not exceed specified levels. The binding against increase of low duties or of duty-free treatment shall, in principle, be recognized as a concession equivalent in value to the reduction of high duties.

(*b*) The contracting parties recognize that in general the success of multilateral negotiations would depend on the participation of all contracting parties which conduct a substantial proportion of their external trade with one another.

3. Negotiations shall be conducted on a basis which affords adequate opportunity to take into account:

(*a*) the needs of individual contracting parties and individual industries;

(*b*) the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes; and

(*c*) all other relevant circumstances, including the fiscal,* developmental, strategic and other needs of the contracting parties concerned.

Article XXIX

The Relation of this Agreement to the Havana Charter

1. The contracting parties undertake to observe to the fullest extent of their executive authority the general principles of Chapters I to VI inclusive and of Chapter IX of the Havana Charter pending their acceptance of it in accordance with their constitutional procedures.*

2. Part II of this Agreement shall be suspended on the day on which the Havana Charter enters into force.

3. If by September 30, 1949, the Havana Charter has not entered into force, the contracting parties shall meet before December 31, 1949, to agree whether this Agreement shall be amended, supplemented or maintained.

4. If at any time the Havana Charter should cease to be in force, the CONTRACTING PARTIES shall meet as soon as practicable thereafter to agree whether this Agreement shall be supplemented, amended or maintained. Pending such agreement, Part II of this Agreement shall again enter into force; *Provided* that the provisions of Part II other than Article XXIII shall be replaced, *mutatis mutandis*, in the form in which they then appeared in the Havana Charter; and *Provided* further that no contracting party shall be bound by any provisions which did not bind it at the time when the Havana Charter ceased to be in force.

5. If any contracting party has not accepted the Havana Charter by the date upon which it enters into force, the CONTRACTING PARTIES shall confer to agree whether, and if so in what way, this Agreement in so far as it affects relations between such contracting party and other contracting parties, shall be supplemented or amended. Pending such agreement the provisions of Part II of this Agreement shall, notwithstanding the provisions of paragraph 2 of this Article, continue to apply as between such contracting party and other contracting parties.

6. Contracting parties which are Members of the International Trade Organization shall not invoke the provisions of this Agreement so as to prevent the operation of any provision of the Havana Charter. The application

of the principle underlying this paragraph to any contracting party which is not a Member of the International Trade Organization shall be the subject of an agreement pursuant to paragraph 5 of this Article.

Article XXX

Amendments

1. Except where provision for modification is made elsewhere in this Agreement, amendments to the provisions of Part I of this Agreement or to the provisions of Article XXIX or of this Article shall become effective upon acceptance by all the contracting parties, and other amendments to this Agreement shall become effective, in respect of those contracting parties which accept them, upon acceptance by two-thirds of the contracting parties and thereafter for each other contracting party upon acceptance by it.

2. Any contracting party accepting an amendment to this Agreement shall deposit an instrument of acceptance with the Secretary-General of the United Nations within such period as the CONTRACTING PARTIES may specify. The CONTRACTING PARTIES may decide that any amendment made effective under this Article is of such a nature that any contracting party which has not accepted it within a period specified by the CONTRACTING PARTIES shall be free to withdraw from this Agreement, or to remain a contracting party with the consent of the CONTRACTING PARTIES.

Article XXXI

Withdrawal

Without prejudice to the provisions of paragraph 12 of Article XVIII, of Article XXIII or of paragraph 2 of Article XXX, any contracting party may withdraw from this Agreement, or may separately withdraw on behalf of any of the separate customs territories for which it has international responsibility and which at the time possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement. The withdrawal shall take effect upon the expiration of six months from the day on which written notice of withdrawal is received by the Secretary-General of the United Nations.

Article XXXII

Contracting Parties

1. The contracting parties to this Agreement shall be understood to mean those governments which are applying the provisions of this Agreement under Articles XXVI or XXXIII or pursuant to the Protocol of Provisional Application.

2. At any time after the entry into Force of this Agreement pursuant to paragraph 6 of Article XXVI, those contracting parties which have accepted this Agreement pursuant to paragraph 4 of Article XXVI may decide that any contracting party which has not so accepted it shall cease to be a contracting party.

Article XXXIII

Accession

A government not party to this Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the CONTRACTING PARTIES. Decisions of the CONTRACTING PARTIES under this paragraph shall be taken by a two-thirds majority.

Article XXXIV

Annexes

The annexes to this Agreement are hereby made an integral part of this Agreement.

Article XXXV

Non-application of the Agreement between particular Contracting Parties

1. This Agreement, or alternatively Article II of this Agreement, shall not apply as between any contracting party and any other contracting party if:

(*a*) the two contracting parties have not entered into tariff negotiations with each other, and

(*b*) either of the contracting parties, at the time either becomes a contracting party, does not consent to such application.

2. The CONTRACTING PARTIES may review the operation of this Article in particular cases at the request of any contracting party and make appropriate recommendations.

PART IV *

TRADE AND DEVELOPMENT

Article XXXVI

Principles and Objectives

1.* The contracting parties,

(*a*) recalling that the basic objectives of this Agreement include the raising of standards of living and the progressive development of the economies of all contracting parties, and considering that the attainment of these objectives is particularly urgent for less-developed contracting parties;

(*b*) considering that export earnings of the less-developed contracting parties can play a vital part in their economic development and that the extent of this contribution depends on the prices paid by the less-developed contracting parties for essential imports, the volume of their exports, and the prices received for these exports;

(*c*) noting, that there is a wide gap between standards of living in less-developed countries and in other countries;

(*d*) recognizing that individual and joint action is essential to further the development of the economies of less-developed contracting parties and to bring about a rapid advance in the standards of living in these countries;

(*e*) recognizing that international trade as a means of achieving economic and social advancement should be governed by such rules and procedures—and measures in conformity with such rules and procedures—as are consistent with the objectives set forth in this Article;

(*f*) noting that the CONTRACTING PARTIES may enable less-developed contracting parties to use special measures to promote their trade and development;

agree as follows.

2. There is need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties.

3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development.

4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products,* there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.

5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification * of the structure of their economies and the avoidance of an excessive dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less-developed contracting parties.

6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less-developed contracting parties, there are important inter-relationships between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the CONTRACTING PARTIES and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less-developed contracting parties assume in the interest of their economic development.

7. There is need for appropriate collaboration between the CONTRACTING PARTIES, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less-developed countries.

8. The developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties.*

9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.

Article XXXVII

Commitments

1. The developed contracting parties shall to the fullest extent possible—that is, except when compelling reasons, which may include legal reasons, make it impossible—give effect to the following provisions:

(*a*) accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;*

(*b*) refrain from introducing, or increasing the incidence of, customs duties or non-tariff import barriers on products currently or potentially of particular export interest to less-developed contracting parties; and

(*c*) (i) refrain from imposing new fiscal measures, and

(ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measures,

which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less-developed contracting parties, and which are applied specifically to those products.

2. (*a*) Whenever it is considered that effect is not being given to any of the provisions of sub-paragraph (*a*), (*b*) or (*c*) of paragraph 1, the matter shall be reported to the CONTRACTING PARTIES either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party.

(*b*) (i) The CONTRACTING PARTIES shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of sub-paragraph (*a*), (*b*) or (*c*) of paragraph 1 shall be examined.

(ii) As the implementation of the provisions of sub-paragraph (*a*), (*b*) or (*c*) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end.

(iii) The consultations by the CONTRACTING PARTIES might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.

3. The developed contracting parties shall:

(*a*) make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels;

(*b*) give active consideration to the adoption of other measures * designed to provide greater scope for the development of imports from less-developed contracting parties and collaborate in appropriate international action to this end;

(*c*) have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those contracting parties.

4. Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less-developed contracting parties as a whole.

5. In the implementation of the commitments set forth in paragraphs 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this Agreement with respect to any matter or difficulty which may arise.

Article XXXVIII

Joint Action

1. The contracting parties shall collaborate jointly, within the framework of this Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI.

2. In particular, the CONTRACTING PARTIES shall:

(*a*) where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;

(*b*) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development;

(*c*) collaborate in analysing the development plans and policies of individual less-developed contracting parties and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connexion, seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development, in systematic studies of trade and aid relationships in individual less-developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;

(*d*) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate;

(*e*) collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing, and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research; and

(*f*) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provisions of this Part.

ANNEX A

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (*a*) OF ARTICLE I

United Kingdom of Great Britain and Northern Ireland
Dependent territories of the United Kingdom of Great Britain and Northern Ireland
Canada
Commonwealth of Australia
Dependent territories of the Commonwealth of Australia
New Zealand
Dependent territories of New Zealand
Union of South Africa including South West Africa
Ireland
India (as on April 10, 1947)
Newfoundland
Southern Rhodesia
Burma
Ceylon

Certain of the territories listed above have two or more preferential rates in force for certain products. Any such territory may, by agreement with the other contracting parties which are principal suppliers of such products at the most-favoured-nation rate, substitute for such preferential rates a single preferential rate which shall not on the whole be less favourable to suppliers at the most-favoured-nation rate than the preferences in force prior to such substitution.

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947 exclusively between two or more of the territories listed in this Annex or to replace the preferential quantitative arrangements described in the following paragraph, shall not be deemed to constitute an increase in a margin of tariff preference.

The preferential arrangements referred to in paragraph 5 (*b*) of Article XIV are those existing in the United Kingdom on April 10, 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon.

It is the intention, without prejudice to any action taken under sub-paragraph (*h*) † of Article XX, that these arrangements shall be eliminated or replaced by tariff preferences, and that negotiations to this end shall take place as soon as practicable among the countries substantially concerned or involved.

The film hire tax in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a customs duty under Article I. The renters' film quota in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a screen quota under Article IV.

The Dominions of India and Pakistan have not been mentioned separately in the above list since they had not come into existence as such on the base date of April 10, 1947.

ANNEX B

LIST OF TERRITORIES OF THE FRENCH UNION REFERRED TO IN PARAGRAPH 2 (*b*) OF ARTICLE I

France
French Equatorial Africa (Treaty Basin of the Congo [1] and other territories)
French West Africa
Cameroons under French Trusteeship [1]
French Somali Coast and Dependencies
French Establishments in Oceania
French Establishments in the Condominium of the New Hebrides [1]
Indo-China
Madagascar and Dependencies
Morocco (French zone) [1]
New Caledonia and Dependencies
Saint-Pierre and Miquelon
Togo under French Trusteeship [1]
Tunisia

ANNEX C

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (*b*) OF ARTICLE I AS RESPECTS THE CUSTOMS UNION OF BELGIUM, LUXEMBURG AND THE NETHERLANDS

The Economic Union of Belgium and Luxemburg
Belgian Congo
Ruanda Urundi
Netherlands
New Guinea
Surinam
Netherlands Antilles
Republic of Indonesia

For imports into the territories constituting the Customs Union only.

† The authentic text erroneously reads " part I (*h*) ".
[1] For imports into Metropolitan France and Territories of the French Union.

ANNEX D

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (*b*) OF ARTICLE I AS RESPECTS THE UNITED STATES OF AMERICA

United States of America (customs territory)
Dependent territories of the United States of America
Republic of the Philippines

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories listed in this Annex shall not be deemed to constitute an increase in a margin of tariff preference.

ANNEX E

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN CHILE AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (*d*) OF ARTICLE I

Preferences in force exclusively between Chile on the one hand, and

1. Argentina
2. Bolivia
3. Peru

on the other hand.

ANNEX F

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN LEBANON AND SYRIA AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (*d*) OF ARTICLE I

Preferences in force exclusively between the Lebano-Syrian Customs Union, on the one hand, and

1. Palestine
2. Transjordan

on the other hand.

ANNEX G

DATES ESTABLISHING MAXIMUM MARGINS OF PREFERENCE REFERRED TO IN PARAGRAPH 4 † OF ARTICLE I

Australia	October 15, 1946
Canada	July 1, 1939
France	January 1, 1939
Lebano-Syrian Customs Union	November 30, 1938
Union of South Africa	July 1, 1938
Southern Rhodesia	May 1, 1941

† The authentic text erroneously reads " Paragraph 3 ".

ANNEX H

PERCENTAGE SHARES OF TOTAL EXTERNAL TRADE TO BE USED FOR THE PURPOSE OF MAKING THE DETERMINATION REFERRED TO IN ARTICLE XXVI

(based on the average of 1949–1953)

If, prior to the accession of the Government of Japan to the General Agreement, the present Agreement has been accepted by contracting parties the external trade of which under column 1 accounts for the percentage of such trade specified in paragraph 6 of Article XXVI, column I shall be applicable for the purposes of that paragraph. If the present Agreement has not been so accepted prior to the accession of the Government of Japan, column II shall be applicable for the purposes of that paragraph.

	Column I (Contracting parties on 1 March 1955)	*Column II* (Contracting parties on 1 March 1955 and Japan)
Australia	3.1	3.0
Austria	0.9	0.8
Belgium-Luxemburg	4.3	4.2
Brazil	2.5	2.4
Burma	0.3	0.3
Canada	6.7	6.5
Ceylon	0.5	0.5
Chile	0.6	0.6
Cuba	1.1	1.1
Czechoslovakia	1.4	1.4
Denmark	1.4	1.4
Dominican Republic	0.1	0.1
Finland	1.0	1.0
France	8.7	8.5
Germany, Federal Republic of	5.3	5.2
Greece	0.4	0.4
Haiti	0.1	0.1
India	2.4	2.4
Indonesia	1.3	1.3
Italy	2.9	2.8
Netherlands, Kingdom of the	4.7	4.6
New Zealand	1.0	1.0
Nicaragua	0.1	0.1
Norway	1.1	1.1
Pakistan	0.9	0.8
Peru	0.4	0.4
Rhodesia and Nyasaland	0.6	0.6
Sweden	2.5	2.4
Turkey	0.6	0.6
Union of South Africa	1.8	1.8
United Kingdom	20.3	19.8
United States of America	20.6	20.1
Uruguay	0.4	0.4
Japan	—	2.3
	100.0	100.0

Note: These percentages have been computed taking into account the trade of all territories in respect of which the General Agreement on Tariffs and Trade is applied.

ANNEX I

NOTES AND SUPPLEMENTARY PROVISIONS

Ad *Article I*

Paragraph 1

The obligations incorporated in paragraph 1 of Article I by reference to paragraphs 2 and 4 of Article III and those incorporated in paragraph 2 (*b*) of Article II by reference to Article VI shall be considered as falling within Part II for the purposes of the Protocol of Provisional Application.

The cross-references, in the paragraph immediately above and in paragraph 1 of Article I, to paragraphs 2 and 4 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade, dated September 14, 1948.

Paragraph 4

The term " margin of preference " means the absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for the like product, and not the proportionate relation between those rates. As examples:

(1) If the most-favoured-nation rate were 36 per cent *ad valorem* and the preferential rate were 24 per cent *ad valorem*, the margin of preference would be 12 per cent *ad valorem*, and not one-third of the most-favoured-nation rate;

(2) If the most-favoured-nation rate were 36 per cent *ad valorem* and the preferential rate were expressed as two-thirds of the most-favoured-nation rate, the margin of preference would be 12 per cent *ad valorem*;

(3) If the most-favoured-nation rate were 2 francs per kilogramme and the preferential rate were 1.50 francs per kilogramme, the margin of preference would be 0.50 franc per kilogramme.

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to a general binding of margins of preference:

(i) The re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on April 10, 1947; and

(ii) The classification of a particular product under a tariff item other than that under which importations of that product were classified on April 10, 1947, in cases in which the tariff law clearly contemplates that such product may be classified under more than one tariff item.

Ad *Article II*

Paragraph 2 (a)

The cross-reference, in paragraph 2 (*a*) of Article II, to paragraph 2 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade, dated September 14, 1948.

Paragraph 2 (b)

See the note relating to paragraph 1 of Article I.

Paragraph 4

Except where otherwise specifically agreed between the contracting parties which initially negotiated the concession, the provisions of this paragraph will be applied in the light of the provisions of Article 31 of the Havana Charter.

Ad *Article III*

Any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 1 which applies to an imported product and to the like domestic product and is collected or enforced in the case of the imported product at the time or point of importation, is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in paragraph 1, and is accordingly subject to the provisions of Article III.

Paragraph 1

The application of paragraph 1 to internal taxes imposed by local governments and authorities within the territory of a contracting party is subject to the provisions of the final paragraph of Article XXIV. The term " reasonable measures " in the last-mentioned paragraph would not require, for example, the repeal of existing national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article III, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments or authorities concerned. With regard to taxation by local governments or authorities which is inconsistent with both the letter and spirit of Article III, the term " reasonable measures " would permit a contracting party to eliminate the inconsistent taxation gradually over a transition period, if abrupt action would create serious administrative and financial difficulties.

Paragraph 2

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the provisions of the second sentence only in cases where competition was involved between, on the one hand, the taxed product and, on the other hand, a directly competitive or substitutable product which was not similarly taxed.

Paragraph 5

Regulations consistent with the provisions of the first sentence of paragraph 5 shall not be considered to be contrary to the provisions of the second sentence in any case in which all of the products subject to the regulations are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the provisions of the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

Ad *Article V*

Paragraph 5

With regard to transportation charges, the principle laid down in paragraph 5 refers to like products being transported on the same route under like conditions.

Ad *Article VI*

Paragraph 1

1. Hidden dumping by associated houses (that is, the sale by an importer at a price below that corresponding to the price invoiced by an exporter with whom the importer is associated, and also below the price in the exporting country) constitutes a form of price dumping with respect to which the margin of dumping may be calculated on the basis of the price at which the goods are resold by the importer.

2. It is recognized that, in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, special difficulties may exist in determining price comparability for the purposes of paragraph 1, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.

Paragraphs 2 and 3

1. As in many other cases in customs administration, a contracting party may require reasonable security (bond or cash deposit) for the payment of anti-dumping or countervailing duty pending final determination of the facts in any case of suspected dumping or subsidization.

2. Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 3 or can constitute a form of dumping by means of a partial depreciation of a country's currency which may be met by action under paragraph 2. By " multiple currency practices " is meant practices by governments or sanctioned by governments.

Paragraph 6 (b)

Waivers under the provisions of this sub-paragraph shall be granted only on application by the contracting party proposing to levy an anti-dumping or countervailing duty, as the case may be.

Ad *Article VII*

Paragraph 1

The expression " or other charges " is not to be regarded as including internal taxes or equivalent charges imposed on or in connection with imported products.

Paragraph 2

1. It would be in conformity with Article VII to presume that " actual value " may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of " actual value " and plus any abnormal discount or other reduction from the ordinary competitive price.

2. It would be in conformity with Article VII, paragraph 2 (*b*), for a contracting party to construe the phrase " in the ordinary course of trade . . . under fully competitive conditions ", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

3. The standard of " fully competitive conditions " permits a contracting party to exclude from consideration prices involving special discounts limited to exclusive agents.

4. The wording of sub-paragraphs (*a*) and (*b*) permits a contracting party to determine the value for customs purposes uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

Ad *Article VIII*

1. While Article VIII does not cover the use of multiple rates of exchange as such, paragraphs 1 and 4 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; if, however, a contracting party is using multiple currency exchange fees for balance of payments reasons with the approval of the International Monetary Fund, the provisions of paragraph 9 (*a*) of Article XV fully safeguard its position.

2. It would be consistent with paragraph 1 if, on the importation of products from the territory of a contracting party into the territory of another contracting party, the production of certificates of origin should only be required to the extent that is strictly indispensable.

Ad *Articles XI, XII, XIII, XIV and XVIII*

Throughout Articles XI, XII, XIII, XIV and XVIII, the terms " import restrictions " or " export restrictions " include restrictions made effective through state-trading operations.

Ad *Article XI*

Paragraph 2 (c)

The term " in any form " in this paragraph covers the same products when in an early stage of processing and still perishable, which compete directly with the fresh product and if freely imported would tend to make the restriction on the fresh product ineffective.

Paragraph 2, last sub-paragraph

The term " special factors " includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Agreement.

Ad *Article XII*

The CONTRACTING PARTIES shall make provision for the utmost secrecy in the conduct of any consultation under the provisions of this Article.

Paragraph 3 (c) (*i*)

Contracting parties applying restrictions shall endeavour to avoid causing serious prejudice to exports of a commodity on which the economy of a contracting party is largely dependent.

Paragraph 4 (b)

It is agreed that the date shall be within ninety days after the entry into force of the amendments of this Article effected by the Protocol Amending the Preamble and Parts II and III of this Agreement. However, should the CONTRACTING PARTIES find that conditions were not suitable for the application of the provisions of this sub-paragraph at the time envisaged, they may determine a later date; *Provided* that such date is not more than thirty days after such time as the obligations of Article VIII, Sections 2, 3 and 4, of the Articles of Agreement of the International Monetary Fund become applicable to contracting parties, members of the Fund, the combined foreign trade of which constitutes at least fifty per centum of the aggregate foreign trade of all contracting parties.

Paragraph 4 (e)

It is agreed that paragraph 4 (*e*) does not add any new criteria for the imposition or maintenance of quantitative restrictions for balance of payments reasons.

It is solely intended to ensure that all external factors such as changes in the terms of trade, quantitative restrictions, excessive tariffs and subsidies, which may be contributing to the balance of payments difficulties of the contracting party applying restrictions, will be fully taken into account.

Ad *Article XIII*

Paragraph 2 (d)

No mention was made of " commercial considerations " as a rule for the allocation of quotas because it was considered that its application by governmental authorities might not always be practicable. Moreover, in cases where it is practicable, a contracting party could apply these considerations in the process of seeking agreement, consistently with the general rule laid down in the opening sentence of paragraph 2.

Paragraph 4

See note relating to " special factors " in connexion with the last sub-paragraph of paragraph 2 of Article XI.

Ad *Article XIV*

Paragraph 1

The provisions of this paragraph shall not be so construed as to preclude full consideration by the CONTRACTING PARTIES, in the consultations provided for in paragraph 4 of Article XII and in paragraph 12 of Article XVIII, of the nature, effects and reasons for discrimination in the field of import restrictions.

Paragraph 2

One of the situations contemplated in paragraph 2 is that of a contracting party holding balances acquired as a result of current transactions which it finds itself unable to use without a measure of discrimination.

Ad *Article XV*

Paragraph 4

The word " frustrate " is intended to indicate, for example, that infringements of the letter of any Article of this Agreement by exchange action shall not be regarded as a violation of that Article if, in practice, there is no appreciable departure from the intent of the Article. Thus, a contracting party which, as part of its exchange control operated in accordance with the Articles of Agreement of the International Monetary Fund, requires payment to be received for its exports in its own currency or in the currency of one or more members of the International Monetary Fund will not thereby be deemed to contravene Article XI or Article XIII. Another example would be that of a contracting party which specifies on an import licence the country from which the goods may be imported, for the purpose not of introducing any additional element of discrimination in its import licensing system but of enforcing permissible exchange controls.

Ad *Article XVI*

The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

Section B

1. Nothing in Section B shall preclude the use by a contracting party of multiple rates of exchange in accordance with the Articles of Agreement of the International Monetary Fund.

2. For the purposes of Section B, a " primary product " is understood to be any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

Paragraph 3

1. The fact that a contracting party has not exported the product in question during the previous representative period would not in itself preclude that contracting party from establishing its right to obtain a share of the trade in the product concerned.

2. A system for the stabilization of the domestic price or of the return to domestic producers of a primary product independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to involve a subsidy on exports within the meaning of paragraph 3 if the CONTRACTING PARTIES determine that:

(*a*) the system has also resulted, or is so designed as to result, in the sale of the product for export at a price higher than the comparable price charged for the like product to buyers in the domestic market; and

(*b*) the system is so operated, or is designed so to operate, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or otherwise seriously to prejudice the interests of other contracting parties.

Notwithstanding such determination by the CONTRACTING PARTIES, operations under such a system shall be subject to the provisions of paragraph 3 where they are wholly or partly financed out of government funds in addition to the funds collected from producers in respect of the product concerned.

Paragraph 4

The intention of paragraph 4 is that the contracting parties should seek before the end of 1957 to reach agreement to abolish all remaining subsidies as from 1 January 1958; or, failing this, to reach agreement to extend the application of the standstill until the earliest date thereafter by which they can expect to reach such agreement.

Ad *Article XVII*

Paragraph 1

The operations of Marketing Boards, which are established by contracting parties and are engaged in purchasing or selling, are subject to the provisions of sub-paragraphs (*a*) and (*b*).

The activities of Marketing Boards which are established by contracting parties and which do not purchase or sell but lay down regulations covering private trade are governed by the relevant Articles of this Agreement.

The charging by a state enterprise of different prices for its sales of a product in different markets is not precluded by the provisions of this Article, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets.

Paragraph 1 (a)

Governmental measures imposed to ensure standards of quality and efficiency in the operation of external trade, or privileges granted for the exploitation of national natural resources but which do not empower the government to exercise control over the trading activities of the enterprise in question, do not constitute " exclusive or special privileges ".

Paragraph 1 (b)

A country receiving a " tied loan " is free to take this loan into account as a " commercial consideration " when purchasing requirements abroad.

Paragraph 2

The term " goods " is limited to products as understood in commercial practice, and is not intended to include the purchase or sale of services.

Paragraph 3

Negotiations which contracting parties agree to conduct under this paragraph may be directed towards the reduction of duties and other charges on imports and exports or towards the conclusion of any other mutually satisfactory arrangement consistent with the provisions of this Agreement. (See paragraph 4 of Article II and the note to that paragraph.)

Paragraph 4 (b)

The term " import mark-up " in this paragraph shall represent the margin by which the price charged by the import monopoly for the imported product (exclusive of internal taxes within the purview of Article III, transportation, distribution, and other expenses incident to the purchase, sale or further processing, and a reasonable margin of profit) exceeds the landed cost.

Ad *Article XVIII*

The CONTRACTING PARTIES and the contracting parties concerned shall preserve the utmost secrecy in respect of matters arising under this Article.

Paragraphs 1 and 4

1. When they consider whether the economy of a contracting party " can only support low standards of living ", the CONTRACTING PARTIES shall take into consideration the normal position of that economy and shall not base their determination on exceptional circumstances such as those which may result from the temporary existence of exceptionally favourable conditions for the staple export product or products of such contracting party.

2. The phrase " in the early stages of development " is not meant to apply only to contracting parties which have just started their economic development, but also to contracting parties the economies of which are undergoing a process of industrialization to correct an excessive dependence on primary production.

Paragraphs 2, 3, 7, 13 and 22

The reference to the establishment of particular industries shall apply not only to the establishment of a new industry, but also to the establishment of a new branch of production in an existing industry and to the substantial transformation of an existing industry, and to the substantial expansion of an existing industry supplying a relatively small proportion of the domestic demand. It shall also cover the reconstruction of an industry destroyed or substantially damaged as a result of hostilities or natural disasters.

Paragraph 7 (b)

A modification or withdrawal, pursuant to paragraph 7 (*b*), by a contracting party, other than the applicant contracting party, referred to in paragraph 7 (*a*), shall be made within six months of the day on which the action is taken by the applicant contracting party, and shall become effective on the thirtieth day following the day on which such modification or withdrawal has been notified to the CONTRACTING PARTIES.

Paragraph 11

The second sentence in paragraph 11 shall not be interpreted to mean that a contracting party is required to relax or remove restrictions if such relaxation or removal would thereupon produce conditions justifying the intensification or institution, respectively, of restrictions under paragraph 9 of Article XVIII.

Paragraph 12 (b)

The date referred to in paragraph 12 (*b*) shall be the date determined by the CONTRACTING PARTIES in accordance with the provisions of paragraph 4 (*b*) of Article XII of this Agreement.

Paragraphs 13 and 14

It is recognized that, before deciding on the introduction of a measure and notifying the CONTRACTING PARTIES in accordance with paragraph 14, a contracting party may need a reasonable period of time to assess the competitive position of the industry concerned.

Paragraphs 15 and 16

It is understood that the CONTRACTING PARTIES shall invite a contracting party proposing to apply a measure under Section C to consult with them pursuant to paragraph 16 if they are requested to do so by a contracting party the trade of which would be appreciably affected by the measure in question.

Paragraphs 16, 18, 19 and 22

1. It is understood that the CONTRACTING PARTIES may concur in a proposed measure subject to specific conditions or limitations. If the measure as applied does not conform to the terms of the concurrence it will to that extent be deemed a measure in which the CONTRACTING PARTIES have not concurred. In cases in which the CONTRACTING PARTIES have concurred in a measure for a specified period, the contracting party concerned, if it finds that the maintenance of the measure for a further period of time is required to achieve the objective for which the measure was originally taken, may apply to the CONTRACTING PARTIES for an extension of that period in accordance with the provisions and procedures of Section C or D, as the case may be.

2. It is expected that the CONTRACTING PARTIES will, as a rule, refrain from concurring in a measure which is likely to cause serious prejudice to exports of a commodity on which the economy of a contracting party is largely dependent.

Paragraphs 18 and 22

The phrase " that the interests of other contracting parties are adequately safeguarded " is meant to provide latitude sufficient to permit consideration in each case of the most appropriate method of safeguarding those interests. The appropriate method may, for instance, take the form of an additional concession to be applied by the contracting party having recourse to Section C or D during such time as the deviation from the other Articles of the Agreement would remain in force or of the temporary suspension by any other contracting party referred to in paragraph 18 of a concession substantially equivalent to the impairment due to the introduction of the measure in question. Such contracting party would have the right to safeguard its interests through such a temporary suspension of a concession; *Provided* that this right will not be exercised when, in the case of a measure imposed by a contracting party coming

within the scope of paragraph 4 (*a*), the CONTRACTING PARTIES have determined that the extent of the compensatory concession proposed was adequate.

Paragraph 19

The provisions of paragraph 19 are intended to cover the cases where an industry has been in existence beyond the " reasonable period of time " referred to in the note to paragraphs 13 and 14, and should not be so construed as to deprive a contracting party coming within the scope of paragraph 4 (*a*) of Article XVIII, of its right to resort to the other provisions of Section C, including paragraph 17, with regard to a newly established industry even though it has benefited from incidental protection afforded by balance of payments import restrictions.

Paragraph 21

Any measure taken pursuant to the provisions of paragraph 21 shall be withdrawn forthwith if the action taken in accordance with paragraph 17 is withdrawn or if the CONTRACTING PARTIES concur in the measure proposed after the expiration of the ninety-day time limit specified in paragraph 17.

Ad *Article XX*

Sub-paragraph (h)

The exception provided for in this sub-paragraph extends to any commodity agreement which conforms to the principles approved by the Economic and Social Council in its resolution 30 (IV) of 28 March 1947.

Ad *Article XXIV*

Paragraph 9

It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and any higher duty that would be payable if the product were being imported directly into its territory.

Paragraph 11

Measures adopted by India and Pakistan in order to carry out definitive trade arrangements between them, once they have been agreed upon, might depart from particular provisions of this Agreement, but these measures would in general be consistent with the objectives of the Agreement.

Ad *Article XXVIII*

The CONTRACTING PARTIES and each contracting party concerned should arrange to conduct the negotiations and consultations with the greatest possible secrecy in order to avoid premature disclosure of details of prospective tariff changes. The CONTRACTING PARTIES shall be informed immediately of all changes in national tariffs resulting from recourse to this Article.

Paragraph 1

1. If the CONTRACTING PARTIES specify a period other than a three-year period, a contracting party may act pursuant to paragraph l or paragraph 3 of Article XXVIII on the first day following the expiration of such other period and, unless the CONTRACTING PARTIES have again specified another period, subsequent periods will be three-year periods following the expiration of such specified period.

2. The provision that on 1 January 1958, and on other days determined pursuant to paragraph 1, a contracting party " may . . . modify or withdraw a concession " means that on such day, and on the first day after the end of each period, the legal obligation of such contracting party under Article II is altered; it does not mean that the changes in its customs tariff should necessarily be made effective on that day. If a tariff change resulting from negotiations undertaken pursuant to this Article is delayed, the entry into force of any compensatory concessions may be similarly delayed.

3. Not earlier than six months, nor later than three months, prior to 1 January 1958, or to the termination date of any subsequent period, a contracting party wishing to modify or withdraw any concession embodied in the appropriate Schedule, should notify the CONTRACTING PARTIES to this effect. The CONTRACTING PARTIES shall then determine the contracting party or contracting parties with which the negotiations or consultations referred to in paragraph 1 shall take place. Any contracting party so determined shall participate in such negotiations or consultations with the applicant contracting party with the aim of reaching agreement before the end of the period. Any extension of the assured life of the Schedules shall relate to the Schedules as modified after such negotiations, in accordance with paragraphs 1, 2 and 3 of Article XXVIII. If the CONTRACTING PARTIES are arranging for multilateral tariff negotiations to take place within the period of six months before 1 January 1958, or before any other day determined pursuant to paragraph 1, they shall include in the arrangements for such negotiations suitable procedures for carrying out the negotiations referred to in this paragraph.

4. The object of providing for the participation in the negotiations of any contracting party with a principal supplying interest, in addition to any contracting party with which the concession was initially negotiated, is to ensure that a contracting party with a larger share in the trade affected by the concession than a contracting party with which the concession was initially negotiated shall have an effective opportunity to protect the contractual right which it enjoys under this Agreement. On the other hand, it is not intended that the scope of the negotiations should be such as to make negotiations and agreement under Article XXVIII unduly difficult nor to create complications in the application of this Article in the future to concessions which result from negotiations thereunder. Accordingly, the CONTRACTING PARTIES should only determine that a contracting party has a principal supplying interest if that contracting party has had, over a reasonable period of time prior to the negotiations, a larger share in the market of the applicant contracting party than a contracting party with which the concession was initially negotiated or would, in the judgment of the CONTRACTING PARTIES, have had such a share in the absence of discriminatory quantitative restrictions maintained by the applicant contracting party. It would therefore not be appropriate for the CONTRACTING PARTIES to determine that more than one contracting party, or in those exceptional cases where there is near equality more than two contracting parties, had a principal supplying interest.

5. Notwithstanding the definition of a principal supplying interest in note 4 to paragraph 1, the CONTRACTING PARTIES may exceptionally determine that a contracting party has a principal supplying interest if the concession in question affects trade which constitutes a major part of the total exports of such contracting party.

6. It is not intended that provision for participation in the negotiations of any contracting party with a principal supplying interest, and for consultation with any contracting party having a substantial interest in the concession which the applicant contracting party is seeking to modify or withdraw, should have the effect that it should have to pay compensation or suffer retaliation greater than the withdrawal or modification sought, judged in the light of the conditions of trade at the time of the proposed withdrawal or modification, making allowance for any discriminatory quantitative restrictions maintained by the applicant contracting party.

7. The expression " substantial interest " is not capable of a precise definition and accordingly may present difficulties for the CONTRACTING PARTIES. It is, however, intended to be construed to cover only those contracting parties which have, or in the absence of discriminatory quantitative restrictions affecting their exports could reasonably be expected to have, a significant share in the market of the contracting party seeking to modify or withdraw the concession.

Paragraph 4

1. Any request for authorization to enter into negotiations shall be accompanied by all relevant statistical and other data. A decision on such request shall be made within thirty days of its submission.

2. It is recognized that to permit certain contracting parties, depending in large measure on a relatively small number of primary commodities and relying on the tariff as an important aid for furthering diversification of their economies or as an important source of revenue, normally to negotiate for the modification or withdrawal of concessions only under paragraph 1 of Article XXVIII, might cause them at such a time to make modifications or withdrawals which in the long run would prove unnecessary. To avoid such a situation the CONTRACTING PARTIES shall authorize any such contracting party, under paragraph 4, to enter into negotiations unless they consider this would result in, or contribute substantially towards, such an increase in tariff levels as to threaten the stability of the Schedules to this Agreement or lead to undue disturbance of international trade.

3. It is expected that negotiations authorized under paragraph 4 for modification or withdrawal of a single item, or a very small group of items, could normally be brought to a conclusion in sixty days. It is recognized, however, that such a period will be inadequate for cases involving negotiations for the modification or withdrawal of a larger number of items and in such cases, therefore, it would be appropriate for the CONTRACTING PARTIES to prescribe a longer period.

4. The determination referred to in paragraph 4 (*d*) shall be made by the CONTRACTING PARTIES within thirty days of the submission of the matter to them, unless the applicant contracting party agrees to a longer period.

5. In determining under paragraph 4 (*d*) whether an applicant contracting party has unreasonably failed to offer adequate compensation, it is understood that the CONTRACTING PARTIES will take due account of the special position of a contracting party which has bound a high proportion of its tariffs at very low rates of duty and to this extent has less scope than other contracting parties to make compensatory adjustment.

Ad *Article XXVIII* bis

Paragraph 3

It is understood that the reference to fiscal needs would include the revenue aspect of duties and particularly duties imposed primarily for revenue purposes or duties imposed on products which can be substituted for products subject to revenue duties to prevent the avoidance of such duties.

Ad *Article XXIX*

Paragraph 1

Chapters VII and VIII of the Havana Charter have been excluded from paragraph 1 because they generally deal with the organization, functions and procedures of the International Trade Organization.

Ad *Part IV*

The words " developed contracting parties " and the words " less-developed contracting parties " as used in Part IV are to be understood to refer to developed and less-developed countries which are parties to the General Agreement on Tariffs and Trade.

Ad *Article XXXVI*

Paragraph 1

This Article is based upon the objectives set forth in Article I as it will be amended by Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX when that Protocol enters into force.

Paragraph 4

The term " primary products " includes agricultural products, *vide* paragraph 2 of the note ad Article XVI, Section B.

Paragraph 5

A diversification programme would generally include the intensification of activities for the processing of primary products and the development of manufacturing industries, taking into account the situation of the particular contracting party and the world outlook for production and consumption of different commodities.

Paragraph 8

It is understood that the phrase " do not expect reciprocity " means, in accordance with the objectives set forth in this Article, that the less-developed contracting parties should not be expected, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments.

This paragraph would apply in the event of action under Section A of Article XVIII, Article XXVIII, Article XXVIII *bis* (Article XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective 1), Article XXXIII, or any other procedure under this Agreement.

Ad *Article XXXVII*

Paragraph 1 (a)

This paragraph would apply in the event of negotiations for reduction or elimination of tariffs or other restrictive regulations of commerce under Articles XXVIII, XXVIII *bis* (XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), and Article XXXIII, as well as in connexion with other action to effect such reduction or elimination which contracting parties may be able to undertake.

Paragraph 3 (b)

The other measures referred to in this paragraph might include steps to promote domestic structural changes, to encourage the consumption of particular products, or to introduce measures of trade promotion.

Protocol of Provisional Application of the General Agreement on Tariffs and Trade, Geneva, 1947

Done at Geneva 30 October 1947

Entered into force 1 January 1948

Primary source citation: Copy of text provided by the U.S. Department of State

PROTOCOL OF PROVISIONAL APPLICATION OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

1. The Governments of the COMMONWEALTH OF AUSTRALIA, the KINGDOM OF BELGIUM (in respect of its metropolitan territory), CANADA, the FRENCH REPUBLIC (in respect of its metropolitan territory), the GRAND-DUCHY OF LUXEMBURG, the KINGDOM OF THE NETHERLANDS (in respect of its metropolitan territory), the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (in respect of its metropolitan territory), and the UNITED STATES OF AMERICA, undertake, provided that this Protocol shall have been signed on behalf of all the foregoing Governments not later than 15 November 1947, to apply provisionally on and after 1 January 1948:

(*a*) Parts I and III of the General Agreement on Tariffs and Trade, and

(*b*) Part II of that Agreement to the fullest extent not inconsistent with existing legislation.

2. The foregoing Governments shall make effective such provisional application of the General Agreement, in respect of any of their territories other than their metropolitan territories, on or after 1 January 1948, upon the expiration of thirty days from the day on which notice of such application is received by the Secretary-General of the United Nations.

3. Any other government signatory to this Protocol shall make effective such provisional application of the General Agreement, on or after 1 January 1948, upon the expiration of thirty days from the day of signature of this Protocol on behalf of such Government.

4. This Protocol shall remain open for signature at the Headquarters of the United Nations (*a*) until 15 November 1947, on behalf of any government named in paragraph 1 of this Protocol which has not signed it on this day, and (*b*) until 30 June 1948, on behalf of any other Government signatory to the Final Act adopted at the conclusion of the Second Session of the preparatory Committee of the United Nations Conference on Trade and Employment which has not signed it on this day.

5. Any government applying this Protocol shall be free to withdraw such application, and such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.

6. The original of this Protocol shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested Governments.

IN WITNESS WHEREOF the respective Representatives, after having communicated their full powers, found to be in good and due form, have signed the Protocol.

DONE at Geneva, in a single copy, in the English and French languages, both texts authentic, this thirtieth day of October one thousand nine hundred and forty-seven.

Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, Moscow, 1963

Done at Moscow 5 August 1963

Entered into force 10 October 1963

Depositaries: Union of Soviet Socialist Republics, United Kingdom, and United States

Primary source citation: 14 UST 1313, TIAS 5433

TREATY BANNING NUCLEAR WEAPON TESTS IN THE ATMOSPHERE, IN OUTER SPACE AND UNDER WATER

The Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, hereinafter referred to as the "Original Parties",

Proclaiming as their principal aim the speediest possible achievement of an agreement on general and complete disarmament under strict international control in accordance with the objectives of the United Nations which would put an end to the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons,

Seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time, determined to continue negotiations to this end, and desiring to put an end to the contamination of man's environment by radioactive substances,

Have agreed as follows:

Article I

1. Each of the Parties to this Treaty undertakes to prohibit, to prevent, and not to carry out any nuclear weapon test explosion, or any other nuclear explosion, at any place under its jurisdiction or control:

(a) in the atmosphere; beyond its limits, including outer space; or underwater, including territorial waters or high seas; or

(b) in any other environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted. It is understood in this connection that the provisions of this subparagraph are without prejudice to the conclusion of a treaty resulting in the permanent

banning of all nuclear test explosions, including all such explosions underground, the conclusion of which, as the Parties have stated in the Preamble to this Treaty, they seek to achieve.

2. Each of the Parties to this Treaty undertakes furthermore to refrain from causing, encouraging, or in any way participating in, the carrying out of any nuclear weapon test explosion, or any other nuclear explosion, anywhere which would take place in any of the environments described, or have the effect referred to, in paragraph 1 of this Article.

Article II

1. Any Party may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Governments shall convene a conference, to which they shall invite all the Parties, to consider such amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to this Treaty, including the votes of all of the Original Parties. The amendment shall enter into force for all Parties upon the deposit of instruments of ratification by a majority of all the Parties, including the instruments of ratification of all of the Original Parties.

Article III

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Original Parties -- the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics -- which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by all the Original Parties and the deposit of their instruments of ratification.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article IV

This Treaty shall be of unlimited duration.

Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty three months in advance.

Article V

This Treaty, of which the English and Russian texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate at the city of Moscow the fifth day of August, one thousand nine hundred and sixty-three.

Treaty for the Prohibition of Nuclear Weapons in Latin America, Mexico City, 1967

Done at Mexico City 14 February 1967

*Entered into force 22 April 1968**

Depositary: Mexico

Primary source citation: 22 UST 762, TIAS 7137

TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

Preamble

In the name of their peoples and faithfully interpreting their desires and aspirations, the Governments of the States which sign the Treaty for the Prohibition of Nuclear Weapons in Latin America,

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on the sovereign equality of States, mutual respect and good neighbourliness,

Recalling that the United Nations General Assembly, in its Resolution 808 (IX), adopted unanimously as one of the three points of a coordinated programme of disarmament "the total prohibition of the use and manufacture of nuclear weapons and weapons of mass destruction of every type",

Recalling that militarily denuclearized zones are not an end in themselves but rather a means for achieving general and complete disarmament at a later stage,

Recalling United Nations General Assembly Resolution 1911 (XVIII), which established that the measures that should be agreed upon for the denuclearization of Latin America should be taken "in the light of the principles of the Charter of the United Nations and of regional agreements",

Recalling United Nations General Assembly Resolution 2028 (XX), which established the principle of an acceptable balance of mutual responsibilities and duties for the nuclear and non-nuclear powers, and

Recalling that the Charter of the Organization of American States proclaims that it is an essential purpose of the Organization to strengthen the peace and security of the hemisphere,

Convinced:

* This Treaty is not in force for the United States.

That the incalculable destructive power of nuclear weapons has made it imperative that the legal prohibition of war should be strictly observed in practice if the survival of civilization and of mankind itself is to be assured,

That nuclear weapons, whose terrible effects are suffered, indiscriminately and inexorably, by military forces and civilian population alike, constitute, through the persistence of the radioactivity they release, an attack on the integrity of the human species and ultimately may even render the whole earth uninhabitable,

That general and complete disarmament under effective international control is a vital matter which all the peoples of the world equally demand,

That the proliferation of nuclear weapons, which seems inevitable unless States, in the exercise of their sovereign rights, impose restrictions on themselves in order to prevent it, would make any agreement on disarmament enormously difficult and would increase the danger of the outbreak of a nuclear conflagration,

That the establishment of militarily denuclearized zones is closely linked with the maintenance of peace and security in the respective regions,

That the military denuclearization of vast geographical zones, adopted by the sovereign decision of the States comprised therein, will exercise a beneficial influence on other regions where similar conditions exist,

That the privileged situation of the signatory States, whose territories are wholly free from nuclear weapons, imposes upon them the inescapable duty of preserving that situation both in their own interests and for the good of mankind,

That the existence of nuclear weapons in any country of Latin America would make it a target for possible nuclear attacks and would inevitably set off, throughout the region, a ruinous race in nuclear weapons which would involve the unjustifiable diversion, for warlike purposes, of the limited resources required for economic and social development,

That the foregoing reasons, together with the traditional peace-loving outlook of Latin America, give rise to an inescapable necessity that nuclear energy should be used in that region exclusively for peaceful purposes, and that the Latin American countries should use their right to the greatest and most equitable possible access to this new source of energy in order to expedite the economic and social development of their peoples,

Convinced finally:

That the military denuclearization of Latin America—being understood to mean the undertaking entered into internationally in this Treaty to keep their territories forever free from nuclear weapons—will constitute a measure which will spare their peoples from the squandering of their limited resources on nuclear armaments and will protect them against possible nuclear attacks on their territories, and will also constitute a significant contribution towards preventing the proliferation of nuclear weapons and a powerful factor for general and complete disarmament, and

That Latin America, faithful to its tradition of universality, must not only endeavour to banish from its homelands the scourge of a nuclear war, but must also strive to promote the well-being and advancement of its peoples, at the same time co-operating in the fulfilment of the ideals of mankind, that is to say, in the consolidation of a permanent peace based on equal rights, economic fairness and social justice for all, in accordance with the principles and purposes set forth in the Charter of the United Nations and in the Charter of the Organization of American States,

Have agreed as follows:

Obligations

Article 1

1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:

(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way, and

(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weapons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.

Definition of the Contracting Parties

Article 2

For the purposes of this Treaty, the Contracting Parties are those for whom the Treaty is in force.

Definition of territory

Article 3

For the purposes of this Treaty, the term "territory" shall include the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation.

Zone of application

Article 4

1. The zone of application of this Treaty is the whole of the territories for which the Treaty is in force.

2. Upon fulfilment of the requirements of article 28, paragraph 1, the zone of application of this Treaty shall also be that which is situated in the western hemisphere within the following limits (except the continental part of the territory of the United States of America and its territorial waters): starting at a point located at 35° north latitude, 75° west longitude; from this point directly southward to a point at 30° north latitude, 75° west longitude; from there, directly eastward to a point at 30° north latitude, 50° west longitude; from there, along a loxodromic line to a point at 5° north latitude, 20° west longitude; from there, directly southward to a point at 60° south latitude, 20° west longitude; from there, directly westward to a point at 60° south latitude, 115° west longitude; from there, directly northward to a point at 0 latitude, 115° west longitude; from there, along a loxodromic line to a point at 35° north latitude, 150° west longitude; from there, directly eastward to a point at 35° north latitude, 75° west longitude.

Definition of nuclear weapons

Article 5

For the purposes of this Treaty, a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes. An instrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof.

Meeting of signatories

Article 6

At the request of any of the signatory States or if the Agency established by article 7 should so decide, a meeting of all the signatories may be convoked to consider in common questions which may affect the very essence of this instrument, including possible amendments to it. In either case, the meeting will be convoked by the General Secretary.

Organization

Article 7

1. In order to ensure compliance with the obligations of this Treaty, the Contracting Parties hereby establish an international organization to be known as the "Agency for the Prohibition of Nuclear Weapons in Latin America", hereinafter referred to as "the Agency". Only the Contracting Parties shall be affected by its decisions.

2. The Agency shall be responsible for the holding of periodic or extraordinary consultations among Member States on matters relating to the purposes, measures and procedures set forth in this Treaty and to the supervision of compliance with the obligations arising therefrom.

3. The Contracting Parties agree to extend to the Agency full and prompt co-operation in accordance with the provisions of this Treaty, of any agreements they may conclude with the Agency and of any agreements the Agency may conclude with any other international organization or body.

4. The headquarters of the Agency shall be in Mexico City.

Organs

Article 8

1. There are hereby established as principal organs of the Agency a General Conference, a Council and a Secretariat.

2. Such subsidiary organs as are considered necessary by the General Conference may be established within the purview of this Treaty.

The General Conference

Article 9

1. The General Conference, the supreme organ of the Agency, shall be composed of all the Contracting Parties; it shall hold regular sessions every two years, and may also hold special sessions whenever this Treaty so provides or, in the opinion of the Council, the circumstances so require.

2. The General Conference:

(a) May consider and decide on any matters or questions covered by this Treaty, within the limits thereof, including those referring to powers and functions of any organ provided for in this Treaty.

(b) Shall establish procedures for the control system to ensure observance of this Treaty in accordance with its provisions.

(c) Shall elect the Members of the Council and the General Secretary.

(d) May remove the General Secretary from office if the proper functioning of the Agency so requires.

(e) Shall receive and consider the biennial and special reports submitted by the Council and the General Secretary.

(f) Shall initiate and consider studies designed to facilitate the optimum fulfilment of the aims of this Treaty, without prejudice to the power of the General Secretary independently to carry out similar studies for submission to and consideration by the Conference.

(g) Shall be the organ competent to authorize the conclusion of agreements with Governments and other international organizations and bodies.

3. The General Conference shall adopt the Agency's budget and fix the scale of financial contributions to be paid by Member States, taking into account the systems and criteria used for the same purpose by the United Nations.

4. The General Conference shall elect its officers for each session and may establish such subsidiary organs as it deems necessary for the performance of its functions.

5. Each Member of the Agency shall have one vote. The decisions of the General Conference shall be taken by a two-thirds majority of the Members present and voting in the case of matters relating to the control system and measures referred to in article 20, the admission of new Members, the election or removal of the General Secretary, adoption of the budget and matters related thereto. Decisions on other matters, as well as procedural questions and also determination of which questions must be decided by a two-thirds majority, shall be taken by a simple majority of the Members present and voting.

6. The General Conference shall adopt its own rules of procedure.

The Council

Article 10

1. The Council shall be composed of five Members of the Agency elected by the General Conference from among the Contracting Parties, due account being taken of equitable geographic distribution.

2. The Members of the Council shall be elected for a term of four years. However, in the first election three will be elected for two years. Outgoing Members may not be re-elected for the following period unless the limited number of States for which the Treaty is in force so requires.

3. Each Member of the Council shall have one representative.

4. The Council shall be so organized as to be able to function continuously.

5. In addition to the functions conferred upon it by this Treaty and to those which may be assigned to it by the General Conference, the Council shall, through the General Secretary, ensure the proper operation of the control system in accordance with the provisions of this Treaty and with the decisions adopted by the General Conference.

6. The Council shall submit an annual report on its work to the General Conference as well as such special reports as it deems necessary or which the General Conference requests of it.

7. The Council shall elect its officers for each session.

8. The decisions of the Council shall be taken by a simple majority of its Members present and voting.

9. The Council shall adopt its own rules of procedure.

The Secretariat

Article 11

1. The Secretariat shall consist of a General Secretary, who shall be the chief administrative officer of the Agency, and of such staff as the Agency may require. The term of office of the General Secretary shall be four years and he may be re-elected for a single additional term. The General Secretary may not be a national of the country in which the Agency has its headquarters. In case the office of General Secretary becomes vacant, a new election shall be held to fill the office for the remainder of the term.

2. The staff of the Secretariat shall be appointed by the General Secretary, in accordance with rules laid down by the General Conference.

3. In addition to the functions conferred upon him by this treaty and to those which may be assigned to him by the General Conference, —the General Secretary shall ensure, as provided by article 10, paragraph 5, the proper operation of the control system established by this Treaty, in accordance with the provisions of the Treaty and the decisions taken by the General Conference.

4. The General Secretary shall act in that capacity in all meetings of the General Conference and of the Council and shall make an annual report to both bodies on the work of the Agency and any special reports requested by the General Conference or the Council or which the General Secretary may deem desirable.

5. The General Secretary shall establish the procedures for distributing to all Contracting Parties information received by the Agency from governmental sources and such information from non-governmental sources as may be of interest to the Agency.

6. In the performance of their duties the General Secretary and the staff shall not seek or receive instructions from any Government or from any other authority external to the Agency and shall refrain from any action which might reflect on their position as international officials responsible only to the Agency; subject to their responsibility to the Agency, they shall not disclose any industrial secrets or other confidential information coming to their knowledge by reason of their official duties in the Agency.

7. Each of the Contracting Parties undertakes to respect the exclusively international character of the responsibilities of the General Secretary and the staff and not to seek to influence them in the discharge of their responsibilities.

Control system

Article 12

1. For the purpose of verifying compliance with the obligations entered into by the Contracting Parties in accordance with article 1, a control system shall be established which shall be put into effect in accordance with the provisions of articles 13-18 of this Treaty.

2. The control system shall be used in particular for the purpose of verifying:

(a) That devices, services and facilities intended for peaceful uses of nuclear energy are not used in the testing or manufacture of nuclear weapons,

(b) That none of the activities prohibited in article 1 of this Treaty are carried out in the territory of the Contracting Parties with nuclear materials or weapons introduced from abroad, and

(c) That explosions for peaceful purposes are compatible with article 18 of this Treaty.

IAEA safeguards

Article 13

Each Contracting Party shall negotiate multilateral or bilateral agreements with the International Atomic Energy Agency for the application of its safeguards to its nuclear activities. Each Contracting Party shall initiate negotiations within a period of 180 days after the date of the deposit of its instrument of ratification of this Treaty. These agreements shall enter into force, for each Party, not later than eighteen months after the date of the initiation of such negotiations except in case of unforeseen circumstances or *force majeure*.

Reports of the Parties

Article 14

1. The Contracting Parties shall submit to the Agency and to the International Atomic Energy Agency, for their information, semi-annual reports stating that no activity prohibited under this Treaty has occurred in their respective territories.

2. The Contracting Parties shall simultaneously transmit to the Agency a copy of any report they may submit to the International Atomic Energy Agency which relates to matters that are the subject of this Treaty and to the application of safeguards.

3. The Contracting Parties shall also transmit to the Organization of American States, for its information, any reports that may be of interest to it, in accordance with the obligations established by the Inter-American System.

Special reports requested by the General Secretary

Article 15

1. With the authorization of the Council, the General Secretary may request any of the Contracting Parties to provide the Agency with complementary or supplementary information regarding any event or circumstance connected with compliance with this Treaty, explaining his reasons. The Contracting Parties undertake to co-operate promptly and fully with the General Secretary.

2. The General Secretary shall inform the Council and the Contracting Parties forthwith of such requests and of the respective replies.

Special inspections

Article 16

1. The International Atomic Energy Agency and the Council established by this Treaty have the power of carrying out special inspections in the following cases:

(a) In the case of the International Atomic Energy Agency, in accordance with the agreements referred to in article 13 of this Treaty;

(b) In the case of the Council:

(i) When so requested, the reasons for the request being stated, by any Party which suspects that some activity prohibited by this Treaty has been carried out or is about to be carried out, either

in the territory of any other Party or in any other place on such latter Party's behalf, the Council shall immediately arrange for such an inspection in accordance with article 10, paragraph 5.

(ii) When requested by any Party which has been suspected of or charged with having violated this Treaty, the Council shall immediately arrange for the special inspection requested in accordance with article 10, paragraph 5.

The above requests will be made to the Council through the General Secretary.

2. The costs and expenses of any special inspection carried out under paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article shall be borne by the requesting Party or Parties, except where the Council concludes on the basis of the report on the special inspection that, in view of the circumstances existing in the case, such costs and expenses should be borne by the Agency.

3. The General Conference shall formulate the procedures for the organization and execution of the special inspections carried out in accordance with paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article.

4. The Contracting Parties undertake to grant the inspectors carrying out such special inspections full and free access to all places and all information which may be necessary for the performance of their duties and which are directly and intimately connected with the suspicion of violation of this Treaty. If so requested by the authorities of the Contracting Party in whose territory the inspection is carried out, the inspectors designated by the General Conference shall be accompanied by representatives of said authorities, provided that this does not in any way delay or hinder the work of the inspectors.

5. The Council shall immediately transmit to all the Parties, through the General Secretary, a copy of any report resulting from special inspections.

6. Similarly, the Council shall send through the General Secretary to the Secretary-General of the United Nations, for transmission to the United Nations Security Council and General Assembly, and to the Council of the Organization of American States, for its information, a copy of any report resulting from any special inspection carried out in accordance with paragraph 1, subparagraph (b), sections (i) and (ii) of this article.

7. The Council may decide, or any Contracting Party may request, the convening of a special session of the General Conference for the purpose of considering the reports resulting from any special inspection. In such a case, the General Secretary shall take immediate steps to convene the special session requested.

8. The General Conference, convened in special session under this article, may make recommendations to the Contracting Parties and submit reports to the Secretary-General of the United Nations to be transmitted to the United Nations Security Council and the General Assembly.

Use of nuclear energy for peaceful purposes

Article 17

Nothing in the provisions of this Treaty shall prejudice the rights of the Contracting Parties, in conformity with this Treaty, to use nuclear energy for peaceful purposes, in particular for their economic development and social progress.

Explosions for peaceful purposes

Article 18

1. The Contracting Parties may carry out explosions of nuclear devices for peaceful purposes—including explosions which involve devices similar to those used in nuclear weapons—or collaborate with third parties for the same

purpose, provided that they do so in accordance with the provisions of this article and the other articles of the Treaty, particularly articles 1 and 5.

2. Contracting Parties intending to carry out, or to co-operate in carrying out, such an explosion shall notify the Agency and the International Atomic Energy Agency, as far in advance as the circumstances require, of the date of the explosion and shall at the same time provide the following information:

(a) The nature of the nuclear device and the source from which it was obtained,

(b) The place and purpose of the planned explosion,

(c) The procedures which will be followed in order to comply with paragraph 3 of this article,

(d) The expected force of the device, and

(e) The fullest possible information on any possible radioactive fall-out that may result from the explosion or explosions, and measures which will be taken to avoid danger to the population, flora, fauna and territories of any other Party or Parties.

3. The General Secretary and the technical personnel designated by the Council and the International Atomic Energy Agency may observe all the preparations, including the explosion of the device, and shall have unrestricted access to any area in the vicinity of the site of the explosion in order to ascertain whether the device and the procedures followed during the explosion are in conformity with the information supplied under paragraph 2 of this article and the other provisions of this Treaty.

4. The Contracting Parties may accept the collaboration of third parties for the purpose set forth in paragraph 1 of the present article, in accordance with paragraphs 2 and 3 thereof.

Relations with other international organizations

Article 19

1. The Agency may conclude such agreements with the International Atomic Energy Agency as are authorized by the General Conference and as it considers likely to facilitate the efficient operation of the control system established by this Treaty.

2. The Agency may also enter into relations with any international organization or body, especially any which may be established in the future to supervise disarmament or measures for the control of armaments in any part of the world.

3. The Contracting Parties may, if they see fit, request the advice of the Inter-American Nuclear Energy Commission on all technical matters connected with the application of this Treaty with which the Commission is competent to deal under its Statute.

Measures in the event of violation of the Treaty

Article 20

1. The General Conference shall take note of all cases in which, in its opinion, any Contracting Party is not complying fully with its obligations under this Treaty and shall draw the matter to the attention of the Party concerned, making such recommendations as it deems appropriate.

2. If, in its opinion, such non-compliance constitutes a violation of this Treaty which might endanger peace and security, the General Conference shall report thereon simultaneously to the United Nations Security Council and the General Assembly through the Secretary-General of the United Nations, and to the Council of the Organization of

American States. The General Conference shall likewise report to the International Atomic Energy Agency for such purposes as are relevant in accordance with its Statute.

United Nations and Organization of American States

Article 21

None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the Parties under the Charter of the United Nations or, in the case of States Members of the Organization of American States, under existing regional treaties.

Privileges and immunities

Article 22

1. The Agency shall enjoy in the territory of each of the Contracting Parties such legal capacity and such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its purposes.

2. Representatives of the Contracting Parties accredited to the Agency and officials of the Agency shall similarly enjoy such privileges and immunities as are necessary for the performance of their functions.

3. The Agency may conclude agreements with the Contracting Parties with a view to determining the details of the application of paragraphs 1 and 2 of this article.

Notification of other agreements

Article 23

Once this Treaty has entered into force, the Secretariat shall be notified immediately of any international agreement concluded by any of the Contracting Parties on matters with which this Treaty is concerned; the Secretariat shall register it and notify the other Contracting Parties.

Settlement of disputes

Article 24

Unless the Parties concerned agree on another mode of peaceful settlement, any question or dispute concerning the interpretation or application of this Treaty which is not settled shall be referred to the International Court of Justice with the prior consent of the Parties to the controversy.

Signature

Article 25

1. This Treaty shall be open indefinitely for signature by:

   (a) All the Latin American Republics, and

(b) All other sovereign States situated in their entirety south of latitude 35° north in the western hemisphere; and, except as provided in paragraph 2 of this article, all such States which become sovereign, when they have been admitted by the General Conference.

2. The General Conference shall not take any decision regarding the admission of a political entity part or all of whose territory is the subject, prior to the date when this Treaty is opened for signature, of a dispute or claim between an extra-continental country and one or more Latin American States, so long as the dispute has not been settled by peaceful means.

Ratification and deposit

Article 26

1. This Treaty shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.

2. This Treaty and the instruments of ratification shall be deposited with the Government of the Mexican United States, which is hereby designated the Depositary Government.

3. The Depositary Government shall send certified copies of this Treaty to the Governments of signatory States and shall notify them of the deposit of each instrument of ratification.

Reservations

Article 27

This Treaty shall not be subject to reservations.

Entry into force

Article 28

1. Subject to the provisions of paragraph 2 of this article, this Treaty shall enter into force among the States that have ratified it as soon as the following requirements have been met:

(a) Deposit of the instruments of ratification of this Treaty with the Depositary Government by the Governments of the States mentioned in article 25 which are in existence on the date when this Treaty is opened for signature and which are not affected by the provisions of article 25, paragraph 2;

(b) Signature and ratification of Additional Protocol I annexed to this Treaty by all extra-continental or continental States having *de jure* or *de facto* international responsibility for territories situated in the zone of application of the Treaty;

(c) Signature and ratification of the Additional Protocol II annexed to this Treaty by all powers possessing nuclear weapons;

(d) Conclusion of bilateral or multilateral agreements on the application of the Safeguards System of the International Atomic Energy Agency in accordance with article 13 of this Treaty.

2. All signatory States shall have the imprescriptible right to waive, wholly or in part, the requirements laid down in the preceding paragraph. They may do so by means of a declaration which shall be annexed to their respective instrument of ratification and which may be formulated at the time of deposit of the instrument or subsequently. For

those States which exercise this right, this Treaty shall enter into force upon deposit of the declaration, or as soon as those requirements have been met which have not been expressly waived.

3. As soon as this Treaty has entered into force in accordance with the provisions of paragraph 2 for eleven States, the Depositary Government shall convene a preliminary meeting of those States in order that the Agency may be set up and commence its work.

4. After the entry into force of this Treaty for all the countries of the zone, the rise of a new power possessing nuclear weapons shall have the effect of suspending the execution of this Treaty for those countries which have ratified it without waiving requirements of paragraph 1, sub-paragraph (c) of this article, and which request such suspension; the Treaty shall remain suspended until the new power, on its own initiative or upon request by the General Conference, ratifies the annexed Additional Protocol II.

Amendments

Article 29

1. Any Contracting Party may propose amendments to this Treaty and shall submit its proposals to the Council through the General Secretary, who shall transmit them to all the other Contracting Parties and, in addition, to all other signatories in accordance with article 6. The Council, through the General Secretary, shall immediately following the meeting of signatories convene a special session of the General Conference to examine the proposals made, for the adoption of which a two-thirds majority of the Contracting Parties present and voting shall be required.

2. Amendments adopted shall enter into force as soon as the requirements set forth in article 28 of this Treaty have been complied with.

Duration and denunciation

Article 30

1. This Treaty shall be of a permanent nature and shall remain in force indefinitely, but any Party may denounce it by notifying the General Secretary of the Agency if, in the opinion of the denouncing State, there have arisen or may arise circumstances connected with the content of this Treaty or of the annexed Additional Protocols I and II which affect its supreme interests or the peace and security of one or more Contracting Parties.

2. The denunciation shall take effect three months after the delivery to the General Secretary of the Agency of the notification by the Government of the signatory State concerned. The General Secretary shall immediately communicate such notification to the other Contracting Parties and to the Secretary-General of the United Nations for the information of the United Nations Security Council and the General Assembly. He shall also communicate it to the Secretary-General of the Organization of American States.

Authentic texts and registration

Article 31

This Treaty, of which the Spanish, Chinese, English, French, Portuguese and Russian texts are equally authentic, shall be registered by the Depositary Government in accordance with article 102 of the United Nations Charter. The Depositary Government shall notify the Secretary-General of the United Nations of the signatures, ratifications and amendments relating to this Treaty and shall communicate them to the Secretary-General of the Organization of American States for its information.

Transitional Article

Denunciation of the declaration referred to in article 28, paragraph 2, shall be subject to the same procedures as the denunciation of this Treaty, except that it will take effect on the date of delivery of the respective notification.

In witness whereof the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Treaty on behalf of their respective Governments.

Done at Mexico, Distrito Federal, on the Fourteenth day of February, one thousand nine hundred and sixty-seven.

Additional Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America, Mexico City, 1967

Done at Mexico City 14 February 1967

*Entered into force 11 December 1969**

Primary source citation: 33 UST 1792, TIAS 10147

ADDITIONAL PROTOCOL I

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons,

Aware that the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on mutual respect and sovereign equality of States,

Have agreed as follows:

Article 1. To undertake to apply the statute of denuclearization in respect of warlike purposes as defined in articles 1, 3, 5 and 13 of the Treaty for the Prohibition of Nuclear Weapons in Latin America in territories for which, *de jure* or *de facto,* they are internationally responsible and which lie within the limits of the geographical zone established in that Treaty.

Article 2. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the provisions regarding ratification and denunciation contained in the Treaty shall be ap-

Article 3. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

In witness whereof the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Protocol on behalf of their respective Governments.

* This Protocol enters into force for the States which have ratified it on the date of deposit of their instrument of ratification. It entered into force for the United States on 23 November 1981.

Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, Mexico City, 1967

Done at Mexico City 14 February 1967

Entered into force 11 December 1969*

Primary Source: 22 UST 754, TIAS 7137

ADDITIONAL PROTOCOL II

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons,

Aware that the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards promoting and strengthening a world at peace, based on mutual respect and sovereign equality of States,

Have agreed as follows:

Article 1. The statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth in the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this instrument is an annex, shall be fully respected by the Parties to this Protocol in all its express aims and provisions.

Article 2. The Governments represented by the undersigned Plenipotentiaries undertake, therefore, not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies in accordance with article 4 thereof.

Article 3. The Governments represented by the undersigned Plenipotentiaries also undertake not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty for the Prohibition of Nuclear Weapons in Latin America.

Article 4. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the definitions of territory and nuclear weapons set forth in articles 3 and 5 of the Treaty shall be applicable to this Protocol, as well as the provisions regarding ratification, reservations, denunciation, authentic texts and registration contained in articles 26, 27, 30 and 31 of the Treaty.

Article 5. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Additional Protocol on behalf of their respective Governments.

* This Protocol enters into force for the States which have ratified it on the date of deposit of their instrument of ratification. It entered into force for the United States on 12 May 1971.

Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof, Washington, London, and Moscow, 1971

Done at Washington, London, and Moscow
11 February 1971

Entered into force 18 May 1972

Depositaries: Union of Soviet Socialist Republics, United Kingdom, and United States

Primary source citation: 23 UST 701, TIAS 7337

TREATY ON THE PROHIBITION OF THE EMPLACEMENT OF NUCLEAR WEAPONS AND OTHER WEAPONS OF MASS DESTRUCTION ON THE SEABED AND THE OCEAN FLOOR AND IN THE SUBSOIL THEREOF

The States Parties to this Treaty,

Recognizing the common interest of mankind in the progress of the exploration and use of the seabed and the ocean floor for peaceful purposes,

Considering that the prevention of a nuclear arms race on the seabed and the ocean floor serves the interests of maintaining world peace, reduces international tensions and strengthens friendly relations among States,

Convinced that this Treaty constitutes a step towards the exclusion of the seabed, the ocean floor and the subsoil thereof from the arms race,

Convinced that this Treaty constitutes a step towards a treaty on general and complete disarmament under strict and effective international control, and determined to continue negotiations to this end,

Convinced that this Treaty will further the purposes and principles of the Charter of the United Nations, in a manner consistent with the principles of international law and without infringing the freedoms of the high seas,

Have agreed as follows:

ARTICLE I

1. The States Parties to this Treaty undertake not to emplant or emplace on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a seabed zone, as defined in article II, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.

2. The undertakings of paragraph 1 of this article shall also apply to the seabed zone referred to in the same paragraph, except that within such seabed zone, they shall not apply either to the coastal State or to the seabed beneath its territorial waters.

3. The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

ARTICLE II

For the purpose of this Treaty, the outer limit of the seabed zone referred to in article I shall be coterminous with the twelve-mile outer limit of the zone referred to in part II of the Convention on the Territorial Sea and the Contiguous Zone, signed at Geneva on April 29, 1958, and shall be measured in accordance with the provisions of part I, section II, of that Convention and in accordance with international law.

ARTICLE III

1. In order to promote the objectives of and insure compliance with the provisions of this Treaty, each State Party to the Treaty shall have the right to verify through observation the activities of other States Parties to the Treaty on the seabed and the ocean floor and in the subsoil thereof beyond the zone referred to in article I, provided that observation does not interfere with such activities.

2. If after such observation reasonable doubts remain concerning the fulfillment of the obligations assumed under the Treaty, the State Party having such doubts and the State Party that is responsible for the activities giving rise to the doubts shall consult with a view to removing the doubts. If the doubts persist, the State Party having such doubts shall notify the other States Parties, and the Parties concerned shall cooperate on such further procedures for verification as may be agreed, including appropriate inspection of objects, structures, installations or other facilities that reasonably may be expected to be of a kind described in article I. The Parties in the region of the activities, including any coastal State, and any other Party so requesting, shall be entitled to participate in such consultation and cooperation. After completion of the further procedures for verification, an appropriate report shall be circulated to other Parties by the Party that initiated such procedures.

3. If the State responsible for the activities giving rise to the reasonable doubts is not identifiable by observation of the object, structure, installation or other facility, the State Party having such doubts shall notify and make appropriate inquiries of States Parties in the region of the activities and of any other State Party. If it is ascertained through these inquiries that a particular State party is responsible for the activities, that State Party shall consult and cooperate with other Parties as provided in paragraph 2 of this article. If the identity of the State responsible for the activities cannot be ascertained through these inquiries, then further verification procedures, including inspection, may be undertaken by the inquiring State Party, which shall invite the participation of the Parties in the region of the activities, including any coastal State, and of any other Party desiring to cooperate.

4. If consultation and cooperation pursuant to paragraphs 2 and 3 of this article have not removed the doubts concerning the activities and there remains a serious question concerning fulfillment of the obligations assumed under this Treaty, a State Party may, in accordance with the provisions of the Charter of the United Nations, refer the matter to the Security Council, which may take action in accordance with the Charter.

5. Verification pursuant to this article may be undertaken by any State Party using its own means, or with the full or partial assistance of any other State Party, or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

6. Verification activities pursuant to this Treaty shall not interfere with activities of other States Parties and shall be conducted with due regard for rights recognized under international law, including the freedoms of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

ARTICLE IV

Nothing in this Treaty shall be interpreted as supporting or prejudicing the position of any State Party with respect to existing international conventions, including the 1958 Convention on the Territorial Sea and the Contiguous Zone, or with respect to rights or claims which such State Party may assert, or with respect to recognition or non-recognition of rights or claims asserted by any other State, related to waters off its coasts, including, inter alia, territorial seas and contiguous zones, or to the seabed and the ocean floor, including continental shelves.

ARTICLE V

The Parties to this Treaty undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and the subsoil thereof.

ARTICLE VI

Any State Party may propose amendments to this Treaty. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and, thereafter, for each remaining State Party on the date of acceptance by it.

ARTICLE VII

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any relevant technological developments. The review conference shall determine, in accordance with the views of a majority of those Parties attending, whether and when an additional review conference shall be convened.

ARTICLE VIII

Each State Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it considers to have jeopardized its supreme interests.

ARTICLE IX

The provisions of this Treaty shall in no way affect the obligations assumed by States Parties to the Treaty under international instruments establishing zones free from nuclear weapons.

ARTICLE X

1. This Treaty shall be open for signature to all States. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositary Governments of this Treaty.

4. For States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform the Governments of all signatory and acceding States of the date of each signature, of the date of deposit of each instrument of ratification or of accession, of the date of the entry into force of this Treaty, and of the receipt of other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the States signatory and acceding thereto.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Treaty.

DONE in triplicate, at the cities of Washington, London and Moscow, this eleventh day of February, one thousand nine hundred seventy-one.

Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, Geneva, 1977

Done at Geneva 18 May 1977

Entered into force 5 October 1978

Depositary: Secretary-General of the United Nations

Primary source citation: 31 UST 333, TIAS 9614

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

The States Parties to this Convention,

Guided by the interest of consolidating peace, and wishing to contribute to the cause of halting the arms race, and of bringing about general and complete disarmament under strict and effective international control, and of saving mankind from the danger of using new means of warfare,

Determined to continue negotiations with a view to achieving effective progress towards further measures in the field of disarmament,

Recognizing that scientific and technical advances may open new possibilities with respect to modification of the environment,

Recalling the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

Realizing that the use of environmental modification techniques for peaceful purposes could improve the interrelationship of man and nature and contribute to the preservation and improvement of the environment for the benefit of present and future generations,

Recognizing, however, that military or any other hostile use of such techniques could have effects extremely harmful to human welfare,

Desiring to prohibit effectively military or any other hostile use of environmental modification techniques in order to eliminate the dangers to mankind from such use, and affirming their willingness to work towards the achievement of this objective,

Desiring also to contribute to the strengthening of trust among nations and to the further improvement of the international situation in accordance with the purposes and principles of the Charter of the United Nations,

Have agreed as follows:

Article I

1. Each State Party to this Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.

2. Each State Party to this Convention undertakes not to assist, encourage or induce any State, group of States or international organization to engage in activities contrary to the provisions of paragraph 1 of this article.

Article II

As used in article I, the term "environmental modification techniques" refers to any technique for changing – through the deliberate manipulation of natural processes – the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space.

Article III

1. The provisions of this Convention shall not hinder the use of environmental modification techniques for peaceful purposes and shall be without prejudice to the generally recognized principles and applicable rules of international law concerning such use.

2. The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of scientific and technological information on the use of environmental modification techniques for peaceful purposes. States Parties in a position to do so shall contribute, alone or together with other States or international organizations, to international economic and scientific co-operation in the preservation, improvement and peaceful utilization of the environment, with due consideration for the needs of the developing areas of the world.

Article IV

Each State Party to this Convention undertakes to take any measures it considers necessary in accordance with its constitutional processes to prohibit and prevent any activity in violation of the provisions of the Convention anywhere under its jurisdiction or control.

Article V

1. The States Parties to this Convention undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objectives of, or in the application of the provisions of, the Convention. Consultation and co-operation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in paragraph 2 of this article.

2. For the purposes set forth in paragraph 1 of this article, the Depositary shall, within one month of the receipt of a request from any State Party to this Convention, convene a Consultative Committee of Experts. Any State

Party may appoint an expert to the Committee whose functions and rules of procedure are set out in the annex, which constitutes an integral part of this Convention. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.

3. Any State Party to this Convention which has reason to believe that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all relevant information as well as all possible evidence supporting its validity.

4. Each State Party to this Convention undertakes to co-operate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties of the results of the investigation.

5. Each State Party to this Convention undertakes to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, if the Security Council decides that such Party has been harmed or is likely to be harmed as a result of violation of the Convention.

Article VI

1. Any State Party to this Convention may propose amendments to the Convention, The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.

2. An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article VII

This Convention shall be of unlimited duration.

Article VIII

1. Five years after the entry into force of this Convention, a conference of the States Parties to the Convention shall be convened by the Depositary at Geneva, Switzerland. The conference shall review the operation of the Convention with a view to ensuring that its purposes and provisions are being realized, and shall in particular examine the effectiveness of the provisions of paragraph 1 of article I in eliminating the dangers of military or any other hostile use of environmental modification techniques.

2. At intervals of not less than five years thereafter, a majority of the States Parties to this Convention may obtain, by submitting a proposal to this effect to the Depositary, the convening of a conference with the same objectives.

3. If no conference has been convened pursuant to paragraph 2 of this article within ten years following the conclusion of a previous conference, the Depositary shall solicit the views of all States Parties to this Convention concerning the convening of such a conference. If one third or ten of the States Parties, whichever number is less, respond affirmatively, the Depositary shall take immediate steps to convene the conference.

Article IX

1. This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall enter into force upon the deposit of instruments of ratification by twenty Governments in accordance with paragraph 2 of this article.

4. For those States whose instruments of ratification or accession are deposited after the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention and of any amendments thereto, as well as of the receipt of other notices.

6. This Convention shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Article X

This Convention, of which the English, Arabic, Chinese, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send duly certified copies thereof to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at Geneva on the eighteenth day of May, one thousand nine hundred and seventy-seven.

Annex to the Convention
Consultative Committee of Experts

1. The Consultative Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to paragraph 1 of article V of this Convention by the State Party requesting the convening of the Committee.

2. The work of the Consultative Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. The Committee shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.

3. The Depositary or his representative shall serve as the Chairman of the Committee.

4. Each expert may be assisted at meetings by one or more advisers.

5. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work.

South Pacific Nuclear Free Zone Treaty, Raratonga, 1985

Done at Raratonga 6 August 1985

*Entered into force 11 December 1986**

Depositary: South Pacific Bureau for Economic Cooperation

Primary source citation: 24 ILM 1442 (1985)

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

PREAMBLE

The Parties to this Treaty

United in their commitment to a world at peace;

Gravely concerned that the continuing nuclear arms race presents the risk of nuclear war which would have devastating consequences for all people;

Convinced that all countries have an obligation to make every effort to achieve the goal of eliminating nuclear weapons, the terror which they hold for humankind and the threat which they pose to life on earth;

Believing that regional arms control measures can contribute to global efforts to reverse the nuclear arms race and promote the national security of each country in the region and the common security of all;

Determined to ensure, so far as lies within their power, that the bounty and beauty of the land and sea in their region shall remain the heritage of their peoples and their descendants in perpetuity to be enjoyed by all in peace;

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing to world security;

Noting, in particular, that Article VII of the NPT recognises the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

Noting that the prohibitions of emplantation and emplacement of nuclear weapons on the seabed and the ocean floor and in the subsoil thereof contained in the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof apply in the South Pacific;

* This Treaty is not in force for the United States.

Noting also that the prohibition of testing of nuclear weapons in the atmosphere or under water, including territorial waters or high seas, contained in the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water applies in the South Pacific;

Determined to keep the region free of environmental pollution by radioactive wastes and other radioactive matter;

Guided by the decision of the Fifteenth South Pacific Forum at Tuvalu that a nuclear free zone should be established in the region at the earliest possible opportunity in accordance with the principles set out in the communique of that meeting;

Have Agreed as follows:

ARTICLE 1

USAGE OF TERMS

For the purposes of this Treaty and its Protocols:

a) "South Pacific Nuclear Free Zone" means the area described in Annex 1 as illustrated by the map attached to that Annex;

b) "territory" means internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them;

c) "nuclear explosive device" means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;

d) "stationing" means emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment.

ARTICLE 2

APPLICATION OF THE TREATY

1. Except where otherwise specified, this Treaty and its Protocols shall apply to territory within the South Pacific Nuclear Free Zone.

2. Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to freedom of the seas.

ARTICLE 3

RENUNCIATION OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

(a) not to manufacture or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere inside or outside the South Pacific Nuclear Free Zone;

(b) not to seek or receive any assistance in the manufacture or acquisition of any nuclear explosive device;

(c) not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State.

ARTICLE 4

PEACEFUL NUCLEAR ACTIVITIES

Each Party undertakes:

(a) not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to:

(i) any non-nuclear-weapon State unless subject to the safeguards required by Article III.1 of the NPT, or

(ii) any nuclear-weapon State unless subject to applicable safeguards agreements with the International Atomic Energy Agency (IAEA).

Any such provision shall be in accordance with strict non-proliferation measures to provide assurance of exclusively peaceful non-explosive use;

(b) to support the continued effectiveness of the international non-proliferation system based on the NPT and the IAEA safeguards system.

ARTICLE 5

PREVENTION OF STATIONING OF NUCLEAR EXPLOSIVE DEVICES

1. Each Party undertakes to prevent in its territory the stationing of any nuclear explosive device.

2. Each Party in the exercise of its sovereign rights remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits.

ARTICLE 6

PREVENTION OF TESTING OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

(a) to prevent in its territory the testing of any nuclear explosive device;

(b) not to take any action to assist or encourage the testing of any nuclear explosive device by any State.

ARTICLE 7

PREVENTION OF DUMPING

1. Each Party undertakes:

   (a) not to dump radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;

   (b) to prevent the dumping of radioactive wastes and other radioactive matter by anyone in its territorial sea;

   (c) not to take any action to assist or encourage the dumping by anyone of radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;

   (d) to support the conclusion as soon as possible of the proposed Convention relating to the protection of the natural resources and environment of the South Pacific region and its Protocol for the prevention of pollution of the South Pacific region by dumping, with the aim of precluding dumping at sea of radioactive wastes and other radioactive matter by anyone anywhere in the region.

2. Paragraphs 1(a) and 1(b) of this Article shall not apply to areas of the South Pacific Nuclear Free Zone in respect of which such a Convention and Protocol have entered into force.

ARTICLE 8

CONTROL SYSTEM

1. The Parties hereby establish a control system for the purpose of verifying compliance with their obligations under this Treaty.

2. The control system shall comprise:

   (a) reports and exchange of information as provided for in Article 9;

   (b) consultations as provided for in Article 10 and Annex 4 (1);

   (c) the application to peaceful nuclear activities of safeguards by the IAEA as provided for in Annex 2;

   (d) a complaints procedure as provided for in Annex 4.

ARTICLE 9

REPORTS AND EXCHANGES OF INFORMATION

1. Each Party shall report to the Director of the South Pacific Bureau for Economic Co-operation (the Director) as soon as possible any significant event within its jurisdiction affecting the implementation of this Treaty. The Director shall circulate such reports promptly to all Parties.

2. The Parties shall endeavour to keep each other informed on matters arising under or in relation to this Treaty. They may exchange information by communicating it to the Director, who shall circulate it to all Parties.

3. The Director shall report annually to the South Pacific Forum on the status of this Treaty and matters arising under or in relation to it, incorporating reports and communications made under paragraphs 1 and 2 of this Article and matters arising under Articles 8(2) (d) and 10 and Annex 2(4).

ARTICLE 10

CONSULTATIONS AND REVIEW

Without prejudice to the conduct of consultations among Parties by other means, the Director, at the request of any Party, shall convene a meeting of the Consultative Committee established by Annex 3 for consultation and co-operation on any matter arising in relation to this Treaty or for reviewing its operation.

ARTICLE 11

AMENDMENT

The Consultative Committee shall consider proposals for amendment of the provisions of this Treaty proposed by any Party and circulated by the Director to all Parties not less than three months prior to the convening of the Consultative Committee for this purpose. Any proposal agreed upon by consensus by the Consultative Committee shall be communicated to the Director who shall circulate it for acceptance to all Parties. An amendment shall enter into force thirty days after receipt by the depositary of acceptances from all Parties.

ARTICLE 12

SIGNATURE AND RATIFICATION

1. This Treaty shall be open for signature by any Member of the South Pacific Forum.

2. This Treaty shall be subject to ratification. Instruments of ratification shall be deposited with the Director who is hereby designated depositary of this Treaty and its Protocols.

3. If a Member of the South Pacific Forum whose territory is outside the South Pacific Nuclear Free Zone becomes a Party to this Treaty, Annex 1 shall be deemed to be amended so far as is required to enclose at least the territory of that Party within the boundaries of the South Pacific Nuclear Free Zone. The delineation of any area added pursuant to this paragraph shall be approved by the South Pacific Forum.

ARTICLE 13

WITHDRAWAL

1. This Treaty is of a permanent nature and shall remain in force indefinitely, provided that in the event of a violation by any Party of a provision of this Treaty essential to the achievement of the objectives of the Treaty or of the spirit of the Treaty, every other Party shall have the right to withdraw from the Treaty.

2. Withdrawal shall be effected by giving notice twelve months in advance to the Director who shall circulate such notice to all other Parties.

ARTICLE 14

RESERVATIONS

This Treaty shall not be subject to reservations.

ARTICLE 15

ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of deposit of the eighth instrument of ratification.

2. For a signatory which ratifies this Treaty after the date of deposit of the eighth instrument of ratification, the Treaty shall enter into force on the date of deposit of its instrument of ratification.

ARTICLE 16

DEPOSITARY FUNCTIONS

The depositary shall register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations and shall transmit certified copies of the Treaty and its Protocols to all Members of the South Pacific Forum and all States eligible to become Party to the Protocols to the Treaty and shall notify them of signatures and ratifications of the Treaty and its Protocols.

IN WITNESS WHEREOF the undersigned, being duly authorised by their Governments, have signed this Treaty.

DONE at Raratonga, this sixth day of August, One thousand nine hundred and eighty-five, in a single original in the English language.

ANNEX 1

SOUTH PACIFIC NUCLEAR FREE ZONE

A. The area bounded by a line -

(1) commencing at the point of intersection of the Equator by the maritime boundary between Indonesia and Papua New Guinea;

(2) running thence northerly along that maritime boundary to its intersection by the outer limit of the exclusive economic zone of Papua New Guinea;

(3) thence generally north-easterly, easterly and south-easterly along that outer limit to its intersection by the Equator;

(4) thence east along the Equator to its intersection by the meridian of Longitude 163 degrees East;

(5) thence north along that meridian to its intersection by the parallel of Latitude 3 degrees North;

(6) thence east along that parallel to its intersection by the meridian of Longitude 171 degrees East;

(7) thence north along that meridian to its intersection by the parallel of Latitude 4 degrees North;

(8) thence east along that parallel to its intersection by the meridian of Longitude 180 degrees East;

(9) thence south along that meridian to its intersection by the Equator;

(10) thence east along the Equator to its intersection by the meridian of Longitude 165 degrees West;

(11) thence north along that meridian to its intersection by the parallel of Latitude 5 degrees 30 minutes North;

(12) thence east along that parallel to its intersection by the meridian of Longitude 154 degrees West;

(13) thence south along that meridian to its intersection by the Equator;

(14) thence east along the Equator to its intersection by the meridian of Longitude 115 degrees West;

(15) thence south along that meridian to its intersection by the parallel of Latitude 60 degrees South;

(16) thence west along that parallel to its intersection by the meridian of Longitude 115 degrees East;

(17) thence north along that meridian to its southernmost intersection by the outer limit of the territorial sea of Australia;

(18) thence generally northerly and easterly along the outer limit of the territorial sea of Australia to its intersection by the meridian of Longitude 136 degrees 45 minutes East;

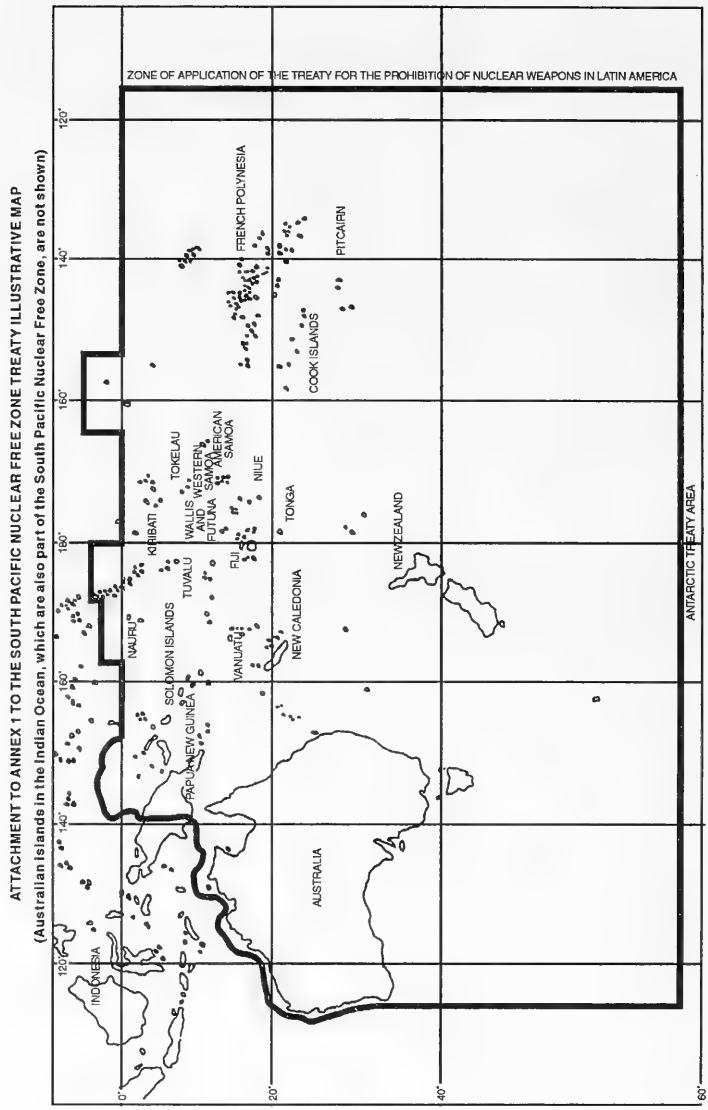
(19) thence north-easterly along the geodesic to the point of Latitude 10 degrees 50 minutes South, Longitude 139 degrees 12 minutes East;

(20) thence north-easterly along the maritime boundary between Indonesia and Papua New Guinea to where it joins the land border between those two countries;

(21) thence generally northerly along that land border to where it joins the maritime boundary between Indonesia and Papua New Guinea, on the northern coastline of Papua New Guinea; and

(22) thence generally northerly along that boundary to the point of commencement.

B. The areas within the outer limits of the territorial seas of all Australian islands lying westward of the area described in paragraph A and north of Latitude 60 degrees South, provided that any such areas shall cease to be part of the South Pacific Nuclear Free Zone upon receipt by the depositary of written notice from the Government of Australia stating that the areas have become subject to another treaty having an object and purpose substantially the same as that of this Treaty.


ATTACHMENT TO ANNEX 1 TO THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY ILLUSTRATIVE MAP
(Australian Islands in the Indian Ocean, which are also part of the South Pacific Nuclear Free Zone, are not shown)
ZONE OF APPLICATION OF THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA
INDONESIA
AUSTRALIA
NAURU
KIRIBATI
SOLOMON ISLANDS
PAPUA NEW GUINEA
TUVALU
VANUATU
FIJI
TOKELAU
WALLIS AND FUTUNA
WESTERN SAMOA
AMERICAN SAMOA
NIUE
TONGA
NEW CALEDONIA
NEW ZEALAND
COOK ISLANDS
PITCAIRN
FRENCH POLYNESIA
ANTARCTIC TREATY AREA
120°
140°
160°
180°
160°
140°
120°
0°
20°
40°
60°

ANNEX 2

IAEA SAFEGUARDS

1. The safeguards referred to in Article 8 shall in respect of each Party be applied by the IAEA as set forth in an agreement negotiated and concluded with the IAEA on all source or special fissionable material in all peaceful nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.

2. The agreement referred to in paragraph 1 shall be, or shall be equivalent in its scope and effect to, an agreement required in connection with the NPT on the basis of the material reproduced in document INFCIRC/153 (Corrected) of the IAEA. Each Party shall take all appropriate steps to ensure that such an agreement is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.

3. For the purposes of this Treaty, the safeguards referred to in paragraph 1 shall have as their purpose the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices.

4. Each Party agrees upon the request of any other Party to transmit to that Party and to the Director for the information of all Parties a copy of the overall conclusions of the most recent report by the IAEA on its inspection activities in the territory of the Party concerned, and to advise the Director promptly of any subsequent findings of the Board of Governors of the IAEA in relation to those conclusions for the information of all Parties.

ANNEX 3

CONSULTATIVE COMMITTEE

1. There is hereby established a Consultative Committee which shall be convened by the Director from time to time pursuant to Articles 10 and 11 and Annex 4 (2). The Consultative Committee shall be constituted of representatives of the Parties, each Party being entitled to appoint one representative who may be accompanied by advisers. Unless otherwise agreed, the Consultative Committee shall be chaired at any given meeting by the representative of the Party which last hosted the meeting of Heads of Government of Members of the South Pacific Forum. A quorum shall be constituted by representatives of half the Parties. Subject to the provisions of Article 11, decisions of the Consultative Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of those present and voting. The Consultative Committee shall adopt such other rules of procedure as it sees fit.

2. The costs of the Consultative Committee, including the costs of special inspections pursuant to Annex 4, shall be borne by the South Pacific Bureau for Economic Co-operation. It may seek special funding should this be required.

ANNEX 4

COMPLAINTS PROCEDURE

1. A Party which considers that there are grounds for a complaint that another Party is in breach of its obligations under this Treaty shall, before bringing such a complaint to the Director, bring the subject matter of the complaint to the attention of the Party complained of and shall allow the latter reasonable opportunity to provide it with an explanation and to resolve the matter.

2. If the matter is not so resolved, the complainant Party may bring the complaint to the Director with a request that the Consultative Committee be convened to consider it. Complaints shall be supported by an account of

evidence of breach of obligations known to the complainant Party. Upon receipt of a complaint the Director shall convene the Consultative Committee as quickly as possible to consider it.

3. The Consultative Committee, taking account of efforts made under paragraph 1, shall afford the Party complained of a reasonable opportunity to provide it with an explanation of the matter.

4. If, after considering any explanation given to it by the representatives of the Party complained of, the Consultative Committee decides that there is sufficient substance in the complaint to warrant a special inspection in the territory of that Party or elsewhere, the Consultative Committee shall direct that such special inspection be made as quickly as possible by a special inspection team of three suitably qualified special inspectors appointed by the Consultative Committee in consultation with the complained of and complainant Parties, provided that no national of either Party shall serve on the special inspection team. If so requested by the Party complained of, the special inspection team shall be accompanied by representatives of that Party. Neither the right of consultation on the appointment of special inspectors, nor the right to accompany special inspectors, shall delay the work of the special inspection team.

5. In making a special inspection, special inspectors shall be subject to the direction only of the Consultative Committee and shall comply with such directives concerning tasks, objectives, confidentiality and procedures as may be decided upon by it. Directives shall take account of the legitimate interests of the Party complained of in complying with its other international obligations and commitments and shall not duplicate safeguards procedures to be undertaken by the IAEA pursuant to agreements referred to in Annex 2(1). The special inspectors shall discharge their duties with due respect for the laws of the Party complained of.

6. Each Party shall give to special inspectors full and free access to all information and places within its territory which may be relevant to enable the special inspectors to implement the directives given to them by the Consultative Committee.

7. The Party complained of shall take all appropriate steps to facilitate the special inspection, and shall grant to special inspectors privileges and immunities necessary for the performance of their functions, including inviolability for all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken and written, for the purpose of the special inspection.

8. The special inspectors shall report in writing as quickly as possible to the Consultative Committee, outlining their activities, setting out relevant facts and information as ascertained by them, with supporting evidence and documentation as appropriate, and stating their conclusions. The Consultative Committee shall report fully to all Members of the South Pacific Forum, giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty.

9. If the Consultative Committee has decided that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, or at any time at the request of either the complaint or complained of Party, the Parties shall meet promptly at a meeting of the South Pacific Forum.

Protocol I to the South Pacific Nuclear Free Zone Treaty, Raratonga, 1986

Done at Raratonga 1 December 1986

Not in force

Primary source citation: 24 ILM 1459 (1985)

PROTOCOL 1

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have Agreed as follows:

ARTICLE 1

Each Party undertakes to apply, in respect of the territories for which it is internationally responsible situated within the South Pacific Nuclear Free Zone, the prohibitions contained in Articles 3, 5 and 6, insofar as they relate to the manufacture, stationing and testing of any nuclear explosive device within those territories, and the safeguards specified in Article 8 (2) (c) and Annex 2 of the Treaty.

ARTICLE 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligations under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty.

ARTICLE 3

This Protocol shall be open for signature by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 4

This Protocol shall be subject to ratification.

ARTICLE 5

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

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

DONE at Raratonga, this sixth day of August, One thousand nine hundred and eighty-five, in a single original in the English language.

Protocol II to the South Pacific Nuclear Free Zone Treaty, Raratonga, 1986

Done at Raratonga 1 December 1986

*Entered into force 21 October 1988**

Primary source citation: 24 ILM 1461 (1985)

PROTOCOL 2

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have Agreed as follows:

ARTICLE 1

Each Party undertakes not to contribute to any act which constitutes a violation of the Treaty or its Protocols by Parties to them.

ARTICLE 2

Each Party further undertakes not to use or threaten to use any nuclear explosive device against;

a) Parties to the Treaty; or

b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol I is internationally responsible.

ARTICLE 3

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligations under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

* This Protocol is not in force for the United States.

ARTICLE 4

This Protocol shall be open for signature by France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 5

This Protocol shall be subject to ratification.

ARTICLE 6

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

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

DONE at Raratonga, this sixth day of August, One thousand nine hundred and eighty-five, in a single original in the English language.

Protocol III to the South Pacific Nuclear Free Zone Treaty, Raratonga, 1986

Done at Raratonga 1 December 1986

*Entered into force 21 October 1988**

Primary source citation: 24 ILM 1463 (1985)

PROTOCOL 3

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have Agreed as follows:

ARTICLE 1

Each Party undertakes not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone.

ARTICLE 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

ARTICLE 3

This Protocol shall be open for signature by France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 4

This Protocol shall be subject to ratification.

* This Protocol is not in force for the United States.

BILATERAL

AUSTRALIA

FISHERIES

Agreement Between the Government of the United States of America and the Government of Australia Concerning Fishing by United States Vessels in Waters Surrounding Christmas Island and Cocos/Keeling Islands Pursuant to the Treaty on Fisheries Between the United States and Certain Pacific Island States, Port Moresby, 1987

Done at Port Moresby 2 April 1987

Entered into force 2 April 1987

Primary source citation: TIAS 11295

Embassy of the United States of America
Port Moresby

April 2, 1987.

Note No. 1

The Embassy of the United States of America presents its compliments to the Australian High Commission and has the honor to refer to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America, done at Port Moresby on April 2, 1987.

In connection with the conclusion of the Treaty, the Embassy has the honor to propose the following agreement between the Governments of Australia and the United States of America.

The Government of the United States accepts that the waters under the jurisdiction of Australia surrounding Christmas Island and Cocos/Keeling Islands will not be open initially to fishing by United States vessels pursuant to the Treaty.

However, the Government of Australia, noting the concern of the Government of the United States that only a small portion of the total area of waters under Australian jurisdiction is at present open to fishing by United States vessels under the Treaty and in concert with the spirit of the Treaty, shall make its best effort, consistent with prudent management practices and following consultation with local communities and fisheries experts, to open in a timely manner all or parts of the waters surrounding Christmas Island and Cocos/Keeling Islands to fishing by United States vessels pursuant to the Treaty.

The Government of Australia agrees to advise the Government of the United States, as soon as possible after the signature of the Treaty, of the results of the Australian effort to open all or parts of the waters surrounding Christmas Island and Cocos/Keeling Islands to fishing in accordance with the Treaty, so that Schedule 2 of Annex I of the Treaty may, if appropriate, be amended accordingly no later than the first annual consultative meeting pursuant to Article 7 of the Treaty.

The Embassy has the honor to propose that, if the foregoing is acceptable to the Government of Australia, this note and the High Commission's confirmation reply shall together constitute an agreement between the two governments which shall enter into force on the date of the reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Australian High Commission the assurances of its highest consideration.

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PORT MORESBY, PNG

2 April 1987

NOTE NO: 90/87

The Australian High Commission presents its compliments to the Embassy of the United States of America and has the honour to refer to the note of the Embassy numbered 1 of 2 April 1987 which reads as follows:

[For text of the U.S. note, see page 2771.]

The High Commission has the honour to inform the Embassy that the foregoing is acceptable to the Government of Australia and to confirm that the Embassy's note of 2 April 1987, together with this reply, shall constitute an agreement between the Government of Australia and the Government of the United States of America which shall enter into force on the date of this note.

The Australian High Commission avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

BILATERAL

BOLIVIA

ENVIRONMENT AND NATURAL RESOURCES

Agreement Between the Government of the United States of America and the Government of Bolivia Concerning the Establishment of an Enterprise for the Americas Environmental Account at the National Fund for the Environment, Washington, 1991

Done at Washington 26 November 1991

Entered into force 26 November 1991

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF BOLIVIA CONCERNING THE ESTABLISHMENT OF AN ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL ACCOUNT AT THE NATIONAL FUND FOR THE ENVIRONMENT

The Government of the United States of America and the Government of Bolivia ("the Parties"),

Seeking to implement the Enterprise for the Americas Initiative,

Desiring to enhance the friendship and spirit of cooperation between these two countries,

Desiring to promote environmentally sound and sustainable economic development,

Recognizing that environmental protection, conservation, and sustainable natural resource management are key elements in building an ecologically and economically sound future for all countries in the Western Hemisphere,

Wishing to follow upon the Agreement between the Parties Regarding the Reduction of Certain Debts Owed to the United States Government and its Agencies (the "Debt Reduction Agreement"), of August 22, 1991, which reduces certain debt owed by the Government of Bolivia to the Government of the United States of America, through the exchange of old obligations for a new obligation ("New EAI Obligation"),

Have agreed as follows:

Article I
PURPOSE

The purpose of this Agreement is to provide for the establishment of an Enterprise for the Americas Environmental Account ("the Account") and its Administrative Council ("the Council") at the National Fund for the Environment ("FONAMA"), in order to preserve, protect or manage the natural and biological resources of Bolivia in an environmentally sound and sustainable manner.

Article II
ENVIRONMENTAL ACCOUNT

1. The Government of Bolivia shall establish an environmental account at FONAMA in accordance with the decrees and laws of Bolivia. Any monies credited to the Account, or grants made from the assets of the Account, shall be free from any taxation, levies, fees or other charges imposed by the Parties to the extent permissible by law.

2. Subject to Article IV of the Debt Reduction Agreement, the Government of Bolivia shall ensure that the entire amount of interest owed on the New EAI Obligation falling due on or after the date of entry into force of this Agreement shall be credited to the Account and deposited in local currency in an Operating Account at the Central Bank of Bolivia in accordance with the payment schedule at Appendix B of the Debt Reduction Agreement. FONAMA shall promptly notify the Council in writing when the Government of Bolivia makes a deposit in the Operating Account pursuant to this paragraph. Any interest which becomes due on the New EAI Obligation prior to the date of entry into force of this Agreement, or subsequent to the termination of this Agreement pursuant to Article X, shall not be credited to the Account, but shall be deposited in U.S. dollars in the appropriate U.S. Government account.

3. Monies from other sources, including public and private creditors of the Government of Bolivia, in the form of local currency or other currencies, may be credited to the Account and deposited in the Operating Account with the mutual agreement of the Parties and prospective donors. Once credited to the Account, these monies shall be subject to the requirements and conditions agreed to between the donor(s) of such monies and the Parties, so long as these terms are consistent with this Agreement.

4. Deposits credited to the Account shall be the property of FONAMA until they are disbursed pursuant to the procedures set forth in Article VII.

5. The Government of Bolivia, in consultation with the Government of the United States, shall select an investment agent, who shall establish an Investment Account to which payments deposited in the Operating Account shall be transferred as directed by FONAMA, and remain there pending approval of disbursements by the Council pursuant to Article VII. Upon the Council's approval of such disbursements, FONAMA shall direct that funds necessary for such disbursements be transferred from the Investment Account to the Operating Account. The investment agent shall be charged by FONAMA with the investment of the monies in the Investment Account. Returns on investment shall be deposited by the investment agent in the Investment Account and remain there until transferred as directed by FONAMA to the Operating Account.

6. The investment agent shall be required to make every effort to ensure that such investments yield a positive real rate of return in terms of U.S. dollars. To the extent that prudent investment practices are not accomplishing this goal, FONAMA shall promptly bring this matter to the attention of the Council and the Parties for consideration by the Parties with a view toward identifying appropriate corrective measures.

Article III
ESTABLISHMENT AND COMPOSITION OF THE ADMINISTRATIVE COUNCIL

1. The Government of Bolivia shall ensure that the Enterprise for the Americas Administrative Council is established for the Account.

2. The Council shall consist of seven members as follows:

A. Two representatives appointed by the Government of Bolivia:

(1) the Secretary General of the Environment of Bolivia, as head of the Bolivian representation and chairman of the Council;

(2) the Executive Director of FONAMA.

B. One representative appointed by the Government of the United States of America.

C. Four representatives from a broad range of Bolivian environmental and local community development nongovernmental organizations, and scientific and academic bodies, proposed by the Government of Bolivia in consultation with these groups. These representatives shall be approved jointly by the Parties, appointed by the Government of Bolivia, and shall constitute a majority of the members of the Council.

3. Council members representing each Party shall serve at the discretion of that Party. Council members described in paragraph 2(c) above shall serve for a period of three years and may be removed by the Government of Bolivia only to the extent permissible under Bolivian laws and decrees. Consecutive terms of service shall be permitted.

4. A Council member may not participate in the discussion or approval of any proposed grant which, if approved, would result in a financial benefit for the member, any member of his family, or an organization in which the member or any member of his family has a direct financial interest. Further, a Council member may not participate in the discussion or approval of any proposed grant to an organization which the member represents.

Article IV
FUNCTIONS OF THE ADMINISTRATIVE COUNCIL

1. The Council shall be responsible for overseeing and directing the administration of grant activities funded pursuant to this Agreement. The Parties shall ensure that the Council has the necessary authority to carry out the functions assigned to it in this Agreement.

2. The Council shall:

A. Instruct FONAMA to issue and widely disseminate a public announcement of the call for grant proposals which states the criteria for the selection of projects eligible for grant assistance, and the qualifications of organizations eligible to receive grant awards.

B. Review all proposals for grant assistance submitted to FONAMA or submitted to the Council and referred to FONAMA by entities described in Article VI.2 of this Agreement, and as appropriate, approve grants to such entities for the activities enumerated in Article VI.1 of this Agreement. Such review shall include approval of work plans and disbursement schedules for approved projects.

C. Instruct FONAMA to announce publicly grants approved by the Council.

D. Receive and certify FONAMA's programmatic and financial evaluations of each project funded by the Account.

E. Determine if independent evaluations and audits of individual projects are needed.

F. Present to the Parties annually:

(1) a proposed annual program, by October 1, covering the following Bolivian fiscal year (January 1 - December 31); and, in addition, a report on the proposed activities of the Council covering the period following the entry into force of this Agreement through December 31, 1992, to be submitted by May 1, 1992;

(2) an annual report on the activities funded by the Account during the previous Bolivian fiscal year, which shall include on-going multi-year projects, by April 1;

(3) an annual financial audit by an independent auditor covering the previous Bolivian fiscal year, by April 1.

3. Proposed grants with life-of-project total from the Account in excess of US $100,000 shall be presented by the Council to both Parties. If either Party disapproves of such a grant, that Party must notify the Council of its disapproval, in which case the Council may not award the proposed grant. Proposed grants not disapproved by either Party within 45 days of presentation to the Parties' members on the Council shall no longer be subject to either Party's disapproval.

4. The Council shall adopt by majority vote procedures for its operation, provided that the majority includes the affirmative votes of the representatives of the Parties appointed in accordance with Article III.2.(A).(1). and (B). No disbursements pursuant to Article VII may be made prior to the adoption of these procedures.

5. The Council shall meet at least once every four months.

6. The Council shall ensure that performance under grants and other agreements is monitored by FONAMA to determine whether time schedules and other performance goals are being achieved. Grant agreements shall provide for periodic progress reports from grantees to FONAMA and the Council. Such reports will review all project components essential to the successful achievement of the goals of the project. Such reports should be received from grantees at least annually.

7. Unless the Parties otherwise agree by exchange of diplomatic notes, funds drawn from the Account for the administrative expenses associated with the operation of the Account shall not exceed 10 percent per annum of the annual payments made by the Government of Bolivia and credited to the Account. This amount shall include the financial audit required by Article IV.2.F. but shall not include independent evaluations and audits requested by the Council pursuant to Article IV.2.E. FONAMA shall be responsible for preparing a budget for these administrative expenses, which must be reviewed and approved by the Council, including the affirmative votes of the representatives of the Parties. During the fiscal year, FONAMA will manage these funds to cover all its expenses (staff, equipment, and operations) and those of the Council associated with the operation of the Account.

8. The Council's organizing statutes, written policies, operating procedures, minutes of meetings, and reports shall be retained by FONAMA in the files of the Council. A permanent record shall also be maintained on the decision criteria used by the Council in the awarding of grants. The above records shall be kept current by FONAMA and shall be open for public inspection.

Article V
FUNCTIONS OF FONAMA

The functions of FONAMA shall include:

a. Managing and making disbursements from the Operating Account pursuant to Articles II and VII.

b. Monitoring the management of the Investment Account pursuant to Article II.

c. Preparing the project portfolio to be reviewed by the Council.

d. Tracking project progress and reporting to the Council.

e. Conducting internal programmatic and financial evaluations of the projects funded.

f. Organizing and providing administrative support for the meetings of the Council.

g. Preparing an annual budget for the administrative expenses associated with the operation of the Account pursuant to Article IV. 7.

Article VI
ELIGIBILITY OF PROJECTS AND ORGANIZATIONS

1. Activities that may be funded under this Agreement are:

(i) restoration, protection, or sustainable use of the world's oceans and atmosphere;

(ii) restoration, protection, or sustainable use of diverse animal and plant species;

(iii) establishment, restoration, protection, and maintenance of parks and reserves;

(iv) development and implementation of sound systems of natural resource management;

(v) development and support of local conservation programs;

(vi) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(vii) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

(viii) design and implementation of sound programs of land and ecosystem management;

(ix) promotion of regenerative approaches in farming, forestry, fishing, and watershed management;

(x) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(xi) local community initiatives that promote conservation and sustainable use of the environment.

2. Organizations which shall be eligible for grants from the Account are:

A. Bolivian nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations, duly registered with the Government of Bolivia;

B. other appropriate local, regional, or national nongovernmental entities;

C. in exceptional circumstances, public institutions of Bolivia.

3. The eligibility of a particular organization for funding for a specific project shall be determined by the Council.

4. The Council shall give priority to projects that are managed by nongovernmental organizations and that involve local communities in their planning and execution.

5. Grants shall be awarded to organizations on the merits of proposals presented to the Council, without regard to whether the proposing organization is represented on the Council.

Article VII
DISBURSEMENT OF FUNDS

1. The Council shall authorize the disbursement of grants by FONAMA from the Operating Account to organizations eligible under Article VI.2. when it approves a proposal eligible under Article VI.1. All such disbursements shall be made pursuant to a project grant agreement.

2. Upon receipt of requests for disbursement from grantees, FONAMA shall promptly review such requests and, as appropriate, make timely disbursements pursuant to respective grant agreements. The Council's operating procedures shall establish a time frame within which FONAMA shall review such requests and, consistent with project grant agreements, make disbursements.

3. Approval by the Council of the budget for the administrative expenses associated with the operation of the Account pursuant to Article IV.7 shall constitute authorization for FONAMA to request the transfer of funds from the Investment Account to the Operating Account and to disburse funds from the Operating Account to meet such expenses.

Article VIII
CONSULTATION AND REVIEW

1. Upon the request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.

2. Either Party may request consultations with the Council and the other Party after reviewing the Council's reports and audits presented pursuant to Article IV.2.(F). These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.

3. The Parties will meet to review the operation of this Agreement three years from the date of its entry into force.

Article IX
SUSPENSION OF DISBURSEMENTS

1. If at any time either of the Parties determines that issues requiring consultation under Article VIII have not been satisfactorily resolved, such Party may notify the other Party in writing. In addition, the representative of such Party on the Council shall immediately inform the Council that such notification has been sent.

2. Upon receipt of such written notification from the Government of the United States of America, the Government of Bolivia shall immediately instruct FONAMA to suspend disbursements under Article VII of this Agreement.

3. Upon providing such written notification to the Government of the United States of America, the Government of Bolivia may immediately instruct FONAMA to suspend disbursements pursuant to Article VII of this Agreement.

4. a) Suspension of disbursements shall mean that no further approval of grants will be undertaken until the Parties agree to resume such activity.

b) Disbursements pursuant to previously approved grant agreements shall proceed unless a specific grant agreement is suspended pursuant to that grant agreement.

c) Notwithstanding paragraph (b) above, should the Parties jointly certify in writing to the Council that the manner in which a grant agreement was awarded was inconsistent with Article III.4. or the

operating procedures of the Council, the Parties may require FONAMA to suspend disbursements pursuant to that grant agreement.

5. If the Government of Bolivia fails to suspend disbursements under Article VII of this Agreement within 10 working days of receiving written notification from the Government of the United States ("the notification period"), the Government of the United States may, at its discretion, require that interest payments on the new obligation referred to in Article II of this Agreement falling due subsequent to the notification period be made in United States dollars and be deposited in the appropriate United States Government account.

Article X
TERMINATION

1. Either Party may terminate this Agreement upon six months written notice to the other Party.

2. No disbursements from the Operating or Investment Accounts shall occur after a Party has given notice to terminate this Agreement, unless the Parties agree to permit disbursements. The termination of this Agreement shall not prevent expenditures of funds disbursed before notice to terminate is given.

3. Upon termination of this Agreement, the disposition of amounts remaining in the Investment and Operating Accounts, or any other account established pursuant to this Agreement, shall be subject to a formula to be mutually agreed upon by the Parties. Such a formula shall provide that those funds which derive from interest payments on the New EAI Obligation will, at the discretion of the United States Government, be converted into United States dollars and deposited into the appropriate United States Government account.

Article XI
ENTRY INTO FORCE, AMENDMENT AND OTHER ARRANGEMENTS

1. This Agreement shall enter into force upon signature and shall remain in force unless terminated by the parties in accordance with Article X.

2. This Agreement may be amended by exchange of diplomatic notes between both Parties.

3. Nothing in this Agreement shall prejudice other arrangements between the Parties concerning debt reduction or cooperation and assistance for environmental or conservation purposes.

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

DONE at Washington, in duplicate, this 26th day of November, 1991, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

E.U. Curtis Bohlen

FOR THE GOVERNMENT OF
BOLIVIA:

Jorge Crespo-Velasco

BILATERAL

BRAZIL

ENVIRONMENT AND NATURAL RESOURCES

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Secretariat of the Environment of the Presidency of the Federative Republic of Brazil with the Brazilian Institute of Environment and Renewable Natural Resources, Washington, 1990

Done at Washington 16 November 1990

Entered into force 16 November 1990

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE SECRETARIAT OF THE ENVIRONMENT OF THE PRESIDENCY OF THE FEDERATIVE REPUBLIC OF BRAZIL WITH THE BRAZILIAN INSTITUTE OF ENVIRONMENT AND RENEWABLE NATURAL RESOURCES

Whereas the Environmental Protection Agency (EPA) is responsible for implementing the federal laws designed to protect the environment in the United States of America; the Secretariat of the Environment of the Presidency of the Federative Republic of Brazil (SEMAM) is responsible for planning, coordinating and supervising to the Brazilian National Policy on the Environment; and the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) is the federal agency in charge of implementing the Brazilian National Policy on the Environment;

Whereas the Government of the United States of America and the Government of the Republic of Brazil have signed the Agreement relating to Cooperation on Science and Technology hereafter referred to as "the Agreement", which entered into force on May 15, 1986;

Whereas cooperation between the Parties in the fields of environment and natural resources, among others, may be undertaken in accordance with Article III of the Agreement;

It is hereby agreed that:

ARTICLE I: PARTIES

The Parties to this Memorandum of Understanding (MOU) are EPA on the one hand and SEMAM and IBAMA on the other hand.

ARTICLE II: GENERAL PURPOSE

In accordance with the laws and regulations in their respective countries, the Parties shall cooperate to assist their respective nations to solve environmental problems of mutual concern, through the exchange of information and personnel, pursuant to this MOU and the Agreement or any applicable scientific and technological cooperation agreement that may be entered into by and between the United States and Brazil.

ARTICLE III: BASIC OBLIGATIONS

The Parties shall make available, upon request, advisors and services in fields such as air pollution, water pollution, soil pollution, marine pollution, environmental protection of human health and ecological systems, improvement of the urban environment, environmental legislation, environmental management and environmental economics, in accordance with the terms of the MOU and such Annexes which may mutually be agreed upon for specific cooperative activities as enumerated in Article IV.

ARTICLE IV: COOPERATIVE ACTIVITIES

Cooperation under this MOU may take the following forms:

1. Exchange of scientists, engineers, scholars, specialists and delegations;

2. Exchange of non-proprietary information in the field of environmental protection;

3. Joint organization of symposia, seminars and lectures;

4. Cooperative study of environmental protection topics; and

5. Exchange and provision of samples, reagents, materials, data, instruments and components for testing, evaluation and other purposes.

Within the framework of this MOU, the Parties shall facilitate the exchange of personnel, entry of equipment and materials for research, and other elements of the project.

ARTICLE V: PARTICIPANTS

The scientists and engineers involved in activities shall be those in government agencies and in academic or other institutions including enterprises from the private sectors of the two countries.

ARTICLE VI: FUNDING

Activities under this MOU shall be subject to the availability of authorized funds and personnel as determined by the Administrator of EPA and the competent Brazilian authorities respectively. Except as otherwise specifically provided in this MOU and in any future Annex hereto, each Party shall bear the costs of discharging its respective responsibilities for activities of equal benefit. For activities which are not equally beneficial, costs shall be borne by each Government in proportion to the benefits derived, as agreed by the Parties.

ARTICLE VII: RELEASE OF INFORMATION

Scientific and technical information of a non-proprietary nature derived from cooperative activities under this MOU may be dissiminated subject to the agreement of each Party.

ARTICLE VIII: INTELLECTUAL PROPERTY

Intellectual property shall be handled in accordance with provisions worked out in the Scientific and Technological Cooperation Agreement of May 15, 1986, or any future provisions agreed upon by the Parties.

ARTICLE IX: GENERAL PROVISIONS

Participation of EPA, SEMAM, IBAMA and any other entities in activities undertaken pursuant to this MOU shall be subject to the relevant national laws and regulations, and international obligations entered into by each country. The MOU shall not affect the rights of EPA, SEMAM and IBAMA to conclude other Agreements in the same field.

ARTICLE X: PROJECT MANAGEMENT

The activities under this MOU shall be mutually agreed upon and shall be embodied in Annexes to this MOU that will:

1. Clearly describe the project and its objectives;

2. Clearly define the technical and financial responsibilities of the Parties;

3. Define the estimated duration of the activities undertaken in the framework of such project;

4. Establish a schedule of written progress and financial reports.

The Parties shall begin cooperative activities only after receipt of written approval of the respective Annex.

ARTICLE XI
ENTRY INTO FORCE, DURATION, AMENDMENT AND TERMINATION

1. This MOU shall enter into force on the date of signature and shall remain in force for five (5) years. It may be extended by the mutual written agreement of the Parties.

2. This MOU may be amended and Annexes added at any time by mutual written agreement of the Parties.

3. This MOU may be terminated by either Party giving six months written notice to the other Party. The termination of the MOU shall not affect the duration of specific activities initiated prior to the termination but not yet completed thereunder.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, sign this MOU.

DONE in Washington, D. C., in duplicate, in the English and the Portuguese languages, both being equally authentic, this sixteenth day of November 1990.

FOR THE ENVIRONMENTAL
PROTECTION AGENCY OF
THE UNITED STATES OF AMERICA:

William K. Reilly

FOR THE SECRETARIAT FOR THE
ENVIRONMENT OF THE PRESIDENCY
OF THE FEDERATIVE REPUBLIC OF
BRAZIL:

[Signature]

FOR THE BRAZILIAN INSTITUTE
OF ENVIRONMENT AND RENEWABLE
NATURAL RESOURCES:

[Signature]

BILATERAL

CANADA

ENVIRONMENT AND NATURAL RESOURCES

Convention for the Protection of Migratory Birds, Washington, 1916

Done at Washington 16 August 1916

Entered into force 7 December 1916

Primary source citation: 12 Bevans 375, TS 628

CONVENTION FOR THE PROTECTION OF MIGRATORY BIRDS

Whereas, Many species of birds in the course of their annual migrations traverse certain parts of the United States and the Dominion of Canada; and

Whereas, Many of these species are of great value as a source of food or in destroying insects which are injurious to forests and forage plants on the public domain, as well as to agricultural crops, in both the United States and Canada, but are nevertheless in danger of extermination through lack of adequate protection during the nesting season or while on their way to and from their breeding grounds;

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of saving from indiscriminate slaughter and of insuring the preservation of such migratory birds as are either useful to man or are harmless, have resolved to adopt some uniform system of protection which shall effectively accomplish such objects and to the end of concluding a convention for this purpose have appointed as their respective Plenipotentiaries:

The President of the United States of America, Robert Lansing, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable Sir Cecil Arthur Spring Rice, G.C.V.O., K.C.M.G., etc., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers which were found to be in due and proper form, have agreed to and adopted the following articles:

Article I

The High Contracting Powers declare that the migratory birds included in the terms of this Convention shall be as follows:

1. Migratory Game Birds:

(*a*) Anatidae or waterfowl, including brant, wild ducks, geese, and swans.

(*b*) Gruidae or cranes, including little brown, sandhill, and whooping cranes.

(*c*) Rallidae or rails, including coots, gallinules and sora and other rails.

(*d*) Limicolae or shorebirds, including avocets, curlew, dowitchers, godwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock and yellowlegs.

(*e*) Columbidae or pigeons, including doves and wild pigeons.

2. Migratory Insectivorous Birds:

Bobolinks, catbirds, chickadees, cuckoos, flickers, flycatchers, grosbeaks, humming birds, kinglets, martins, meadowlarks, nighthawks or bull bats, nut-hatches, orioles, robins, shrikes, swallows, swifts, tanagers, titmice, thrushes, vireos, warblers, wax-wings, whippoorwills, woodpeckers and wrens, and all other perching birds which feed entirely or chiefly on insects.

3. Other Migratory Nongame Birds:

Auks, auklets, bitterns, fulmars, gannets, grebes, guillemots, gulls, herons, jaegers, loons, murres, petrels, puffins, shearwaters, and terns.

ARTICLE II

The High Contracting Powers agree that, as an effective means of preserving migratory birds there shall be established the following close seasons during which no hunting shall be done except for scientific or propagating purposes under permits issued by proper authorities.

1. The close season on migratory game birds shall be between March 10 and September 1, except that the close season on the Limicolae or shorebirds in the Maritime Provinces of Canada and in those States of the United States bordering on the Atlantic Ocean which are situated wholly or in part north of Chesapeake Bay shall be between February 1 and August 15, and that Indians may take at any time scoters for food but not for sale. The season for hunting shall be further restricted to such period not exceeding three and one-half months as the High Contracting Powers may severally deem appropriate and define by law or regulation.

2. The close season on migratory insectivorous birds shall continue throughout the year.

3. The close season on other migratory nongame birds shall continue throughout the year, except that Eskimos and Indians may take at any season auks, auklets, guillemots, murres and puffins, and their eggs, for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

ARTICLE III

The High Contracting powers agree that during the period of ten years next following the going into effect of this Convention, there shall be a continuous close season on the following migratory game birds, to wit:

Band-tailed pigeons, little brown, sandhill and whooping cranes, swans, curlew and all shorebirds (except the black-breasted and golden plover, Wilson or jack snipe, woodcock, and the greater and lesser yellowlegs); provided that during such ten years the close seasons on cranes, swans and curlew in the Province of British Columbia shall be made by the proper authorities of that Province within the general dates and limitations elsewhere prescribed in this Convention for the respective groups to which these birds belong.

ARTICLE IV

The High Contracting Powers agree that special protection shall be given the wood duck and the eider duck either (1) by a close season extending over a period of at least five years, or (2) by the establishment of refuges, or (3) by such other regulations as may be deemed appropriate.

ARTICLE V

The taking of nests or eggs of migratory game or insectivorous or nongame birds shall be prohibited, except for scientific or propagating purposes under such laws or regulations as the High Contracting Powers may severally deem appropriate.

ARTICLE VI

The High Contracting Powers agree that the shipment or export of migratory birds or their eggs from any State or Province, during the continuance of the close season in such State or Province, shall be prohibited except for scientific or propagating purposes, and the international traffic in any birds or eggs at such time captured, killed, taken, or shipped at any time contrary to the laws of the State or Province in which the same were captured, killed, taken, or shipped shall be likewise prohibited. Every package containing migratory birds or any parts thereof or any eggs of migratory birds transported, or offered for transportation from the United States into the Dominion of Canada or from the Dominion of Canada into the United States, shall have the name and address of the shipper and an accurate statement of the contents clearly marked on the outside of such package.

ARTICLE VII

Permits to kill any of the above-named birds which, under extraordinary conditions, may become seriously injurious to the agricultural or other interests in any particular community, may be issued by the proper authorities of the High Contracting Powers under suitable regulations prescribed therefor by them respectively, but such permits shall lapse, or may be cancelled, at any time when, in the opinion of said authorities, the particular exigency has passed, and no birds killed under this article shall be shipped, sold or offered for sale.

ARTICLE VIII

The High Contracting Powers agree themselves to take, or propose to their respective appropriate law-making bodies, the necessary measures for insuring the execution of the present Convention.

ARTICLE IX

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty. The ratifications shall be exchanged at Washington as soon as possible and the Convention shall take effect on the date of the exchange of the ratifications. It shall remain in force for fifteen years and in the event of neither of the High Contracting Powers having given notification, twelve months before the expiration of said period of fifteen years, of its intention of terminating its operation, the Convention shall continue to remain in force for one year and so on from year to year.

In faith whereof, the respective Plenipotentiaries have signed the present Convention in duplicate and have hereunto affixed their seals.

Done at Washington this sixteenth day of August, one thousand nine hundred and sixteen.

ROBERT LANSING

CECIL SPRING RICE

Protocol Amending the Convention of August 16, 1916 for the Protection of Migratory Birds in Canada and the United States of America, Ottawa, 1979

Done at Ottawa 30 January 1979

Not in force

Primary source citation: Senate Executive W, 96th Congress, 2d Session, U.S. Government Printing Office, Washington, 1980

PROTOCOL AMENDING THE CONVENTION OF AUGUST 16, 1916 FOR THE PROTECTION OF MIGRATORY BIRDS IN CANADA AND THE UNITED STATES OF AMERICA

The Government of Canada and the Government of the United States of America,

Desirous of amending the Migratory Birds Convention signed at Washington on August 16, 1916,

Have agreed as follows:

ARTICLE I

Article 2 of the Convention of August 16, 1916 for the Protection of Migratory Birds in Canada and the United States is amended by adding the following additional paragraph:

"Notwithstanding any other provision of this Convention, the High Contracting Powers may, without prejudice to those rights accorded to Indians by sub-paragraph 1 of the first paragraph of this Article and to Eskimos and Indians by sub-paragraph 3 of the said first paragraph, authorize by statute, regulation, or decree the taking of migratory birds and the collection of their eggs by the indigenous inhabitants of the State of Alaska and the Indians and Inuit of Canada for their own nutritional and other essential needs (as determined by the competent authority of each High Contracting Power), during any period of the year in accordance with seasons established by the competent authority of each High Contracting Power respectively, so as to provide for the preservation and maintenance of stocks of migratory birds."

ARTICLE II

This Protocol shall be subject to ratification. It shall enter into force on the date of exchange of instruments of ratification which shall take place at Washington as soon as possible.

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

DONE in duplicate at Ottawa this 30th day of January, 1979 in the English and French languages, each version being equally authentic.

[Seal] [Signature]
For the Government of Canada

[Seal] Cecil D. Andrus
For the Government of the
United States of America

Memorandum of Intent Between the Government of the United States of America and the Government of Canada Concerning Transboundary Air Pollution, Washington, 1980

Done at Washington 5 August 1980

Entered into force 5 August 1980

Primary source citation: 32 UST 2521, TIAS 9856

MEMORANDUM OF INTENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONCERNING TRANSBOUNDARY AIR POLLUTION

The Government of the United States of America and the Government of Canada,

Share a concern about actual and potential damage resulting from transboundary air pollution, (which is the short and long range transport of air pollutants between their countries), including the already serious problem of acid rain;

Recognize this is an important and urgent bilateral problem as it involves the flow of air pollutants in both directions across the international boundary, especially the long range transport of air pollutants;

Share also a common determination to combat transboundary air pollution in keeping with their existing international rights, obligations, commitments and cooperative practices, including those set forth in the 1909 Boundary Waters Treaty, the 1972 Stockholm Declaration on the Human Environment, the 1978 Great Lakes Water Quality Agreement, and the 1979 ECE Convention on Long Range Transboundary Air Pollution;

Undertook in July 1979 to develop a bilateral cooperative agreement on air quality which would deal effectively with transboundary air pollution;

Are resolved as a matter of priority both to improve scientific understanding of the long range transport of air pollutants and its effects and to develop and implement policies, practices and technologies to combat its impact;

Are resolved to protect the environment in harmony with measures to meet energy needs and other national objectives;

Note scientific findings which indicate that continued pollutant loadings will result in extensive acidification in geologically sensitive areas during the coming years, and that increased pollutant loadings will accelerate this process;

Are concerned that environmental stress could be increased if action is not taken to reduce transboundary air pollution;

Are convinced that the best means to protect the environment from the effects of transboundary air pollution is through the achievement of necessary reductions in pollutant loadings;

Are convinced also that this common problem requires cooperative action by both countries;

Intend to increase bilateral cooperative action to deal effectively with transboundary air pollution, including acid rain.

In particular, the Government of the United States of America and the Government of Canada intend:

1. to develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary air pollution;

2. to facilitate the conclusion of such an agreement as soon as possible; and,

3. pending conclusion of such an agreement, to take interim actions available under current authority to combat transboundary air pollution.

The specific undertakings of both Governments at this time are outlined below.

INTERIM ACTIONS

1. Transboundary Air Pollution Agreement

Further to their Joint Statement of July 26, 1979, and subsequent bilateral discussions, both Governments shall take all necessary steps forthwith:

(a) to establish a United States/Canada Coordinating Committee which will undertake preparatory discussions immediately and commence formal negotiations no later than June 1, 1981, of a cooperative agreement on transboundary air pollution; and

(b) to provide the necessary resources for the Committee to carry out its work, including the working group structure as set forth in the Annex. Members will be appointed to the work groups by each Government as soon as possible.

2. Control Measures

To combat transboundary air pollution both Governments shall:

(a) develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them;

(b) promote vigorous enforcement of existing laws and regulations as they require limitation of emissions from new, substantially modified and existing facilities in a way which is responsive to the problems of transboundary air pollution; and

(c) share information and consult on actions being taken pursuant to (a) and (b) above.

3. Notification and Consultation

Both Governments shall continue and expand their long-standing practice of advance notification and consultation on proposed actions involving a significant risk or potential risk of causing or increasing transboundary air pollution, including:

(a) proposed major industrial development or other actions which may cause significant increases in transboundary air pollution; and

(b) proposed changes of policy, regulations or practices which may significantly affect transboundary air pollution.

4. Scientific Information, Research and Development

In order to improve understanding of their common problem and to increase their capability for controlling transboundary air pollution both Governments shall:

(a) exchange information generated in research programs being undertaken in both countries on the atmospheric aspects of the transport of air pollutants and on their effects on aquatic and terrestrial ecosystems and on human health and property;

(b) maintain and further develop a coordinated program for monitoring and evaluation of the impacts of transboundary air pollution, including the maintenance of a United States/Canada sampling network and exchange of data on current and projected emissions of major air pollutants; and

(c) continue to exchange information on research to develop improved technologies for reducing emissions of major air pollutants of concern. The Memorandum of Intent will become effective on signature and will remain in effect until revised by mutual agreement.

DONE in duplicate at Washington, this fifth day of August, 1980, in the English and French languages, both texts being equally authoritative.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

Edmund S. Muskie

Douglas M. Costle

FOR THE GOVERNMENT
OF CANADA:

P. M. Towe

John Roberts

ANNEX

WORK GROUP STRUCTURE FOR NEGOTIATION OF A TRANSBOUNDARY AIR POLLUTION AGREEMENT

I. PURPOSE

To establish technical and scientific work groups to assist in preparations for and the conduct of negotiations on a bilateral transboundary air pollution agreement. These groups shall include:

1. Impact Assessment Work Group

2. Atmospheric Modelling Work Group

3A. Strategies Development and Implementation Work Group

3B. Emissions, Costs and Engineering Assessment Subgroup

4. Legal, Institutional Arrangements and Drafting Work Group

II. TERMS OF REFERENCE

A. General

1. The Work Groups shall function under the general direction and policy guidance of a United States/Canada Coordinating Committee co-chaired by the Department of External Affairs and the Department of State.

2. The Work Groups shall provide reports assembling and analyzing information and identifying measures as outlined in Part B below, which will provide the basis of proposals for inclusion in a transboundary air pollution agreement. These reports shall be provided by January 1982 and shall be based on available information.

3. Within one month of the establishment of the Work Groups, they shall submit to the United States/Canada Coordinating Committee a work plan to accomplish the specific tasks outlined in Part B, below. Additionally, each Work Group shall submit an interim report by January 15, 1981.

4. During the course of negotiations and under the general direction and policy guidance of the Coordinating Committee, the Work Groups shall assist the Coordinating Committee as required.

5. Nothing in the foregoing shall preclude subsequent alteration of the tasks of the Work Groups or the establishment of additional Work Groups as may be agreed upon by the Governments.

B. Specific

The specific tasks of the Work Groups are set forth below.

1. Impact Assessment Work Group

The Group will provide information on the current and projected impact of air pollutants on sensitive receptor areas, and prepare proposals for the "Research, Modelling and Monitoring" element of an agreement.

In carrying out this work, the Group will:

- identify and assess physical and biological consequences possibly related to transboundary air pollution;
- determine the present status of physical and biological indicators which characterize the ecological stability of each sensitive area identified;
- review available data bases to establish more accurately historic adverse environmental impacts;
- determine the current adverse environmental impact within identified sensitive areas—annual, seasonal and episodic;
- determine the release of residues potentially related to transboundary air pollution, including possible episodic release from snowpack melt in sensitive areas;
- assess the years remaining before significant ecological changes are sustained within identified sensitive areas;
- propose reductions in the air pollutant deposition rates—annual, seasonal and episodic—which would be necessary to protect identified sensitive areas; and
- prepare proposals for the "Research, Modelling and Monitoring" element of an agreement.

2. Atmospheric Modelling Work Group

The Group will provide information based on cooperative atmospheric modelling activities leading to an understanding of the transport of air pollutants between source regions and sensitive areas, and prepare proposals for the "Research, Modelling and Monitoring" element of an agreement. As a first priority the Group will by October 1, 1980 provide initial guidance on suitable atmospheric transport models to be used in preliminary assessment activities.

In carrying out its work, the Group will:

- identify source regions and applicable emission data bases;
- evaluate and select atmospheric transport models and data bases to be used;
- relate emissions from the source regions to loadings in each identified sensitive area;
- calculate emission reductions required from source regions to achieve proposed reductions in air pollutant concentration and deposition rates which would be necessary in order to protect sensitive areas;
- assess historic trends of emissions, ambient concentrations and atmospheric deposition trends to gain further insights into source receptor relationships for air quality, including deposition; and
- prepare proposals for the "Research, Modelling and Monitoring" element of an agreement.

3A. Strategies Development and Implementation Work Group

The Group will identify, assess and propose options for the "Control" element of an agreement. Subject to the overall direction of the Coordinating Committee, it will be responsible also for coordination of the activities of Work Groups I and II. It will have one subgroup.

In carrying out its work, the Group will:

- prepare various strategy packages for the Coordinating Committee designed to achieve proposed emission reductions;
- coordinate with other Work Groups to increase the effectiveness of these packages;
- identify monitoring requirements for the implementation of any tentatively agreed-upon emission-reduction strategy for each country;
- propose additional means to further coordinate the air quality programs of the two countries; and
- prepare proposals relating to the actions each Government would need to take to implement the various strategy options.

3B. Emissions, Costs and Engineering Assessment Subgroup

This Subgroup will provide support to the development of the "Control" element of an agreement. It will also prepare proposals for the "Applied Research and Development" element of an agreement.

In carrying out its work, the Subgroup will:

- identify control technologies, which are available presently or in the near future, and their associated costs;
- review available data bases in order to establish improved historical emission trends for defined source regions;
- determine current emission rates from defined source regions;
- project future emission rates from defined source regions for most probable economic growth and pollution control conditions;
- project future emission rates resulting from the implementation of proposed strategy packages, and associated costs of implementing the proposed strategy packages; and
- prepare proposals for the "Applied Research and Development" element of an agreement.

4. Legal, Institutional and Drafting Work Group

The Group will:

- develop the legal elements of an agreement such as notification and consultation, equal access, non-discrimination, liability and compensation;

- propose institutional arrangements needed to give effect to an agreement and monitor its implementation; and

- review proposals of the Work Groups and refine language of draft provisions of an agreement.

Agreement Between the Government of the United States of America and the Government of Canada on the Conservation of the Porcupine Caribou Herd, Ottawa, 1987

Done at Ottawa 17 July 1987

Entered into force 17 July 1987

Primary source citation: TIAS 11259

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA ON THE CONSERVATION OF THE PORCUPINE CARIBOU HERD

The Government of the United States of America and the Government of Canada, hereinafter called the "Parties":

Recognizing that the Porcupine Caribou Herd regularly migrates across the international boundary between Canada and the United States of America and that caribou in their large free-roaming herds comprise a unique and irreplaceable natural resource of great value which each generation should maintain and make use of so as to conserve them for future generations;

Acknowledging that there are various human uses of caribou and that for generations certain people of Yukon Territory and the Northwest Territories in Canada have customarily and traditionally harvested Porcupine Caribou to meet their nutritional, cultural and other essential needs and will continue to do so in the future, and that certain rural residents of the State of Alaska in the United States of America have harvested Porcupine Caribou for customary and traditional uses and will continue to do so in the future; and that these people should participate in the conservation of the Porcupine Caribou Herd and its habitat;

Recognizing the importance of conserving the habitat of the Porcupine Caribou Herd, including such areas as calving, post-calving, migration, wintering and insect relief habitat;

Understanding that the conservation of the Porcupine Caribou Herd and its habitat requires goodwill among landowners, wildlife managers, users of the caribou and other users of the area;

Recognizing that the Porcupine Caribou Herd should be conserved according to ecological principles and that actions for the conservation of the Porcupine Caribou Herd that result in the long-term detriment of other indigenous species of wild fauna and flora should be avoided;

Recognizing that the Parties wish to establish co-operative bilateral mechanisms to co-ordinate their activities for the long-term conservation of the Porcupine Caribou Herd and its habitat;

Recognizing that co-operation and co-ordination under this Agreement should not alter domestic authorities regarding management of the Porcupine Caribou Herd and its habitat should be implemented by existing rather than new management structures;

Have agreed as follows:

1. Definitions

For the purpose of this Agreement only:

a. "Porcupine Caribou Herd" means those migratory barren ground caribou found north of 64°, 30′ north latitude and north of the Yukon River which usually share common and traditional calving and post-calving aggregation grounds between the Canning River in the State of Alaska and the Babbage River in Yukon Territory and which historically migrate within the State of Alaska, Yukon Territory, and the Northwest Territories.

b. "Conservation" means the management and use of the Porcupine Caribou Herd and its habitat utilizing methods and procedures which ensure the long-term productivity and usefulness of the Porcupine Caribou Herd. Such methods and procedures include, but are not limited to, activities associated with scientific resources management such as research, law enforcement, census taking, habitat maintenance, monitoring and public information and education.

c. "Habitat" means the whole or any part of the ecosystem, including summer, winter and migration range, used by the Porcupine Caribou Herd during the course of its long-term movement patterns, as generally outlined on the map attached as an Annex.

2. Objectives

The objectives of the Parties are:

a. To conserve the Porcupine Caribou Herd and its habitat through international co-operation and co-ordination so that the risk of irreversible damage or long-term adverse effects as a result of use of caribou or their habitat is minimized;

b. To ensure opportunities for customary and traditional uses of the Porcupine Caribou Herd by:

(1) in Alaska, rural Alaska residents in accordance with 16 U.S.C. 3113 and 3114, AS 16.05.940(23), (28) and (32), and AS 16.05.258(c); and

(2) in Yukon and the Northwest Territories, Native users as defined by sections A8 and A9 of the Porcupine Caribou Management Agreement (signed on October 26, 1985) and those other users identified pursuant to the process described in section E2(e) of the said Agreement;

c. To enable users of Porcupine Caribou to participate in the international co-ordination of the conservation of the Porcupine Caribou Herd and its habitat;

d. To encourage co-operation and communication among governments, users of Porcupine Caribou and others to achieve these objectives.

3. Conservation

a. The Parties will take appropriate action to conserve the Porcupine Caribou Herd and its habitat.

b. The Parties will ensure that the Porcupine Caribou Herd, its habitat and the interests of users of Porcupine Caribou are given effective consideration in evaluating proposed activities within the range of the Herd.

c. Activities requiring a Party's approval having a potential impact on the conservation of the Porcupine Caribou Herd or its habitat will be subject to impact assessment and review consistent with domestic laws, regulations and processes.

d. Where an activity in one country is determined to be likely to cause significant long-term adverse impact on the Porcupine Caribou Herd or its habitat, the other Party will be notified and given an opportunity to consult prior to final decision.

e. Activities requiring a Party's approval having a potential significant impact on the conservation or use of the Porcupine Caribou Herd or its habitat may require mitigation.

f. The Parties should avoid or minimize activities that would significantly disrupt migration or other important behavior patterns of the Porcupine Caribou Herd or that would otherwise lessen the ability of users of Porcupine Caribou to use the Herd.

g. When evaluating the environmental consequences of a proposed activity, the Parties will consider and analyse potential impacts, including cumulative impacts, to the Porcupine Caribou Herd, its habitat and affected users of Porcupine Caribou.

h. The Parties will prohibit the commercial sale of meat from the Porcupine Caribou Herd.

4. International Porcupine Caribou Board

a. The Parties will establish an advisory board to be known as the International Porcupine Caribou Board, hereinafter called the Board.

b. The Parties will each appoint four members of the Board within a reasonable period following the entry into force of the present Agreement.

c. The Board will:

(1) adopt rules and procedures for its operation including those related to the chairmanship of the Board; and

(2) give advice or make recommendations to the Parties, subject to concurrence by a majority of each Party's appointees.

d. The Board, seeking, where appropriate, information available from management agencies, local communities, users of Porcupine Caribou, scientific and other interests, will make recommendations and provide advice on those aspects of the conservation of the Porcupine Caribou Herd and its habitat that require international co-ordination, including but not limited to the following:

(1) the sharing of information and consideration of actions to further the objectives of this Agreement at the international level;

(2) the actions that are necessary or advisable to conserve the Porcupine Caribou Herd and its habitat;

(3) co-operative conservation planning for the Porcupine Caribou Herd throughout its range;

(4) when advisable to conserve the Porcupine Caribou Herd, recommendations on overall harvest and appropriate harvest limits for each of Canada and the United States of America taking into account the Board's review of available data, patterns of customary and traditional uses and other factors the Board deems appropriate;

(5) the identification of sensitive habitat deserving special consideration; and

(6) recommendations, where necessary, through the Parties as required, to other boards and agencies in Canada and the United States of America on matters affecting the Porcupine Caribou Herd or its habitat.

e. It is understood that the advice and recommendations of the Board are not binding on the Parties; however, by virtue of this Agreement, it has been accepted that the Parties will support and participate in the operation of the Board. In particular they will:

(1) provide the Board with information regarding the conservation and use of the Porcupine Caribou Herd and its habitat;

(2) promptly notify the Board of proposed activities that could significantly affect the conservation of the Porcupine Caribou Herd or its habitat and provide an opportunity to the Board to make recommendations;

(3) consider the advice and respond to the recommendations of the Board; and

(4) provide written reasons for the rejection in whole or in part of conservation recommendations made by the Board.

5. International Responsibility

The Parties will consult promptly to consider appropriate action in the event of:

a. significant damage to the Porcupine Caribou Herd or its habitat for which there is responsibility, if any, under international law; or

b. significant disruption of migration or other important behavior patterns of the Porcupine Caribou Herd that would significantly lessen the ability of users of Porcupine Caribou to use the Herd.

6. Implementation

Co-operation and co-ordination under and other implementation of this Agreement shall be consistent with the laws, regulations and other national policies of the Parties and is subject to the availability of funding.

7. Interpretation and Application

All questions related to the interpretation or application of the Agreement will be settled by consultation between the Parties.

8. Entry into force; Amendments

a. This Agreement which is authentic in English and French shall enter into force on signature and shall remain in force until terminated by either Party upon twelve months' written notice to the other.

b. At the request of either Party, consultations will be held with a view to convening a meeting of the representatives of the Parties to amend this Agreement.

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

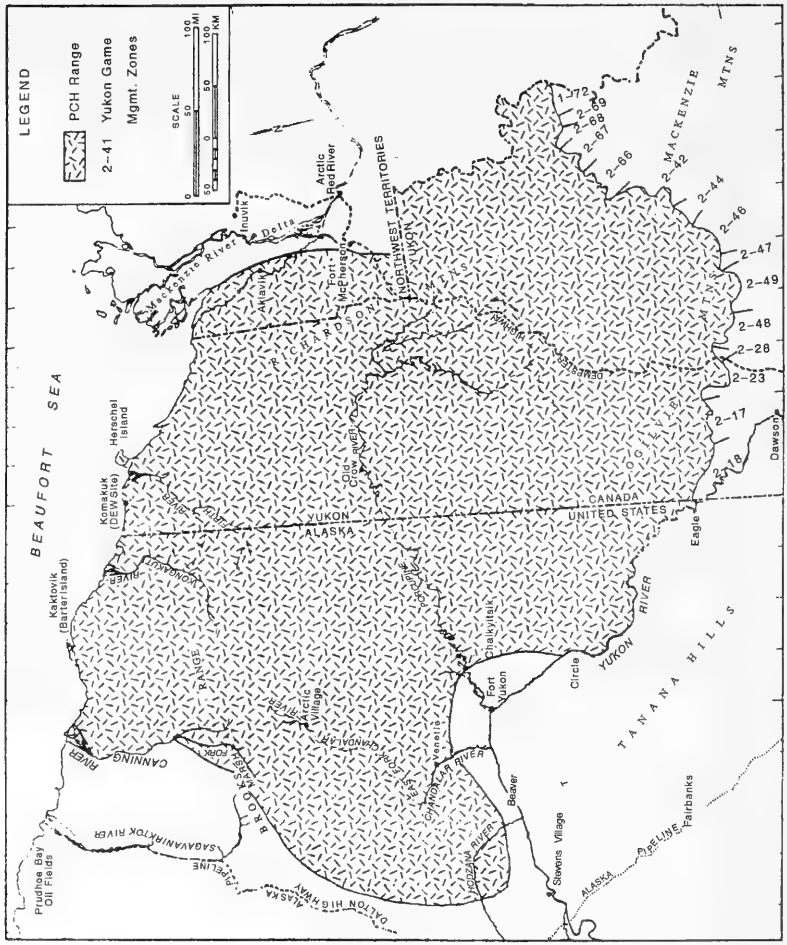
EN FOI DE QUOI, les soussignés, dûment autorisés par leurs Gouvernements respectifs, ont signé le présent Accord.

DONE at Ottawa, in duplicate, this 17th day of July, 1987 in the English and French languages, both texts being equally authentic.

Donald Paul Hodel
FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Tom McMillan
FOR THE GOVERNMENT OF CANADA

GENERAL RANGE OF THE PORCUPINE CARIBOU HERD



Agreement Between the Government of the United States of America and the Government of Canada on Arctic Cooperation, Ottawa, 1988

Done at Ottawa 11 January 1988

Entered into force 11 January 1988

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA ON ARCTIC COOPERATION

1. The Government of the United States of America and the Government of Canada recognize the particular interests and responsibilities of their two countries as neighbouring states in the Arctic.

2. The Government of Canada and the Government of the United States also recognize that it is desirable to cooperate in order to advance their shared interests in Arctic development and security. They affirm that navigation and resource development in the Arctic must not adversely affect the unique environment of the region and the well-being of its inhabitants.

3. In recognition of the close and friendly relations between their two countries, the uniqueness of ice-covered maritime areas, the opportunity to increase their knowledge of the marine environment of the Arctic through research conducted during icebreaker voyages, and their shared interest in safe, effective icebreaker navigation off their Arctic coasts:

- The Government of the United States and the Government of Canada undertake to facilitate navigation by their icebreakers in their respective Arctic waters and to develop cooperative procedures for this purpose;

- The Government of Canada and the Government of the United States agree to take advantage of their icebreaker navigation to develop and share research information, in accordance with generally accepted principles of international law, in order to advance their understanding of the marine environment of the area;

- The Government of the United States pledges that all navigation by U.S. icebreakers within waters claimed by Canada to be internal will be undertaken with the consent of the Government of Canada.

4. Nothing in this agreement of cooperative endeavour between Arctic neighbours and friends nor any practice thereunder affects the respective positions of the Governments of the United States and of Canada on the Law of the Sea in this or other maritime areas or their respective positions regarding third parties.

5. This Agreement shall enter into force upon signature. It may be terminated at any time by three months' written notice given by one Government to the other.

IN WITNESS WHEREOF, the undersigned, duly authorized to that effect, have signed this Agreement.

DONE in duplicate, at Ottawa, this 11th day of January, 1988, in the English and French languages, each version being equally authentic.

George P. Shultz

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

Joe Clark

FOR THE GOVERNMENT
OF CANADA

Agreement Between the Government of the United States of America and the Government of Canada on Air Quality, Ottawa, 1991

Done at Ottawa 13 March 1991

Entered into force 13 March 1991

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA ON AIR QUALITY

The Government of the United States of America and the Government of Canada, hereinafter referred to as "the Parties",

Convinced that transboundary air pollution can cause significant harm to natural resources of vital environmental, cultural and economic importance, and to human health in both countries;

Desiring that emissions of air pollutants from sources within their countries not result in significant transboundary air pollution;

Convinced that transboundary air pollution can effectively be reduced through cooperative or coordinated action providing for controlling emissions of air pollutants in both countries;

Recalling the efforts they have made to control air pollution and the improved air quality that has resulted from such efforts in both countries;

Intending to address air-related issues of a global nature, such as climate change and stratospheric ozone depletion, in other fora;

Reaffirming Principle 21 of the Stockholm Declaration, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction";

Noting their tradition of environmental cooperation as reflected in the Boundary Waters Treaty of 1909, the Trail Smelter Arbitration of 1941, the Great Lakes Water Quality Agreement of 1978, as amended, the Memorandum of Intent Concerning Transboundary Air Pollution of 1980, the 1986 Joint Report of the Special Envoys on Acid Rain, as well as the ECE Convention on Long-Range Transboundary Air Pollution of 1979;

Convinced that a healthy environment is essential to assure the well-being of present and future generations in the United States and Canada, as well as of the global community;

Have agreed as follows:

Article I

Definitions

For the purposes of this Agreement:

1. "Air pollution" means the introduction by man, directly or indirectly, of substances into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment, and "air pollutants" shall be construed accordingly;

2. "Transboundary air pollution" means air pollution whose physical origin is situated wholly or in part within the area under the jurisdiction of one Party and which has adverse effects, other than effects of a global nature, in the area under the jurisdiction of the other Party;

3. "Boundary Waters Treaty" means the Treaty Relating to Boundary Waters and Questions Arising along the Boundary between the United States and Canada, signed at Washington on January 11, 1909;

4. "International Joint Commission" means the International Joint Commission established by the Boundary Waters Treaty.

Article II

Purpose

The purpose of the Parties is to establish, by this Agreement, a practical and effective instrument to address shared concerns regarding transboundary air pollution.

Article III

General Air Quality Objective

1. The general objective of the Parties is to control transboundary air pollution between the two countries.

2. To this end, the Parties shall:

   (a) in accordance with Article IV, establish specific objectives for emissions limitations or reductions of air pollutants and adopt the necessary programs and other measures to implement such specific objectives;

   (b) in accordance with Article V, undertake environmental impact assessment, prior notification, and, as appropriate, mitigation measures;

   (c) carry out coordinated or cooperative scientific and technical activities, and economic research, in accordance with Article VI, and exchange information, in accordance with Article VII;

   (d) establish institutional arrangements, in accordance with Articles VIII and IX; and

(e) review and assess progress, consult, address issues of concern, and settle disputes, in accordance with Articles X, XI, XII and XIII.

Article IV

Specific Air Quality Objectives

1. Each Party shall establish specific objectives, which it undertakes to achieve, for emissions limitations or reductions of such air pollutants as the Parties agree to address. Such specific objectives will be set forth in annexes to this Agreement.

2. Each Party's specific objectives for emissions limitations or reductions of sulphur dioxide and nitrogen oxides, which will reduce transboundary flows of these acidic deposition precursors, are set forth in Annex 1. Specific objectives for such other air pollutants as the Parties agree to address should take into account, as appropriate, the activities undertaken pursuant to Article VI.

3. Each Party shall adopt the programs and other measures necessary to implement its specific objectives set forth in any annexes.

4. If either Party has concerns about the programs or other measures of the other Party referred to in paragraph 3, it may request consultations in accordance with Article XI.

Article V

Assessment, Notification, and Mitigation

1. Each Party shall, as appropriate and as required by its laws, regulations and policies, assess those proposed actions, activities and projects within the area under its jurisdiction that, if carried out, would be likely to cause significant transboundary air pollution, including consideration of appropriate mitigation measures.

2. Each Party shall notify the other Party concerning a proposed action, activity or project subject to assessment under paragraph 1 as early as practicable in advance of a decision concerning such action, activity or project and shall consult with the other Party at its request in accordance with Article XI.

3. In addition, each Party shall, at the request of the other Party, consult in accordance with Article XI concerning any continuing actions, activities or projects that may be causing significant transboundary air pollution, as well as concerning changes to its laws, regulations or policies that, if carried out, would be likely to affect significantly transboundary air pollution.

4. Consultations pursuant to paragraphs 2 and 3 concerning actions, activities or projects that would be likely to cause or may be causing significant transboundary air pollution shall include consideration of appropriate litigation measures.

5. Each Party shall, as appropriate, take measures to avoid or mitigate the potential risk posed by actions, activities or projects that would be likely to cause or may be causing significant transboundary air pollution.

6. If either Party becomes aware of an air pollution problem that is of joint concern and requires an immediate response, it shall notify and consult the other Party forthwith.

Article VI

Scientific and Technical Activities and Economic Research

1. The Parties shall carry out scientific and technical activities, and economic research, as set forth in Annex 2, in order to improve their understanding of transboundary air pollution concerns and to increase their capability to control such pollution.

2. In implementing this Article, the Parties may seek the advice of the International Joint Commission regarding the conduct of monitoring activities.

Article VII

Exchange of Information

1. The Parties agree to exchange, on a regular basis and through the Air Quality Committee established under Article VIII, information on:

   (a) monitoring;

   (b) emissions;

   (c) technologies, measures and mechanisms for controlling emissions;

   (d) atmospheric processes; and

   (e) effects of air pollutants,

   as provided in Annex 2.

2. Notwithstanding any other provisions of this Agreement, the Air Quality Committee and the International Joint Commission shall not release, without the consent of the owner, any information identified to them as proprietary information under the laws of the place where such information has been acquired.

Article VIII

The Air Quality Committee

1. The Parties agree to establish and maintain a bilateral Air Quality Committee to assist in the implementation of this Agreement. The Committee shall be composed of an equal number of members representing each Party. It may be supported by subcommittees, as appropriate.

2. The Committee's responsibilities shall include:

   (a) reviewing progress made in the implementation of this Agreement, including its general and specific objectives;

   (b) preparing and submitting to the Parties a progress report within a year after entry into force of this Agreement and at least every two years thereafter;

   (c) referring each progress report to the International Joint Commission for action in accordance with Article IX of this Agreement; and

   (d) releasing each progress report to the public after its submission to the Parties.

3. The Committee shall meet at least once a year and additionally at the request of either Party.

Article IX

Responsibilities of the International Joint Commission

1. The International Joint Commission is hereby given, by a Reference pursuant to Article IX of the Boundary Waters Treaty, the following responsibilities for the sole purpose of assisting the Parties in the implementation of this Agreement:

   (a) to invite comments, including through public hearings as appropriate, on each progress report prepared by the Air Quality Committee pursuant to Article VIII;

   (b) to submit to the Parties a synthesis of the views presented pursuant to sub-paragraph (a), as well as the record of such views if either Party so requests; and

   (c) to release the synthesis of views to the public after its submission to the Parties.

2. In addition, the Parties shall consider such other joint references to the International Joint Commission as may be appropriate for the effective implementation of this Agreement.

Article X

Review and Assessment

1. Following the receipt of each progress report submitted to them by the Air Quality Committee in accordance with Article VIII and the views presented to the International Joint Commission on that report in accordance with Article IX, the Parties shall consult on the contents of the progress report, including any recommendations therein.

2. The Parties shall conduct a comprehensive review and assessment of this Agreement, and its implementation, during the fifth year after its entry into force and every five years thereafter, unless otherwise agreed.

3. Following the consultations referred to in paragraph 1, as well as the review and assessment referred to in paragraph 2, the Parties shall consider such action as may be appropriate, including:

   (a) the modification of this Agreement;

   (b) the modification of existing policies, programs or measures.

Article XI

Consultations

The Parties shall consult, at the request of either Party, on any matter within the scope of this Agreement. Such consultations shall commence as soon as practicable, but in any event not later than thirty days from the date of receipt of the request for consultations, unless otherwise agreed by the Parties.

Article XII

Referrals

With respect to cases other than those subject to Article XIII, if, after consultations in accordance with Article XI, an issue remains concerning a proposed or continuing action, activity, or project that is causing or would be likely to cause significant transboundary air pollution, the Parties shall refer the matter to an appropriate third party in accordance with agreed terms of reference.

Article XIII

Settlement of Disputes

1. If, after consultations in accordance with Article XI, a dispute remains between the Parties over the interpretation or the implementation of this Agreement, they shall seek to resolve such dispute by negotiations between them. Such negotiations shall commence as soon as practicable, but in any event not later than ninety days from the date of receipt of the request for negotiation, unless otherwise agreed by the Parties.

2. If a dispute is not resolved through negotiation, the Parties shall consider whether to submit that dispute to the International Joint Commission in accordance with either Article IX or Article X of the Boundary Waters Treaty. If, after such consideration, the Parties do not elect either of those options, they shall, at the request of either Party, submit the dispute to another agreed form of dispute resolution.

Article XIV

Implementation

1. The obligations undertaken under this Agreement shall be subject to the availability of appropriated funds in accordance with the respective constitutional procedures of the Parties.

2. The Parties shall seek:

   (a) the appropriation of funds required to implement this Agreement;

   (b) the enactment of any additional legislation that may be necessary to implement this Agreement;

   (c) the cooperation of State and Provincial Governments as necessary to implement this Agreement.

3. In implementing this Agreement, the Parties shall, as appropriate, consult with State or Provincial Governments, interested organizations, and the public.

Article XV

Existing Rights and Obligations

Nothing in this Agreement shall be deemed to diminish the rights and obligations of the Parties in other international agreements between them, including those contained in the Boundary Waters Treaty and the Great Lakes Water Quality Agreement of 1978, as amended.

Article XVI

Entry into Force, Amendment, Termination

1. This Agreement, including Annexes 1 and 2, shall enter into force upon signature by the Parties.

2. This Agreement may be amended at any time by agreement of the Parties in writing.

3. Either Party may terminate this Agreement upon one year's written notice to the other Party, in which case any annexes will also terminate.

4. Annexes constitute an integral part of this Agreement, except that, if an annex so provides, either Party may terminate such annex in accordance with the terms of that annex.

IN WITNESS WHEREOF, the undersigned have signed this Agreement.

DONE in duplicate, at Ottawa, this 13th day of March 1991, in the English and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

George Bush

FOR THE GOVERNMENT OF CANADA

Brian Mulroney

ANNEX 1

SPECIFIC OBJECTIVES CONCERNING SULPHUR DIOXIDE AND NITROGEN OXIDES

1. Sulphur Dioxide

A. For the United States:[1]

1. Reduction of annual sulphur dioxide emissions by approximately 10 million tons[2] from 1980 levels in accordance with Title IV of the Clean Air Act[3] i.e., reduction of annual sulphur dioxide emissions to approximately 10 million tons below 1980 levels by 2000 (with the exception of sources repowering with qualifying clean coal technology in accordance with section 409 of the Clean Air Act, and sources receiving bonus allowances in accordance with section 405(a)(2) and (3) of the Clean Air Act).

2. Achievement of a permanent national emission cap of 8.95 million tons of sulphur dioxide per year for electric utilities by 2010, to the extent required by Title IV of the Clean Air Act.

3. Promulgation of new or revised standards or such other action under the Clean Air Act as the Administrator of the U.S. Environmental Protection Agency (EPA) deems appropriate, to the extent required by section 406 of the Clean Air Act Amendments of 1990 (P. L. 101-549), aimed at limiting sulphur dioxide emissions from industrial sources in the event that the Administrator of EPA determines that annual sulphur dioxide emissions from industrial sources may reasonably be expected to exceed 5.6 million tons.

B. For Canada:

1. Reduction of sulphur dioxide emissions in the seven easternmost Provinces to 2.3 million tonnes per year by 1994 and the achievement of a cap on sulphur dioxide emissions in the seven easternmost Provinces at 2.3 million tonnes per year from 1995 through December 31, 1999.

[1] Applies only to reductions in emissions in the forty-eight contiguous States and the District of Columbia.
[2] 1 ton = 0.91 tonnes (metric tons).
[3] All references to the Clean Air Act refer to the Act as amended November 15, 1990.

2. Achievement of a permanent national emissions cap of 3.2 million tonnes per year by 2000.

2. Nitrogen Oxides

A. For the United States:[4]

With a view to a reduction of total annual emissions of nitrogen oxides by approximately 2 million tons from 1980 emission levels by 2000:

1. Stationary Sources

Implementation of the following nitrogen oxides control program for electric utility boilers to the extent required by Title IV of the Clean Air Act:

(a) By January 1, 1995, tangentially fired boilers must meet an allowable emission rate of 0.45 lb/mmBtu and dry bottom wall-fired boilers must meet an allowable emission rate of 0.50 lb/mmBtu (unless the Administrator of EPA determines that these rates cannot be achieved using low NOx burner technology).

(b) By January 1, 1997, EPA must set allowable emission limitations for:

- - wet bottom wall-fired boilers;

- - cyclones;

- - units applying cell burner technology; and

- - all other types of utility boilers.

2. Mobile Sources

Implementation of the following mobile source nitrogen oxides control program to the extent required by Title II of the Clean Air Act:

(a) Light Duty Trucks (LDT) (up to 6000 lbs gross vehicle weight rating (GVWR)) and Light Duty Vehicles (LDV) - - standards for model years after 1993:

	5 yrs/50,000 miles (useful life)	10 yrs/100,000 miles
LDTs (0 to 3750 lbs Loaded Vehicle Weight (LVW)) and LDVs	0.4 grams per mile (gpm)	0.6 gpm
Diesel LDTs (0 to 3750 lbs LVW) and LDVs (before 2004)	1.0 gpm	1.25 gpm
LDTs (3751 to 5750 lbs LVW)	0.7 gpm[5]	0.97 gpm

In model year 1994, 40% of each manufacturer's sales volume must meet the above standards. In 1995, the percentage shall increase to 80% and, after 1995, to 100%.

(b) Light Duty Trucks more than 6000 lbs GVWR (after model year 1995):

[4] Applies only to reductions in emissions in the forty-eight contiguous States and the District of Columbia.
[5] This standard does not apply to diesel-fueled LDTs (3751 to 5750 lbs LVW).

	Gasoline 5 yrs/50,000 miles	Gasoline and Diesel 11 yrs/120,000 miles
LDTs (3751 to 5750 lbs Test Weight (TW))	0.7 gpm	0.98 gpm
LDTs (over 5750 lbs TW)	1.1 gpm	1.53 gpm

In model year 1996, 50% of each manufacturer's sales volume must meet the above standards. Thereafter, 100% of each manufacturer's sales volume must meet the standard.

(c) Heavy Duty Trucks (HDT) of more than 8500 lbs GVWR (after model year 1990):

	Gasoline and Diesel Engines
HDT (effective model year 1991[6])	5.0 grams per brake horsepower-hour[6] (gbhp-hr)
HDT (model year 1998 and later)	4.0 gbhp-hr

Useful life[6]:

gasoline engines	8 years/110,000 miles
diesel engines	
light heavy-duty:	8 yrs/110,000 miles
medium heavy-duty:	8 yrs/185,000 miles
heavy heavy-duty:	8 yrs/290,000 miles

B. For Canada:

1. Stationary Sources

(a) As an interim requirement, reduction, by 2000, of annual national emissions of nitrogen oxides from stationary sources by 100,000 tonnes below the year 2000 forecast level of 970,000 tonnes.

(b) By January 1, 1995, development of further annual national emission reduction requirements from stationary sources to be achieved by 2000 and/or 2005.

2. Mobile Sources

(a) Implementation of a more stringent mobile source nitrogen oxides control program for gasoline powered vehicles with standards no less stringent than the following:

[6] As set forth in EPA regulations in effect as of the entry into force of this Agreement.

Light Duty Vehicles (up to 6000 lbs GVWR)
(By model year 1996 for passenger cars)
(By model year 1996 for light duty trucks[7])

	5 yrs/80,000 kilometres (useful life)
Cars and Light Duty Trucks (0 to 3750 lbs LVW)	0.4 gpm
Light Duty Trucks (3751 to 5750 lbs LVW)	0.7 gpm

Medium Duty Vehicles (6001 to 8500 lbs GVWR)
(By model year 1997[7])

	5 yrs/80,000 kilometres (useful life)
0 to 3750 lbs LVW	0.4 gpm
3751 to 5750 lbs LVW	0.7 gpm
Over 5750 lbs LVW	1.1 gpm

Heavy Duty Vehicles (over 8500 lbs GVWR)
(By model year 1998[7])

	8 years/110,000 miles (useful life)
Over 8500 lbs GVWR	4.0 gbhp-hr

(b) Implementation of a more stringent mobile source nitrogen oxides control program for diesel powered vehicles and engines with standards, to the extent possible, no less stringent than the standards for the respective duty classes of gasoline powered vehicles and engines.

3. Compliance Monitoring

A. Utility Units

1. For the United States:

Requirement that, by January 1, 1995, each new electric utility unit and each electric utility unit greater than 25 MWe existing on the date of enactment of the Clean Air Act Amendments of 1990 (November 15, 1990) emitting sulphur dioxide or nitrogen oxides install and operate continuous emission monitoring systems or alternative systems approved by the Administrator of EPA, to the extent required by section 412 of the Clean Air Act.

2. For Canada:

Requirement that, by January 1, 1995, Canada estimate sulphur dioxide and nitrogen oxides emissions from each new electric utility unit and each existing electric utility unit greater than 25 MWe using a method of comparable effectiveness to continuous emission monitoring, as well as

[7]The Government of Canada will propose this effective date; the final effective date is subject to the procedures and outcome of the regulation development process.

investigate the feasibility of using and implement, where appropriate, continuous emission monitoring systems.

3. For Both Parties:

The Parties shall consult, as appropriate, concerning the implementation of the above.

B. Other Major Stationary Sources

Requirement that the Parties work towards utilizing comparably effective methods of emission estimation for sulphur dioxide and nitrogen oxides emissions from all major industrial boilers and process sources, including smelters.

4. **Prevention of Air Quality Deterioration and Visibility Protection**

Recognizing the importance of preventing significant air quality deterioration and protecting visibility, particularly for international parks, national, state, and provincial parks, and designated wilderness areas:

A. For the United States:

Requirement that the United States maintain means for preventing significant air quality deterioration and protecting visibility, to the extent required by Part C of Title I of the Clean Air Act, with respect to sources that could cause significant transboundary air pollution.

B. For Canada:

Requirement that Canada, by January 1, 1995, develop and implement means affording levels of prevention of significant air quality deterioration and protection of visibility comparable to those in paragraph A above, with respect to sources that could cause significant transboundary air pollution.

C. For Both Parties:

The Parties shall consult, as appropriate, concerning the implementation of the above.

ANNEX 2

SCIENTIFIC AND TECHNICAL ACTIVITIES AND ECONOMIC RESEARCH

1. For the purpose of determining and reporting on air pollutant concentrations and deposition, the Parties agree to coordinate their air pollutant monitoring activities through:

(a) coordination of existing networks;

(b) additions to monitoring tasks of existing networks of those air pollutants that the Parties agree should be monitored for the purposes of this Agreement;

(c) addition of stations or networks where no existing monitoring facility can perform a necessary function for purposes of this Agreement;

(d) the use of compatible data management procedures, formats, and methods; and

(e) the exchange of monitoring data.

2. For the purpose of determining and reporting air emissions levels, historical trends, and projections with respect to the achievement of the general and specific objectives set forth in this Agreement, the Parties agree to coordinate their activities through:

(a) identification of such air emissions information that the Parties agree should be exchanged for the purposes of this Agreement;

(b) the use of measurement and estimation procedures of comparable effectiveness;

(c) the use of compatible data management procedures, formats, and methods; and

(d) the exchange of air emission information.

3. The Parties agree to cooperate and exchange information with respect to:

(a) their monitoring of the effects of changes in air pollutant concentrations and deposition with respect to changes in various effects categories, e.g., aquatic ecosystems, visibility, and forests;

(b) their determination of any effects of atmospheric pollution on human health and ecosystems, e.g., research on health effects of acid aerosols, research on the long-term effects of low concentrations of air pollutants on ecosystems, possibly in a critical loads framework;

(c) their development and refinement of atmospheric models for purposes of determining source receptor relationships and transboundary transport and deposition of air pollutants;

(d) their development and demonstration of technologies and measures for controlling emissions of air pollutants, in particular acidic deposition precursors, subject to their respective laws, regulations and policies;

(e) their analysis of market-based mechanisms, including emissions trading; and

(f) any other scientific and technical activities or economic research that the Parties may agree upon for purposes of supporting the general and specific objectives of this Agreement.

4. The Parties further agree to consult on approaches to, and share information and results of research on, methods to mitigate the impacts of acidic deposition, including the environmental effects and economic aspects of such methods.

BILATERAL

CANADA

FISHERIES

Convention Respecting Fisheries, Boundary, and Restoration of Slaves, London, 1818

Done at London 20 October 1818

Entered into force 30 January 1819

Primary source citation: 12 Bevans 57, TS 112

FISHERIES, BOUNDARY, AND RESTORATION OF SLAVES

The United States of America, and His Majesty The King of the United Kingdom of Great Britain and Ireland, desirous to cement the good Understanding which happily subsists between them, have, for that purpose, named their respective Plenipotentiaries, that is to say: The President of the United States, on his part, has appointed, Albert Gallatin, Their Envoy Extraordinary and Minister Plenipotentiary to the Court of France; and Richard Rush, Their Envoy Extraordinary and Minister Plenipotentiary to the Court of His Britannic Majesty:—And His Majesty has appointed The Right Honorable Frederick John Robinson, Treasurer of His Majesty's Navy, and President of the Committee of Privy Council for Trade and Plantations; and Henry Goulburn Esquire, one of His Majesty's Under Secretaries of State:—Who, after having exchanged their respective Full Powers, found to be in due and proper Form, have agreed to and concluded the following Articles.

Article I

Whereas differences have arisen respecting the Liberty claimed by the United States for the Inhabitants thereof, to take, dry, and cure Fish on certain Coasts, Bays, Harbours, and Creeks of His Britannic Majesty's Dominions in America, it is agreed between The High Contracting Parties, that the Inhabitants of the said United States shall have forever, in common with the Subjects of His Britannic Majesty, the Liberty to take Fish of every kind on that part of the Southern Coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the Western and Northern Coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the Shores of the Magdalen Islands, and also on the Coasts, Bays, Harbours, and Creeks from Mount Joly on the Southern Coast of Labrador, to and through the Streights of Belleisle and thence Northwardly indefinitely along the Coast, without prejudice however, to any of the exclusive Rights of the Hudson Bay Company: and that the American Fishermen shall also have liberty forever, to dry and cure Fish in any of the unsettled Bays, Harbours, and Creeks of the Southern part of the Coast of Newfoundland hereabove described, and of the Coast of Labrador; but so soon as the same, or any Portion thereof, shall be settled, it shall not be lawful for the said Fishermen to dry or cure Fish at such Portion so settled, without previous agreement for such purpose with the Inhabitants, Proprietors, or Possessors of the Ground.—And the United States hereby renounce forever, any Liberty heretofore enjoyed or claimed by the Inhabitants thereof, to take, dry, or cure Fish on, or within three marine Miles of any of the Coasts, Bays, Creeks, or Harbours of His Britannic Majesty's Dominions in America not included within the above mentioned limits; provided however, that the American Fishermen shall be admitted to enter such Bays or Harbours for the purpose of Shelter and of repairing Damages therein, or purchasing Wood, and of obtaining Water, and for no other purpose whatever. But they shall be under such Restrictions as may be necessary to prevent their taking, drying or curing Fish therein, or in any other manner whatever abusing the Privileges hereby reserved to them.

ARTICLE II

It is agreed that a Line drawn from the most North Western Point of the Lake of the Woods, along the forty Ninth Parallel of North Latitude, or, if the said Point shall not be in the Forty Ninth Parallel of North Latitude, then that a Line drawn from the said Point due North or South as the Case may be, until the said Line shall intersect the said Parallel of North Latitude, and from the Point of such Intersection due West along and with the said Parallel shall be the Line of Demarcation between the Territories of the United States, and those of His Britannic Majesty, and that the said Line shall form the Northern Boundary of the said Territories of the United States, and the Southern Boundary of the Territories of His Britannic Majesty, from the Lake of the Woods to the Stony Mountains.

ARTICLE III

It is agreed, that any Country that may be claimed by either Party on the North West Coast of America, Westward of the Stony Mountains, shall, together with it's Harbours, Bays, and Creeks, and the Navigation of all Rivers within the same, be free and open, for the term of ten years from the date of the Signature of the Present Convention, to the Vessels, Citizens, and Subject of the Two Powers: it being well understood, that this Agreement is not to be construed to the Prejudice of any Claim, which either of the Two High Contracting Parties may have to any part of the said Country, nor shall it be taken to affect the Claims of any other Power or State to any part of the said Country; the only object of the High Contracting Parties, in that respect, being to prevent disputes and differences amongst Themselves.

ARTICLE IV

All the Provisions of the Convention "to regulate the Commerce between the Territories of the United States and of His Britannic Majesty" concluded at London on the third day of July in the year of our Lord one Thousand Eight Hundred and Fifteen, with the exception of the Clause which limited its duration to Four years, & excepting also so far as the same was affected by the Declaration of His Majesty respecting the Island of S^{t} Helena, are hereby extended and continued in force for the term of ten years from the date of the Signature of the present Convention, in the same manner, as if all the Provisions of the said Convention were herein specially recited.

ARTICLE V

Whereas it was agreed by the first Article of the Treaty of Ghent, that "All Territory, Places, and Possessions whatsoever taken by either Party from the other during the War, or which may be taken after the signing of this Treaty, excepting only the Islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the Artillery or other public Property originally captured in the said Forts or Places which shall remain therein upon the Exchange of the Ratifications of this Treaty, or any Slaves or other private Property", and whereas under the aforesaid Article the United States claim for their Citizens, and as their private Property, the Restitution of, or full Compensation for all Slaves who, at the date of the Exchange of the Ratifications of the said Treaty, were in any Territory, Places, or Possessions whatsoever directed by the said Treaty to be restored to the United States, but then still occupied by the British Forces, whether such Slaves were, at the date aforesaid, on Shore, or on board any British Vessel lying in Waters within the Territory or Jurisdiction of the United States; and whereas differences have arisen, whether, by the true intent and meaning of the aforesaid Article of the Treaty of Ghent the United States are entitled to the Restitution of, or full Compensation for all or any Slaves as above described, the High Contracting Parties hereby agree to refer the said differences to some Friendly Sovereign or State to be named for that purpose; and the High Contracting Parties further engage to consider the decision of such Friendly Sovereign or State, to be final and conclusive on all the matters referred.

ARTICLE VI

This Convention, when the same shall have been duly ratified by The President of the United States, by and with the Advice and Consent of their Senate, and by His Britannic Majesty, and the respective Ratifications mutually exchanged, shall be binding and obligatory on the said United States and on His Majesty; and the Ratifications shall be exchanged in Six Months from this date, or sooner, if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have thereunto affixed the Seal of their Arms.

Done at London this Twentieth day of October, in the Year of Our Lord One Thousand Eight Hundred and Eighteen.

ALBERT GALLATIN

RICHARD RUSH

FREDERICK JOHN ROBINSON

HENRY GOULBURN

Agreement Adopting, with Certain Modifications, the Rules and Method of Procedure Recommended in the Award of September 7, 1910, of the North Atlantic Coast Fisheries Arbitration, Washington, 1912

Done at Washington 20 July 1912

Entered into force 15 November 1912

Primary source citation: 12 Bevans 357, TS 572

AGREEMENT ADOPTING, WITH CERTAIN MODIFICATIONS, THE RULES AND METHOD OF PROCEDURE RECOMMENDED IN THE AWARD OF SEPTEMBER 7, 1910, OF THE NORTH ATLANTIC COAST FISHERIES ARBITRATION, WASHINGTON, 1912

Article I

Whereas the award of the Hague Tribunal of September 7, 1910, recommended for the consideration of the Parties certain rules and a method of procedure under which all questions which may arise in the future regarding the exercise of the liberties referred to in Article I of the Treaty of October 20, 1818, may be determined in accordance with the principles laid down in the award, and the Parties having agreed to make certain modifications therein, the rules and method of procedure so modified are hereby accepted by the Parties in the following form:

1. All future municipal laws, ordinances, or rules for the regulation of the fisheries by Great Britain, Canada, or Newfoundland in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements used in the taking of fish or in carrying on fishing operations; (3) any other regulations of a similar character; and all alterations or amendments of such laws, ordinances, or rules shall be promulgated and come into operation within the first fifteen days of November in each year; provided, however, in so far as any such law, ordinance, or rule shall apply to a fishery conducted between the 1st day of November and the 1st day of February, the same shall be promulgated at least six months before the 1st day of November in each year.

Such laws, ordinances, or rules by Great Britain shall be promulgated by publication in the London Gazette, by Canada in the Canada Gazette, and by Newfoundland in the Newfoundland Gazette.

After the expiration of ten years from the date of this Agreement, and so on at intervals of ten years thereafter, either Party may propose to the other that the dates fixed for promulgation be revised in consequence of the varying conditions due to changes in the habits of the fish or other natural causes; and if there shall be a difference of opinion as to whether the conditions have so varied as to render a revision desirable, such difference shall be referred for

decision to a commission possessing expert knowledge, such as the Permanent Mixed Fishery Commission hereinafter mentioned.

2. If the Government of the United States considers any such laws or regulations inconsistent with the Treaty of 1818, it is entitled so to notify the Government of Great Britain within forty-five days after the publication above referred to, and may require that the same be submitted to and their reasonableness, within the meaning of the award, be determined by the Permanent Mixed Fishery Commission constituted as hereinafter provided.

3. Any law or regulation not so notified within the said period of forty-five days, or which, having been so notified, has been declared reasonable and consistent with the Treaty of 1818 (as interpreted by the said award) by the Permanent Mixed Fishery Commission, shall be held to be reasonable within the meaning of the award; but if declared by the said Commission to be unreasonable and inconsistent with the Treaty of 1818, it shall not be applicable to the inhabitants of the United States exercising their fishing liberties under the Treaty of 1818.

4. Permanent Mixed Fishery Commissions for Canada and Newfoundland, respectively, shall be established for the decision of such questions as to the reasonableness of future regulations, as contemplated by Article IV of the Special Agreement of January 27, 1909. These Commissions shall consist of an expert national, appointed by each Party for five years; the third member shall not be a national of either Party. He shall be nominated for five years by agreement of the Parties, or, failing such agreement, within two months from the date, when either of the Parties to this Agreement shall call upon the other to agree upon such third member, he shall be nominated by Her Majesty the Queen of the Netherlands.

5. The two national members shall be summoned by the Government of Great Britain, and shall convene within thirty days from the date of notification by the Government of the United States. These two members having failed to agree on any or all of the questions submitted within thirty days after they have convened, or having before the expiration of that period notified the Government of Great Britain that they are unable to agree, the full Commission, under the presidency of the Umpire, is to be summoned by the Government of Great Britain, and shall convene within thirty days thereafter to decide all questions upon which the two national members had disagreed. The Commission must deliver its decision, if the two Governments do not agree otherwise, within forty-five days after it has convened. The Umpire shall conduct the procedure in accordance with that provided in Chapter IV of the Convention for the Pacific Settlement of International Disputes, of October 18, 1907, except in so far as herein otherwise provided.

6. The form of convocation of the Commission, including the terms of reference of the question at issue, shall be as follows:

"The provision hereinafter fully set forth of an act dated _____, published in the _____ Gazette, has been notified to the Government of Great Britain by the Government of the United States under date of _____, as provided by the agreement entered into on July 20, 1912, pursuant to the award of the Hague Tribunal of September 7, 1910.

"Pursuant to the provisions of that Agreement the Government of Great Britain hereby summons the Permanent Mixed Fishery Commission for $\frac{\text{(Canada)}}{\text{(Newfoundland)}}$ composed of _____ Commissioner for the United States of America, and of _____ Commissioner for $\frac{\text{(Canada)}}{\text{(Newfoundland)}}$ who shall meet at Halifax, Nova Scotia, with power to hold subsequent meetings at such other place or places as they may determine, and render a decision within thirty days as to whether the provision so notified is reasonable and consistent with the Treaty of 1818, as interpreted by the award of the Hague Tribunal of September 7, 1910, and if not, in what respect it is unreasonable and inconsistent therewith.

"Failing an agreement on this question within thirty days, the Commission shall so notify the Government of Great Britain in order that the further action required by that award shall be taken for the decision of the above question.

"The provision is as follows _____."

7. The unanimous decision of the two national Commissioners, or the majority decision of the Umpire and one Commissioner, shall be final and binding.

8. Any difference in regard to the regulations specified in Protocol XXX of the arbitration proceedings, which shall not have been disposed of by diplomatic methods, shall be referred not to the Commission of expert specialists

mentioned in the award but to the Permanent Mixed Fishery Commissions, to be constituted as hereinbefore provided, in the same manner as a difference in regard to future regulations would be so referred.

ARTICLE II

And whereas the Tribunal of Arbitration in its award decided that—

In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the 3 marine miles are to be measured following the sinuosities of the coast.

And whereas the Tribunal made certain recommendations for the determination of the limits of the bays enumerated in the award;

Now, therefore, it is agreed that the recommendations, in so far as the same relate to bays contiguous to the territory of the Dominion of Canada, to which Question V [5] of the Special Agreement is applicable, are hereby adopted, to wit:

In every bay not hereinafter specifically provided for, the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

For the Baie des Chaleurs the limits of exclusion shall be drawn from the line from the Light at Birch Point on Miscou Island to Macquereau Point Light; for the bay of Miramichi, the line from the Light at Point Escuminac to the Light on the eastern point of Tabisintac Gully; for Egmont Bay, in Prince Edward Island, the line from the Light at Cape Egmont to the Light at West Point; and off St. Ann's Bay, in the Province of Nova Scotia, the line from the Light at Point Anconi to the nearest point on the opposite shore of the mainland.

For or near the following bays the limits of exclusion shall be three marine miles seawards from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the Light on Stoddard Island to the Light on the south point of Cape Sable, thence to the Light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island Light to Green Island Light, thence to Point Rouge; for Mira Bay, the line from the Light on the east point of Scatary Island to the northeasterly point of Cape Morien.

Long Island and Bryer Island, on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that the award does not cover Hudson Bay.

ARTICLE III

It is further agreed that the delimitation of all or any of the bays on the coast of Newfoundland, whether mentioned in the recommendations or not, does not require consideration at present.

ARTICLE IV

The present Agreement shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective Plenipotentiaries have signed this Agreement in duplicate and have hereunto affixed their seals.

Done at Washington on the 20th day of July, one thousand nine hundred and twelve.

CHANDLER P. ANDERSON

ALFRED MITCHELL INNES

Convention Between the United States of America and Canada for the Extension of Port Privileges To Halibut Fishing Vessels on the Pacific Coasts of the United States of America and Canada, Ottawa, 1950

Done at Ottawa 24 March 1950

Entered into force 13 July 1950

Primary source citation: 1 UST 536, TIAS 2096

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE EXTENSION OF PORT PRIVILEGES TO HALIBUT FISHING VESSELS ON THE PACIFIC COASTS OF THE UNITED STATES OF AMERICA AND CANADA

Preamble

The Government of the United States of America and the Government of Canada, desiring to further the well-being of their fishermen engaged in the halibut fishery of the North Pacific Ocean by extending to the halibut fishing vessels of each other certain privileges in ports of the Pacific Coasts of the United States of America and Canada, respectively, have resolved for that purpose to conclude a Convention, and to that end have appointed as their Plenipotentiaries:

The Honourable Laurence A. Steinhardt for the United States of America, and

The Honourable Robert Wellington Mayhew for Canada.

Who, having communicated to each other their full powers found in good and due form, have agreed as follows:

Article I

Fishing vessels of the United States of America engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs, navigation, and fisheries laws of Canada, have the privileges in the ports of entry of Canada

(1) to land their catches of halibut and sablefish without the payment of duties and

(a) sell them locally on payment of the applicable customs duty;

(b) trans-ship them in bond under customs supervision to any port of the United States of America; or

(c) sell them in bond for export, and

(2) to obtain supplies, repairs, and equipment.

ARTICLE II

Fishing vessels of Canada engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs and navigation laws of the United States of America, have the privileges in the ports of entry of the United States of America

(1) to land their catches of halibut and sablefish without the payment of duties and

(a) sell them locally on payment of the applicable customs duty;

(b) trans-ship them in bond under customs supervision to any port of Canada; or

(c) sell them in bond for export; and

(2) to obtain supplies, repairs, and equipment.

ARTICLE III

This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa as soon as possible.

ARTICLE IV

This Convention shall come into effect immediately upon the exchange of ratifications. It shall continue in effect for a period of one year from that date and indefinitely after that period, but may be terminated by either of the Contracting Governments at the end of the one year period or at any time thereafter provided that at least twelve months prior notice of termination has been given.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention.

Done at Ottawa, in duplicate, in the English language, both texts being equally authentic, this 24th day of March, 1950.

For the United States of America:

LAURENCE A. STEINHARDT

For Canada:

R. W. MAYHEW

Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, Ottawa, 1953

Done at Ottawa 2 March 1953

Entered into force 28 October 1953

Primary source citation: 5 UST 5, TIAS 2900

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PRESERVATION OF THE HALIBUT FISHERY OF THE NORTHERN PACIFIC OCEAN AND BERING SEA

The Government of the United States of America and the Government of Canada, desiring to provide more effectively for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a Convention replacing the Convention signed at Ottawa, January 29, 1937 and have named as their plenipotentiaries:

The Government of the United States of America:

THE HONOURABLE DON C. BLISS,
Chargé d'Affaires ad interim.

THE HONOURABLE WILLIAM C. HERRINGTON,
Special Assistant for Fisheries and Wildlife to the Under-Secretary of State.

The Government of Canada:

THE HONOURABLE JAMES SINCLAIR,
Minister of Fisheries.

THE HONOURABLE HUGUES LAPOINTE,
Minister of Veterans Affairs.

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

Article I

1. The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) in Convention waters as herein defined, except as provided by the International Pacific Halibut Commission in regulations designed to develop the stocks of halibut in the Convention waters to those levels which will permit the maximum sustained yield and to maintain the stocks at those levels pursuant to Article III of this Convention.

2. "Convention waters" means the territorial waters and the high seas off the western coasts of the United States of America and of Canada, including the southern as well as the western coasts of Alaska.

3. It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada from fishing in the Convention waters for other species of fish during any season when fishing for halibut in the Convention waters is prohibited by this Convention or any regulations adopted pursuant to this Convention. It is further understood that nothing contained in this Convention shall prohibit the International Pacific Halibut Commission from conducting or authorizing fishing operations for investigation purposes at any time.

Article II

1. Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in fishing on the high seas in violation of this Convention or of any regulation adopted pursuant thereto may be seized by duly authorized officers of either Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure or elsewhere as may be agreed upon. The authorities of the country to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention or any regulations which may be adopted in pursuance thereof and to impose penalties for such violation, and the witnesses and proof necessary for such prosecutions, so far as any witnesses or proofs are under the control of the other Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

2. Each Contracting Party shall be responsible for the proper observance of this Convention and of any regulations adopted under the provisions thereof in the portion of its waters covered thereby.

Article III

1. The Contracting Parties agree to continue under this Convention the Commission known as the International Fisheries Commission established by the Convention for the preservation of the halibut fishery, signed at Washington, March 2, 1923, continued by the Convention signed at Ottawa, May 9, 1930 and further continued by the Convention, signed at Ottawa, January 29, 1937, except that after the date of entry into force of this Convention it shall consist of six members, three appointed by each Contracting Party, and shall be known as the International Pacific Halibut Commission. This Commission shall make such investigations as are necessary into the life history of the halibut in the Convention waters and shall publish a report of its activities and investigations from time to time. Each Contracting Party shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each Contracting Party shall pay the salaries and expenses of its own members. Joint expenses incurred by the Commission shall be paid by the two Contracting Parties in equal moieties. All decisions of the Commission shall be made by a concurring vote of at least two of the Commissioners of each Contracting Party.

2. The Contracting Parties agree that for the purpose of developing the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the maximum sustained yield from that fishery and for maintaining the stocks at those levels, the International Pacific Halibut Commission, with the approval of the President of the United States of America and of the Governor General in Council of Canada, may, after investigation has indicated such action to be necessary, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, and in respect of halibut:

(a) divide the Convention waters into areas;

(b) establish one or more open or closed seasons, as to each area;

(c) limit the size of the fish and the quantity of the catch to be taken from each area within any season during which fishing is allowed;

(d) during both open and closed seasons, permit, limit, regulate or prohibit, the incidental catch of halibut that may be taken, retained, possessed, or landed from each area or portion of an area, by vessels fishing for other species of fish;

(e) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Pacific Halibut Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (c) of this paragraph;

(f) fix the size and character of halibut fishing appliances to be used in any area;

(g) make such regulations for the licencing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;

(h) close to all taking of halibut such portion or portions of an area or areas as the International Pacific Halibut Commission finds to be populated by small, immature halibut and designates as nursery grounds.

Article IV

The Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulation adopted thereunder, with appropriate penalties for violations thereof.

Article V

1. This Convention shall be ratified and the instruments of ratification exchanged at Washington as soon as possible.

2. This Convention shall enter into force on the date of exchange of ratifications and shall remain in force for a period of five years and thereafter until two years from the date on which either Contracting Party shall have given notice to the other of its desire to terminate it.

3. This Convention shall, from the date of the exchange of ratifications, replace and terminate the Convention for the preservation of the halibut fishery signed at Ottawa, January 29, 1937.

IN WITNESS WHEREOF the respective plenipotentiaries have signed and sealed this Convention.

DONE at Ottawa in duplicate, in the English language, this Second day of March 1953.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

[SEAL] DON C. BLISS

WILLIAM C HERRINGTON

FOR THE GOVERNMENT OF CANADA:

[SEAL] JAMES SINCLAIR

HUGUES LAPOINTE

Protocol Amending the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, Washington, 1979

Done at Washington 29 March 1979

Entered into force 15 October 1980

Primary source citation: 32 UST 2483, TIAS 9855

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PRESERVATION OF THE HALIBUT FISHERY OF THE NORTHERN PACIFIC OCEAN AND BERING SEA

The Government of The United States of America and the Government of Canada,

Having regard to the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, March 2, 1953 (hereinafter "the Convention"),

Sharing the view that the Convention has served to promote and coordinate scientific studies relating to the halibut fishery of the Northern Pacific Ocean and the Bering Sea, and has aided in the conservation of these fishery resources,

Taking into account that each of the Parties has established exclusive jurisdiction over fisheries within 200 nautical miles of its coasts, and that portions of the Convention area are within the areas of such exclusive fisheries jurisdiction,

Recognizing that the Convention does not take fully into account developments in fishery conservation and management and,

Desirous of amending the Convention,

Have agreed as follows:

ARTICLE I

The Convention shall be amended to read as follows:

"The Government of the United States of America and the Government of Canada have agreed as follows:

Article I

1. All fishing for halibut (Hippoglossus) in Convention waters as herein defined is hereby prohibited except as expressly provided in paragraphs 2 and 5 of this Article.

2. Nationals and fishing vessels of, and fishing vessels licensed by, the United States or Canada may fish for halibut in Convention waters only in accordance with this Convention, including its Annex, and as provided by the International Pacific Halibut Commission in regulations promulgated pursuant to Article III of the Convention and designed to develop the stocks of halibut in the Convention waters to those levels which will permit the optimum yield from the fishery and to maintain the stocks at those levels. However, it is understood that nothing contained in this Convention shall prohibit either Party from establishing additional regulations, applicable to its own nationals and fishing vessels, and to fishing vessels licensed by that Party, governing the taking of halibut which are more restrictive than those adopted by the International Pacific Halibut Commission.

3. "Convention waters" means the waters off the west coasts of the United States and Canada, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which either Party exercises exclusive fisheries jurisdiction. For purposes of this Convention, the "maritime area" in which a Party exercises exclusive fisheries jurisdiction includes without distinction areas within and seaward of the territorial sea or internal waters of that Party.

4. Nothing contained in this Convention shall prohibit the nationals or fishing vessels of the United States, of Canada, or of any third country from fishing in the Convention waters for other species of fish during any season when fishing for halibut in the Convention waters is prohibited by this Convention or by any regulations adopted pursuant to this Convention.

5. Subject to and in accordance with International Pacific Halibut Commission and other applicable regulations and permit and licensing requirements including the payment of fees, sport fishing for halibut and other species by nationals and vessels of each Party may be conducted in Convention waters, except that licensing or permit requirements directed specifically at foreign fishing vessels pursuant to the Fishery Conservation and Management Act of 1976 of the United States and the Coastal Fisheries Protection Act of Canada, as amended from time to time, or pursuant to any statute replacing such Acts, shall not apply. All provisions of this Convention except this paragraph, refer to commercial halibut fishing.

Article II

1. Each Party shall have the right to enforce this Convention and any regulations adopted pursuant thereto:

   (a) in all Convention waters, against its own nationals and fishing vessels;

   (b) in that portion of the Convention waters in which it exercises exclusive fisheries jurisdiction, against nationals or fishing vessels of either Party or of third parties.

2. Each Party may, to the extent of its enforcement authority under this Convention, conduct prosecutions or take other action under its domestic law for the violation of this Convention or of any regulations adopted pursuant thereto. The witnesses and evidence necessary for such prosecutions or other legal actions, so far as any witnesses or evidence are under the control of the other Party, shall be furnished promptly to the authorities of the Party having jurisdiction to conduct such prosecutions or other legal actions.

3. Each Party shall take appropriate measures to ensure that its nationals and fishing vessels allow and assist boardings and inspections of such vessels in accordance with paragraph 1 by duly authorized officials of the other party.

Article III

1. The Parties agree to continue under this Convention the Commission known as the International Fisheries Commission established by the Convention for the Preservation of the Halibut Fishery, signed at Washington, March 2, 1923, continued by the Convention signed at Ottawa, May 9, 1930, and further continued by the Convention, signed at Ottawa, January 29, 1937. The Commission shall consist of six members, three appointed by each Party, and shall be known as the International Pacific Halibut Commission (hereinafter "the Commission").

Each Commissioner shall serve at the pleasure of the appointing Party, and each Party shall fill vacancies in its representation on the Commission as they occur. Each Party shall pay the salaries and expenses of its own members. Joint expenses incurred by the Commission shall be paid by the two Parties in equal shares. However, upon recommendation of the Commission, the Parties may agree to vary the proportion of such joint expenses to be paid by each Party after March 31, 1981. All decisions of the Commission shall be made by a concurring vote of at least two of the Commissioners of each Party.

2. The Commission shall make such investigations as are necessary into the life history of the halibut and may conduct or authorize fishing operations to carry out such investigations.

3. For the purpose of developing the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the optimum yield from that fishery, and of maintaining the stocks at those levels, the Commission, with the approval of the Parties and consistent with the Annex to this Convention, may, after investigation has indicated such action to be necessary, with respect to the nationals and fishing vessels of, and fishing vessels licensed by, the United States or Canada, and with respect to halibut:

(a) divide the Convention waters into areas;

(b) establish one or more open or closed seasons as to each area;

(c) limit the size of the fish and the quantity of the catch to be taken from each area within any season during which fishing is allowed;

(d) during both open and closed seasons, permit, limit, regulate or prohibit the incidental catch of halibut that may be taken, retained, possessed, or landed from each area or portion of an area, by vessels fishing for other species of fish;

(e) fix the size and character of halibut fishing appliances to be used in any area;

(f) make such regulations for the licensing of vessels and for the collection of statistics on the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;

(g) close to all taking of halibut any area or portion of an area that the Commission finds to be populated by small, immature halibut and designates as nursery grounds.

4. The Commission shall periodically publish reports of its activities, including its investigations.

Article IV

The Parties shall take any action, including enactment of legislation and enforcement, as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder.

Article V

1. The Annex to this Convention shall constitute an integral part of the Convention, and all references to the Convention shall be considered to refer to the Annex as well.

2. The Parties may, by mutual agreement, amend any provision of the Annex.

Article VI

Nothing in this Agreement shall be construed to affect or prejudice any position or claim which has been or may subsequently be adopted by either Party in the course of consultations, negotiations or third party settlement procedures respecting the maritime jurisdiction, including the limits thereof, of the United States or of Canada.

Article VII

This Convention shall remain in force until March 31, 1981, and thereafter until one year from the date on which either Party shall have given notice to the other of its desire to terminate it.

ANNEX

1. Nationals and fishing vessels of, and fishing vessels licensed by, either Party shall not fish for halibut in Convention waters in which the other exercises exclusive fisheries jurisdiction except as provided in Article I of the Convention and as stated in this Annex.

2. In the maritime area outside the Bering Sea in which the United States exercises exclusive fisheries jurisdiction, beyond three miles from the baseline from which the territorial sea of the United States is measured, nationals and fishing vessels of Canada issued registration permits by the United States may catch three million pounds of halibut during the period beginning April 1, 1979, and ending March 31, 1981, subject to the following limits:

(a) during the period beginning April 1, 1979, and ending March 31, 1980, they may catch two million pounds of halibut;

(b) during the period beginning April 1, 1980, and ending March 31, 1981, they may catch one million pounds of halibut, except that this catch limit shall be adjusted such that the catch by nationals and vessels of Canada under sub-paragraphs (a) and (b) shall total three million pounds.

3. After April 1, 1979, the annual total allowable catch set by the Commission for halibut fishing in Area 2 shall be divided as follows:

(a) Forty percent of the annual total allowable catch may be caught in the maritime area in which the United States exercises exclusive fisheries jurisdiction as of March 29, 1979;

(b) Sixty percent of the annual total allowable catch may be caught in the maritime area in which Canada exercises exclusive fisheries jurisdiction as of March 29, 1979.

4. Fishing effort by nationals and vessels of Canada in that portion of Area 2 in which the United States exercises exclusive fisheries jurisdiction and in Area 3 shall be in the same general proportion as the historical level of Canadian effort in those areas.

5. Nationals and fishing vessels of Canada may not retain incidental catches of species other than halibut, except for immediate on-board use as bait, when conducting fishing operations pursuant to the Convention in the maritime area in which the United States exercises exclusive fisheries jurisdiction.

6. Vessels of Canada engaged in fishing for halibut in the maritime area in which the United States exercises exclusive fisheries jurisdiction shall have on board a registration permit issued by the Government of the United States. No fees shall be required for such permits. Applications for such permits shall be prepared and processed in accordance with paragraphs 7 and 8 of this Annex.

7. Applications for registration permits under paragraph 6 of this Annex shall be made on forms provided by the Government of the United States for that purpose. Such applications shall specify:

(a) the name and official number or other identification of each fishing vessel for which a registration permit is sought, together with the name and address of the owner and operator thereof;

(b) the tonnage, capacity, length and home port of each fishing vessel for which a registration permit is sought.

8. The appropriate officials of the Government of the United States shall review each application for a registration permit and shall notify appropriate officials of the Government of Canada upon acceptance of the application. Upon acceptance of the application, the Government of the United States shall issue a registration permit to that fishing vessel, which shall thereupon be authorized to fish in accordance with the Convention. Each such

registration permit shall be issued for a specific vessel, shall be applicable for the annual period beginning April 1, 1979, and ending March 31, 1980, or for the annual period beginning April 1, 1980, and ending March 31, 1981, and shall not be transferable.

9. Nationals and fishing vessels of Canada intending to fish for halibut in the maritime area in which the United States exercises exclusive fisheries jurisdiction shall report to appropriate United States officials, at least 24 hours prior to entering the area:

(a) the vessel name and registration permit number;

(b) the anticipated date fishing will begin;

(c) the sub-area, as described in paragraph 13 of this Annex, in which fishing will initially take place.

10. Nationals and fishing vessels of Canada shall have no fish on board at the time of entry into the maritime area in which the United States exercises exclusive fisheries jurisdiction, except for immediate on-board use as bait.

11. Nationals and fishing vessels of Canada, while operating within the maritime area in which the United States exercises exclusive fisheries jurisdiction, shall:

(a) have the name and port of registration clearly visible on the stern and fly the flag of Canada at all times;

(b) prior to moving between sub-areas, as described in paragraph 13 of this Annex, report to appropriate United States officials:

(i) the vessel name and registration permit number;

(ii) the sub-area in which fishing will cease;

(iii) the sub-area in which fishing will take place;

(iv) the date upon which the move will take place.

12. Nationals and fishing vessels of Canada, prior to departure from the maritime area in which the United States exercises exclusive fisheries jurisdiction, shall report to appropriate United States officials:

(a) the vessel name and registration permit number;

(b) the date fishing in such area ceases;

(c) the estimated amount (in pounds) of halibut on board upon departure from such area;

(d) the anticipated port of delivery.

13. The sub-areas of the maritime area in which the United States exercises exclusive fisheries jurisdiction, referred to in paragraphs 9 and 11 are:

(a) Southeast: adjacent to Alaska, south and east of a line running south one-quarter east (177° magnetic) from Cape Spencer Light (58°11′57″ North latitude, 136°38′18″ West longitude);

(b) Yakutat: adjacent to Alaska, north and west of a line running south one-quarter east (177° magnetic) from Cape Spencer Light to 147°00′ West longitude;

(c) Kodiak: adjacent to Alaska, west of 147°00′ West longitude to 159°00′ West longitude, not including the Bering Sea;

(d) Shumagin: adjacent to Alaska, west of 159°00′ West longitude to 173°00′ West longitude, not including the Bering Sea;

(e) Aleutian: adjacent to Alaska, west of 173°00′ West longitude, not including the Bering Sea;

(f) Washington/Oregon/California: adjacent to Washington, Oregon and California.

14. By January 1, 1981, and thereafter as it considers appropriate, the Commission shall, on the basis of a review of pertinent information, recommend for the approval of the Parties any appropriate changes in the division of the annual total allowable catch set forth in paragraph 3 of this Annex. No such changes may take effect before April 1, 1981.

15. Each year the Commission shall report to the Parties as soon as 75 percent has been taken of that portion of the annual total allowable catch authorized under paragraph 3(a) or 3(b) of this Annex. Upon making this report, the Commission may recommend to the Parties reallocation of the annual total allowable catch in Area 2 between the areas described in paragraphs 3(a) and 3(b) of this Annex. Any such recommendation shall include a date upon which the reallocation, if approved by the Parties, shall take effect. Such reallocation may, notwithstanding the terms of paragraph 14, take effect at any time, and shall remain in effect until March 31 following the date on which it takes effect.

16. Pending delimitation of maritime boundaries between the United States and Canada in the Convention area, the following principles shall be applied as interim measures in the boundary regions:

(a) as between the Parties, enforcement of the Convention shall be carried out by the flag state;

(b) neither Party shall authorize fishing for halibut by vessels of third parties;

(c) either Party may enforce the Convention with respect to fishing for halibut, or related activities, by vessels of third parties.

17. For purposes of this Annex, "Area 2" means that portion of the Convention waters east of a line running northwest one-quarter west (312° magnetic) from Cape Spencer Light (latitude 58°11′57″ North, longitude 136°38′18″ West) and south and east of a line running south one-quarter east (177° magnetic) from said light."

ARTICLE II

This Protocol shall be ratified by the Parties and the instruments of ratification exchanged at Ottawa as soon as possible. This Protocol shall enter into force on the date of exchange of ratifications.

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

DONE at Washington in duplicate, in the English and French languages, both texts being equally authentic, this twenty-ninth day of March, 1979.

For the Government of the United States of America

Cyrus R. Vance

John D. Negroponte

For the Government of Canada

P. M. Towne

M. Cadieux

AGREED MINUTE

It is the understanding of the Government of the United States and the Government of Canada that, for purposes of numbered paragraph 3 of the Annex to the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, as amended by the Protocol, done at Washington, March 29, 1979, and in the absence of delimitation of maritime boundaries between the United States and Canada in the Convention area, any halibut caught by nationals and vessels of a Party in the maritime

area in which, as of March 29, 1979, both Parties claim exclusive fisheries jurisdiction, shall be included in that Party's portion of the annual total allowable catch for Area 2, as set forth in subparagraphs (a) and (b) of paragraph 3 of the Annex.

In the absence of delimitation of maritime boundaries between the United States and Canada in the Convention area, for the purposes of numbered paragraph 2 of the Annex to the Convention, as amended, any halibut caught by nationals and vessels of Canada in the maritime area in which, as of March 29, 1979, both Parties claim exclusive fisheries jurisdiction shall not be included in the Canadian entitlement of 3,000,000 pounds of halibut in the maritime area in which the United States exercises exclusive fisheries jurisdiction, as set forth in that paragraph.

It is also the understanding of the Government of the United States and the Government of Canada that any regulations issued by the International Pacific Halibut Commission and subsequent to March 29, 1979, shall be governed by the exchange of notes between the Government of the United States and the Government of Canada signed on March 29, 1979.

Washington, D.C.,
April 6, 1979

Convention on Great Lakes Fisheries Between the United States of America and Canada, Washington, 1954

Done at Washington 10 September 1954

Entered into force 11 October 1955

Primary source citation: 6 UST 2836, TIAS 3326

CONVENTION ON GREAT LAKES FISHERIES BETWEEN THE UNITED STATES OF AMERICA AND CANADA

The Government of the United States of America and the Government of Canada,

Taking note of the interrelation of fishery conservation problems and of the desirability of advancing fishery research in the Great Lakes,

Being aware of the decline of some of the Great Lakes fisheries,

Being concerned over the serious damage to some of these fisheries caused by the parasitic sea lamprey and the continuing threat which this lamprey constitutes for other fisheries,

Recognizing that joint and coordinated efforts by the United States of America and Canada are essential in order to determine the need for and the type of measures which will make possible the maximum sustained productivity in Great Lakes fisheries of common concern,

Have resolved to conclude a convention and have appointed as their respective Plenipotentiaries:

The Government of the United States of America:

Walter Bedell Smith, Acting Secretary of State of the United States of America, and

William C. Herrington, Chairman of the Delegation of the United States of America to the Great Lakes Fisheries Conference; and

The Government of Canada:

Arnold Danford Patrick Heeney, Ambassador Extraordinary and Plenipotentiary of Canada to the United States of America, and

Stewart Bates, Chairman of the Delegation of Canada to the Great Lakes Fisheries Conference,

who, having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I

This Convention shall apply to Lake Ontario (including the St. Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior and their connecting waters, hereinafter referred to as "the Convention Area". This Convention shall also apply to the tributaries of each of the above waters to the extent necessary to investigate any stock of fish of common concern, the taking or habitat of which is confined predominantly to the Convention Area, and to eradicate or minimize the populations of the sea lamprey (*Petromyzon marinus*) in the Convention Area.

ARTICLE II

1. The Contracting Parties agree to establish and maintain a joint commission, to be known as the Great Lakes Fishery Commission, hereinafter referred to as "the Commission", and to be composed of two national sections, a Canadian Section and a United States Section. Each Section shall be composed of not more than three members appointed by the respective Contracting Parties.

2. Each Section shall have one vote. A decision or recommendation of the Commission shall be made only with the approval of both Sections.

3. Each Contracting Party may establish for its Section an advisory committee for each of the Great Lakes. The members of each advisory committee so established shall have the right to attend all sessions of the Commission except those which the Commission decides to hold *in camera*.

ARTICLE III

1. At the first meeting of the Commission and at every second subsequent annual meeting thereafter the members shall select from among themselves a Chairman and a Vice-Chairman, each of whom shall hold office from the close of the annual meeting at which he has been selected until the close of the second annual meeting thereafter. The Chairman shall be selected from one Section and the Vice-Chairman from the other Section. The offices of Chairman and Vice-Chairman shall alternate biennially between the Sections.

2. The seat of the Commission shall be at such place in the Great Lakes area as the Commission may designate.

3. The Commission shall hold a regular annual meeting at such place as it may decide. It may hold such other meetings as may be agreed upon by the Chairman and Vice-Chairman and at such time and place as they may designate.

4. 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 duties.

5. The Commission shall make such rules and by-laws for the conduct of its meetings and for the performance of its duties and such financial regulations as it deems necessary.

6. The Commission may appoint an Executive Secretary upon such terms as it may determine.

7. The staff of the Commission may be appointed by the Executive Secretary in the manner determined by the Commission or appointed by the Commission itself on terms to be determined by it.

8. The Executive Secretary shall, subject to such rules and procedures as may be determined by the Commission, have full power and authority over the staff and shall perform such functions as the Commission may prescribe. If the office of Executive Secretary is vacant, the Commission shall prescribe who shall exercise such power or authority.

ARTICLE IV

The Commission shall have the following duties:

(a) to formulate a research program or programs designed to determine the need for measures to make possible the maximum sustained productivity of any stock of fish in the Convention Area which, in the opinion of the Commission, is of common concern to the fisheries of the United States of America and Canada and to determine what measures are best adapted for such purpose;

(b) to coordinate research made pursuant to such programs and, if necessary, to undertake such research itself;

(c) to recommend appropriate measures to the Contracting Parties on the basis of the findings of such research programs;

(d) to formulate and implement a comprehensive program for the purpose of eradicating or minimizing the sea lamprey populations in the Convention Area; and

(e) to publish or authorize the publication of scientific and other information obtained by the Commission in the performance of its duties.

ARTICLE V

In order to carry out the duties set forth in Article IV, the Commission may:

(a) conduct investigations;

(b) take measures and install devices in the Convention Area and the tributaries thereof for lamprey control; and

(c) hold public hearings in the United States of America and Canada.

ARTICLE VI

1. In the performance of its duties, the Commission shall, in so far as feasible, make use of the official agencies of the Contracting Parties and of their Provinces or States and may make use of private or other public organizations, including international organizations, or of any person.

2. The Commission may seek to establish and maintain working arrangements with public or private organizations for the purpose of furthering the objectives of this Convention.

ARTICLE VII

Upon the request of the Commission a Contracting Party shall furnish such information pertinent to the Commission's duties as is practicable. A Contracting Party may establish conditions regarding the disclosure of such information by the Commission.

ARTICLE VIII

1. Each Contracting Party shall determine and pay the expenses of its Section. Joint expenses incurred by the Commission shall be paid by contributions made by the Contracting Parties. The form and proportion of the contributions shall be the approved by the Contracting Parties after the Commission has made a recommendation.

2. The Commission shall submit an annual budget of anticipated joint expenses to the Contracting Parties for approval.

ARTICLE IX

The Commission shall submit annually to the Contracting Parties a report on the discharge of its duties. It shall make recommendations to or advise the Contracting Parties whenever it deems necessary on any matter relating to the Convention.

ARTICLE X

Nothing in this Convention shall be construed as preventing any of the States of the United States of America bordering on the Great Lakes or, subject to their constitutional arrangements, Canada or the Province of Ontario from making or enforcing laws or regulations within their respective jurisdictions relative to the fisheries of the Great Lakes so far as such laws or regulations do not preclude the carrying out of the Commission's duties.

ARTICLE XI

The Contracting Parties agree to enact such legislation as may be necessary to give effect to the provisions of this Convention.

ARTICLE XII

The Contracting Parties shall jointly review in the eighth year of operation of this Convention the activities of the Commission in relation to the objectives of the Convention in order to determine the desirability of continuing, modifying or terminating this Convention.

ARTICLE XIII

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa.

2. This Convention shall enter into force on the date of the exchange of the instruments of ratification. It shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

3. Either Contracting Party may, by giving two years' written notice to the other Contracting Party, terminate this Convention at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention.

DONE at Washington, in duplicate, this tenth day of September, 1954.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:
WALTER BEDELL SMITH
WM C HERRINGTON

FOR THE GOVERNMENT OF CANADA:
A. D. P. HEENEY.
STEWART BATES.

Amendment to the Convention on Great Lakes Fisheries, Ottawa, 1966–1967

Done at Ottawa 5 April 1966 and 19 May 1967

Entered into force 19 May 1967

Primary source citation: 18 UST 1402, TIAS 6297

DEPARTMENT OF EXTERNAL AFFAIRS
OTTAWA, CANADA

April 5, 1966.

His Excellency W. WALTON BUTTERWORTH,
Ambassador of the United States of America,
100 Wellington Street,
Ottawa.

No. X–92

EXCELLENCY,

I have the honour to refer to conversations between representatives of our two Governments concerning amendment of the Convention on Great Lakes Fisheries between Canada and the United States of America signed at Washington on September 10, 1954 to provide for the appointment by each Contracting Party of an additional member on the Great Lakes Fisheries Commission.

In accordance with those conversations, it is the understanding of the Government of Canada that the above-mentioned Convention shall be amended by substituting the word "four" for the word "three" in the second sentence of paragraph 1 of Article II.

I also have the honour to propose that, on confirmation of the foregoing understanding on behalf of the Government of the United States, this Note and Your Excellency's reply to that effect shall constitute an agreement between our two Governments, which shall enter into force on the date of Your Excellency's reply.

Accept, Excellency, the renewed assurances of my highest consideration.

PAUL MARTIN
Secretary of State
for External Affairs

EMBASSY OF THE UNITED STATES OF AMERICA
OTTAWA

May 19, 1967

The Honorable
PAUL MARTIN,
Secretary of State for External Affairs,
Ottawa.

No. 298

SIR:

I have the honor to refer to your note of April 5, 1966, which reads as follows:

"I have the honour to refer to conversations between representatives of our two Governments concerning amendment of the Convention on Great Lakes Fisheries between Canada and the United States of America signed at Washington on September 10, 1954 to provide for the appointment by each Contracting Party of an additional member on the Great Lakes Fisheries Commission.

"In accordance with those conversations, it is the understanding of the Government of Canada that the above-mentioned Convention shall be amended by substituting the word 'four' for the word 'three' in the second sentence of paragraph 1 of Article II.

"I also have the honour to propose that, on confirmation of the foregoing understanding on behalf of the Government of the United States, this Note and Your Excellency's reply to that effect shall constitute an agreement between our two Governments, which shall enter into force on the date of Your Excellency's reply."

I have the honor to confirm the foregoing understanding on behalf of my Government. Accordingly, your note and this reply shall constitute an agreement between our two Governments, which shall enter into force this day.

Accept, Sir, the renewed assurances of my highest consideration.

W. W. BUTTERWORTH

Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, Washington, 1981

Done at Washington 26 May 1981

Entered into force 29 July 1981

Primary source citation: 33 UST 615, TIAS 10057

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA ON PACIFIC COAST ALBACORE TUNA VESSELS AND PORT PRIVILEGES

The Government of the United States of America and the Government of Canada,

Desiring to cooperate in matters concerning the albacore tuna fishery off the Pacific Coast of the United States and Canada,

Desiring to benefit the fishing industries involved in that fishery, and

Taking into account the deliberations of the Third United Nations Conference on the Law of the Sea in the field of fisheries,

Have agreed as follows:

ARTICLE I

Without prejudice to the respective juridical positions of both Parties regarding highly migratory species of tuna, each Party shall:

(a) ensure that all its vessels engaged in fishing for albacore tuna in waters under the fisheries jurisdiction of the other Party shall do so in accordance with this Treaty;

(b) permit fishing vessels of the other Party to fish for albacore tuna in waters under its fisheries jurisdiction beyond twelve nautical miles of the baselines from which the territorial sea is measured, in accordance with Annex "A" to this Treaty and subject to other applicable laws and regulations.

ARTICLE II

Vessels of the United States of America fishing pursuant to this Treaty shall be authorized to enter the Canadian ports listed in Annex "B" to this Treaty and to use Canadian facilities and services, subject to compliance with applicable customs, navigation, safety, environmental and other laws and regulations pertaining to port privileges, and payment of applicable albacore tuna landing fees provided that such fees do not discriminate according to nationality, for the following purposes:

(1) to land their catches of albacore tuna without the payment of duties and

(a) trans-ship them in bond under customs supervision to any port of the United States of America; or

(b) sell them for export in bond; or

(c) sell them locally on payment of the applicable customs duty; and

(2) to obtain fuel, supplies, repairs and equipment on the same basis as albacore tuna vessels of the other Party.

ARTICLE III

Canadian vessels fishing pursuant to this Treaty shall be authorized to enter the United States ports listed in Annex "B" to this Treaty and to use United States facilities and services, subject to compliance with applicable customs, navigation, safety, environmental, and other laws and regulations pertaining to port privileges, and payment of applicable albacore tuna landing fees provided that such fees do not discriminate according to nationality, for the following purposes:

(1) to land their catches of albacore tuna without the payment of duties and

(a) trans-ship them in bond under customs supervision to any port of Canada; or

(b) sell them for export in bond; or

(c) sell them locally on payment of the applicable customs duty; and

(2) to obtain fuel, supplies, repairs and equipment on the same basis as albacore tuna vessels of the other Party.

ARTICLE IV

Neither Party shall, pursuant to its fisheries legislation, prohibit the importation into its territory of Pacific albacore tuna and albacore tuna products from the other Party as a consequence of a dispute arising in other fisheries.

ARTICLE V

1. Vessels of each Party which are not in compliance with this Treaty are subject to enforcement action by the other Party when engaged in fishing for Pacific albacore tuna in waters under the fisheries jurisdiction of the other Party.

2. Arrested Vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. Enforcement actions under this Treaty shall not include imprisonment.

4. In the case of seizure and arrest of a vessel by the authorities of one Party, notification shall be given promptly through diplomatic or consular channels informing the other Party of the action taken and of any penalties subsequently imposed.

ARTICLE VI

1. Either Party may at any time request consultations on the interpretation or application of this Treaty. Such consultations should commence as soon as practicable but in any case not later than sixty days from the date of receipt of the request for consultations, unless otherwise agreed by the Parties.

2. In the event of a dispute arising between the Parties concerning the interpretation or application of this Treaty, the Parties shall consult with a view to resolving the dispute by negotiation.

ARTICLE VII

The Annexes may be amended by the President of the United States and the Government of Canada through an Exchange of Notes.

ARTICLE VIII

This Treaty shall enter into force upon the exchange of instruments of ratification at Ottawa. After two years from the date of entry into force, either Party may give written notice to the other Party to terminate this Treaty. The Treaty shall terminate on December 31 of the calendar year following that in which such notice was received by the other Party.

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

DONE at Washington in duplicate, in the English and French languages, both versions being equally authentic, this Twenty-sixth day of May, 1981.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

William Clark

FOR THE GOVERNMENT OF CANADA:

Ben Towe

ANNEX A

1. a. Each Party agrees to provide annually to the other Party a list of its fishing vessels which propose to fish albacore tuna off the coast of the other Party. The list will include (1) vessel name, (2) home port, (3) radio call sign, (4) fishing vessel registration number, and (5) captain or operator's name, if known.

b. Each Party may provide the other Party with additions or deletions to its list at any time.

c. As soon as possible after receipt, and subject to paragraph 1(d) below, the receiving Party shall satisfy itself that the list received meets the criteria of paragraph 1(a) and shall so inform the other Party in order to enable the albacore fishery to proceed pursuant to this Treaty.

d. Should, due to serious or repeated fisheries violations or offenses, one Party object to the inclusion of a particular vessel on the list of the other Party, the two Parties shall consult. In this event, actions pursuant to paragraph 1(c) with regard to other vessels shall not be delayed. Following consultations, each Party shall notify its vessels which both Parties agree shall not be included on the list referred to in paragraph 1(c).

2. If required by either Party, each vessel shall, upon entering and at least 24 hours prior to leaving the fishing zone of such Party, so inform the appropriate authorities and provide the vessel name, radio call sign and captain or operator's name.

3. When in the fishing zone of the other Party, each vessel shall have its name and radio call sign prominently displayed where they will be clearly visible both from the air and from a surface vessel.

4. Vessels of both Parties shall keep accurate log records while fishing pursuant to this Treaty.

5. In order that better information on the stocks of albacore tuna which migrate off the west coasts of the United States and Canada may be obtained, each vessel engaged in fishing pursuant to this Treaty shall provide to its government statistics and other scientific information on its operations in the fishing zone of the other Party. Each Party shall provide to the other Party twice yearly such information and in particular the amount (number and weight) of albacore tuna caught by its vessels in waters under the fisheries jurisdiction of the other Party. Other specific information to be provided, as well as the forms and procedures for providing such information, shall be agreed upon by the two Parties.

ANNEX B

1. Fishing vessels of the United States of America shall, pursuant to Article II, be authorized to enter the following ports located in Canada:

Port Hardy
Prince Rupert
Victoria
Ucluelet

2. Canadian fishing vessels shall, pursuant to Article III, be authorized to enter the following ports located in the United States of America:

Astoria
Bellingham
Coos Bay
Crescent City

Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, Ottawa, 1985

Done at Ottawa 28 January 1985

Entered into force 18 March 1985

Primary source citation: TIAS 11091

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONCERNING PACIFIC SALMON

The Government of the United States of America and the Government of Canada,

Considering the interests of both Parties in the conservation and rational management of Pacific salmon stocks and in the promotion of optimum production of such stocks;

Recognizing that States in whose waters salmon stocks originate have the primary interest in and responsibility for such stocks;

Recognizing that salmon originating in the waters of each Party are intercepted in substantial numbers by the nationals and vessels of the other Party, and that the management of stocks subject to interception is a matter of common concern;

Desiring to cooperate in the management, research and enhancement of Pacific salmon stocks;

Have agreed as follows:

Article I

DEFINITIONS

As used in this Treaty,

1. "enhancement" means man-made improvements to natural habitats or application of artificial fish culture technology that will lead to the increase of salmon stocks;

2. "fishery" means the activity of harvesting or seeking to harvest salmon;

3. "fishery regimes" means the fishing limitations and arrangements adopted by the parties pursuant to Article IV, paragraph 6;

4. "interception" means the harvesting of salmon originating in the waters of one Party by a fishery of the other Party;

5. "overfishing" means fishing patterns which result in escapements significantly less than those required to produce maximum sustainable yields;

6. "stocks subject to this Treaty" means Pacific salmon stocks which originate in the waters of one Party and

(a) are subject to interception by the other Party;

(b) affect the management of stocks of the other Party; or

(c) affect biologically the stocks of the other Party; and

7. "transboundary river" means a river that rises in Canada and flows to the sea through the United States.

Article II

COMMISSION AND PANELS

1. The Parties shall establish a Pacific Salmon Commission, hereinafter referred to as "the Commission", to be composed of two national sections, a Canadian Section and a United States Section.

2. The Commission shall have legal personality and shall enjoy in its relations with other organizations and in the territories of the Parties such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the Commission and its officers shall enjoy in the territory of a Party shall be subject to agreement between the Commission and the Party concerned.

3. The Commission shall consist of not more than eight Commissioners, of whom not more than four shall be appointed by each Party. Each Party may also appoint not more than four alternate Commissioners, to serve in the absence of any Commissioner appointed by that Party.

4. The Commissioners and alternate Commissioners shall hold office at the pleasure of the Party by which they were appointed.

5. At the first meeting of the Commission one section shall select from its members a Commission Chairman, and the other section shall select from its members a Vice-Chairman, each of whom shall hold office for the calendar year in which the Treaty enters into force and for such portion of the subsequent year as the Commission may determine. Thereafter the Chairman and Vice-Chairman shall hold office for a term of twelve months and shall be selected by their respective sections. The section which selects the first Chairman shall be determined by lot and thereafter the offices of Chairman and Vice-Chairman shall alternate between the sections. If either office becomes vacant before the end of a term, the appropriate section shall select a replacement for the remainder of the term.

6. Each section shall have one vote in the Commission. A decision or recommendation of the Commission shall be made only with the approval of both sections.

7. Subject to the approval of the Parties, the Commission shall make such by-laws and procedural rules, for itself, for the Panels established pursuant to paragraph 18, and for the committees established pursuant to paragraph 17, as may be necessary for the exercise of their functions and the conduct of their meetings.

8. The Commission may make recommendations to or advise the Parties on any matters relating to the Treaty.

9. Unless otherwise agreed by the Parties, the seat of the Commission shall be at New Westminster, British Columbia.

10. The Commission shall hold an annual meeting and may hold other meetings at the request of the Chairman or of either Party. The Chairman shall notify the Commissioners of the time and place of meetings. Meetings may be held at the seat of the Commission or at such other place as may be determined in accordance with the by-laws and procedural rules of the Commission.

11. Each Party shall pay the expenses of its own section.

12. The Commission shall prepare an annual budget of joint expenses and submit it to the Parties for approval. The Parties shall bear the costs of the budget in equal shares unless otherwise agreed, and shall pay their shares as the by-laws may specify after the budget has been approved by both Parties.

13. The Commission shall authorize the disbursement of funds contributed by the Parties pursuant to paragraph 12, and may enter into contracts and acquire property necessary for the performance of its functions.

14. The Commission shall submit to the Parties an annual report on its activities and an annual financial statement.

15. The Commission shall appoint an Executive Secretary, who, subject to the supervision of the Commission, shall be responsible for the general administration of the Commission.

16. The Commission may engage staff or authorize the Executive Secretary to do so. The Executive Secretary shall have full authority over the staff subject to the direction of the Commission. If the office of the Executive Secretary is vacant, the Commission shall determine who shall exercise that authority.

17. The Commission shall establish a Committee on Research and Statistics and a Committee on Finance and Administration. The Commission may eliminate or establish committees as appropriate.

18. The Commission shall establish Panels as specified in Annex I. The Commission may recommend to the Parties the elimination or establishment of Panels as appropriate.

19. The Panels shall provide information and make recommendations to the Commission with respect to the functions of the Commission and carry out such other functions as the Treaty may specify or as the Commission may direct.

20. In cases where fisheries intercept stocks for which more than one Panel is responsible, the appropriate Panels shall meet jointly to carry out the functions specified in paragraph 19. If the Panels cannot agree, each may make an independent report to the Commission.

21. Each Panel shall consist of not more than 6 members from each Party. Each Party may designate alternate Panel members to serve in the absence of any Panel member appointed by that Party.

22. Except as otherwise provided in the Treaty, paragraphs 4, 5, 6, 10 and 11 apply, mutatis mutandis, to each Panel.

Article III

PRINCIPLES

1. With respect to stocks subject to this Treaty, each Party shall conduct its fisheries and its salmon enhancement programs so as to:

(a) prevent overfishing and provide for optimum production; and

(b) provide for each Party to receive benefits equivalent to the production of salmon originating in its waters.

2. In fulfilling their obligations pursuant to paragraph 1, the Parties shall cooperate in management, research and enhancement.

3. In fulfilling their obligations pursuant to paragraph 1, the Parties shall take into account:

(a) the desirability in most cases of reducing interceptions;

(b) the desirability in most cases of avoiding undue disruption of existing fisheries; and

(c) annual variations in abundance of the stocks.

Article IV

CONDUCT OF FISHERIES

In order to facilitate the implementation of Articles III, VI and VII:

1. Each Party shall submit an annual report on its fishing activities in the previous year to the other Party and to the Commission. The Commission shall forward the reports to the appropriate Panels.

2. The Panels shall consider the reports submitted pursuant to paragraph 1 and shall provide their views to the Commission. The Commission shall review the reports of the Panels and shall provide its views to the Parties.

3. Each year the State of origin shall submit preliminary information for the ensuing year to the other Party and to the Commission, including:

(a) the estimated size of the run;

(b) the interrelationship between stocks;

(c) the spawning escapement required;

(d) the estimated total allowable catch;

(e) its intentions concerning management of fisheries in its own waters; and

(f) its domestic allocation objectives whenever appropriate.

The Commission shall forward this information to the appropriate Panels.

4. The Panels shall examine the information submitted pursuant to paragraph 3 and report their views to the Commission with respect to fishery regimes for the following year.

5. The Commission shall review the reports of the Panels and shall recommend fishery regimes to the Parties.

6. On adoption by both Parties, the fishery regimes referred to in paragraph 5 shall be attached to this Treaty as Annex IV.

7. Each Party shall establish and enforce regulations to implement the fishery regimes adopted by the Parties. Each Party, in a manner to be determined by the Commission, shall notify the Commission and the other Party of these regulations and shall promptly communicate to the Commission and to the other Party any in-season modifications.

Article V

SALMON ENHANCEMENT PROGRAMS

1. Salmon enhancement programs that may be established by the Parties shall be conducted subject to the provisions of Article III.

2. Each year each Party shall provide to the other Party and to the Commission information pertaining, inter alia, to:

(a) operations of and plans for existing projects;

(b) plans for new projects; and

(c) its views concerning the other Party's salmon enhancement projects.

The Commission shall forward this information to the appropriate Panels.

3. The Panels shall examine the information and report their views to the Commission in light of the obligations set forth in Article III.

4. The Commission shall review the reports of the Panels and may make recommendations to the Parties.

Article VI

FRASER RIVER

1. This Article applies to Fraser River sockeye and pink salmon harvested in the area specified in Annex II.

2. Notwithstanding the provisions of Article IV, paragraph 7, on adoption by the Parties of the fishery regime for the stocks covered by this Article, the Fraser River Panel shall propose regulations to the Commission for the harvest of salmon referred to in paragraph 1.

3. The Fraser River Panel shall review with other appropriate Panels the fishery regimes and the information provided pursuant to Article IV, paragraph 3, with respect to salmon other than Fraser River sockeye and pink salmon before proposing regulations pursuant to paragraph 2. The Fraser River Panel and the Commission shall ensure that regulatory proposals and recommendations, to the extent practicable, meet the requirements of the Parties with respect to the management of stocks other than Fraser River sockeye and pink salmon.

4. In implementing this Article, the Fraser River Panel and the Commission shall take into account and seek consistency with existing aboriginal rights, rights established in existing Indian treaties and domestic allocation objectives.

5. On the basis of the proposals made by the Panel, the Commission shall recommend regulations to the Parties for approval. The Parties shall review the recommendations for, inter alia, consistency with domestic legal obligations. The regulations shall become effective upon approval by the Party in whose waters such regulations are applicable.

6. During the fishing season, the Fraser River Panel may make orders for the adjustment of fishing times and areas stipulated in the annual regulations in response to variations in anticipated conditions. The Parties shall review the orders for consistency with domestic legal obligations. The Parties shall give effect to such orders in accordance with their respective laws and procedures.

7. The Parties shall not regulate their fisheries in areas outside the area specified in Annex II in a manner that would prevent achievement of the objectives of the fishery regime for the salmon referred to in paragraph 1.

Article VII

TRANSBOUNDARY RIVERS

1. This Article applies to salmon originating in transboundary rivers.

2. Notwithstanding Article IV, paragraph 3(c), whenever salmon originate in the Canadian portion of a transboundary river, the appropriate Panel shall provide its views to the Commission on the spawning escapement to be provided for all the salmon stocks of the river if either section of the Panel so requests.

3. On the basis of the views provided by the Panel pursuant to paragraph 2, the Commission shall recommend spawning escapements to the Parties.

4. Whenever salmon originate in the Canadian portions of transboundary rivers, or would originate there as a result of enhancement projects, salmon enhancement projects on the transboundary rivers shall be undertaken co-operatively, provided, however, that either Party, with the consent of the Commission, may separately undertake salmon enhancement projects on the transboundary rivers.

Article VIII

YUKON RIVER

1. Notwithstanding Articles III, paragraph 1(b), and VII, arrangements for consultation, recommendation of escapement targets and approval of enhancement activities on the Yukon River require further development to take into account the unique characteristics of that River.

2. The Parties consider it important to ensure effective conservation of stocks originating in the Yukon River and to explore the development of co-operative research and identification of potential enhancement opportunities.

3. The Parties shall initiate in 1985, and conclude, as soon as possible, negotiations to, inter alia,

(a) account for United States harvests of salmon originating in the Canadian section of the River;

(b) develop co-operative management procedures taking into account United States management programs for stocks originating in the United States section of the River;

(c) consider co-operative research programs, enhancement opportunities, and exchanges of biological data; and

(d) develop an organizational structure to deal with Yukon River issues.

4. Prior to the entry into force of this Treaty, the Parties shall agree upon:

(a) the range within which the accounting of United States interceptions referred to in paragraph 3(a) shall be established;

(b) arrangements for exchange of available data on the stocks; and

(c) proposals for research.

Article IX

STEELHEAD

In fulfilling their functions, the Panels and Commission shall take into account the conservation of steelhead.

Article X

RESEARCH

1. The Parties shall conduct research to investigate the migratory and exploitation patterns, the productivity and the status of stocks of common concern and the extent of interceptions.

2. The Commission may make recommendations to the Parties regarding the conduct and coordination of research.

3. Subject to normal requirements, each Party shall allow nationals, equipment and vessels of the other Party conducting research approved by the Commission to have access to its waters for the purpose of carrying out such research.

Article XI

DOMESTIC ALLOCATION

1. This Treaty shall not be interpreted or applied so as to affect or modify existing aboriginal rights or rights established in existing Indian treaties and other existing federal laws.

2. This Article shall not be interpreted or applied so as to affect or modify any rights or obligations of the Parties pursuant to other Articles and Annexes to this Treaty.

Article XII

TECHNICAL DISPUTE SETTLEMENT

1. Either Party may submit to the Chairman of the Commission, for referral to a Technical Dispute Settlement Board, any dispute concerning estimates of the extent of salmon interceptions and data related to questions of overfishing. The Commission may submit other technical matters to the Chairman for referral to a Board. The Board shall be established and shall function in accordance with the provisions of Annex III. The Board shall make findings of fact on the disputes and the other technical matters referred to it.

2. The findings of the Board shall be final and without appeal, except as provided in paragraph 3, and shall be accepted by the Commission as the best scientific information available.

3. Either Party may, by application in writing to the Chairman of the Commission, request reconsideration of a finding of a Board, provided that such request is based on information not previously considered by the Board and not previously known to or reasonably discoverable by the Party requesting such reconsideration. The Chairman shall, if possible, refer the request to the Board which made the finding. Otherwise, the Chairman shall refer the request to a new Board constituted in accordance with the provisions of Annex III.

Article XIII

ANNEXES

1. All references to this Treaty shall be understood to include the Annexes.

2. The Commission, whenever appropriate, shall review the Annexes and may make recommendations to the Parties for their amendment.

3. The Annexes may be amended by the Parties through an Exchange of Notes between the Government of Canada and the Government of the United States of America.

4. The Commission shall publish the texts of the Annexes whenever amended.

Article XIV

IMPLEMENTATION

Each Party shall:

(a) enact and enforce such legislation as may be necessary to implement this Treaty;

(b) require reports from its nationals and vessels of catch, effort and related data for all stocks subject to this Treaty and make such data available to the Commission; and

(c) exchange fisheries statistics and any other relevant information on a current and regular basis in order to facilitate the implementation of this Treaty.

Article XV

ENTRY INTO FORCE AND TERMINATION OF TREATY

1. This Treaty is subject to ratification. It shall enter into force upon the exchange of instruments of ratification at _____.

2. At the end of the third year after entry into force and at any time thereafter, either Party may give notice of its intention to terminate this Treaty. The Treaty shall terminate one year after notification.

3. Upon the entry into force of this Treaty, the Convention between Canada and the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fishery in the Fraser River System, as amended, signed May 26, 1930, shall be terminated. However, the International Pacific Salmon Fisheries Commission shall continue to function insofar as is necessary to implement Annex IV Chapter 4, paragraph (1) (c). Following the termination of the Convention, the transfer of responsibilities from the International Pacific Salmon Fisheries Commission to the Commission, the Fraser River Panel and the Government of Canada shall be as agreed by the Parties.

Annex I

PANELS

The following panels shall be established pursuant to Article II, paragraph 18:

(a) a Southern Panel for salmon originating in rivers with mouths situate south of Cape Caution, except as specified in sub-paragraph (b);

(b) a Fraser River Panel for Fraser River sockeye and pink salmon harvested in the area specified in Annex II; and

(c) a Northern Panel for salmon originating in rivers with mouths situate between Cape Caution and Cape Suckling.

Annex II

FRASER PANEL AREA

The area comprises the waters described in Article I of the Convention between Canada and the United States of America for Protection, Preservation and Extension of the Sockeye Salmon Fishery in the Fraser River System, as amended, signed May 26, 1930, as follows:

1. The territorial waters and the high seas westward from the western coast of Canada and the United States of America and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse on Tatoosh Island, Washington—which line marks the entrance to Juan de Fuca Strait,—and embraced between 48 and 49 degrees north latitude, excepting therefrom, however, all the waters of Barkley Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

2. The waters included within the following boundaries:

Beginning at Bonilla Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph numbered 1 of this Article thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula, thence in a straight line to Point Partridge on Whidbey Island thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway, thence northerly following the shore line of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, thence westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shore line to Welcome Point on Sechelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island, to the starting point at Bonilla Point, as shown on the British Admiralty Chart Number 579, and on the United States Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, copies of which are annexed to the 1930 Convention and made a part thereof.

3. The Fraser River and the streams and lakes tributary thereto.

Annex III

TECHNICAL DISPUTE SETTLEMENT BOARD

1. Each Technical Dispute Settlement Board shall be composed of three members. Within 10 days of receiving a request under Article XII to refer a matter to a Board, the Chairman of the Commission shall notify the Parties. Within 20 days of this notification, each Party shall designate one member and the Parties shall jointly designate a third member, who shall be Chairman of the Board.

2. The Board shall determine its rules of procedure, but the Commission or the Parties may specify the date by which the Board shall report its findings. The Board shall provide an opportunity for each Party to present evidence and arguments, both in writing and, if requested by either Party, in oral hearing. The Board shall report its findings to the Commission, along with a statement of its reasons.

3. Decisions of a Board, including procedural rulings and findings of fact, shall be made by majority vote and shall be final and without appeal except as provided in Article XII, paragraph 3.

4. Remuneration of the members and their expense allowances shall be determined on such basis as the Parties may agree at the time the Board is constituted. The Commission shall provide facilities for the proceedings.

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 co-operative 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) in 1985 and in 1986 Canada shall annually harvest 35% of the total allowable catch of sockeye originating in the Canadian portions of the Stikine River or 10,000 such sockeye, whichever is greater;

(ii) in 1985 and in 1986 Canada shall annually harvest 2,000 Stikine River coho;

(iii) in the years 1985 through 1995, the Parties shall take appropriate management action to ensure that the escapement goal of 19,800 to 25,000 chinook salmon in the Canadian portion of the Stikine River is achieved by 1995;

(iv) in 1985, since the run of sockeye is anticipated to be below average, in-season run-size determination and subsequent management actions will be necessary to enure that harvest objectives and escapements are met;

(v) in 1985 and in 1986, Canadian commercial catches of chinook, pink and chum salmon in the Canadian portions of the Stikine River may be taken as an incidental harvest in the directed fishery for sockeye and coho;

(b) the Taku River:

(i) in 1985 and in 1986 Canada shall annually harvest 15% of the total allowable catch of sockeye originating in the Canadian portion of the Taku River;

(ii) in 1985 and in 1986 Canadian harvests of chinook, pink, chum, and coho salmon may be taken as an incidental harvest in the directed fishery for sockeye;

(iii) in the years 1985 through 1995, the Parties shall take appropriate management action to ensure that the escapement goal of 25,600 to 30,000 chinook salmon in the Canadian portion of the Taku River is achieved by 1995.

4. The Parties agree that if the catch allocations set out in paragraph 3 are not attained due to management actions by either Party in any one year, compensatory adjustments shall be made in subsequent years. If a shortfall in the actual catch of a Party is caused by management actions of that Party, no compensation shall be made.

5. The Parties agree that the following arrangements shall apply to United States and Canadian fisheries harvesting salmon stocks originating in Canadian portions of the Alsek River:

(a) recognizing that chinook and early run sockeye stocks originating in the Alsek River are depressed and require special protection, and in the interest of conserving and rebuilding these stocks, the necessary management actions shall continue until escapement targets are achieved;

(b) in the event that in 1985 and in 1986 the run of sockeye is below average, additional restrictions will be required to meet escapement goals.

6. The Parties agree to consider cooperative enhancement possibilities and to undertake studies as soon as possible on the feasibility of new enhancement projects on the Transboundary Rivers and adjacent areas for the purpose of increasing productivity of stocks and providing greater harvests to the fishermen of both countries.

7. Recognizing that stocks of salmon originating in Canadian sections of the Columbia River constitute a small portion of the total populations of Columbia River salmon, and that the arrangements for consultation and recommendation of escapement targets and approval of enhancement activities set out in Article VII are not appropriate to the Columbia River system as a whole, the Parties consider it important to ensure effective conservation of up-river stocks which extend into Canada and to explore the development of mutually beneficial enhancement activities. Therefore, notwithstanding Article VII, paragraphs 2, 3, and 4, during 1985, the Parties shall consult with a view to developing, for the transboundary sections of the Columbia River, a more practicable arrangement for consultation and setting escapement targets than those specified in Article VII, paragraphs 2 and 3. Such arrangements will seek to, inter alia,

(a) ensure effective conservation of the stocks;

(b) facilitate future enhancement of the stocks on an agreed basis;

(c) avoid interference with United States management programs on the salmon stocks existing in the non-transboundary tributaries and the main stem of the Columbia River.

Chapter 2

NORTHERN BRITISH COLUMBIA

SOUTHEASTERN ALASKA

1. Considering that the chum salmon stocks originating in streams in the Portland Canal require rebuilding, the Parties agree in 1985 to jointly reduce interception of these stocks to the extent practicable and to undertake assessments to identify possible measures to restore and enhance these stocks. On the basis of such assessments, the Parties shall instruct the Commission to identify long-term plans to rebuild stocks.

2. With respect to sockeye salmon, the United States shall

(a) during the period 1985 through 1988, limit its purse seine fishery in District 4 in a manner that will result in a maximum four-year total catch of 480,000 sockeye salmon prior to United States statistical week 31;

(b) limit its drift gillnet fishery in Districts 1A and 1B in a manner that will result in an average annual harvest of 130,000 sockeye salmon.

3. With respect to pink salmon, Canada shall

(a) limit its net fishery in Areas 3-1, 3-2, 3-3, 3-4, and 5-11 in a manner that will result in an average annual harvest of 900,000 pink salmon;

(b) in 1985 and 1986, limit its troll fishery in Area 1 in a manner that will result in a maximum two year total catch of 1 million troll pink salmon;

(c) in 1985 and 1986, if 300,000 troll pink salmon are caught in Area 1 in either year, then close to pink salmon trolling sub-areas 101-3 north of 54° 35′ north, 101-4, 101-8, and 103 north of 54° 35′ north.

4. In 1985 and thereafter, in order to ensure that catch limits specified in paragraphs 2 and 3 are not exceeded, the Parties shall implement appropriate management measures which take into account the expected run-sizes and permit each country to harvest its own stocks.

5. In setting pink salmon fisheries regimes for 1987 and thereafter, the Parties agree to take into account information from the 1984 and 1985 northern pink tagging program.

6. The Parties shall at the earliest possible date exchange management plans for the fisheries described herein.

7. In order to accomplish the objectives of this Chapter, neither Party shall initiate new intercepting fisheries, nor conduct or redirect fisheries in a manner that intentionally increases interceptions.

8. The Parties shall establish a Joint Northern Boundary Technical Committee (Committee) reporting, unless otherwise agreed, to the Northern Panel and the Commission. The Committee, inter alia, shall

(a) evaluate the effectiveness of management actions;

(b) identify and review the status of stocks;

(c) present the most current information on harvest rates and pattern on these stocks, and develop a joint data base for assessments;

(d) collate available information on the productivity of stocks in order to identify escapements which produce maximum sustainable harvests and allowable harvest rates;

(e) present historical catch data, associated fishing regimes, and information on stock composition in fisheries harvesting these stocks;

(f) devise analytical methods for the development of alternative regulatory and production strategies;

(g) identify information and research needs, including future monitoring programs for stock assessments;

(h) for each season, make stock and fishery assessments and recommend to the Northern Panel conservation measures consistent with the principles of the Treaty.

Chapter 3

CHINOOK SALMON

1. Considering that escapements of many naturally spawning chinook stocks originating from the Columbia River northward to southeastern Alaska have declined in recent years and are now substantially below goals set to achieve maximum sustainable yields, and recognizing the desirability of stabilizing trends in escapements and rebuilding stocks of naturally spawning chinook salmon, the Parties shall

(a) instruct their respective management agencies to establish a chinook salmon management program designed to meet the following objectives:

(i) halt the decline in spawning escapements in depressed chinook salmon stocks;

(ii) attain by 1998 escapement goals established in order to restore production of naturally spawning chinook stocks, as represented by indicator stocks identified by the Parties, based on a rebuilding program begun in 1984.

(b) jointly initiate and develop a coordinated chinook management program.

(c) establish a Joint Chinook Technical Committee (Committee) reporting, unless otherwise agreed, to the Northern and Southern panels and to the Commission, which, inter alia, shall

(i) evaluate management actions for their consistency with measures set out in this Chapter and for their potential effectiveness in attaining these specified objectives;

(ii) evaluate annually the status of chinook stocks in relation to objectives set out in this Chapter and, consistent with paragraph (d)(iv) beginning in 1986, make recommendations for adjustments to the management measures set out in this Chapter;

(iii) develop procedures to evaluate progress in the rebuilding of naturally spawning chinook stocks;

(iv) recommend strategies for the effective utilization of enhanced stocks;

(v) recommend research required to implement this rebuilding program effectively;

(vi) exchange information necessary to analyze the effectiveness of alternative fishery regulatory measures to satisfy conservation objectives.

(d) ensure that

(i) in 1985 and 1986, the annual all-gear catch in northern and central British Columbia and southeast Alaska shall not exceed 526,000 chinook salmon to be divided equally between the Parties;

(ii) in 1985 and 1986, the annual troll catch off the west coast of Vancouver Island shall not exceed 360,000 chinook;

(iii) in 1985 and 1986, the total annual catch by the sport and troll fisheries in the Strait of Georgia shall not exceed 275,000 chinook;

(iv) if recommended by the Committee, in 1986 and subsequent years adjustments to the ceilings may be made in response to reductions in chinook abundance so that the indicator stocks are rebuilt by 1998; provided that reductions in ceilings for 1986 will not be made unless the Committee recommends a reduction greater than 15 percent, based on reductions in stock abundance for that year;

(v) fishing regimes are reviewed by the Committee and structured so as not to affect unduly or to concentrate disproportionately on stocks in need of conservation;

(vi) if catch ceilings are exceeded in any year, the differences shall be addressed by the responsible Party in a manner that will ensure rebuilding of the affected stocks by 1998.

(e) evaluate all sources of induced fishing mortality, estimate unreported catches of chinook salmon, assess the impact and minimize the effects of these factors in 1985 and 1986. The Commission shall take into account such estimates of total chinook mortality in implementing the chinook rebuilding program.

(f) manage all salmon fisheries in Alaska, British Columbia, Washington and Oregon, so that the bulk of depressed stocks preserved by the conservation program set out herein principally accrue to the spawning escapement.

(g) establish at the conclusion of the chinook rebuilding program fishery regimes to maintain the stocks at optimum productivity and provide fair internal allocation determinations. It is recognized that the Parties are to share the benefits of coastwide rebuilding and enhancement, consistent with such internal allocation determinations and this Treaty.

(h) exchange annual management plans prior to each season.

2. The Parties agree that enhancement efforts designed to increase production of chinook salmon would benefit the rebuilding program. They agree to consider utilizing and redirecting enhancement programs to assist, if needed, in the chinook rebuilding program. They agree that each region's catches will be allowed to increase above established ceilings based on demonstrations to the Commission and assessments by it of the specific contributions of each region's new enhancement activities, provided that the rebuilding schedule is not extended beyond 1998.

Chapter 4

FRASER RIVER SOCKEYE AND PINK SALMON

1. In order to increase the effectiveness of the management of fisheries in the Fraser River Area (hereinafter the Area) and in fisheries outside the Area which harvest Fraser River sockeye and pink salmon, the Parties agree

(a) that the preliminary expectations of the total allowable catches of Fraser River sockeye and pink are:

	Sockeye	Pink
1985	6.6 million	11.0 million
1986	12.5 million	
1987	3.1 million	12.0 million
1988	3.6 million	
1989	7.1 million	14.0 million
1990	13.0 million	
1991	3.1 million	14.0 million
1992	3.6 million	

(b) that (i) based on these preliminary expectations, the United States shall harvest as follows:

	Sockeye	Pink
1985	1.78 million	3.6 million
1986	3.0 million	
1987	1.06 million	3.6 million
1988	1.16 million	

(ii) the United States catches referred to in paragraph 1(b)(i) herein shall be adjusted in proportion to any adjustments in the total allowable catches set out in paragraph 1(a) herein that are due to any agreed adjustments in pre-season or in-season expectations of run-size. When considering such adjustment, the Parties shall take into account all fisheries that harvest Fraser River sockeye and pink salmon including annual Fraser River Indian food fish harvests in excess of 400,000 sockeye. The United States catches shall not be adjusted due to any adjustments in the total allowable catch that may be caused by changes in escapement goals that form the basis for the agreed total allowable catches set out in paragraph 1(a) herein;

(iii) notwithstanding the agreed United States and Canadian catch levels for Fraser River sockeye and for coho off the west coast of Vancouver Island, as provided in paragraph 1(b) (i) herein and in Chapter 5, respectively, and subject to paragraph 1(b) (ii), in 1985 the United States catch of Fraser River sockeye shall be 1.73 million and the Canadian catch of coho off the west coast of Vancouver Island shall not exceed 1.75 million; and in 1986, the United States catch of Fraser River sockeye shall be 2.95 million and the Canadian catch of coho off the west coast of Vancouver Island shall not exceed 1.75 million;

(c) in 1985, to instruct the International Pacific Salmon Fisheries Commission to develop regulatory programs in the Area to give effect to the provisions of paragraph 1(b);

(d) to instruct the Fraser River Panel for 1986 through 1992 to develop regulations to give effect to the provisions of paragraphs 1(b) and 1(f);

(e) to instruct the Fraser River Panel that if management measures fail to achieve such sockeye and pink catches, any difference shall be compensated by adjustments to the Fraser fishery in subsequent years;

(f) in the period 1989 to 1992, the Fraser River Panel shall determine the annual United States catch level so that the total United States catch in this period shall not exceed 7 million sockeye, in the aggregate. In the years 1989 and 1991, the United States harvest shall not exceed 7.2 million pink salmon, in the aggregate. Notwithstanding the foregoing, these levels shall be reduced in proportion to any decreases in the total allowable catches set out in paragraph 1(a) herein that are due to any agreed decreases in pre-season or in-season expectations of run size. When considering such reductions, the Parties shall take into account all fisheries that harvest Fraser River sockeye and pink salmon including annual Fraser River Indian food fish harvests in excess of 400,000 sockeye. The United States catches shall not be reduced due to any decreases in the total allowable catch that may be caused by changes in escapement goals that form the basis for the agreed total allowable catches set out in paragraph 1(a) herein;

(g) to consider no sooner than 1989 adjusting the regime in accordance with the principles of Article III;

(h) to instruct the Fraser River Panel that in managing Fraser River sockeye and pink salmon, it shall take into account the management requirements of other stocks in the Area;

2. Notwithstanding the provisions of Paragraphs 1(b) and 1(f), and to ensure that Canada receives the benefits of any Canadian-funded enhancement activities undertaken following entry into force of this Treaty, any changes in the total allowable catch due to such activities shall not result in adjustment of the United States catch.

3. The Parties shall establish data-sharing principles and processes which ensure that the parties, the International Pacific Salmon Fisheries Commission, the Commission and the Fraser River Panel are able to manage their fisheries in a timely manner consistent with this Chapter.

4. The Parties may agree to adjust the definition of the Area as necessary to simplify domestic fishery management and ensure adequate consideration of the effect on other stocks and species harvested in the Area.

5. In managing the fisheries in the Area, the Parties, the Commission, and the Fraser River Panel shall take into account fisheries inside and outside the Area that harvest Fraser River sockeye and pink salmon. The Parties, the Commission, and the Fraser River Panel shall consider the need to exercise flexibility in management of fisheries outside the Area which harvest Fraser River sockeye and pink salmon.

Chapter 5

COHO SALMON

1. Recognizing that for the past several years some coho stocks have been below levels necessary to sustain maximum harvest and that recent fishing patterns have contributed to a decline in United States catch of coho stocks of United States origin, and in order to prevent further decline in spawning escapements, adjust fishing patterns, and initiate, develop, or improve management programs for coho stocks, the Parties shall

(a) establish a Joint Coho Technical Committee (Committee), reporting unless otherwise agreed to the panels and the Commission. The membership of the Committee shall include representation from the Northern and Southern Panel Areas. The Committee, inter alia, shall

(i) evaluate the effectiveness of management actions;

(ii) identify and review the status of stocks;

(iii) present the most current information on harvest rates and patterns on these stocks, and develop a joint data base for assessments;

(iv) collate available information on the productivity of coho stocks in order to identify escapements which produce maximum sustainable harvests and allowable harvest rates;

(v) present historical catch data, associated fishing regimes, and information on stock composition in fisheries harvesting these stocks;

(vi) devise analytical methods for the development of alternative regulatory and production strategies;

(vii) identify information and research needs, including future monitoring programs for stock assessments;

(viii) for each season, make stock and fishery assessments and recommend to the Commission conservation measures consistent with the principles of the Treaty;

(b) unless otherwise agreed, in any area where fisheries of one Party may intercept coho stocks originating in the rivers of the other, endeavour to limit incidental coho catches by fisheries targeting on other species.

2. For coho stocks shared by Washington and southern British Columbia fisheries, each Party shall establish regimes for its ocean troll, ocean sport, and inside troll, net and sport fisheries consistent with management objectives approved by the Commission.

3. In 1985, the Parties shall adhere to presently agreed management objectives for Canadian Area 20, U.S. Areas 7 and 7A, and Juan de Fuca Strait.

4. The Parties agree

(a) that in 1985 and 1986 the total annual troll catch of coho in Canadian Management Areas 21, 23, 24, 25, 26, 27, 121, 123, 124, 125, 126, 127, and 130-1 shall not exceed 1.75 million;

(b) 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;

(c) to develop, in 1986 and thereafter 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 Canada to the fishery, and

(ii) provide for the sharing of benefits of coho production of each Party consistent with the principles of Article III.

5. If management measures result in a significant deviation from catch levels set out in paragraph 4 in any year, differences shall be compensated by adjustments to the fishery in subsequent years, provided that conservation objectives for natural coho stocks and other principles of Article III are not adversely affected.

6. Notwithstanding any other provisions of this Chapter, the Commission, for 1987 and thereafter, shall set specific harvest levels for coho salmon in the intercepting fisheries in areas described in paragraph 4.

Chapter 6

SOUTHERN BRITISH COLUMBIA - WASHINGTON CHUM FISHERIES

Considering that anticipated returns of some natural salmon stocks originating in Johnstone Strait, the Strait of Georgia, the Fraser River, Puget Sound, Juan de Fuca Strait and Nitinat Lake are expected to be weak and therefore not likely to provide a harvestable surplus in 1985, although some enhanced stocks originating in these areas may provide harvestable surpluses and anticipating locally directed fisheries on such enhanced stocks, the Parties shall

1. no later than March 31, 1985, establish a Joint Chum Technical Committee (Committee) reporting, unless otherwise agreed, to the Southern Panel and the Commission, to, inter alia,

(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 in order 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) develop analytical methods to permit the exploration of alternative regulatory and production strategies;

(f) identify information and research needs, to include future monitoring programs for stock assessments;

(g) develop fishery regimes for the 1985 season and thereafter.

2. no later than August 15, 1985, instruct the Committee to present a report to the Parties on the activities set out in paragraph 1 herein.

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.

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

DONE in duplicate at Ottawa, in the English and French languages, both versions being equally authentic, this 28th day of January, 1985.

Theodore G. Kronmiller

Edward J. Derwinski

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

John Allen Fraser

FOR THE GOVERNMENT OF CANADA

MEMORANDUM OF UNDERSTANDING

The Governments of the United States of America and Canada have agreed to record the following in connection with the Treaty Concerning Pacific Salmon, in order to set out the intention of the Parties with respect to implementation of Article III, paragraph 1(b) of the said Treaty, Data Sharing and the Yukon River, Transboundary Rivers and the Northern Boundary - Southeastern Alaska fisheries:

A. Implementation of Article III, paragraph 1(b)

The principal goals of the Treaty are to enable both countries, through better conservation and enhancement, to increase production of salmon and to ensure that the benefits resulting from each country's efforts accrue to that country. In this regard, research on the migratory movements of stocks subject to interception must be continued for several years. Such research is required not only to determine with more precision the extent of interceptions by both sides, but also to provide an improved basis for conservation and enhancement. The resultant long-term increases in production of salmon should fully justify the short-term expenditures on research.

With respect to the obligation to provide each Party with benefits equivalent to the production of salmon originating in its rivers (contained in Article III, paragraph 1(b) of the Treaty), it is recognized that data on the extent of interceptions in some areas are imprecise and that it is therefore not possible to determine with certainty the total production of salmon from each country's rivers. It is also recognized that methods of evaluating benefits accruing within each country may differ. For these reasons, it is anticipated that it will be some time before the Commission can develop programs to implement the provisions of Article III, paragraph 1(b) in a complete and comprehensive manner. Nevertheless, in the short term, the Commission shall ensure that the annual fishery regimes and understandings regarding enhancement are developed in an equitable manner taking into account the principle outlined in Article III 1(b). In particular, the Commission's decisions should take into account changes in the benefits flowing to each of the Parties through alteration in fishing patterns, conservation actions, or as the result of changes in the abundance of the runs.

In the longer term, if it is determined that one country or the other is deriving substantially greater benefits than those provided from its rivers, it would be expected that the Parties would develop a phased program to eliminate the inequity within a specified time period, taking into account the provisions of Article III, paragraph 3. Since correction of imbalances is a national responsibility and may involve differential fishery adjustments or enhancement projects on a regional basis within either country, the Party with the advantage shall submit appropriate proposals to the Commission for consideration. Such proposals shall be discussed within the Commission and be reflected in the agreed fishery regimes and coordinated enhancement planning in ensuing years.

B. Data Sharing

Considering that development of comprehensive evaluations of management is required in order to assess the impact of such regimes on interception fisheries and on the stocks which contribute to those fisheries, for the effective implementation of the Treaty, the Parties consider it necessary to develop a coast-wide stock assessment and management data system, including catch, effort, escapement, and coded-wire tag data that will yield reliable management information in a timely manner and to develop analytical models along with standardized methods for monitoring fishing effort. The Parties agree to maintain a coded-wire tagging and recapture program designed to provide statistically reliable data for stock assessments and fishery evaluations. The Parties agree to establish a working group prior to April 1, 1985 to review the program and to make recommendations to the Commission before April 1, 1987.

Therefore, the Parties agree to

(a) develop the capability to use current season coded-wire tag data, fishing data, spawning escapement data, and age composition data for the preseason management process for the next season;

(b) continue in 1985 and 1986 the research program begun in 1982 in northern British Columbia and Southeast Alaska, designed to develop agreed estimates of rates of interception of salmon in the area;

(c) continue efforts to develop analytical models that forecast abundance and analyze recovery and escapement data to refine stock productivity estimates and monitor and forecast management needs;

(d) improve evaluation of escapements through improved monitoring (key index area streams, standardization of methods, etc.) and coded-wire tag recovery in escapements;

(e) develop and maintain coded-wire tagging programs for key stocks or index groups to measure exploitation rates and better define time-area distribution for development of management options;

(f) obtain coastwide estimates for non-reported incidental catches of juvenile salmon;

(g) evaluate and develop alternative techniques such as electrophoresis, scale analysis, etc., for stock identification in order to identify stocks not represented by coded-wire groups;

(h) explore the feasibility of in-season management;

(i) review annually methodologies and procedures for the purpose of determining performance of applied measures and maintaining "state-of-the-art" fishery management techniques.

C. Yukon River

Considering that salmon stocks originating from the Canadian section of the Yukon River and the Canadian section of the Porcupine River are harvested by fishermen of both Canada and the United States and that effective conservation and management of these resources is of mutual interest, the Parties, in order to facilitate implementation of Article VIII, shall

1. During March 1985, meet in order, inter alia, to

a) determine current stock status;

b) develop preliminary escapement goals;

c) examine enhancement opportunities;

d) examine conservation concerns, including habitat degradation, and recommend management strategies and goals;

e) develop and recommend cooperative research proposals for 1985 and thereafter; and

f) notwithstanding the Transboundary River Annex and other provisions of this Memorandum, establish the range within which the percentage of the U.S. harvest of each species of salmon originating in Canadian sections of the rivers that shall be deemed to be of U.S. origin shall be set, as required by Article VIII, paragraph (4).

2. During March 1985, establish a technical committee to compile available data and itemize research requirements for effective future management and conservation.

3. Notwithstanding the Transboundary River Annex and other provisions of this Memorandum, during October 1985, initiate negotiations as required by Article VIII, paragraph (3), to determine, inter alia, the percentage of the U.S. harvest of each species of salmon originating in Canadian sections of the rivers that shall be deemed to be of U.S. origin.

D. Transboundary Rivers

Whereas salmon originating in Canadian sections of Transboundary Rivers are subject to harvesting by U.S. fishermen in U.S. waters;

And whereas the Parties have encountered difficulties in determining the percentage of the total allowable catch of salmon that shall be deemed to be of United States origin for the purpose of implementing Article III, paragraph 1(b) of the Treaty,

The Parties therefore agree that the Commission shall determine this percentage during the first year following the entry into force of the Treaty.

E. Northern Boundary - Southeastern Alaska

In recognition of the Northern Boundary Technical Committee Report which indicates that the Area 3 net fisheries in Canada harvest both Canadian and U.S. pink stocks along the boundary areas, Canada shall provide to the United States a plan that ensures that fisheries in this Area are not increased during the period of mid July through mid August.

DONE in duplicate at Ottawa, in the English and French languages, both versions being equally authentic, this 28th day of January 1985.

Agreement Between the Government of the United States of America and the Government of Canada on Fisheries Enforcement, Ottawa, 1990

Done at Ottawa 26 September 1990

Entered into force 16 December 1991

Primary source citation: House Document 102-22, 102d Congress, 1st Session, U.S. Government Printing Office, Washington, 1991

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA ON FISHERIES ENFORCEMENT

The Government of the United States of America and the Government of Canada, hereinafter referred to as the Parties;

Bearing in mind that, in conformity with international law, the United States of America and Canada have sovereignty over their internal waters and territorial seas (hereinafter referred to as "waters"), and have sovereign rights for the purpose of exploration, exploitation, conservation and management of the living marine resources within zones they have established, extending 200 nautical miles from their coasts (hereinafter referred to as "zones"), and have sovereign rights for the purpose of exploring and exploiting the living resources of the continental shelf;

Recognizing that the Parties have adopted laws and regulations for the conservation and management of the living resources of their respective waters and zones;

Emphasizing the importance of effective enforcement of such laws and regulations to ensure conservation and management; and

Desiring to augment and make more effective coastal state enforcement of such laws and regulations;

Have agreed as follows:

Article I

Each Party shall take appropriate measures consistent with international law to ensure that its nationals, residents and vessels do not violate, within the waters and zones of the other Party, the national fisheries laws and regulations of the other Party. Such measures shall include prohibitions on violating the fisheries laws and regulations of the other Party respecting gear stowage, fishing without authorization, and interfering with, resisting, or

obstructing in any manner, efforts to enforce such laws and regulations; and may include such other prohibitions as each Party deems appropriate.

Article II

The Parties shall consult, as necessary, concerning the implementation of this Agreement, including:

(a) effectiveness of penalties to deter violations by nationals, residents and vessels of a Party in the other Party's waters and zones;

(b) the accuracy and consistency of navigational aids; and

(c) standard fisheries law enforcement practices in the vicinity of maritime boundaries.

Article III

Each Party shall endeavour to inform persons conducting fishing operations in the vicinity of maritime boundaries about the expected fisheries law enforcement practices of the other Party.

Article IV

Nothing in this Agreement shall be construed to limit the authority of either Party to enforce its fisheries laws within its waters and zones, or in hot pursuit therefrom, in accordance with international law.

Article V

The Parties reaffirm their commitment to ensure full respect for maritime boundaries between them delimited by mutual agreement or third-party dispute settlement, including by the International Court of Justice. Nothing in this Agreement, and no acts or activities taking place pursuant thereto, shall prejudice the position of either party with respect to the location of any disputed maritime boundary or the legal status of waters or zones claimed by either Party.

Article VI

This Agreement shall enter into force upon notification by the Parties, through diplomatic channels, that they have completed their internal procedures. Either Party may terminate this Agreement upon 30 days, written notice to the other Party.

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

DONE in duplicate, at Ottawa, this 26th day of September 1990, in the English and French languages, each version being equally authentic.

Edward N. Ney

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

Bernard Valcourt

FOR THE GOVERNMENT
OF CANADA

The Secretary of State for External Affairs
Canada
Ottawa, Canada K1A 0G2

December 4, 1991

His Excellency Edward N. Ney
Ambassador of the United States of America
Ottawa

No. JLO-1673

Excellency,

I have the honour to refer to the Agreement between the Government of Canada and the Government of the United States of America on Fisheries Enforcement, which was signed by representatives of both countries on September 26, 1990.

I have the further honour to inform you that the Government of Canada has completed all of its internal procedures for the entry into force of the Agreement. Accordingly, pursuant to Article VI of the Agreement, it shall enter into force upon notification by the United States of America that the internal procedures have been completed in the United States.

Accept, Excellency, the renewed assurances of my distinguished consideration.

Barbara J. McDougall
Secretary of State for
External Affairs

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EMBASSY OF THE
UNITED STATES OF AMERICA
Ottawa

December 16, 1991

The Honorable
Barbara McDougall, P.C., M.P.,
Secretary of State for External Affairs,
Ottawa.

Excellency:

I have the honor to refer to your Note of December 4, 1991, informing me that the Government of Canada has completed its internal procedures for the implementation of the Agreement between the Government of Canada and the Government of the United States of America of Fisheries Enforcement, which was signed by representatives of both countries on September 26, 1990.

I have the further honor to inform you that the Government of the United States of America has completed all of its internal procedures for the implementation of the Agreement. Accordingly, pursuant to its Article VI, the Agreement enters into force today, the sixteenth of December, 1991.

Accept, Excellency, the renewed assurances of my highest consideration.

Edward N. Ney

BILATERAL

CANADA

MARINE AND FRESHWATER POLLUTION

Agreement Between the Government of the United States of America and the Government of Canada Relating to the Establishment of a Canada–United States Committee on Water Quality in the St. John River and Its Tributary Rivers and Streams Which Cross the Canada–United States Boundary, Ottawa, 1972

Done at Ottawa 21 September 1972

Entered into force 21 September 1972

Primary source citation: 23 UST 2813, TIAS 7470

DEPARTMENT OF EXTERNAL AFFAIRS
OTTAWA, CANADA

September 21, 1972

His Excellency
The Honourable ADOLPH W. SCHMIDT,
Ambassador of the United States of America,
Ottawa.

No. GWU–310

EXCELLENCY,

I have the honour to refer to the discussions which have taken place between representatives of our Governments regarding the preservation of the quality of water in the international section of the St. John River and to propose that our Governments establish a Canada-United States Committee on water quality in the St. John River and its tributary rivers and streams which cross the Canada-United States boundary. The composition, purposes and objectives of the Committee, which shall conduct its work in a manner which is consistent with the provisions and objectives of the Boundary Waters Treaty of 1909, are set out in the Annex to this Note.

If the foregoing proposal is acceptable to the Government of the United States of America, I have the honour to propose that this Note, together with its Annex, which are equally authentic in English and French, and Your Excellency's reply to that effect, shall constitute an agreement between our Governments which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

MITCHELL SHARP
Secretary of State
for External Affairs

ANNEX

Whereas the Governments of Canada and the United States in the light of their rights and obligations under Article IV of the Boundary Waters Treaty of 1909 with respect to the avoidance of transboundary pollution, are concerned about the quality of water in the international section of the St. John River and in its tributary rivers and streams which cross the Canada-United States boundary;

Whereas water quality planning has been under way in the St. John River Basin in both countries for more than a year, and proper coordination of this planning is urgently required to assure achievement of a unified approach to the problem;

It is hereby agreed that a Canada-United States Committee on Water Quality in the St. John River and its Tributaries crossing the International Boundary (hereinafter referred to as the "Committee") be established to assist the appropriate authorities in Canada and the United States to co-operate in such water quality planning as may be necessary to devise programs which will enhance the quality of water in the St. John River. The Committee will conduct its work in a manner which is consistent with the objectives and provisions of the Boundary Waters Treaty of 1909.

I The purposes of the Committee shall be:

(A) To review periodically progress in the conduct of such water quality planning on both sides of the Canada-United States boundary in the St. John River Basin, with a view to facilitating progress toward enhancement of water quality;

(B) To exchange appropriate information about plans, programs and actions which could affect water quality in the Basin;

(C) To assist in co-ordination and consultation among appropriate authorities on matters and actions affecting water quality;

(D) To make appropriate recommendations to relevant authorities on both sides of the boundary and to the International Joint Commission (hereinafter referred to as the "Commission") regarding the improvement of water quality in the Basin.

In the conduct of its work the Committee should consider in particular the following aspects of water quality:

(A) The condition of water quality, and the nature, extent and sources of pollution;

(B) The need for and means of defining and achieving agreed international water quality objectives;

(C) The identification of programs and other measures needed to obtain a significant reduction in level of pollution with timetables for accomplishment, including measures related to water quality and rate of flow, taking account of social and economic impacts.

It is understood that discussions within the Committee will serve to enhance and not to replace existing formal and informal discussions or other contacts among federal, state, provincial and local authorities.

II The Committee shall consist of an equal number of members from each country and will include appropriate officials from the Governments of Canada and the United States; the Governments of New Brunswick, Quebec and Maine, and also representatives of the St. John River Planning Board, and the Northern Maine Regional Planning Commission. The members will represent the respective authorities (who will pay such expenses as may

be incurred in this respect) and provide the special skills, experience and information required to carry out the above terms of reference. The Committee should have the smallest number of members effectively to perform its functions. Advisors or observers to the Committee may be paid by Governments or serve without salary or expense allowance. The United States and Canadian sections of the Committee shall each designate a Chairman of its section. The Chairmen of the two sections shall be Joint Chairmen of the Committee and shall be responsible for providing proper liaison between the Committee and their respective authorities. The Chairmen will keep their respective section members informed of plans, activities and progress. Each Chairman after consulting the members of his own section of the Committee may appoint a Secretary of that section.

III Upon the completion of its efforts with regard to the co-ordination of water quality planning in the St. John River Basin, the Committee shall provide a report on its progress and activities for the Commission. If the Committee has not completed its work within one year of the date of this Exchange of Notes, it shall in that event provide an interim progress report for the Commission by September 30, 1973, and to the extent necessary, annually thereafter. The Committee shall also provide the Commission with copies of the proceedings of its regular meetings.

The Committee shall also provide a report on its progress and activities for the Governments of Canada and the United States as pilot and co-pilot of the Inland Water Pollution Project of the North Atlantic Treaty Organization's Committee on the Challenges of Modern Society, prior to September 30, 1973, and to the extent necessary, annually thereafter.

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EMBASSY OF THE UNITED STATES OF AMERICA
OTTAWA, CANADA

SEPTEMBER 21, 1972

The Honorable
MITCHELL SHARP, P.C.,
Secretary of State for External Affairs,
Ottawa.

No. 176

SIR:

I have the honor to refer to your Note No. GWU 310, of September 21, 1972, with attached Annex, proposing the establishment of a Canada-United States Committee on water quality in the St. John River and its tributary rivers and streams which cross the Canada-United States boundary. The proposal meets with the approval of my Government, and I have the honor to confirm that your Note, together with its Annex, and this reply, shall constitute an agreement between our Governments which shall enter into force on the date of this reply.

Accept, Sir, the renewed assurances of my highest consideration.

ADOLPH W. SCHMIDT

Amendment to the Agreement Relating to the Establishment of a Canada–United States Committee on Water Quality in the St. John River and Its Tributary Rivers and Streams Which Cross the Canada–United States Boundary, Ottawa, 1984

Done at Ottawa 22 February 1984

Entered into force 22 February 1984

Primary source citation: TIAS 10947

Deputy Prime Minister
Secretary of State for External Affairs
OTTAWA, ONTARIO
K1A 0G2

February 22, 1984

No. 0123

His Excellency
The Honourable Paul Heron Robinson Jr.
Ambassador of the United States of America
100 Wellington Street
Ottawa, Ontario
K1P 5T1

Excellency:

I have the honour to refer to the discussions on the Saint John River which have taken place between representatives of our Governments, and to propose that our Governments undertake additional measures to ensure the continued preservation and enhancement of the quality of water in the international section of the Saint John River.

On September 21, 1972, our two Governments established by Exchange of Notes the Canada-United States Committee on Water Quality in the Saint John River. The Committee was to cooperate in water quality planning in order to devise programs to enhance the quality of water in the Saint John River, consistent with the provisions and objectives of the Boundary Waters Treaty of 1909. Simultaneously with the Committee's creation, the International Joint Commission was given a Reference by Governments to recommend action by the Governments in regard to those matters examined by the Committee and to advise on further institutional arrangements. A Report of the Committee was presented to the International Joint Commission in September, 1975, and the International Joint

Commission's final Report to Governments was completed in February, 1977. Subsequent to that date, Committee operations have continued. It has focused on a further review and revision of the water quality objectives recommended in its 1975 Report, and revised objectives were adopted in November, 1980, by the Committee.

In light of the mutual commitment of our Governments to the preservation and enhancement of water quality in the Saint John River, and in order to further control and reduce water pollution in the international section of the Saint John River, I have the honour to propose that the Governments of Canada and the United States utilize the water quality objectives approved by the Committee in 1980 and continue to consider those objectives as useful indicators in the development and implementation of specific programs and measures in both countries.

Recognizing the valuable work done since 1972 by the Committee, and the interim nature of the Committee's original mandate, I have the further honour to propose that our Governments continue in operation the Canada-United States Committee on Water Quality in the Saint John River to assist the appropriate authorities in Canada and the United States to cooperate in the development, coordination and implementation of programs and measures to meet these objectives. The functions of the Committee would accordingly be amended as set forth in the attached Annex which replaces the Annex to the Canadian Note of September 21, 1972.

If the foregoing proposals are acceptable to the Government of the United States of America, I have the honour to propose that this Note, together with its Annex, which are equally authentic in English and French, and your reply, shall constitute an agreement between our Governments which shall enter into force on the date of your reply and remain in force unless terminated by either Government upon six (6) months' written notice to the other Government. This agreement may be amended by mutual agreement of the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

Yours sincerely,

Allan J. MacEachen

ANNEX

TERMS OF REFERENCE FOR THE CANADA-UNITED STATES COMMITTEE ON WATER QUALITY IN THE SAINT JOHN RIVER

1. The Canada-United States Committee on Water Quality in the Saint John River shall assist the appropriate authorities in Canada and the United States to cooperate in the development, coordination and implementation of programs and measures to meet water quality objectives for the international section of the Saint John River. Accordingly, the Committee shall have the following responsibilities:

   a. Periodically review activities relating to water quality on both sides of the boundary in the Saint John River Basin, with a view to facilitating progress towards preservation and enhancement of water quality;

   b. Exchange appropriate information about plans, programs and actions which could affect water quality in the Basin;

   c. Assist in coordination and consultation among appropriate authorities on matters and actions including monitoring programs concerning water quality;

   d. Report to Governments recommended further refinements to the water quality objectives, as necessary;

   e. Provide a report to Governments every two years, or to the extent necessary, on the state of water quality in the international section of the Saint John River, and on progress being made to maintain and enhance water quality in accordance with the objectives and, as appropriate, identifying any further measures required; and,

   f. Provide copies of its report to the International Joint Commission.

2. Discussions within the Committee will supplement and not replace existing formal and informal discussions or other contacts among federal, state, provincial and local authorities.

3. Composition and organization of the Committee:

   a. The Committee shall consist of an equal number of members from each country, and will include appropriate officials from the Governments of Canada and the United States; the Governments of New Brunswick, Quebec and Maine; and representatives of regional organizations, as appropriate;

   b. The members will represent their respective authorities (who will pay such expenses as may be incurred in this respect) and provide the special skills, experience and information required to carry out the above terms of reference;

   c. The Committee should have the smallest number of members to perform its functions effectively but may, as required, appoint sub-committees or task forces to undertake specific tasks. Advisors and observers to the Committee may be paid by Governments or serve without salary or expense allowance; and,

   d. The United States and Canadian sections of the Committee shall each designate a Chairman of its section. The Chairmen of the two sections shall be Co-chairmen of the Committee and shall be responsible for providing proper liaison between the Committee and their respective authorities. The Chairmen will keep their respective section members informed of plans, activities and progress. Each Chairman, after consulting the members of his own section of the Committee, may appoint a Secretary of that section.

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Ottawa, Ontario

February 22, 1984

The Honorable Allan J. MacEachen
Deputy Prime Minister and Secretary of State for External Affairs
Lester B. Pearson Building
125 Sussex Drive
Ottawa, Ontario
K1A 0G2

Sir:

I have the honor to refer to your Note of this date, with attached Annex, regarding the United States-Canada Committee on Water Quality in the Saint John River, which was established by an Exchange of Notes between our two Governments on September 21, 1972. You have proposed that our Governments now utilize the water quality objectives approved by the Committee in 1980. In addition, you have proposed continued operation of the Committee under a revised mandate, as set forth in the Annex to your Note. These proposals have been approved by the United States Government.

Accordingly, I have the honor to confirm that your Note, together with its Annex, and this reply, shall constitute an agreement between our Governments which shall enter into force on the date of this reply.

Accept, Sir, the renewed assurances of my highest consideration.

Yours sincerely,

Paul Heron Robinson, Jr.,
Ambassador

Agreement Between the Government of the United States of America and the Government of Canada Relating to the Establishment of Joint Pollution Contingency Plans for Spills of Oil and Other Noxious Substances, Ottawa, 1974

*Done at Ottawa 19 June 1974**

Entered into force 19 June 1974

Primary source citation: 25 UST 1280, TIAS 7861

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, CANADA

June 19, 1974

His Excellency
The Honourable WILLIAM J. PORTER,
Ambassador of the United States of America,
Ottawa.

No. FLA-362

EXCELLENCY,

I have the honour to refer to the discussions between representatives of our Governments in Washington, D.C. and in Ottawa concerning the establishment of joint pollution contingency plans for waters of mutual interest, leading to the development of a joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances.

I have the honour to propose that the joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances, shall be promulgated by the Canadian Ministry of Transport and the United States Coast Guard and shall be maintained in force, as amended from time to time, to coordinate responses to significant pollution threats to the waters covered by the provisions of the Plan.

It would be the responsibility of the Canadian Ministry of Transport and the United States Coast Guard to administer and maintain the Plan as promulgated, or as amended from time to time.

* The Joint Pollution Contingency Plan and its annexes are not printed herein. They are deposited in the archives of the U.S. Department of State where they are available for reference.

Maintenance of the Plan and actions thereunder would be without prejudice to the positions of the Governments of the United States and of Canada, with respect to coastal state jurisdiction over pollution, and without prejudice to any other positions of the two Governments regarding the extent of territorial or maritime jurisdiction.

If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and Your Excellency's reply shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

MITCHELL SHARP
Secretary of State
for External Affairs

EMBASSY OF THE UNITED STATES OF AMERICA
OTTAWA

June 19, 1974

The Honourable
MITCHELL SHARP, P.C.,
Secretary of State for External Affairs,
Ottawa.

No. 106

SIR:

I have the honor to acknowledge receipt of your note No. FLA-362 of June 19, 1974 which reads as follows:

"EXCELLENCY,

I have the honour to refer to the discussions between representatives of our Governments in Washington, D.C. and in Ottawa concerning the establishment of joint pollution contingency plans for waters of mutual interest, leading to the development of a joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances.

I have the honour to propose that the joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances, shall be promulgated by the Canadian Ministry of Transport and the United States Coast Guard and shall be maintained in force, as amended from time to time, to coordinate responses to significant pollution threats to the waters covered by the provisions of the Plan.

It would be the responsibility of the Canadian Ministry of Transport and the United States Coast Guard to administer and maintain the Plan as promulgated, or as amended from time to time.

Maintenance of the Plan and actions thereunder would be without prejudice to the positions of the Government of the United States and of Canada, with respect to coastal state jurisdiction over pollution, and without prejudice to any other positions of the two Governments regarding the extent of territorial or maritime jurisdiction.

If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and Your Excellency's reply shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform you that the foregoing proposals are acceptable to the Government of the United States of America and to confirm that your Note, which is equally authentic in English and French, and this reply shall constitute an Agreement between our two Governments which shall enter into force on the date of this reply.

Accept, Sir, the renewed assurances of my highest consideration.

WILLIAM J. PORTER

Amendment to the Agreement Between the Government of the United States of America and the Government of Canada Relating to the Establishment of Joint Pollution Contingency Plans for Spills of Oil and Other Noxious Substances, Ottawa, 1977

Done at Ottawa 28 July 1977 and 30 August 1977

Entered into force 30 August 1977

Primary source citation: 29 UST 2569, TIAS 8957

Department of External Affairs
Ottawa, Canada

July 28, 1977

His Excellency Thomas Enders,
Ambassador of the United States of America,
Ottawa

No. FLO-1129

Excellency,

I have the honour to refer to the Agreement between our two countries concerning the establishment of a Joint Marine Pollution Contingency Plan, constituted by an Exchange of Notes done in Ottawa on June 19, 1974 and to recent discussions between representatives of our two Governments concerning the addition of a further annex (Annex IV) to the Plan related to waters off the Arctic Coast of Canada and the United States in the Beaufort Sea.

I have the honour to propose that Annex IV, dated June 10, 1977, be added to the Plan and that it be given the same effect under the Plan as Annexes I to III.

If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and Your Excellency's reply to that effect shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Don Jamieson

Secretary of State for
External Affairs

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Embassy Of The United States of America
Ottawa

August 30, 1977

The Honorable
Donald C. Jamieson
Secretary of State for
External Affairs
Ottawa

No. 209

Sir:

I have the honour to acknowledge receipt of your Note, No. FLO-1129, of July 28, 1977, which reads as follows:

"Excellency:

"I have the honour to refer to the Agreement between our two countries concerning the establishment of a Joint Marine Pollution Contingency Plan, constituted by an Exchange of Notes done in Ottawa on June 19, 1974 and to recent discussions between representatives of our two Governments concerning the addition of a further annex (Annex IV) to the Plan related to waters off the Arctic Coast of Canada and the United States in the Beaufort Sea.

"I have the honour to propose that Annex IV, dated June 10, 1977, be added to the Plan and that it be given the same effect under the Plan as Annexes I to III.

"If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and Your Excellency's reply to that effect shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

"Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform you that the foregoing proposals are acceptable to the Government of the United States of America and to confirm that your Note which is equally authentic in English and French, and this reply shall constitute an Agreement between our two Governments which shall enter into force on the date of this reply.

Accept, Sir, the renewed assurances of my highest consideration.

Tom Enders

Amendment to the Agreement Between the Government of the United States of America and the Government of Canada Relating to the Establishment of Joint Pollution Contingency Plans for Spills of Oil and Other Noxious Substances, Ottawa, 1982

Done at Ottawa 5 and 17 March 1982

Entered into force 17 March 1982

Primary source citation: 34 UST 305, TIAS 10357

Department of External Affairs
Ottawa, K1A 0G2
Canada

March 5, 1982

His Excellency Paul Heron Robinson Jr.
Ambassador of the United States of America
OTTAWA

LAO-373

Excellency,

I have the honour to refer to the Agreement between our two countries concerning the establishment of a Joint Marine Pollution Contingency Plan, brought into force by an Exchange of Notes in Ottawa on June 19, 1974 and to recent discussions between representatives of our two Governments concerning the addition of a further annex (Annex V) to the Plan, related to waters of Dixon Entrance off the Pacific Coast of Canada and the United States.

I have the honour to propose that Annex V be added to the Joint Marine Pollution Contingency Plan and that it be given the same effect under the Plan as Annexes I to IV.

If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and your Excellency's Note in reply shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Mark MacGuigan

Secretary of State for
External Affairs

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EMBASSY OF THE UNITED STATES OF AMERICA
Ottawa

March 17, 1982

The Honorable Mark MacGuigan,
Secretary of State for External Affairs,
Ottawa

No. 86

Sir:

I have the honor to acknowledge receipt of your Note, No. LAO 373, of March 5, 1982, which reads as follows:

Excellency:

"I have the honour to refer to the Agreement between our two countries concerning the establishment of a Joint Marine Pollution Contingency Plan, brought into force by an Exchange of Notes in Ottawa on June 19, 1974 and to recent discussions between representatives of our two Governments concerning the addition of a further annex (Annex V) to the Plan, related to waters of Dixon Entrance off the Pacific Coast of Canada and the United States.

"I have the honour to propose that Annex V be added to the Joint Marine Pollution Contingency Plan and that it be given the same effect under the Plan as Annexes I to IV.

"If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and your Excellency's Note in reply shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

"Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform you that the foregoing proposals are acceptable to the Government of the United States of America and to confirm that your Note which is equally authentic in English and French, and this reply, shall constitute an Agreement between our two Governments which shall enter into force on the date of this reply.

Accept, Sir, the renewed assurances of my highest consideration.

Paul H. Robinson, Jr.

Agreement Between the United States of America and Canada on Great Lakes Water Quality, Ottawa, 1978

Done at Ottawa 22 November 1978

Entered into force 22 November 1978

Primary source citation: 30 UST 1383, TIAS 9257

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON GREAT LAKES WATER QUALITY, 1978

The Government of the United States of America and the Government of Canada,

Having in 1972 entered into an Agreement on Great Lakes Water Quality;

Reaffirming their determination to restore and enhance water quality in the Great Lakes System;

Continuing to be concerned about the impairment of water quality on each side of the boundary to an extent that is causing injury to health and property on the other side, as described by the International Joint Commission;

Reaffirming their intent to prevent further pollution of the Great Lakes Basin Ecosystem owing to continuing population growth, resource development and increasing use of water;

Reaffirming in a spirit of friendship and cooperation the rights and obligations of both countries under the Boundary Waters Treaty, signed on January 11, 1909, and in particular their obligation not to pollute boundary waters;

Continuing to recognize the rights of each country in the use of its Great Lakes waters;

Having decided that the Great Lakes Water Quality Agreement of April 15, 1972 and subsequent reports of the International Joint Commission provide a sound basis for new and more effective cooperative actions to restore and enhance water quality in the Great Lakes Basin Ecosystem;

Recognizing that restoration and enhancement of the boundary waters can not be achieved independently of other parts of the Great Lakes Basin Ecosystem with which these waters interact;

Concluding that the best means to preserve the aquatic ecosystem and achieve improved water quality throughout the Great Lakes System is by adopting common objectives, developing and implementing cooperative programs and other measures, and assigning special responsibilities and functions to the International Joint Commission;

Have agreed as follows:

ARTICLE I

DEFINITIONS

As used in this Agreement:

(a) "Agreement" means the present Agreement as distinguished from the Great Lakes Water Quality Agreement of April 15, 1972;

(b) "Annex" means any of the Annexes to this Agreement, each of which is attached to and forms an integral part of this Agreement;

(c) "Boundary waters of the Great Lakes System" or "boundary waters" means boundary waters, as defined in the Boundary Waters Treaty, that are within the Great Lakes System;

(d) "Boundary Waters Treaty" means the Treaty between the United States and Great Britain Relating to Boundary Waters, and Questions Arising Between the United States and Canada, signed at Washington on January 11, 1909;

(e) "Compatible regulations" means regulations no less restrictive than the agreed principles set out in this Agreement;

(f) "General Objectives" are broad descriptions of water quality conditions consistent with the protection of the beneficial uses and the level of environmental quality which the Parties desire to secure and which will provide overall water management guidance;

(g) "Great Lakes Basin Ecosystem" means the interacting components of air, land, water and living organisms, including man, within the drainage basin of the St. Lawrence River at or upstream from the point at which this river becomes the international boundary between Canada and the United States;

(h) "Great Lakes System" means all of the streams, rivers, lakes and other bodies of water that are within the drainage basin on the St. Lawrence River at or upstream from the point at which this river becomes the international boundary between Canada and the United States;

(i) "Harmful quantity" means any quantity of a substance that if discharged into receiving water would be inconsistent with the achievement of the General and Specific Objectives;

(j) "Hazardous polluting substance" means any element or compound identified by the Parties which, if discharged in any quantity into or upon receiving waters or adjoining shorelines, would present an imminent and substantial danger to public health or welfare; for this purpose, "public health or welfare" encompasses all factors affecting the health and welfare of man including but not limited to human health, and the conservation and protection of flora and fauna, public and private property, shorelines and beaches;

(k) "International Joint Commission"or "Commission" means the International Joint Commission established by the Boundary Waters Treaty;

(l) "Monitoring" means a scientifically designed system of continuing standardized measurements and observations and the evaluation thereof;

(m) "Objectives" means the General Objectives adopted pursuant to Article III and the Specific Objectives adopted pursuant to Article IV of this Agreement;

(n) "Parties" means the Government of Canada and the Government of the United States of America;

(o) "Phosphorus" means the element phosphorus present as a constituent of various organic and inorganic complexes and compounds;

(p) "Research" means development, demonstration and other research activities but does not include monitoring and surveillance of water or air quality;

(q) "Science Advisory Board" means the Great Lakes Science Advisory Board of the International Joint Commission established pursuant to Article VIII of this Agreement;

(r) "Specific Objectives" means the concentration or quantity of a substance or level of effect that the Parties agree, after investigation, to recognize as a maximum or minimum desired limit for a defined body of water or portion thereof, taking into account the beneficial uses or level of environmental quality which the Parties desire to secure and protect;

(s) "State and Provincial Governments" means the Governments of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Wisconsin and the Commonwealth of Pennsylvania, and the Government of the Province of Ontario;

(t) "Surveillance" means specific observations and measurements relative to control or management;

(u) "Terms of Reference" means the Terms of Reference for the Joint Institutions and the Great Lakes Regional Office established pursuant to this Agreement, which are attached to and form an integral part of this Agreement;

(v) "Toxic substance" means a substance which can cause death, disease, behavioural abnormalities, cancer, genetic mutations, physiological or reproductive malfunctions or physical deformities in any organism or its offspring, or which can become poisonous after concentration in the food chain or in combination with other substances;

(w) "Tributary waters of the Great Lakes System" or "tributary waters" means all the waters within the Great Lakes System that are not boundary waters;

(x) "Water Quality Board" means the Great Lakes Water Quality Board of the International Joint Commission established pursuant to Article VIII of this Agreement.

ARTICLE II

PURPOSE

The purpose of the Parties is to restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin Ecosystem. In order to achieve this purpose, the Parties agree to make a maximum effort to develop programs, practices and technology necessary for a better understanding of the Great Lakes Basin Ecosystem and to eliminate or reduce to the maximum extent practicable the discharge of pollutants into the Great Lakes System.

Consistent with the provisions of this Agreement, it is the policy of the Parties that:

(a) The discharge of toxic substances in toxic amounts be prohibited and the discharge of any or all persistent toxic substances be virtually eliminated;

(b) Financial assistance to construct publicly owned waste treatment works be provided by a combination of local, state, provincial, and federal participation; and

(c) Coordinated planning processes and best management practices be developed and implemented by the respective jurisdictions to ensure adequate control of all sources of pollutants.

ARTICLE III

GENERAL OBJECTIVES

The Parties adopt the following General Objectives for the Great Lakes System. These waters should be:

(a) Free from substances that directly or indirectly enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life or waterfowl;

(b) Free from floating materials such as debris, oil, scum, and other immiscible substances resulting from human activities in amounts that are unsightly or deleterious;

(c) Free from materials and heat directly or indirectly entering the water as a result of human activity that alone, or in combination with other materials, will produce colour, odour, taste, or other conditions in such a degree as to interfere with beneficial uses;

(d) Free from materials and heat directly or indirectly entering the water as a result of human activity that alone, or in combination with other materials, will produce conditions that are toxic or harmful to human, animal, or aquatic life; and

(e) Free from nutrients directly or indirectly entering the waters as a result of human activity in amounts that create growths of aquatic life that interfere with beneficial uses.

ARTICLE IV

SPECIFIC OBJECTIVES

1. The Parties adopt the Specific Objectives for the boundary waters of the Great Lakes System as set forth in Annex 1, subject to the following:

(a) The Specific Objectives adopted pursuant to this Article represent the minimum levels of water quality desired in the boundary waters of the Great Lakes System and are not intended to preclude the establishment of more stringent requirements.

(b) The determination of the achievement of Specific Objectives shall be based on statistically valid sampling data.

(c) Notwithstanding the adoption of Specific Objectives, all reasonable and practicable measures shall be taken to maintain or improve the existing water quality in those areas of the boundary waters of the Great Lakes System where such water quality is better than that prescribed by the Specific Objectives, and in those areas having outstanding natural resource value.

(d) The responsible regulatory agencies shall not consider flow augmentation as a substitute for adequate treatment to meet the Specific Objectives.

(e) The Parties recognize that in certain areas of inshore waters natural phenomena exist which, despite the best efforts of the Parties, will prevent the achievement of some of the Specific Objectives. As early as possible, these areas should be identified explicitly by the appropriate jurisdictions and reported to the International Joint Commission.

(f) Limited use zones in the vicinity of present and future municipal, industrial and tributary point source discharges shall be designated by the responsible regulatory agencies within which some of the Specific Objectives may not apply. Establishment of these zones shall not be considered a substitute for adequate treatment or control of discharges at their source. The size shall be minimized to the greatest possible degree, being no larger than that attainable by all reasonable and practicable effluent treatment

measures. The boundary of a limited use zone shall not transect the international boundary. Principles for the designation of limited use zones are set out in Annex 2.

2. The Specific Objectives for the boundary waters of the Great Lakes System or for particular portions thereof shall be kept under review by the Parties and by the International Joint Commission, which shall make appropriate recommendations.

3. The Parties shall consult on:

(a) The establishment of Specific Objectives to protect beneficial uses from the combined effects of pollutants; and

(b) The control of pollutant loading rates for each lake basin to protect the integrity of the ecosystem over the long term.

ARTICLE V

STANDARDS, OTHER REGULATORY REQUIREMENTS, AND RESEARCH

1. Water quality standards and other regulatory requirements of the Parties shall be consistent with the achievement of the General and Specific Objectives. The Parties shall use their best efforts to ensure that water quality standards and other regulatory requirements of the State and Provincial Governments shall similarly be consistent with the achievement of these Objectives. Flow augmentation shall not be considered as a substitute for adequate treatment to meet water quality standards or other regulatory requirements.

2. The Parties shall use their best efforts to ensure that:

(a) The principal research funding agencies in both countries orient the research programs of their organizations in response to research priorities identified by the Science Advisory Board and recommended by the Commission; and

(b) Mechanisms be developed for appropriate cost-effective international cooperation.

ARTICLE VI

PROGRAMS AND OTHER MEASURES

1. The Parties shall continue to develop and implement programs and other measures to fulfil the purpose of this Agreement and to meet the General and Specific Objectives. Where present treatment is inadequate to meet the General and Specific Objectives, additional treatment shall be required. The programs and measures shall include the following:

(a) Pollution from Municipal Sources. Programs for the abatement, control and prevention of municipal discharges and urban drainage into the Great Lakes System. These programs shall be completed and in operation as soon as practicable, and in the case of municipal sewage treatment facilities no later than December 31, 1982. These programs shall include:

(i) Construction and operation of waste treatment facilities in all municipalities having sewer systems to provide levels of treatment consistent with the achievement of phosphorus requirements and the General and Specific Objectives, taking into account the effects of waste from other sources;

(ii) Provision of financial resources to ensure prompt construction of needed facilities;

(iii) Establishment of requirements for construction and operating standards for facilities;

(iv) Establishment of pre-treatment requirements for all industrial plants discharging waste into publicly owned treatment works where such industrial wastes are not amenable to adequate treatment or removal using conventional municipal treatment processes;

(v) Development and implementation of practical programs for reducing pollution from storm, sanitary, and combined sewer discharges; and

(vi) Establishment of effective enforcement programs to ensure that the above pollution abatement requirements are fully met.

(b) Pollution from Industrial Sources. Programs for the abatement, control and prevention of pollution from industrial sources entering the Great Lakes System. These programs shall be completed and in operation as soon as practicable and in any case no later than December 31, 1983, and shall include:

(i) Establishment of waste treatment or control requirements expressed as effluent limitations (concentrations and/or loading limits for specific pollutants where possible) for all industrial plants, including power generating facilities, to provide levels of treatment or reduction or elimination of inputs of substances and effects consistent with the achievement of the General and Specific Objectives and other control requirements, taking into account the effects of waste from other sources;

(ii) Requirements for the substantial elimination of discharges into the Great Lakes System of persistent toxic substances;

(iii) Requirements for the control of thermal discharges;

(iv) Measures to control the discharge of radioactive materials into the Great Lakes System;

(v) Requirements to minimize adverse environmental impacts of water intakes;

(vi) Development and implementation of programs to meet industrial pre-treatment requirements as specified under sub-paragraph (a) (iv) above; and

(vii) Establishment of effective enforcement programs to ensure the above pollution abatement requirements are fully met.

(c) Inventory of Pollution Abatement Requirements. Preparation of an inventory of pollution abatement requirements for all municipal and industrial facilities discharging into the Great Lakes System in order to gauge progress toward the earliest practicable completion and operation of the programs listed in sub-paragraphs (a) and (b) above. This inventory, prepared and revised annually, shall include compliance schedules and status of compliance with monitoring and effluent restrictions, and shall be made available to the International Joint Commission and to the public. In the initial preparation of this inventory, priority shall be given to the problem areas previously identified by the Water Quality Board.

(d) Eutrophication. Programs and measures for the reduction and control of inputs of phosphorus and other nutrients, in accordance with the provisions of Annex 3.

(e) Pollution from Agricultural, Forestry and Other Land Use Activities. Measures for the abatement and control of pollution from agricultural, forestry and other land use activities including:

(i) Measures for the control of pest control products used in the Great Lakes Basin to ensure that pest control products likely to have long-term deleterious effects on the quality of water or its biota be used only as authorized by the responsible regulatory agencies; that inventories of pest control products used in the Great Lakes Basin be established and maintained by appropriate agencies; and that research and educational programs be strengthened to facilitate integration of cultural, biological and chemical pest control techniques;

(ii) Measures for the abatement and control of pollution from animal husbandry operations, including encouragement to appropriate agencies to adopt policies and regulations regarding utilization of

animal wastes, and site selection and disposal of liquid and solid wastes, and to strengthen educational and technical assistance programs to enable farmers to establish waste utilization, handling and disposal systems;

(iii) Measures governing the hauling and disposal of liquid and solid wastes, including encouragement to appropriate regulatory agencies to ensure proper location, design, and regulation governing land disposal, and to ensure sufficient, adequately trained technical and administrative capability to review plans and to supervise and monitor systems for application of wastes on land;

(iv) Measures to review and supervise road salting practices and salt storage to ensure optimum use of salt and all-weather protection of salt stores in consideration of long-term environmental impact;

(v) Measures to control soil losses from urban and suburban as well as rural areas;

(vi) Measures to encourage and facilitate improvements in land use planning and management programs to take account of impacts on Great Lakes water quality;

(vii) Other advisory programs and measures to abate and control inputs of nutrients, toxic substances and sediments from agricultural, forestry and other land use activities; and

(viii) Consideration of future recommendations from the International Joint Commission based on the Pollution from Land Use Activities Reference.

(f) Pollution from Shipping Activities. Measures for the abatement and control of pollution from shipping sources, including:

(i) Programs and compatible regulations to prevent discharges of harmful quantities of oil and hazardous polluting substances, in accordance with Annex 4;

(ii) Compatible regulations for the control of discharges of vessel wastes, in accordance with Annex 5;

(iii) Such compatible regulations to abate and control pollution from shipping sources as may be deemed desirable in the light of continuing reviews and studies to be undertaken in accordance with Annex 6;

(iv) Programs and any necessary compatible regulations in accordance with Annexes 4 and 5, for the safe and efficient handling of shipboard generated wastes, including oil, hazardous polluting substances, garbage, waste water and sewage, and for their subsequent disposal, including the type and quantity of reception facilities and, if applicable, treatment standards; and

(v) Establishment by the Canadian Coast Guard and the United States Coast Guard of a coordinated system for aerial and surface surveillance for the purpose of enforcement of regulations and the early identification, abatement and clean-up of spills of oil, hazardous polluting substances, or other pollution.

(g) Pollution from Dredging Activities. Measures for the abatement and control of pollution from all dredging activities, including the development of criteria for the identification of polluted sediments and compatible programs for disposal of polluted dredged material, in accordance with Annex 7. Pending the development of compatible criteria and programs, dredging operations shall be conducted in a manner that will minimize adverse effects on the environment.

(h) Pollution from Onshore and Offshore Facilities. Measures for the abatement and control of pollution from onshore and offshore facilities, including programs and compatible regulations for the prevention of discharges of harmful quantities of oil and hazardous polluting substances, in accordance with Annex 8.

(i) Contingency Plan. Maintenance of a joint contingency plan for use in the event of a discharge or the imminent threat of a discharge of oil or hazardous polluting substances, in accordance with Annex 9.

(j) Hazardous Polluting Substances. Implementation of Annex 10 concerning hazardous polluting substances. The Parties shall further consult from time to time for the purpose of revising the list of hazardous polluting substances and of identifying harmful quantities of these substances.

(k) Persistent Toxic Substances. Measures for the control of inputs of persistent toxic substances including control programs for their production, use, distribution and disposal, in accordance with Annex 12.

(l) Airborne Pollutants. Programs to identify pollutant sources and relative source contributions, including the more accurate definition of wet and dry deposition rates, for those substances which may have significant adverse effects on environmental quality including the indirect effects of impairment of tributary water quality through atmospheric deposition in drainage basins. In cases where significant contributions to Great Lakes pollution from atmospheric sources are identified, the Parties agree to consult on appropriate remedial programs.

(m) Surveillance and Monitoring. Implementation of a coordinated surveillance and monitoring program in the Great Lakes System, in accordance with Annex 11, to assess compliance with pollution control requirements and achievement of the Objectives, to provide information for measuring local and whole lake response to control measures, and to identify emerging problems.

2. The Parties shall develop and implement such additional programs as they jointly decide are necessary and desirable to fulfil the purpose of this Agreement and to meet the General and Specific Objectives.

ARTICLE VII

POWERS, RESPONSIBILITIES AND FUNCTIONS OF THE INTERNATIONAL JOINT COMMISSION

1. The International Joint Commission shall assist in the implementation of this Agreement. Accordingly, the Commission is hereby given, by a Reference pursuant to Article IX of the Boundary Waters Treaty, the following responsibilities:

(a) Collation, analysis and dissemination of data and information supplied by the Parties and State and Provincial Governments relating to the quality of the boundary waters of the Great Lakes System and to pollution that enters the boundary waters from tributary waters and other sources;

(b) Collection, analysis and dissemination of data and information concerning the General and Specific Objectives and the operation and effectiveness of the programs and other measures established pursuant to this Agreement;

(c) Tendering of advice and recommendations to the Parties and to the State and Provincial Governments on problems of and matters related to the quality of the boundary waters of the Great Lakes System including specific recommendations concerning the General and Specific Objectives, legislation, standards and other regulatory requirements, programs and other measures, and intergovernmental agreements relating to the quality of these waters;

(d) Tendering of advice and recommendations to the Parties in connection with matters covered under the Annexes to this Agreement;

(e) Provision of assistance in the coordination of the joint activities envisaged by this Agreement;

(f) Provision of assistance in and advice on matters related to research in the Great Lakes Basin Ecosystem, including identification of objectives for research activities, tendering of advice and recommendations concerning research to the Parties and to the State and Provincial Governments, and dissemination of information concerning research to interested persons and agencies;

(g) Investigations of such subjects related to the Great Lakes Basin Ecosystem as the Parties may from time to time refer to it.

2. In the discharge of its responsibilities under this Reference, the Commission may exercise all of the powers conferred upon it by the Boundary Waters Treaty and by any legislation passed pursuant thereto including the power to conduct public hearings and to compel the testimony of witnesses and the production of documents.

3. The Commission shall make a full report to the Parties and to the State and Provincial Governments no less frequently than biennially concerning progress toward the achievement of the General and Specific Objectives including, as appropriate, matters related to Annexes to this Agreement. This report shall include an assessment of the effectiveness of the programs and other measures undertaken pursuant to this Agreement, and advice and recommendations. In alternate years the Commission may submit a summary report. The Commission may at any time make special reports to the Parties, to the State and Provincial Governments and to the public concerning any problem of water quality in the Great Lakes System.

4. The Commission may in its discretion publish any report, statement or other document prepared by it in the discharge of its functions under this Reference.

5. The Commission shall have authority to verify independently the data and other information submitted by the Parties and by the State and Provincial Governments through such tests or other means as appear appropriate to it, consistent with the Boundary Waters Treaty and with applicable legislation.

6. The Commission shall carry out its responsibilities under this Reference utilizing principally the services of the Water Quality Board and the Science Advisory Board established under Article VIII of this Agreement. The Commission shall also ensure liaison and coordination between the institutions established under this Agreement and other institutions which may address concerns relevant to the Great Lakes Basin Ecosystem, including both those within its purview, such as those Boards related to Great Lakes levels and air pollution matters, and other international bodies, as appropriate.

ARTICLE VIII

JOINT INSTITUTIONS AND REGIONAL OFFICE

1. To assist the International Joint Commission in the exercise of the powers and responsibilities assigned to it under this Agreement, there shall be two Boards:

(a) A Great Lakes Water Quality Board which shall be the principal advisor to the Commission. The Board shall be composed of an equal number of members from Canada and the United States, including representatives from the Parties and each of the State and Provincial Governments; and

(b) A Great Lakes Science Advisory Board which shall provide advice on research to the Commission and to the Water Quality Board. The Board shall further provide advice on scientific matters referred to it by the Commission, or by the Water Quality Board in consultation with the Commission. The Science Advisory Board shall consist of managers of Great Lakes research programs and recognized experts on Great Lakes water quality problems and related fields.

2. The members of the Water Quality Board and the Science Advisory Board shall be appointed by the Commission after consultation with the appropriate government or governments concerned. The functions of the Boards shall be as specified in the Terms of Reference appended to this Agreement.

3. To provide administrative support and technical assistance to the two Boards, and to provide a public information service for the programs, including public hearings, undertaken by the International Joint Commission and by the Boards, there shall be a Great Lakes Regional Office of the International Joint Commission. Specific duties and organization of the Office shall be as specified in the Terms of Reference appended to this Agreement.

4. The Commission shall submit an annual budget of anticipated expenses to be incurred in carrying out its responsibilities under this Agreement to the Parties for approval. Each Party shall seek funds to pay one-half of the annual budget so approved, but neither Party shall be under an obligation to pay a larger amount than the other toward this budget.

ARTICLE IX

SUBMISSION AND EXCHANGE OF INFORMATION

1. The International Joint Commission shall be given at its request any data or other information relating to water quality in the Great Lakes System in accordance with procedures established by the Commission.

2. The Commission shall make available to the Parties and to the State and Provincial Governments upon request all data or other information furnished to it in accordance with this Article.

3. Each Party shall make available to the other at its request any data or other information in its control relating to water quality in the Great Lakes System.

4. Notwithstanding any other provision of this Agreement, the Commission shall not release without the consent of the owner any information identified as proprietary information under the law of the place where such information has been acquired.

ARTICLE X

CONSULTATION AND REVIEW

1. Following the receipt of each report submitted to the Parties by the International Joint Commission in accordance with paragraph 3 of Article VII of this Agreement, the Parties shall consult on the recommendations contained in such report and shall consider such action as may be appropriate, including:

(a) The modification of existing Objectives and the adoption of new Objectives;

(b) The modification or improvement of programs and joint measures; and

(c) The amendment of this Agreement or any Annex thereto.

Additional consultations may be held at the request of either Party on any matter arising out of the implementation of this Agreement.

2. When a Party becomes aware of a special pollution problem that is of joint concern and requires an immediate response, it shall notify and consult the other Party forthwith about appropriate remedial action.

3. The Parties shall conduct a comprehensive review of the operation and effectiveness of this Agreement following the third biennial report of the Commission required under Article VII of this Agreement.

ARTICLE XI

IMPLEMENTATION

1. The obligations undertaken in this Agreement shall be subject to the appropriation of funds in accordance with the constitutional procedures of the Parties.

2. The Parties commit themselves to seek:

(a) The appropriation of the funds required to implement this Agreement, including the funds needed to develop and implement the programs and other measures provided for in Article VI of this Agreement, and the funds required by the International Joint Commission to carry out its responsibilities effectively;

(b) The enactment of any additional legislation that may be necessary in order to implement the programs and other measures provided for in Article VI of this Agreement; and

(c) The cooperation of the State and Provincial Governments in all matters relating to this Agreement.

ARTICLE XII

EXISTING RIGHTS AND OBLIGATIONS

Nothing in this Agreement shall be deemed to diminish the rights and obligations of the Parties as set forth in the Boundary Waters Treaty.

ARTICLE XIII

AMENDMENT

1. This Agreement, the Annexes, and the Terms of Reference may be amended by agreement of the Parties. The Annexes may also be amended as provided therein, subject to the requirement that such amendments shall be within the scope of this Agreement. All such amendments to the Annexes shall be confirmed by an exchange of notes or letters between the Parties through diplomatic channels which shall specify the effective date or dates of such amendments.

2. All amendments to this Agreement, the Annexes, and the Terms of Reference shall be communicated promptly to the International Joint Commission.

ARTICLE XIV

ENTRY INTO FORCE AND TERMINATION

This Agreement shall enter into force upon signature by the duly authorized representatives of the Parties, and shall remain in force for a period of five years and thereafter until terminated upon twelve months' notice given in writing by one of the Parties to the other.

ARTICLE XV

SUPERSESSION

This Agreement supersedes the Great Lakes Water Quality Agreement of April 15, 1972, and shall be referred to as the "Great Lakes Water Quality Agreement of 1978".

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

DONE in duplicate at Ottawa in the English and French languages, both versions being equally authentic, this 22nd day of November 1978.

Cyrus R. Vance

[Seal]

For the Government of the
United States of America

Barbara Blum

Don Jamieson

[Seal]

For the Government of Canada

L. S. Marchand

ANNEX 1

SPECIFIC OBJECTIVES

These Objectives are based on available information on cause/effect relationships between pollutants and receptors to protect the recognized most sensitive use in all waters. These Objectives may be amended, or new Objectives may be added, by mutual consent of the Parties.

I. CHEMICAL

A. Persistent Toxic Substances

1. Organic

(a) Pesticides

Aldrin/Dieldrin

The sum of the concentrations of aldrin and dieldrin in water should not exceed 0.001 microgram per litre. The sum of concentrations of aldrin and dieldrin in the edible portion of fish should not exceed 0.3 microgram per gram (wet weight basis) for the protection of human consumers of fish.

Chlordane

The concentration of chlordane in water should not exceed 0.06 microgram per litre for the protection of aquatic life.

DDT and Metabolites

The sum of the concentrations of DDT and its metabolites in water should not exceed 0.003 microgram per litre. The sum of the concentrations of DDT and its metabolites in whole fish should not exceed 1.0 microgram per gram (wet weight basis) for the protection of fish-consuming aquatic birds.

Endrin

The concentration of endrin in water should not exceed 0.002 microgram per litre. The concentration of endrin in the edible portion of fish should not exceed 0.3 microgram per gram (wet weight basis) for the protection of human consumers of fish.

Heptachlor/Heptachlor Epoxide

The sum of the concentrations of heptachlor and heptachlor epoxide in water should not exceed 0.001 microgram per litre. The sum of the concentrations of heptachlor and heptachlor epoxide in edible portions of fish should not exceed 0.3 microgram per gram (wet weight basis) for the protection of human consumers of fish.

Lindane

The concentration of lindane in water should not exceed 0.01 microgram per litre for the protection of aquatic life. The concentration of lindane in edible portions of fish should not exceed 0.3 microgram per gram (wet weight basis) for the protection of human consumers of fish.

Methoxychlor

The concentration of methoxychlor in water should not exceed 0.04 microgram per litre for the protection of aquatic life.

Mirex

For the protection of aquatic organisms and fish-consuming birds and animals, mirex and its degradation products should be substantially absent from water and aquatic organisms. Substantially absent here means less than detection levels as determined by the best scientific methodology available.

Toxaphene

The concentration of toxaphene in water should not exceed 0.008 microgram per litre for the protection of aquatic life.

(b) Other Compounds

Phthalic Acid Esters

The concentration of dibutyl phthalate and di(2-ethylhexyl) phthalate in water should not exceed 4.0 micrograms per litre and 0.6 microgram per litre, respectively, for the protection of aquatic life. Other phthalic acid esters should not exceed 0.2 microgram per litre in waters for the protection of aquatic life.

Polychlorinated Biphenyls (PCBs)

The concentration of total polychlorinated biphenyls in fish tissues (whole fish, calculated on a wet weight basis), should not exceed 0.1 microgram per gram for the protection of birds and animals which consume fish.

Unspecified Organic Compounds

For other organic contaminants, for which Specific Objectives have not been defined, but which can be demonstrated to be persistent and are likely to be toxic, the concentrations of such compounds in water or aquatic organisms should be substantially absent, i.e., less than detection levels as determined by the best scientific methodology available.

2. Inorganic

(a) Metals

Arsenic

The concentrations of total arsenic in an unfiltered water sample should not exceed 50 micrograms per litre to protect raw waters for public water supplies.

Cadmium

The concentration of total cadmium in an unfiltered water sample should not exceed 0.2 microgram per litre to protect aquatic life.

Chromium

The concentration of total chromium in an unfiltered water sample should not exceed 50 micrograms per litre to protect raw waters for public water supplies.

Copper

The concentration of total copper in an unfiltered water sample should not exceed 5 micrograms per litre to protect aquatic life.

Iron

The concentration of total iron in an unfiltered water sample should not exceed 300 micrograms per litre to protect aquatic life.

Lead

The concentration of total lead in an unfiltered water sample should not exceed 10 micrograms per litre in Lake Superior, 20 micrograms per litre in Lake Huron and 25 micrograms per litre in all remaining Great Lakes to protect aquatic life.

Mercury

The concentration of total mercury in a filtered water sample should not exceed 0.2 microgram per litre nor should the concentration of total mercury in whole fish exceed 0.5 microgram per gram (wet weight basis) to protect aquatic life and fish-consuming birds.

Nickel

The concentration of total nickel in an unfiltered water sample should not exceed 25 micrograms per litre to protect aquatic life.

Selenium

The concentration of total selenium in an unfiltered water sample should not exceed 10 micrograms per litre to protect raw water for public water supplies.

Zinc

The concentration of total zinc in an unfiltered water sample should not exceed 30 micrograms per litre to protect aquatic life.

(b) Other Inorganic Substances

Fluoride

The concentration of total fluoride in an unfiltered water sample should not exceed 1200 micrograms per litre to protect raw water for public water supplies.

Total Dissolved Solids

In Lake Erie, Lake Ontario and the International Section of the St. Lawrence River, the level of total dissolved solids should not exceed 200 milligrams per litre. In the St. Clair River, Lake St. Clair, the Detroit River and the Niagara River, the level should be consistent with maintaining the levels of total dissolved solids in Lake Erie and Lake Ontario at not to exceed 200 milligrams per litre. In the remaining boundary waters, pending further study, the level of total dissolved solids should not exceed present levels.

B. Non-Persistent Toxic Substances

1. Organic Substances

(a) Pesticides

Diazinon

The concentration of diazinon in an unfiltered water sample should not exceed 0.08 microgram per litre for the protection of aquatic life.

Guthion

The concentration of guthion in an unfiltered water sample should not exceed 0.005 microgram per litre for the protection of aquatic life.

Parathion

The concentration of parathion in an unfiltered water sample should not exceed 0.008 microgram per litre for the protection of aquatic life.

Other Pesticides

The concentration of unspecified, non-persistent pesticides should not exceed 0.05 of the median lethal concentration on a 96-hour test for any sensitive local species.

(b) Other Substances

Unspecified Non-Persistent Toxic Substances and Complex Effluents

Unspecified non-persistent toxic substances and complex effluents of municipal, industrial or other origin should not be present in concentrations which exceed 0.05 of the median lethal concentration in a 96-hour test for any sensitive local species to protect aquatic life.

Oil and Petrochemicals

Oil and petrochemicals should not be present in concentrations that:

(i) can be detected as visible film, sheen or discolouration on the surface;

(ii) can be detected by odour;

(iii) can cause tainting of edible aquatic organisms; and

(iv) can form deposits on shorelines and bottom sediments that are detectable by sight or odour, or are deleterious to resident aquatic organisms.

2. Inorganic Substances

Ammonia

The concentration of un-ionized ammonia (NH_3) should not exceed 20 micrograms per litre for the protection of aquatic life. Concentrations of total ammonia should not exceed 500 micrograms per litre for the protection of public water supplies.

Hydrogen Sulfide

The concentration of undissociated hydrogen sulfide should not exceed 2.0 micrograms per litre to protect aquatic life.

C. Other Substances

1. Dissolved oxygen

In the connecting channels and in the upper waters of the Lakes, the dissolved oxygen level should not be less than 6.0 milligrams per litre at any time; in hypolimnetic waters, it should be not less than necessary for the support of fishlife, particularly cold water species.

2. pH

Values of pH should not be outside the range of 6.5 to 9.0, nor should discharge change the pH at the boundary of a limited use zone more than 0.5 units from that of the ambient waters.

3. Nutrients

Phosphorus

The concentration should be limited to the extent necessary to prevent nuisance growths of algae, weeds and slimes that are or may become injurious to any beneficial water use. (Specific phosphorus control requirements are set out in Annex 3.)

4. Tainting Substances

(a) Raw public water supply sources should be essentially free from objectionable taste and odour for aesthetic reasons.

(b) Levels of phenolic compounds should not exceed 1.0 microgram per litre in public water supplies to protect against taste and odor in domestic water.

(c) Substances entering the water as the result of human activity that cause tainting of edible aquatic organisms should not be present in concentrations which will lower the acceptability of these organisms as determined by organoleptic tests.

II. PHYSICAL

A. Asbestos

Asbestos should be kept at the lowest practical level and in any event should be controlled to the extent necessary to prevent harmful effects on human health.

B. Temperature

There should be no change in temperature that would adversely affect any local or general use of the waters.

C. Settleable and Suspended Solids, and Light Transmission

For the protection of aquatic life, waters should be free from substances attributable to municipal, industrial or other discharges resulting from human activity that will settle to form putrescent or otherwise objectionable sludge deposits or that will alter the value of Secchi disc depth by more than 10 per cent.

III. MICROBIOLOGICAL

Waters used for body contact recreation activities should be substantially free from bacteria, fungi, or viruses that may produce enteric disorders or eye, ear, nose, throat and skin infections or other human diseases and infections.

IV. RADIOLOGICAL

The level of radioactivity in waters outside of any defined source control area should not result in a TED_{50} (total equivalent dose integrated over 50 years as calculated in accordance with the methodology established by the International Commission on Radiological Protection) greater than 1 millirem to the whole body from a daily ingestion of 2.2 litres of lake water for one year. For dose commitments between 1 and 5 millirem at the periphery of the source control area, source investigation and corrective action are recommended if releases are not as low as reasonably achievable. For dose commitments greater than 5 millirem, the responsible regulatory authorities shall determine appropriate corrective action.

ANNEX 2

LIMITED USE ZONES

1. The Parties, in consultation with the State and Provincial Governments, shall take measures to define and describe all existing and future limited use zones, and shall prepare an annual report on these measures. The measures shall include:

(a) Identification and quantitative and qualitative description of all point source waste discharges (including tributaries) to boundary waters;

(b) Delineation of boundaries for limited use zones assigned to identified discharges;

(c) Assessment of the impact of the proposed limited use zones on existing and potential beneficial uses; and

(d) Continuing review and revision of the extent of limited use zones to achieve maximum possible reduction in size and effect of such zones in accordance with improvements in waste treatment technology.

2. Limited use zones within the boundary waters of the Great Lakes System shall be designated for industrial discharges, and for municipal discharges in excess of 1 million gallons per day before January 1, 1980, in accordance with the following principles:

(a) The boundary of a limited use zone shall not transect the international boundary.

(b) The size, shape and exact location of a limited use zone shall be specified on a case-by-case basis by the responsible regulatory agency. The size shall be minimized to the greatest possible degree, being no larger than that attainable by all reasonable and practicable effluent treatment measures.

(c) Specific Objectives and conditions applicable to the receiving water body shall be met at the boundary of limited use zones.

(d) Existing biological, chemical, physical and hydrological conditions shall be defined before considering the location of a new limited use zone or restricting an existing one.

(e) Areas of extraordinary natural resource value shall not be designated as limited use zones.

(f) Limited use zones shall not form barriers to migratory routes of aquatic species or interfere with biological communities or populations of important species to a degree which damages the ecosystem, or diminishes other beneficial uses disproportionately. Routes of passage for specific organisms which require protection and which would normally inhabit or pass through limited use zones shall be assured either by location of the zones, or by design of conditions within the zones.

(g) Conditions shall not be permitted within the limited use zones which:

(i) are rapidly lethal to important aquatic life;

(ii) cause irreversible responses which could result in detrimental post-exposure effects; or

(iii) result in bioconcentration of toxic substances which are harmful to the organism or its consumers.

(h) Concentrations of toxic substances at any point in the limited use zone where important species are physically capable of residing shall not exceed the 24-hour LC_{50}.

(i) Every attempt shall be made to insure that the zones are free from:

(i) objectionable deposits;

(ii) unsightly or deleterious amounts of flotsam, debris, oil, scum and other floating matter;

(iii) substances producing objectionable colour, odour, taste or turbidity; and

(iv) substances and conditions or combinations thereof at levels which produce aquatic life in nuisance quantities that interfere with other uses.

(j) Limited use zones may overlap unless the combined effects exceed the conditions set forth in other guidelines.

(k) As a general condition, limited use zones should not overlap with municipal and other water intakes and recreational areas. However, knowledge of local effluent characteristics and effects could allow such a combination of uses.

3. Candidate areas for designation as limited use zones shall be reported, in all available detail, by the responsible regulatory agencies to the International Joint Commission. Within 60 days, the Commission may comment upon the extent of the area proposed for designation as a limited use zone, or any other aspect or measure to promote the attainment of the General and Specific Objectives of this Agreement. The responsible regulatory agency will take the comments of the Commission into account prior to making a formal designation of the area as a limited use zone. If no comment is received from the Commission within 60 days, it may be assumed that the Commission agrees with the proposed designation.

4. The Parties shall consult to develop more definitive procedures to delineate the extent of individual limited use zones and to develop scientific guidelines for determining the maximum portions of the boundary waters of each of the Great Lakes and connecting channels which may be occupied by limited use zones.

ANNEX 3

CONTROL OF PHOSPHORUS

1. The purpose of the following programs is to minimize eutrophication problems and to prevent degradation with regard to phosphorus in the boundary waters of the Great Lakes System. The goals of phosphorus control are:

(a) Restoration of year-round aerobic conditions in the bottom waters of the Central Basin of Lake Erie;

(b) Substantial reduction in the present levels of algal biomass to a level below that of a nuisance condition in Lake Erie;

(c) Reduction in present levels of algal biomass to below that of a nuisance condition in Lake Ontario including the International Section of the St. Lawrence River;

(d) Maintenance of the oligotrophic state and relative algal biomass of Lakes Superior and Huron;

(e) Substantial elimination of algal nuisance growths in Lake Michigan to restore it to an oligotrophic state; and

(f) The elimination of algal nuisance in bays and in other areas wherever they occur.

2. The following programs shall be developed and implemented to reduce input of phosphorus to the Great Lakes:

(a) Construction and operation of municipal waste treatment facilities in all plants discharging more than one million gallons per day to achieve, where necessary to meet the loading allocations to be developed pursuant to paragraph 3 below, or to meet local conditions, whichever are more stringent, effluent concentrations of 1.0 milligram per litre total phosphorus maximum for plants in the basins of Lakes Superior, Michigan, and Huron, and of 0.5 milligram per litre total phosphorus maximum for plants in the basins of Lakes Ontario and Erie.

(b) Regulation of phosphorus introduction from industrial discharges to the maximum practicable extent.

(c) Reduction to the maximum extent practicable of phosphorus introduced from diffuse sources into Lakes Superior, Michigan, and Huron; and reduction by 30 per cent of phosphorus introduced from diffuse sources into Lakes Ontario and Erie, where necessary to meet the loading allocations to be developed pursuant to paragraph 3 below, or to meet local conditions, whichever are more stringent.

(d) Reduction of phosphorus in household detergents to 0.5 per cent by weight where necessary to meet the loading allocations to be developed pursuant to paragraph 3 below, or to meet local conditions, whichever are more stringent.

(e) Maintenance of a viable research program to seek maximum efficiency and effectiveness in the control of phosphorus introductions into the Great Lakes.

3. The following table establishes phosphorus loads for the base year (1976) and future phosphorus loads. The Parties, in cooperation with the State and Provincial Governments, shall within eighteen months after the date of entry into force of this Agreement confirm the future phosphorus loads, and based on these establish load allocations and compliance schedules, taking into account the recommendations of the International Joint Commission arising from the Pollution from Land Use Activities Reference. Until such loading allocations and compliance schedules are established, the Parties agree to maintain the programs and other measures specified in Annex 2 of the Great Lakes Water Quality Agreement of 1972.

Basin	1976 Phosphorus Load in Metric Tonnes Per Year	Future Phosphorus Load in Metric Tonnes Per Year
Lake Superior	3600	3400*
Lake Michigan	6700	5600*
Main Lake Huron	3000	2800*
Georgian Bay	630	600*
North Channel	550	520*
Saginaw Bay	870	440**
Lake Erie	20000	11000**
Lake Ontario	11000	7000**

* These loadings would result if all municipal plants over one million gallons per day achieved an effluent of 1 milligram per litre of phosphorus.

** These loadings are required to meet the goals stated in paragraph 1 above.

ANNEX 4

DISCHARGES OF OIL AND HAZARDOUS POLLUTING SUBSTANCES FROM VESSELS

1. Definitions. As used in this Annex:

(a) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting or dumping; it does not include unavoidable direct discharges of oil from a properly functioning vessel engine;

(b) "Harmful quantity of oil" means any quantity of oil that, if discharged from a ship that is stationary into clear calm water on a clear day, would produce a film or a sheen upon, or discolouration of, the surface of the water or adjoining shoreline, or that would cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shoreline;

(c) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with ballast or bilge water, and oil mixed with wastes other than dredged material;

(d) "Tanker" means any vessel designed for the carriage of liquid cargo in bulk; and

(e) "Vessel" means any ship, barge or other floating craft, whether or not self-propelled.

2. General Principles. Compatible regulations shall be adopted for the prevention of discharges into the Great Lakes System of harmful quantities of oil and hazardous polluting substances from vessels in accordance with the following principles:

(a) The discharge of a harmful quantity of oil or hazardous polluting substance shall be prohibited and made subject to appropriate penalties; and

(b) As soon as any person in charge has knowledge of any discharge of harmful quantities of oil or hazardous polluting substances, immediate notice of such discharge shall be given to the appropriate agency in the jurisdiction where the discharge occurs failure to give this notice shall be made subject to appropriate penalties.

3. Oil. The programs and measures to be adopted for the prevention of discharges of harmful quantities of oil shall include:

(a) Compatible regulations for design, construction, and operation of vessels based on the following principles:

(i) Each vessel shall have a suitable means of containing on board cargo oil spills caused by loading or unloading operations;

(ii) Each vessel shall have a suitable means of containing on board fuel oil spills caused by loading or unloading operations, including those from tank vents and overflow pipes;

(iii) Each vessel shall have the capability of retaining on board oily wastes accumulated during vessel operation;

(iv) Each vessel shall be capable of off-loading retained oily wastes to a reception facility;

(v) Each vessel shall be provided with a means for rapidly and safely stopping the flow of cargo or fuel oil during loading, unloading or bunkering operations in the event of an emergency;

(vi) Each vessel shall be provided with suitable lighting to adequately illuminate all cargo and fuel oil handling areas if the loading, unloading or bunkering operations occur at night;

(vii) Hose assemblies used on board vessels for oil loading, unloading, or bunkering shall be suitably designed, identified, and inspected to minimize the possibility of failure; and

(viii) Oil loading, unloading, and bunkering systems shall be suitably designed, identified, and inspected to minimize the possibility of failure; and

(b) Programs to ensure that merchant vessel personnel are trained in all functions involved in the use, handling, and stowage of oil and in procedures for abatement of oil pollution.

4. Hazardous Polluting Substances. The programs and measures to be adopted for the prevention of discharges of harmful quantities of hazardous polluting substances carried as cargo shall include:

(a) Compatible regulations for the design, construction, and operation of vessels using as a guide the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk as established through the Inter-Governmental Maritime Consultative Organization (IMCO), including the following requirements:

(i) Each vessel shall have a suitable means of containing on board spills caused by loading or unloading operations;

(ii) Each vessel shall have a capability of retaining on board wastes accumulated during vessel operation;

(iii) Each vessel shall be capable of off-loading wastes retained to a reception facility;

(iv) Each vessel shall be provided with a means for rapidly and safely stopping the flow during loading or unloading operations in the event of an emergency; and

(v) Each vessel shall be provided with suitable lighting to adequately illuminate all cargo handling areas if the loading or unloading operations occur at night;

(b) Identification of vessels carrying cargoes of hazardous polluting substances in bulk, containers, and package form, and of all such cargoes;

(c) Identification in vessel manifests of all hazardous polluting substances;

(d) Procedures for notification to the appropriate agency by the owner, master or agent of a vessel of all hazardous polluting substances; and

(e) Programs to ensure that merchant vessel personnel are trained in all functions involving the use, handling, and stowage of hazardous polluting substances; the abatement of pollution from such substances; and the hazards associated with the handling of such substances.

5. Additional Measures. Both Parties shall take, as appropriate, action to ensure the provision of adequate facilities for the reception, treatment, and subsequent disposal of oil and hazardous polluting substances wastes from all vessels.

ANNEX 5

DISCHARGES OF VESSEL WASTES

1. Definitions. As used in this Annex:

(a) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, and dumping;

(b) "Garbage" means all kinds of victual, domestic, and operational wastes, excluding fresh fish and parts thereof generated during the normal operation of the ship and liable to be disposed of continually or periodically;

(c) "Sewage" means human or animal waste generated on board ship and includes wastes from water closets, urinals, or a hospital facility;

(d) "Vessel" means any ship, barge or other floating craft, whether or not self-propelled; and

(e) "Waste water" means water in combination with other substances, including ballast water and water used for washing cargo holds, but excluding water in combination with oil, hazardous polluting substances, or sewage.

2. General Principles. Compatible regulations shall be adopted governing the discharge into the Great Lakes System of garbage, sewage, and waste water from vessels in accordance with the following principles:

(a) The discharge of garbage shall be prohibited and made subject to appropriate penalties;

(b) The discharge of waste water in amounts or in concentrations that will be deleterious shall be prohibited and made subject to appropriate penalties; and

(c) Every vessel operating in these waters that is provided with toilet facilities shall be equipped with a device or devices to contain, incinerate, or treat sewage to an adequate degree; appropriate penalties shall be provided for failure to comply with the regulations.

3. Critical Use Areas. Critical use areas of the Great Lakes System may be designated where the discharge of waste water or sewage shall be limited or prohibited.

4. Containment Devices. Regulations may be established requiring a device or devices to contain the sewage of pleasure craft or other classes of vessels operating in the Great Lakes System or designated areas thereof.

5. Additional Measures. The Parties shall take, as appropriate, action to ensure the provision of adequate facilities for the reception, treatment, and subsequent disposal of garbage, waste water, and sewage from all vessels.

ANNEX 6

REVIEW OF POLLUTION FROM SHIPPING SOURCES

1. Review. The Canadian Coast Guard and the United States Coast Guard shall continue to review services, systems, programs, recommendations, standards, and regulations relating to shipping activities for the purpose of maintaining or improving Great Lakes water quality. The reviews shall include:

(a) Review of vessel equipment, vessel manning, and navigation practices or procedures, and of aids to navigation and vessel traffic management, for the purpose of precluding casualties which may be deleterious to water quality;

(b) Review of practices and procedures regarding waste water and their deleterious effect on water quality;

(c) Review of practices and procedures, as well as current technology for the treatment of vessel sewage; and

(d) Review of current practices and procedures regarding the prevention of pollution from the loading, unloading, or on board transfer of cargo.

2. Consultation. Representatives of the Canadian Coast Guard and the United States Coast Guard, and other interested agencies, shall meet at least annually to consider this Annex. A report of this annual consultation

shall be furnished to the International Joint Commission prior to its annual meeting on Great Lakes water quality. The purpose of the consultation shall be to:

(a) Provide an interchange of information with respect to continuing reviews, ongoing studies, and areas of concern;

(b) Identify and determine the relative importance of problems requiring further study; and

(c) Apportion responsibility, as between the Canadian Coast Guard and the United States Coast Guard, for the studies, or portions thereof, which were identified in subparagraph 2(b) above.

3. Studies. Where a review identifies additional areas for improvement, the Canadian Coast Guard and the United States Coast Guard, and other interested agencies, will undertake a study to establish improved procedures for the abatement and control of pollution from shipping sources, and will:

(a) Develop a brief study description which will include the nature of the perceived problem, procedures to quantify the problem, alternative solutions to the problem, procedures to determine the best alternative, and an estimated completion date;

(b) Transmit study descriptions to the International Joint Commission and other interested agencies;

(c) Transmit the study, or a brief summary of its conclusions, to the International Joint Commission and other interested agencies; and

(d) Transmit a brief status report to the International Joint Commission and other interested agencies if the study is not completed by the estimated completion date.

4. Responsibility. Responsibility for the coordination of the review, consultation, and studies is assigned to the Canadian Coast Guard and the United States Coast Guard.

ANNEX 7

DREDGING

1. There shall be established, under the auspices of the Water Quality Board, a Subcommittee on Dredging. The Subcommittee shall:

(a) Review the existing practices in both countries relating to dredging activities, as well as the previous work done by the International Working Group on Dredging, with the objective of developing, within one year of the date of entry into force of this Agreement, compatible guidelines and criteria for dredging activities in the boundary waters of the Great Lakes System;

(b) Maintain a register of significant dredging projects being undertaken in the Great Lakes System with information to allow for the assessment of the environmental effects of the projects. The register shall include pertinent statistics to allow for the assessment of pollution loadings from dredged materials to the Great Lakes System;

(c) Encourage the exchange of information relating to developments of dredging technology and environmental research.

2. The Subcommittee shall identify specific criteria for the classification of polluted sediments of designated areas of intensive and continuing dredging activities within the Great Lakes System pending development of criteria and guidelines by the Subcommittee, and their acceptance by the Parties, the Parties shall continue to apply the criteria now in use by the regulatory authorities; however, neither Party shall be precluded from applying standards more stringent than those now in use.

3. The Parties shall continue to direct particular attention to the identification and preservation of significant wetland areas in the Great Lakes Basin Ecosystem which are threatened by dredging and disposal activities.

4. The Parties shall encourage research to investigate advances in dredging technology and the pathways, fate and effects of nutrients and contaminants of dredged materials.

5. The Subcommittee shall undertake any other activities as the Water Quality Board may direct.

ANNEX 8

DISCHARGES FROM ONSHORE AND OFFSHORE FACILITIES

1. Definitions. As used in this Annex:

(a) "Discharge" means the introduction of polluting substances into receiving waters and includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting or dumping; it does not include continuous effluent discharges from municipal or industrial treatment facilities;

(b) "Harmful quantity of oil" means any quantity of oil that, if discharged into clear calm waters on a clear day, would produce a film or sheen upon, or discolouration of the surface of the water or adjoining shoreline, or that would cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shoreline;

(c) "Facility" includes motor vehicles, rolling stock, pipelines, and any other facility that is used or capable of being used for the purpose of processing, producing, storing, disposing, transferring or transporting oil or hazardous polluting substances, but excludes vessels;

(d) "Offshore facility" means any facility of any kind located in, on or under any water;

(e) "Onshore facility" means any facility of any kind located in, on or under, any land other than submerged land;

(f) "Oil" means oil of any kind or in any form, including, but not limited to petroleum, fuel oil, oil sludge, oil refuse, and oil mixed with wastes, but does not include constituents of dredged spoil.

2. Principles. Regulations shall be adopted for the prevention of discharges into the Great Lakes System of harmful quantities of oil and hazardous polluting substances from onshore and offshore facilities in accordance with the following principles:

(a) Discharges of harmful quantities of oil or hazardous polluting substances shall be prohibited and made subject to appropriate penalties;

(b) As soon as any person in charge has knowledge of any discharge of harmful quantities of oil or hazardous polluting substances, immediate notice of such discharge shall be given to the appropriate agency in the jurisdiction where the discharge occurs; failure to give this notice shall be made subject to appropriate penalties.

3. Programs and Measures. The programs and measures to be adopted shall include the following:

(a) Review of the design, construction, and location of both existing and new facilities for their adequacy to prevent the discharge of oil or hazardous polluting substances;

(b) Review of the operation, maintenance and inspection procedures of facilities for their adequacy to prevent the discharge of oil or hazardous polluting substances;

(c) Development and implementation of regulations and personnel training programs to ensure the safe use and handling of oil or hazardous polluting substances;

(d) Programs to ensure that at each facility plans and provisions are made and equipment provided to stop rapidly and safely, contain, and clean up discharges of oil or hazardous polluting substances; and

(e) Compatible regulations and other programs for the identification and placarding of containers, vehicles and other facilities containing, carrying or handling oil or hazardous polluting substances; and, where appropriate, notification to appropriate agencies of vehicle movements, maintenance of a registry, and identification in manifests of such substances to be carried.

4. Implementation.

(a) Each party shall submit a report to the International Joint Commission outlining its programs and measures, existing or proposed, for the implementation of this Annex within six months of the date of entry into force of this Agreement.

(b) The report shall outline programs and measures, existing or proposed, for each of the following types of onshore and offshore facilities:

(i) land transportation including rail and road modes;

(ii) pipelines on land and submerged under water;

(iii) offshore drilling rigs and wells;

(iv) storage facilities both onshore and offshore; and

(v) wharves and terminals with trestle or underwater pipeway connections to land and offshore island type structures and buoys used for the handling of oil or hazardous polluting substances.

(c) The report shall outline programs and measures, existing or proposed, for any other type of onshore or offshore facility.

(d) Upon receipt of the reports, the Commission, in consultation with the Parties, shall review the programs and measures outlined for adequacy and compatibility and, if necessary, make recommendations to rectify any such inadequacy or incompatibility it finds.

ANNEX 9

JOINT CONTINGENCY PLAN

1. The Plan. The "Joint Canada-United States Marine Pollution Contingency Plan for the Great Lakes (CANUSLAK)" adopted on June 20, 1974, shall be maintained in force, as amended from time to time. The Canadian Coast Guard and the United States Coast Guard shall, in cooperation with other affected parties, identify and provide detailed Supplements for areas of high risk and of particular concern in augmentation of CANUSLAK. It shall be the responsibility of the United States Coast Guard and the Canadian Coast Guard to coordinate and to maintain the Plan and the Supplements appended to the Plan.

2. Purpose. The purpose of the plan is to provide for coordinated and integrated response to pollution incidents in the Great Lakes System by responsible federal, state, provincial and local agencies. The Plan supplements the national, provincial and regional plans of the Parties.

3. Pollution Incidents.

(a) A pollution incident is a discharge, or an imminent threat of discharge of oil, hazardous polluting substance or other substance of such magnitude or significance as to require immediate response to contain, clean up, and dispose of the material.

(b) The objectives of the Plan in pollution incidents are:

(i) To develop appropriate preparedness measures and effective systems for discovery and reporting the existence of a pollution incident within the area covered by the Plan;

(ii) To institute prompt measures to restrict the further spread of the pollutant; and

(iii) To provide adequate cleanup response to pollution incidents.

4. Funding. The costs of operations of both Parties under the Plan shall be borne by the Party in whose waters the pollution incident occurred, unless otherwise agreed.

5. Amendment. The Canadian Coast Guard and the United States Coast Guard are empowered to amend the Plan subject to the requirement that such amendments shall be consistent with the purpose and objectives of this Annex.

ANNEX 10

HAZARDOUS POLLUTING SUBSTANCES

1. The Parties shall:

(a) Maintain a list, to be known as Appendix 1 of this Annex (hereinafter referred to as Appendix 1), of substances known to have toxic effects on aquatic and animal life and a risk of being discharged to the Great Lakes System;

(b) Maintain a list, to be known as Appendix 2 of this Annex (hereinafter referred to as Appendix 2), of substances potentially having such effects and such a risk of discharge, and to give priority to the examination of these substances for possible transfer to Appendix 1;

(c) Ensure that these lists are continually revised in the light of growing scientific knowledge; and

(d) Develop and implement programs and measures to minimize or eliminate the risk of release of hazardous polluting substances to the Great Lakes System.

2. Hazardous polluting substances to be listed in Appendix 1 shall be determined in accordance with the following procedures:

(a) Selection of all hazardous substances for listing in Appendix 1 shall be based upon documented toxicological and discharge potential data which have been evaluated by the Parties and deemed to be mutually acceptable.

(b) Revisions to Appendix 1 may be made by mutual consent of the Parties and shall be treated as amendments to this Annex for the purposes of Article XIII of this Agreement.

(c) Using the agreed selection criteria, either Party may recommend at any time a substance to be added to the list in Appendix 1. Such substance need not previously have been listed in Appendix 2. The Party receiving the recommendation will have 60 days to review the associated documentation and either reject the proposed substance or accept the substance pending completion of appropriate procedural or domestic regulatory requirements. Cause for rejection must be documented and submitted to the initiating Party and may be the basis for any further negotiations.

3. The criteria to be applied to the selection of substances as candidates for listing in Appendix 1 are:

(a) Acute toxicological effects, as determined by whether the substance is lethal to:

(i) One-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 milligrams per litre or less; or

(ii) One-half of a test population of animals in 14 days or less when administered in a single oral dose equal to or less than 50 milligrams per kilogram of body weight; or

(iii) One-half of a test population of animals in 14 days or less when dermally exposed to an amount equal to or less than 200 milligrams per kilogram body weight for 24 hours; or

(iv) One-half of a test population of animals in 14 days or less when exposed to a vapour concentration equal to or less than 20 cubic centimeters per cubic meter in air for one hour; or

(v) Aquatic flora as measured by a maximum specific growth rate or total yield of biomass which is 50 per cent lower than a control culture over 14 days in a medium at concentrations equal to or less than 100 milligrams per litre.

(b) Risk of discharge into the Great Lakes System, as determined by:

(i) Gathering information on the history of discharges or accidents;

(ii) Assessing the modal risks during transport and determining the use and distribution patterns;

(iii) Identifying quantities manufactured or imported.

4. Potentially hazardous polluting substances to be listed in Appendix 2 of this Annex shall be determined in accordance with the following procedures:

(a) Either Party may add new substances to Appendix 2 by notifying the other in writing that the substance is considered to be a potential hazard because of documented information concerning aquatic toxicity, mammalian and other vertebrate toxicity, phytotoxicity, persistence, bio-accumulation, mutagenicity, teratogenicity, carcinogenicity, environmental translocation or because of documented information on risk of discharge to the environment. The documentation of the potential hazard and the selected criteria upon which it is based will also be submitted.

(b) Removal of substances from Appendix 2 shall be by mutual consent of the Parties.

(c) The Parties shall give priority to the examination of substances listed in Appendix 2 for possible transfer to Appendix 1.

5. Programs and measures to control the risk of pollution from transport, storage, handling and disposal of hazardous polluting substances are contained in Annexes 4 and 8.

APPENDIX 1

HAZARDOUS POLLUTING SUBSTANCES

Acetaldehyde
Acetic Acid
Acetic Anhydride
Acetone Cyanohydrin
Acetyl Bromide
Acetyl Chloride
Acrolein
Acrylonitrile
Aldrin
Allyl Alcohol
Allyl Chloride
Aluminum Sulfate

Ammonia
Ammonium Acetate
Ammonium Benzoate
Ammonium Bicarbonate
Ammonium Bichromate
Ammonium Bifluoride
Ammonium Bisulfite
Ammonium Carbamate
Ammonium Carbonate
Ammonium Chloride
Ammonium Chromate
Ammonium Citrate, Dibasic
Ammonium Fluoborate
Ammonium Fluoride
Ammonium Hydroxide
Ammonium Oxalate
Ammonium Silicofluoride
Ammonium Sulfamate
Ammonium Sulfide
Ammonium Sulfite
Ammonium Tartrate
Ammonium Thiocyanate
Ammonium Thiosulfate
Amyl Acetate
Aniline
Antimony Pentachloride
Antimony Potassium Tartrate
Antimony Tribromide
Antimony Trichloride
Antimony Trifluoride
Antimony Trioxide
Arsenic Disulfide
Arsenic Pentoxide
Arsenic Trichloride
Arsenic Trioxide
Arsenic Trisulfide
Barium Cyanide
Benzene
Benzoic Acid
Benzonitrile
Benzoyl Chloride
Benzyl Chloride
Beryllium Chloride
Beryllium Fluoride
Beryllium Nitrate
Butyl Acetate
Butylamine
Butyric Acid
Cadmium Acetate
Cadmium Bromide
Cadmium Chloride
Calcium Arsenate
Calcium Arsenite
Calcium Carbide
Calcium Chromate
Calcium Cyanide
Calcium Dodecylbenzenesulfonate
Calcium Hydroxide
Calcium Hypochlorite

Calcium Oxide
Captan
Carbaryl
Carbon Disulfide
Chlordane
Chlorine
Chlorobenzene
Chloroform
Chlorosulfonic Acid
Chlorpyrifos
Chromic Acetate
Chromic Acid
Chromic Sulfate
Chromous Chloride
Cobaltous Bromide
Cobaltous Formate
Cobaltous Sulfamate
Coumaphos
Cresol
Cupric Acetate
Cupric Acetoarsenite
Cupric Chloride
Cupric Nitrate
Cupric Oxalate
Cupric Sulfate
Cupric Sulfate, Ammoniated
Cupric Tartrate
Cyanogen Chloride
Cyclohexane
2,4-D Acid
2,4-D Esters
Dalapon
DDT
Diazinon
Dicamba
Dichlobenil
Dichlone
Dichlorvos
Dieldrin
Diethylamine
Dimethylamine
Dinitrobenzene (mixed)
Dinitrophenol
Diquat
Disulfoton
Diuron
Dodecylbenzenesulfonic Acid
Endosulfan
Endrin
Ethion
Ethylbenzene
Ethylenediamine
EDTA
Ferric Ammonium Citrate
Ferric Ammonium Oxalate
Ferric Chloride
Ferric Fluoride
Ferric Nitrate
Ferric Sulfate

Ferrous Ammonium Sulfate
Ferrous Chloride
Ferrous Sulfate
Formaldehyde
Formic Acid
Fumaric Acid
Furfural
Guthion
Heptachlor
Hydrochloric Acid
Hydrofluoric Acid
Hydrogen Cyanide
Isoprene
Isopropanolamine Dodecylbenzenesulfonate
Kelthane
Lead Acetate
Lead Arsenate
Lead Chloride
Lead Fluoborate
Lead Fluoride
Lead Iodide
Lead Nitrate
Lead Stearate
Lead Sulfate
Lead Sulfide
Lead Thiocyanate
Lindane
Lithium Chromate
Malathion
Maleic Acid
Maleic Anhydride
Mercuric Cyanide
Mercuric Nitrate
Mercuric Sulfate
Mercuric Thiocyanate
Mercurous Nitrate
Methoxychlor
Methyl Mercaptan
Methyl Methacrylate
Methyl Parathion
Mevinphos
Mexacarbate
Monoethylamine
Monomethylamine
Naled
Naphthalene
Naphthenic Acid
Nickel Ammonium Sulfate
Nickel Chloride
Nickel Hydroxide
Nickel Nitrate
Nickel Sulfate
Nitric Acid
Nitrobenzene
Nitrogen Dioxide
Nitrophenol (mixed)
Paraformaldehyde
Parathion
Pentachlorophenol

Phenol
Phosgene
Phosphoric Acid
Phosphorus
Phosphorus Oxychloride
Phosphorus Pentasulfide
Phosphorus Trichloride
Polychlorinated Biphenyls
Potassium Arsenate
Potassium Arsenite
Potassium Bichromate
Potassium Chromate
Potassium Cyanide
Potassium Hydroxide
Potassium Permanganate
Propionic Acid
Propionic Anhydride
Pyrethrins
Quinoline
Resorcinol
Selenium Oxide
Sodium
Sodium Arsenate
Sodium Arsenite
Sodium Bichromate
Sodium Bifluoride
Sodium Bisulfite
Sodium Chromate
Sodium Cyanide
Sodium Dodecylbenzenesulfonate
Sodium Fluoride
Sodium Hydrosulfide
Sodium Hydroxide
Sodium Hypochlorite
Sodium Methylate
Sodium Nitrite
Sodium Phosphate, Dibasic
Sodium Phosphate, Tribasic
Sodium Selenite
Strontium Chromate
Strychnine
Styrene
Sulfuric Acid
Sulfur Monochloride
2,4,5-T Acid
2,4,5-T Esters
TDE
Tetraethyl Lead
Tetraethyl Pyrophosphate
Toluene
Toxaphene
Trichlorfon
Trichlorophenol
Triethanolamine Dodecylbenzenesulfonate
Triethylamine
Trimethylamine
Uranyl Acetate
Uranyl Nitrate
Vanadium Pentoxide

Vanadyl Sulfate
Vinyl Acetate
Xylene (mixed)
Xylenol
Zinc Acetate
Zinc Ammonium Chloride
Zinc Borate
Zinc Bromide
Zinc Carbonate
Zinc Chloride
Zinc Cyanide
Zinc Fluoride
Zinc Formate
Zinc Hydrosulfite
Zinc Nitrate
Zinc Phenolsulfonate
Zinc Phosphide
Zinc Silicofluoride
Zinc Sulfate
Zirconium Nitrate
Zirconium Potassium Fluoride
Zirconium Sulfate
Zirconium Tetrachloride

APPENDIX 2

POTENTIAL HAZARDOUS POLLUTING SUBSTANCES

Acridine
Allethrin
Aluminum Fluoride
Aluminum Nitrate
Ammonium Bromide
Ammonium Hypophosphite
Ammonium Iodide
Ammonium Pentaborate
Ammonium Persulfate
Antimony Pentafluoride
Antimycin A
Arsenic Acid
Barban
Benfluralin
Bensulide
Benzene Hexachloride
Beryllium Sulfate
Butifos
Cadmium
Cadmium Cyanide
Cadmium Nitrate
Captafol
Carbophenothion
Chlorflurazole
Chlorothion
Chlorpropham
Chromic Chloride
Chromium
Chromyl Chloride
Cobaltous Fluoride

Copper
Crotoxyphos
Cupric Carbonate
Cupric Citrate
Cupric Formate
Cupric Glycinate
Cupric Lactate
Cupric Paraamino Benzoate
Cupric Salicylate
Cupric Subacetate
Cuprous Bromide
Demeton
Dibutyl Phthalate
Dicapthon
2,4-Dinitrochlorobenzene
p-Dinitrocresol
Dinocap
Dinoseb
Dioxathion
Dodine
EPN
Gold Trichloride
Hexachlorophene
Hydrogen Sulfide
m-Hydroxybenzoic Acid
p-Hydroxybenzoic Acid
Hydroxylamine
2-Hydroxyphenazine-1-Carboxylic Acid
Lactonitrile
Lead Tetraacetate
Lead Thiosulfate
Lead Tungstate
Lithium Bichromate
Malachite Green
Manganese Chloride, Anhydrous
MCPA
Mercuric Acetate
Mercuric Chloride
Mercury
Metam-Sodium
p-Methylamino-Phenol
2-Methyl-Napthoquinone
Neburon
Nickel Formate
Phenylmercuric Acetate
n-Phenyl Naphthylamine
Phorate
Phosphamidon
Picloram
Potassium Azide
Potassium Cuprocyanide
Potassium Ferricyanide
Propyl Alcohol
Pyridyl Mercuric Acetate
Rotenone
Silver
Silver Nitrate
Silver Sulfate
Sodium Azide

Sodium 2-Chlorotoluene-5-Sulfonate
Sodium Pentachlorophenate
Sodium Phosphate, Monobasic
Sodium Sulfide
Stannous Fluoride
Strontium Nitrate
Sulfoxide
Temephos
Thallium
Thionazin
1,2,4-Trichlorobenzene
Uranium Peroxide
Uranyl Sulfate
Zinc Bichromate
Zinc Potassium Chromate
Zirconium Acetate
Zirconium Oxychloride

ANNEX 11

SURVEILLANCE AND MONITORING

1. Surveillance and monitoring activities shall be undertaken for the following purposes:

(a) Compliance. To assess the degree to which jurisdictional control requirements are being met.

(b) Achievement of General and Specific Objectives. To provide definitive information on the location, severity, areal or volume extent, frequency and duration of non-achievement of the Objectives, as a basis for determining the need for more stringent control requirements.

(c) Evaluation of Water Quality Trends. To provide information for measuring local and whole lake response to control measures using trend analyses and cause/effect relationships, and to provide information which will assist in the development and application of predictive techniques for assessing impact of new developments and pollution sources. The results of water quality evaluations will be used for:

(i) assessing the effectiveness of remedial and preventative measures and identifying the need for improved pollution control;

(ii) assessing enforcement and management strategies; and

(iii) identifying the need for further technology development and research activities.

(d) Identification of Emerging Problems. To determine the presence of new or hitherto undetected problems in the Great Lakes Basin Ecosystem, leading to the development and implementation of appropriate pollution control measures.

2. A joint surveillance and monitoring program necessary to ensure the attainment of the foregoing purposes shall be developed and implemented among the Parties and the State and Provincial Governments. The Great Lakes International Surveillance Plan contained in the Water Quality Board Annual Report of 1975 and revised in subsequent reports shall serve as a model for the development of the joint surveillance and monitoring program.

3. The program shall include baseline data collection, sample analysis, evaluation and quality assurance programs (including standard sampling and analytical methodology, inter-laboratory comparisons, and compatible data management) to allow assessments of the following:

(a) Inputs from tributaries, point source discharges, atmosphere, and connecting channels;

(b) Whole lake data including that for nearshore areas (such as harbours and embayments general shoreline and cladophora growth areas), open waters of the Lakes, fish contaminants, and wildlife contaminants; and

(c) Outflows including connecting channels, water intakes and outlets.

ANNEX 12

PERSISTENT TOXIC SUBSTANCES

1. Definitions. As used in this Annex:

(a) "Persistent toxic substance" means any toxic substance with a half-life in water of greater than eight weeks;

(b) "Half-life" means the time required for the concentration of a substance to diminish to one-half of its original value in a lake or water body;

(c) "Early warning system" means a procedure to anticipate future environmental contaminants (i.e., substances having an adverse effect on human health or the environment) and to set priorities for environmental research, monitoring and regulatory action.

2. General Principles.

(a) Regulatory strategies for controlling or preventing the input of persistent toxic substances to the Great Lakes System shall be adopted in accordance with the following principles:

(i) The intent of programs specified in this Annex is to virtually eliminate the input of persistent toxic substances in order to protect human health and to ensure the continued health and productivity of living aquatic resources and man' s use thereof;

(ii) The philosophy adopted for control of inputs of persistent toxic substances shall be zero discharge.

(b) The Parties shall take all reasonable and practical measures to rehabilitate those portions of the Great Lakes System adversely affected by persistent toxic substances.

3. Programs. The Parties, in cooperation with the State and Provincial Governments, shall develop and adopt the following programs and measures for the elimination of discharges of persistent toxic substances:

(a) Identification of raw materials, processes, products, by-products, waste sources and emissions involving persistent toxic substances, and quantitative data on the substances, together with recommendations on handling, use and disposition. Every effort shall be made to complete this inventory by January, 1982;

(b) Establishment of close coordination between air, water and solid waste programs in order to assess the total input of toxic substances to the Great Lakes System and to define comprehensive, integrated controls;

(c) Joint programs for disposal of hazardous materials to ensure that these materials such as pesticides, contaminated petroleum products, contaminated sludge and dredge spoils and industrial wastes are properly transported and disposed of. Every effort shall be made to implement these programs by 1980.

4. Monitoring. Monitoring and research programs in support of the Great Lakes International Surveillance Plan should be established at a level sufficient to identify:

(a) Temporal and spatial trends in concentration of persistent toxic substances such as PCB, mirex, DDT, mercury and dieldrin, and of other substances known to be present in biota and sediment of the Great Lakes System;

(b) The impact of persistent toxic substances on the health of humans and the quality and health of living aquatic systems;

(c) The sources of input of persistent toxic substances; and

(d) The presence of previously unidentified persistent toxic substances.

5. Early Warning System. An early warning system consisting of, but not restricted to, the following elements shall be established to anticipate future toxic substances problems:

(a) Development and use of structure-activity correlations to predict environmental characteristics of chemicals;

(b) Compilation and review of trends in the production, import, and use of chemicals;

(c) Review of the results of environmental testing on new chemicals;

(d) Toxicological research on chemicals, and review of research conducted in other countries;

(e) Maintenance of a biological tissue bank and sediment bank to permit retroactive analysis to establish trends over time;

(f) Monitoring to characterize the presence and significance of chemical residues in the environment;

(g) Development and use of mathematical models to predict consequences of various loading rates of different chemicals;

(h) Development of a data bank for storage of information on physical/chemical properties, toxicology, use and quantities in commerce of known and suspected persistent toxic substances.

6. Human Health. The Parties shall establish action levels to protect human health from the individual and interactive effects of toxic substances.

7. Research. Research should be intensified to determine the pathways, fate and effects of toxic substances aimed at the protection of human health, fishery resources and wildlife of the Great Lakes Basin Ecosystem. In particular, research should be conducted to determine:

(a) The significance of effects of persistent toxic substances on human health and aquatic life;

(b) Interactive effects of residues of toxic substances on aquatic life, wildlife, and human health; and

(c) Approaches to calculation of acceptable loading rates for persistent toxic substances, especially those which, in part, are naturally occurring.

TERMS OF REFERENCE

FOR THE JOINT INSTITUTIONS AND THE GREAT LAKES REGIONAL OFFICE

1. Great Lakes Water Quality Board

(a) This Board shall be the principal advisor to the International Joint Commission with regard to the exercise of all the functions, powers and responsibilities (other than those functions and responsibilities of the Science Advisory Board pursuant to paragraph 2 of these Terms of Reference) assigned to the Commission under this Agreement. In addition, the Board shall carry out such other functions, related to the water quality of the boundary waters of the Great Lakes System, as the Commission may request from time to time.

(b) The Water Quality Board, at the direction of the Commission, shall:

(i) Make recommendations on the development and implementation of programs to achieve the purpose of this Agreement;

(ii) Assemble and evaluate information evolving from such programs;

(iii) Identify deficiencies in the scope and funding of such programs and evaluate the adequacy and compatibility of results;

(iv) Examine the appropriateness of such programs in the light of present and future socio-economic imperatives; and

(v) Advise the Commission on the progress and effectiveness of such programs and submit appropriate recommendations.

(c) The Water Quality Board, on behalf of the Commission, shall undertake liaison and coordination between the institutions established under this Agreement and other institutions and jurisdictions which may address concerns relevant to the Great Lakes Basin Ecosystem so as to ensure a comprehensive and coordinated approach to planning and to the resolution of problems, both current and anticipated.

(d) The Water Quality Board shall report to the Commission periodically as appropriate, or as required by the Commission, on all aspects relating to the operation and effectiveness of this Agreement.

2. Great Lakes Science Advisory Board

(a) This Board shall be the scientific advisor to the Commission and the Water Quality Board.

(b) The Science Advisory Board shall be responsible for developing recommendations on all matters related to research and the development of scientific knowledge pertinent to the identification, evaluation and resolution of current and anticipated problems related to Great Lakes water quality.

(c) To effect these responsibilities the Science Advisory Board shall:

(i) Review scientific information in order to:

a. examine the impact and adequacy of research and the reliability of research results, and ensure the dissemination of such results;

b. identify additional research requirements;

c. identify specific research programs for which international cooperation is desirable; and

(ii) Advise jurisdictions of relevant research needs, solicit their involvement and promote coordination.

(d) The Science Advisory Board shall seek analyses, assessments and recommendations from other scientific, professional, academic, governmental or intergovernmental groups relevant to Great Lakes Basin Ecosystem research.

(e) The Science Advisory Board shall report to the Commission and the Water Quality Board periodically as appropriate, or as required by the Commission, on all matters of a scientific or research nature relating to the operation and effectiveness of this Agreement.

3. The Great Lakes Regional Office

(a) This Office, located at Windsor, Ontario, shall assist the Commission and the two Boards in the discharge of the functions specified in subparagraph (b) below.

(b) The Office shall perform the following functions:

(i) Provide administrative support and technical assistance for the Water Quality Board and the Science Advisory Board and their sub-organizations, to assist the Boards in discharging effectively the responsibilities, duties and functions assigned to them.

(ii) Provide a public information service for the programs, including public hearings, undertaken by the Commission and its Boards.

(c) The Office shall be headed by a Director who shall be appointed by the Commission in consultation with the Parties and with the Co-Chairmen of the Boards. The position of Director shall alternate between a Canadian citizen and a United States citizen. The term of office for the Director shall be determined in the review referred to in subparagraph (d) below.

(d) The Parties, mindful of the need to staff the Great Lakes Regional Office to carry out the functions assigned the Commission by this Agreement, shall, within six months from the date of entry into force of this Agreement, complete a review of the staffing of the Office. This review shall be conducted by the Parties based upon recommendations of the Commission after consultation with the Co-Chairmen of the Boards. Subsequent reviews may be requested by either Party, or recommended by the Commission, in order to ensure that the staffing of the Regional Office is maintained at a level and character commensurate with its assigned functions.

(e) Consistent with the responsibilities assigned to the Commission, and under the general supervision of the Water Quality Board, the Director shall be responsible for the management of the Regional Office and its staff in carrying out the functions described herein.

(f) The Co-Chairmen of the Boards, in consultation with the Director, will determine the activities which they wish the Office to carry out on behalf of, or in support of the Boards, within the current capability of the Office and its staff. The Director is responsible to the Co-Chairmen of each Board for activities carried out on behalf of, or in support of such Board, by the Office or individual staff members.

(g) The Commission, in consultation with the Director, will determine the public information activities to be carried out on behalf of the Commission by the Regional Office.

(h) The Director shall be responsible for preparing an annual budget to carry out the functions of the Boards and the Regional Office for submission jointly by the two Boards to the Commission for approval and procurement of resources.

Supplementary Agreement Amending the Agreement Between the United States of America and Canada on Great Lakes Water Quality, Halifax, 1983

Done at Halifax 16 October 1983

Entered into force 16 October 1983

Primary source citation: TIAS 10798

SUPPLEMENTARY AGREEMENT AMENDING THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON GREAT LAKES WATER QUALITY, 1978

The Government of the United States of America and the Government of Canada,

DESIRING to amend the Agreement on Great Lakes Water Quality, 1978 to incorporate a Supplement on Phosphorus Load Reduction,

HAVE AGREED as follows:

ARTICLE I

Annex 3 of the Great Lakes Water Quality Agreement, 1978 is amended by adding to that Annex the Supplement on Phosphorus Load Reduction in the Great Lakes attached hereto. This Supplement shall be regarded as an integral part of the Great Lakes Water Quality Agreement, 1978.

ARTICLE II

This Supplementary Agreement shall enter into force on signature.

IN WITNESS WHEREOF, the undersigned, duly authorized to that effect, have signed this Supplementary Agreement.

DONE in duplicate at Halifax this 16th day of October 1983, in the English and French languages, each version being equally authentic.

For the Government of the
United States of America

William D. Ruckelshaus

For the Government of Canada

Charles Caccia

For the Government of the
United States of America

George P. Shultz

For the Government of Canada

Allan J. MacEachen

PHOSPHORUS LOAD REDUCTION SUPPLEMENT TO ANNEX 3 OF THE 1978 AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON GREAT LAKES WATER QUALITY

1. The purpose of this Supplement is to outline measures to fulfill the commitments undertaken pursuant to paragraph 3 of Annex 3 of the 1978 Great Lakes Water Quality Agreement which requires that:

> "...The Parties, in cooperation with the State and Provincial Governments, shall within eighteen months after the date of entry into force of this Agreement confirm the future phosphorus loads, and based on these establish load allocations and compliance schedules, taking into account the recommendations of the International Joint Commission arising from the Pollution from Land Use Activities Reference..."

Phosphorus Target Loads

2. Table 1 establishes the recommended phosphorus target loads which represent planning guides for the Parties. Table 1 replaces the table contained in paragraph 3 of Annex 3 of the 1978 Great Lakes Water Quality Agreement (GLWQA).

Table 1

Basin	Phosphorus Target Loads (metric tonnes per year)
Lake Superior	(see Section 3 (b) below)
Lake Michigan	"
Main Lake Huron	"
Georgian Bay	"
North Channel	"
Saginaw Bay	440 (Note 1)
Lake Erie	11000 (Note 2)
Lake Ontario	7000 (Note 2)

Note 1 Target load designed to alleviate drinking water taste and odour problems.

Note 2 Target loads proposed to meet ecosystem objectives in Annex 3. The allocation of the phosphorus target loads between the two countries shall be consistent with the equal rights of both Parties in the use of their boundary waters.

3. Phosphorus Load Reductions

(a) Lower Lakes:

Table 2 summarizes the estimated phosphorous loadings that will be discharged to the Lower Lakes basins when all municipal waste treatment facilities over one million gallons per day achieve compliance with the 1 milligram per litre (1 mg/l) effluent concentration (on a monthly average basis) as required by Article VI, 1(a) of the 1978 GLWQA. The table also shows the further reductions required to meet the Phosphorus Target Loads.

Table 2

Phosphorus Load Reduction Targets - metric tonnes per year

Basin	Estimated Loadings at 1 mg/l (Note 1)	Phosphorus Target Load	Estimates of Further Reductions Required
Lake Erie	13,000	11,000	2,000
Lake Ontario	8,210	7,000	1,210

Note 1 Estimated loading when all municipal waste treatment facilities over one million gallons/day achieve 1 mg/l phosphorus effluent target levels.

(b) Upper Lakes:

Load reduction for the Upper Lakes will be accomplished by achieving the 1 mg/l phosphorous effluent concentration (on a monthly average) at municipal waste treatment facilities discharging more than one million gallons per day. The Parties further agree to maintain the present oligotrophic state of the open waters and relative algal biomass of Lakes Superior and Huron. In addition, the United States agrees to undertake efforts to achieve the substantial elimination of algal nuisance growths in Lake Michigan. Further measures will be implemented as required for Saginaw Bay, various localized nearshore problem areas and Green Bay.

(c) Table 3 presents the distribution of further reductions in phosphorus loading required for Lake Erie (in metric tonnes/year) in order to achieve the estimated target loads. These figures will be used by the Parties in the development of detailed plans for achieving further phosphorus reductions as described in 4(a) and (b) below.

Table 3

Allocation of reductions to meet target loads for Lake Erie as shown in Table 1

Canada	U.S.	Total
300	1700	2000

(d) For Lake Ontario, the Parties, in cooperation and full consultation with State and Provincial governments, agree to review the measures to achieve further phosphorus reductions in this Basin and will, within one year, meet to allocate the further phosphorus reductions between the Parties. Plans to achieve the required reductions set out in Table 2 will be developed using these figures in accordance with the procedures described in 4(a) and (b) below.

4. Phosphorus Load Reduction Plans

(a) Phosphorus load reduction plans will be developed and implemented by the Parties in cooperation and full consultation with State and Provincial governments to achieve the phosphorus reductions for Lakes Erie and Ontario described in Table 2. The plans will include phosphorus control programs and other measures as outlined in Section 5 and will describe any additional measures which will be undertaken to evaluate and review progress in achieving the phosphorus load reductions. A staged approach, incorporating target dates for achieving further reductions, will be included in the plans to provide the Parties and State and Provincial governments with a framework for implementing and evaluating the effectiveness of controls.

(b) These detailed plans shall be tabled by the Parties with the International Joint Commission 18 months after agreement on this Supplement to Annex 3. The Parties will provide the Commission with progress reports and annual updates of these plans.

5. Programs and Other Measures

The following phosphorus control programs and measures will be developed and implemented by the Parties in cooperation and full consultation with State and Provincial governments to achieve the required reductions in accordance with the plans developed pursuant to section 4. The Parties recognize that the responsibility for the control of nonpoint sources is shared between the Parties and the State and Provincial governments.

(a) Municipal Waste Treatment Facilities

(i) Priority will be given to the continuation and intensification of efforts to ensure that municipal waste treatment facilities discharging more than one million gallons per day achieve an effluent concentration of 1 mg/l total phosphorus on a monthly average.

(ii) Where necessary, consideration will be given to operating facilities capable of greater phosphorus reduction at higher levels of phosphorus removal than that required in 5(a)(i).

(iii) Where necessary, municipal waste treatment facilities designed, built, expanded or modified after October 1, 1983 should allow for later modification to provide for greater removal of phosphorus than that required under 5(a)(i).

(b) Detergent Phosphorus Limitation

Priority will be given to continuing efforts to limit phosphorus in household detergents.

(c) Industrial Discharges

Reasonable and practical measures will be undertaken to control industrial sources of phosphorus.

(d) Nonpoint Source Programs and Measures

Priority management areas will be identified and designated for application of urban and agricultural programs and measures which include:

(i) Urban drainage management control programs where feasible consisting of level 1 measures throughout the Great Lakes Basin; and level 2 measures where necessary to achieve reductions or where local environmental conditions dictate (Note 1); and

(ii) Agricultural nonpoint source management programs where feasible consisting of level 1 measures throughout the Basin and level 2 measures where necessary to achieve reductions or where local environmental conditions dictate (Note 1).

Note 1 Level 1 nonpoint source control options include:

Agricultural: adoption of management practices such as: animal husbandry control measures, crop residue management, conservation tillage, no-till, winter cover-crops, crop rotation, strip cropping, vegetated buffer strips along stream and ditch banks, and improved fertilizer management practices.

Urban: adoption of management practices such as: erosion controls, use of natural storage capacities and street cleaning.

Level 2 nonpoint source controls include Level 1 plus:

Agricultural: adoption of intensive practices such as: contour plowing, contour strip cropping, contour diversions, tile outlet-terraces, flow control structures, grassed waterways, sedimentation basins and livestock manure storage facilities.

Urban: adoption of practices such as: artificial detention and sedimentation of stormwater and runoff, and reduction of phosphorus in combined sewer overflows.

(e) Research

Pursuant to the provisions of paragraph 2(e) of Annex 3, the Parties will make special efforts to assure that their research activities will be responsive to the Programs and Other Measures described herein.

(f) Monitoring and Surveillance

The Parties will develop and implement surveillance and monitoring measures to determine the progress of the Phosphorus Load Reduction Plans for the Lower Lakes as called for under Section 4 above, and to evaluate efforts taken by the Parties to reduce phosphorus in the Great Lakes Basin. These measures will include an inventory of areas treated, watershed modelling and improved measurement of tributary loadings to the Lower Lakes for the purpose of providing improved nonpoint source loading estimates and the monitoring of mass loadings to the Upper Lakes to maintain or improve the environmental conditions described in Section 3(b).

6. Review

The Parties shall meet no later than December 31, 1988, to review the effectiveness of the programs and measures described herein, and any remaining load reduction measures required to achieve the target loads.

Protocol Amending the 1978 Agreement Between the United States of America and Canada on Great Lakes Water Quality, Toledo, 1987

Done at Toledo 18 November 1987

Entered into force 18 November 1987

Primary source citation: Copy of text provided by the U.S. Department of State

PROTOCOL AMENDING THE 1978 AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON GREAT LAKES WATER QUALITY, AS AMENDED ON OCTOBER 16, 1983

The Government of the United States of America and the Government of Canada,

REAFFIRMING their commitment to achieving the purpose and objectives of the 1978 Agreement between the United States of America and Canada on Great Lakes Water Quality, as amended on October 16, 1983;

HAVING developed and implemented cooperative programs and measures to achieve such purpose and objectives;

RECOGNIZING the need for strengthened efforts to address the continuing contamination of the Great Lakes Basin Ecosystem, particularly by persistent toxic substances;

ACKNOWLEDGING that many of these toxic substances enter the Great Lakes System from the air, from ground water infiltration, from sediments in the Lakes and from the runoff of non-point sources;

AWARE that further research and program development is now required to enable effective actions to be taken to address the continuing contamination of the Great Lakes;

DETERMINED to improve management processes for achieving Agreement objectives and to demonstrate firm leadership in the implementation of control measures;

Have agreed as follows:

Article I

The preamble of the Agreement is amended by:

(a) modifying the first preambular paragraph to read: "Having in 1972 and 1978 entered into Agreements on Great Lakes Water Quality;"

(b) modifying the seventh preambular paragraph to read: "Having decided that the Great Lakes Water Quality Agreements of 1972 and 1978 and subsequent reports of the International Joint Commission provide a sound basis ..."

Article II

Article I of the Agreement is amended by:

(a) replacing the word "man" with the word "humans" in paragraph (g).

(b) replacing the word "man" with the word "human" in paragraph (j).

(c) adding the words "interpretation and" before the word "demonstration" and replacing the phrase "and other research activities" with the phrase "of advanced scientific knowledge for the resolution of issues" in paragraph (p).

Article III

Article IV of the Agreement is amended by deleting the existing paragraph (f) and replacing it with the following:

"(f) The Parties recognize that there are areas in the boundary waters of the Great Lakes System where, due to human activity, one or more of the General or Specific Objectives of the Agreement are not being met. Pending virtual elimination of persistent toxic substances in the Great Lakes System, the Parties, in cooperation with State and Provincial Governments and the Commission, shall identify and work toward the elimination of:

"(i) Areas of Concern pursuant to Annex 2;

"(ii) Critical Pollutants pursuant to Annex 2; and

"(iii) Point Source Impact Zones pursuant to Annex 2."

Article IV

Article V of the Agreement is amended by adding a new sub-paragraph (c) to paragraph 2 as follows:

"(c) research priorities are undertaken in accordance with Annex 17."

Article V

Article VI of the Agreement is amended by:

(a) adding the following phrase after the word "Parties" in the first sentence of paragraph 1:

", in cooperation with State and Provincial Governments,";

(b) adding a new sub-paragraph (ix) to paragraph 1(e) as follows:

"(ix) Conduct further non-point source programs in accordance with Annex 13.";

(c) replacing the word "Pollutants" in the heading of sub-paragraph 1(l) with the words "Toxic Substances" and adding a new sentence to the end of the sub-paragraph as follows:

"The Parties shall conduct such programs in accordance with Annex 15.";

(d) adding a new sub-paragraph (n) to paragraph 1 as follows:

"(n) Remedial Action Plans. Measures to ensure the development and implementation of Remedial Action Plans for Areas of Concern pursuant to Annex 2;";

(e) adding a new sub-paragraph (o) to paragraph 1 as follows:

"(o) Lakewide Management Plans. Measures to ensure the development and implementation of Lakewide Management Plans to address Critical Pollutants pursuant to Annex 2;"

(f) adding a new sub-paragraph (p) to paragraph 1 as follows:

"(p) Pollution from Contaminated Sediments. Measures for the abatement and control of pollution from all contaminated sediments, including the development of chemical and biological criteria for assessing the significance of the relative contamination arising from the sediments and compatible programs for remedial action for polluted sediments in accordance with Annex 14; and"; and

(g) adding a new sub-paragraph (q) to paragraph 1 as follows:

"(q) Pollution from Contaminated Groundwater and Subsurface Sources. Programs for the assessment and control of contaminated groundwater and subsurface sources entering the boundary waters of the Great Lakes System pursuant to Annex 16."

Article VI

Article X of the Agreement is amended by:

(a) adding a new paragraph 3 as follows:

"The Parties, in cooperation with State and Provincial Governments, shall meet twice a year to coordinate their respective work plans with regard to the implementation of this Agreement and to evaluate progress made."

(b) renumbering the existing paragraph 3 as paragraph 4, and deleting the word "the" before the phrase "third biennial report" and replacing it with the word "every".

Article VII

Annex 1 of the Agreement is amended by adding to it a new Supplement entitled "Specific Objectives Supplement" as follows:

"SPECIFIC OBJECTIVES SUPPLEMENT TO ANNEX 1"

"1. General Principles

"a) Interim Objectives for Persistent Toxic Substances

"Consistent with the policy stated in paragraph (a) of Article II and paragraph 2 of Annex 12 that the discharge of any or all consistent toxic substances be virtually eliminated, the specific objectives set out in Annex 1 for such substances are adopted as interim objectives.

"b) Detection Levels

"As used in this Annex "absent" means that the substances are not detectable when analyzed using the best available technology, which may include biological indicators. Detection levels will be subject to change as technology improves and new levels are adopted.

"2. Specific Objectives Review Process

"a) The Parties, in consultation with State and Provincial Governments, shall consult on or before July 1, 1988, and at least once every two years thereafter for the purpose of considering the adoption of proposals by the Parties, State and Provincial Governments or recommendations of the Commission to:

"i) establish or modify Specific Objectives under Annex 1; and

"ii) establish action levels under Annex 12.

"The Parties, in co-operation with State and Provincial Governments, shall ensure that the public is consulted in the development and adoption of the Specific Objectives.

"b) In proposing a substance for a new Specific Objective, the Parties, State and Provincial Governments or the Commission shall be guided by, but not limited to, the lists prepared by the Parties under paragraph (c), below, identifying substances that are present or potentially present within the water, sediment or aquatic biota of the Great Lakes System and are believed, singly or in synergistic or additive combination with another substance, to have acute or chronic toxic effects on aquatic, animal or human life.

"c) The Parties, on or before December 31, 1988, shall compile and maintain three lists of substances as follows:

"(i) List No. 1 shall consist of all substances (1) believed to be present within the water, sediment or aquatic biota of the Great Lakes System and (2) believed, singly or in synergistic or additive combination with another substance, to have acute or chronic toxic effects on aquatic, animal or human life.

"(ii) List No. 2 shall consist of all substances (1) believed to be present within the water, sediment or aquatic biota of the Great Lakes System and (2) believed, singly, or in synergistic or additive combination with another substance to have the potential to cause acute or chronic toxic effects on aquatic, animal or human life.

"(iii) List No. 3 shall consist of all substances (1) believed to have the potential of being discharged into the Great Lakes System and (2) believed, singly or in synergistic or additive combination with another substance, to have acute or chronic toxic effects on aquatic, animal or human life.

"In compiling such lists, the Parties shall employ all data available, including that resulting from activities undertaken pursuant to Annex 12.

"d) Determinations regarding whether a substance, singly or in synergistic or additive combination with another substance, has actual or potential acute or chronic effects or whether a substance has the potential of being discharged into the Great Lakes System according to paragraph (c) above, shall be made using standard methods agreed to by the Parties in consultation with State and Provincial Governments by April 1988.

"3. Lake Ecosystem Objectives. Consistent with the purpose of this Agreement to maintain the chemical, physical and biological integrity of the waters of the Great Lakes Basin Ecosystem, the Parties, in consultation with State and Provincial Governments, agree to develop the following ecosystem objectives for the boundary waters of the Great Lakes System, or portions thereof, and for Lake Michigan:

"(a) Lake Superior

"The Lake should be maintained as a balanced and stable oligotrophic ecosystem with lake trout as the top aquatic predator of a cold-water community and the pontoporeia hoyi as a key organism in the food chain; and

"(b) Other Great Lakes

"Ecosystem Objectives shall be developed as the state of knowledge permits for the rest of the boundary of the Great Lakes System, or portions thereof, and for Lake Michigan."

Article VIII

Annex 2 of the Agreement is amended by deleting the existing Annex entitled "Limited Use Zones" and replacing it with a new Annex 2 entitled "Remedial Action Plans and Lakewide Management Plans" as follows:

"ANNEX 2

REMEDIAL ACTION PLANS AND LAKEWIDE MANAGEMENT PLANS"

"1. Definitions. As used in this Annex:

"(a) "Area of Concern" means a geographic area that fails to meet the General or Specific Objectives of the Agreement where such failure has caused or is likely to cause impairment of beneficial use or of the area's ability to support aquatic life.

"(b) "Critical Pollutants" means substances that persist at levels that, singly or in synergistic or additive combination, are causing, or are likely to cause, impairment of beneficial uses despite past application of regulatory controls due to their:

"(i) presence in open lake waters;

"(ii) ability to cause or contribute to a failure to meet Agreement objectives through their recognized threat to human health and aquatic life; or

"(iii) ability to bioaccumulate.

"(c) "Impairment of beneficial use(s)" means a change in the chemical, physical or biological integrity of the Great Lakes System sufficient to cause any of the following:

"(i) restrictions on fish and wildlife consumption;

"(ii) tainting of fish and wildlife flavour;

"(iii) degradation of fish and wildlife populations;

"(iv) fish tumors or other deformities;

"(v) bird or animal deformities or reproduction problems;

"(vi) degradation of benthos;

"(vii) restrictions on dredging activities;

"(viii) eutrophication or undesirable algae;

"(ix) restrictions on drinking water consumption, or taste and odor problems;

"(x) beach closings;

"(xi) degradation of aesthetics;

"(xii) added costs to agriculture or industry;

"(xiii) degradation of phytoplankton and zooplankton populations;

"(xiv) loss of fish and wildlife habitat; and

"(d) "Point Source Impact Zone" is defined as an area of water contiguous to a point source where the water quality does not comply with the General and Specific Objectives of this Agreement."

"2. General Principles

"(a) Remedial Action Plans and Lakewide Management Plans shall embody a systematic and comprehensive ecosystem approach to restoring and protecting beneficial uses in Areas of Concern or in open lake waters.

"(b) Such Plans shall provide a continuing historical record of the assessment of Areas of Concern or Critical Pollutants, proposed remedial actions and their method of implementation, as well as changes in environmental conditions that result from such actions, including significant milestones in restoring beneficial uses to Areas of Concern or open lake waters. They are to serve as an important step toward virtual elimination of persistent toxic substances and toward restoring and maintaining the chemical, physical and biological integrity of the Great Lakes Basin Ecosystem.

"(c) The Parties, State and Provincial Governments, and the Commission have identified Areas of Concern and the development of Remedial Action Plans for them has begun. Furthermore, the Parties and State and Provincial Governments have begun developing lakewide strategies for Lakes Ontario and Michigan. By incorporating an Annex for Remedial Action Plans and Lakewide Management Plans in this Agreement, the Parties intend to endorse and build upon these existing efforts.

"(d) Point source impact zones exist in the vicinity of some point source discharges. Pending the achievement of the virtual elimination of persistent toxic substances, the size of such zones shall be reduced to the maximum extent possible by the best available technology so as to limit the effects of toxic substances in the vicinity of these discharges. These zones shall not be acutely toxic to aquatic species, nor shall their recognition be considered a substitute for adequate treatment or control of discharges at their sources.

"(e) The Parties, in co-operation with State and Provincial Governments, shall ensure that the public is consulted in all actions undertaken pursuant to this Annex.

"3. Designation of Areas of Concern. The Parties, in cooperation with State and Provincial Governments and the Commission, shall designate geographic Areas of Concern. The Commission, in its evaluative role, shall review progress in addressing Areas of Concern, and recommend additional Areas of Concern for designation by each Party.

"4. Remedial Action Plans for Areas of Concern

"(a) The Parties shall cooperate with State and Provincial Governments to ensure that Remedial Action Plans are developed and implemented for Areas of Concern. Each plan shall include:

"(i) a definition and detailed description of the environmental problem in the Area of Concern, including a definition of the beneficial uses that are impaired, the degree of impairment, and the geographic extent of such impairment;

"(ii) a definition of the causes of the use impairment, including a description of all known sources of pollutants involved and an evaluation of other possible sources;

"(iii) an evaluation of remedial measures in place;

"(iv) an evaluation of alternative additional measures to restore beneficial uses;

"(v) a selection of additional remedial measures to restore beneficial uses and a schedule for their implementation;

"(vi) an identification of the persons or agencies responsible for implementation of remedial measures;

"(vii) a process for evaluating remedial measure implementation and effectiveness; and

"(viii) a description of surveillance and monitoring processes to track the effectiveness of remedial measures and the eventual confirmation of the restoration of uses.

"(b) The Parties, in cooperation with State and Provincial Governments, shall ensure that affected State and Provincial Governments not now covered by this Agreement will be involved in the development of such plans and consulted on their implementation.

"(c) The Parties shall co-operate with State and Provincial Governments to classify Areas of Concern by their stage of restoration progressing from the definition of the problems and causes, through, the selection of remedial measures, to the implementation of remedial programs, the monitoring of recovery, and, when identified beneficial uses are no longer impaired and the area restored, the removal of its designation as an Area of Concern.

"(d) The Remedial Action Plans shall be submitted to the Commission for review and comment at three stages:

"(i) when a definition of the problem has been completed under sub-paragraphs 4 (a) (i) and (ii);

"(ii) when remedial and regulatory measures are selected under sub-paragraphs 4 (a) (iii), (iv), (v) and (vi); and

"(iii) when monitoring indicates that identified beneficial uses have been restored under sub-paragraphs 4 (a) (vii) and (viii).

"5. Designation of Critical Pollutants for the Development of Lakewide Management Plans. The Parties, in cooperation with State and Provincial Governments and the Commission, shall designate Critical Pollutants for the boundary waters of the Great Lakes System, or for a portion thereof. The Commission, in its evaluative role, shall review progress in addressing Critical Pollutants and recommend additional Critical Pollutants for designation by the Parties. Substances on List No. 1 under Annex 1 Supplement shall be considered for designation as Critical Pollutants.

"6. Lakewide Management Plans for Critical Pollutants

"(a) The Parties, in consultation with State and Provincial Governments, shall develop and implement Lakewide Management Plans for open lake waters, except for Lake Michigan where the Government of the United States of America shall have that responsibility. Such Plans shall be designed to reduce loadings of Critical Pollutants in order to restore beneficial uses. Lakewide Management Plans shall not allow increases in pollutant loadings in areas where Specific Objectives are not exceeded.

"Such Plans shall include:

"(i) a definition of the threat to human health or aquatic life posed by Critical Pollutants, singly or in synergistic or additive combination with another substance, including their contribution to the impairment of beneficial uses;

"(ii) an evaluation of information available on concentrations, sources, and pathways of the Critical Pollutants in the Great Lakes System, including all information on loadings of the Critical Pollutants from all sources, and an estimation of total loadings of the Critical Pollutants by modeling or other identified methods;

"(iii) steps to be taken pursuant to Article VI of this Agreement to develop the information necessary to determine the schedule of load reductions of Critical Pollutants that would result in meeting Agreement objectives, including steps to develop the necessary standard approaches and agreed procedures;

"(iv) a determination of load reductions of Critical Pollutants necessary to meet Agreement objectives;

"(v) an evaluation of remedial measures presently in place, and alternative additional measures that could be applied to decrease loadings of Critical Pollutants;

"(vi) identification of the additional remedial measures that are needed to achieve the reduction of loadings and to eliminate the contribution to impairment of beneficial uses from Critical Pollutants, including an implementation schedule;

"(vii) identification of the persons or agencies responsible for implementation of the remedial measures in question;

"(viii) a process for evaluating remedial measure implementation and effectiveness;

"(ix) a description of surveillance and monitoring to track the effectiveness of the remedial measures and the eventual elimination of the contribution to impairments of beneficial uses from the Critical Pollutants;

"(x) a process for recognizing the absence of a Critical Pollutant in open lake waters.

"(b) The Parties shall classify efforts to reduce Critical Pollutants by their stages of elimination progressing from the definition of the problem, through the selection of remedial measures, to the implementation of remedial programs, the monitoring of recovery, and the removal of designation as a Critical Pollutant when it is no longer likely to cause, singly or in synergistic or additive combination with another substance, impairment of identified beneficial uses.

"(c) Lakewide Management Plans shall be submitted to the Commission for review and comment at four stages:

"(i) When a definition of the problem has been completed under sub-paragraphs 6 (a) (i), (ii) and (iii);

"(ii) When the schedule of load reductions is determined under sub-paragraph 6 (a) (iv);

"(iii) When remedial measures are selected under sub-paragraphs 6 (a) (v), (vi) and (vii); and

"(iv) When monitoring indicates that the contribution of the Critical Pollutants to impairment of identified beneficial uses has been eliminated under sub-paragraphs 6 (a) (viii) and (ix).

"7. Reporting Progress

"(a) Point Source Impact Zones that are associated with direct significant discharges of industrial and municipal wastes shall be identified, delineated and reported to the Commission beginning September 30, 1989. They shall be reviewed biennially and their limits revised to achieve the maximum possible reduction in size and effect in accordance with improvements in waste treatment technology and consistent with the policy of virtual elimination of persistent toxic substances.

"(b) The Parties shall report, by December 31, 1988, and biennially thereafter, to the Commission on the progress in developing and implementing the Remedial Action Plans and Lakewide Management Plans and in restoring beneficial uses. Information from these reports shall be included in the Commission's biennial report under paragraph 3 of Article VII."

Article IX

The Supplement to Annex 3 of the Agreement is amended by deleting the current figures for "Lake Ontario" in sub-paragraph 3(a) of Table 2 and replacing them with the following:

"TABLE 2

PHOSPHORUS LOAD REDUCTION TARGETS

- metric tonnes per year

Basin	Estimated Loadings at 1 mg/l (Note 1)	Phosphorus Target Load	Estimates of Further Reductions Required
Lake Ontario	7,430	7,000	430"

Article X

Annex 4 of the Agreement is amended by:

(a) inserting the phrase ", including any such quantities as may be contained in ballast water," between the words "substance" and "shall" in sub-paragraph 2(a);

(b) inserting the phrase ", or probable discharge," between the words "discharge" and "of harmful substance" in sub-paragraph 2(b);

(c) replacing the phrase "the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk as established through the Inter-Governmental Maritime Consultative Organizations (IMCO), including the following requirements:" with the phrase "the standards developed by the International Maritime Organization (IMO), including the following additional requirements:" in sub-paragraph 4(a);

(d) replacing the existing sub-paragraph 4(d) with the following:

"carriage and storage arrangements of all hazardous polluting substances in packaged form, using as a guide the International Maritime Dangerous Goods Code."; and

(e) inserting the phrase ", in cooperation with State and Provincial Governments" between the words "Parties" and "shall" in paragraph 5.

Article XI

Annex 5 of the Agreement is amended by:

(a) replacing the existing sub-paragraph 2(b) with the following:

"The discharge of waste water in harmful amounts or concentrations shall be prohibited and made subject to appropriate penalties; and";

and

(b) deleting the existing paragraph 4 and replacing it with the following:

"The parties, in cooperation with State and Provincial Governments, shall establish regulations to control the discharge of sewage from pleasure craft or other classes of vessels operating in the Great Lakes System or designated areas thereof."

Article XII

Annex 6 of the Agreement is amended by:

(a) adding the following phrase to sub-paragraph 1(b):

", including, as required, studies to determine if live fish or invertebrates in ballast water discharges into the Great Lakes System constitute a threat to the System;"

(b) adding a new sub-paragraph 1(e) as follows:

"(e) Review of international ship safety, pollution prevention and civil liability conventions and standards developed by the International Maritime Organization to determine their applicability in the boundary waters of the Great Lakes System."

and,

(c) replacing the phrase "this Annex" with the phrase "Annexes 4, 5, 6, 8 and 9 of this Agreement" in paragraph 2.

Article XIII

Annex 9 of the Agreement is amended by:

(a) replacing the first sentence of paragraph 1 with the following:

"Annex One (CANUSLAK) of the Canada-United States Joint Marine Contingency Plan, as amended or revised, shall be maintained in force for the Great Lakes."; and

(b) by replacing the phrase "to the Plan" with the word "thereto" in the last sentence of paragraph 1.

Article XIV

Annex 10 of the Agreement is amended by adding a new paragraph 6, as follows:

"In addition to the lists of hazardous polluting substances described in appendices 1 and 2 to this Annex, practices and procedures consistent with the general principles of this Agreement shall be applied to those substances categorized as marine pollutants by the International Maritime Organization."

Article XV

Annex 11 of the Agreement is amended by:

(a) adding the following new sub-paragraph to paragraph 1:

"(e) Annex 2 Programs. To support the development of Remedial Action Plans for Areas of Concern and Lakewide Management Plans for Critical Pollutants pursuant to Annex 2";

(b) adding the following new sub-paragraphs to paragraph 3:

"(d) Total pollutant loadings to, storage and transformation within, and export from the Great Lakes System;

"(e) The adequacy of proposed load reductions and schedules contained in Lakewide Management Plans; and

"(f) Contributions of various exposure media to the overall human intake of toxic substances in the Great Lakes Basic Ecosystem"; and

(c) adding a new paragraph 4 as follows:

"4. Development of Ecosystem Health Indicators for the Great Lakes. The Parties agree to develop ecosystem health indicators to assist in evaluating the achievement of the specific objectives for the ecosystem pursuant to Annex 1:

"(a) with respect to Lake Superior, lake trout and the crustacean Pontoporeia hoyi shall be used as indicators:

"Lake Trout

- productivity greater than 0.38 kilograms/hectare;
- stable, self-producing stocks;
- free from contaminants at concentrations that adversely affect the trout themselves or the quality of the harvested products.

"Pontoporeia hoyi

- the abundance of the crustacean, Pontoporeia hoyi, maintained throughout the entire lake at present levels of 220-320/(metres)^2 (depths less than 100 metres) and 30-160/(metres)^2 (depths greater than 100 metres); and

"(b) With respect to the rest of the boundary waters of the Great Lakes System or portions thereof, and for Lake Michigan, the indicators are to be developed."

Article XVI

Annex 12 of the Agreement is amended by:

(a) deleting the word "man's" and replacing it with the word "human" in sub-paragraph 2(a)(i);

(b) adding a new sub-paragraph 2(a)(iii) as follows:

"(iii) The reduction in the generation of contaminants, particularly persistent toxic substances, either through the reduction of the total volume or quantity of waste or through the reduction of the toxicity of waste, or both, shall, wherever possible, be encouraged.";

(c) adding new sub-paragraphs 5(i) and 5(j) as follows:

"(i) Development of data necessary to evaluate the loadings of critical pollutants or other polluting substances identified in the boundary waters of the Great Lakes System"; and

"(j) Further development and use of reproductive, physiological and biochemical measures in wildlife, fish and humans as health effects indicators and the establishment of a data base for storage, retrieval and interpretation of the data.";

(d) replacing the existing paragraph 6 with the following:

"The Parties shall establish action levels to protect human health based on multimedia exposure and the interactive effects of toxic substances."; and

(e) adding a new paragraph 8 as follows:

"8. Reporting. The Parties shall report, by December 31, 1988 and biennially thereafter, on the progress of programs and measures to reduce the generation of contaminants in accordance with the principle in sub-paragraph 2(a)(iii) above."

Article XVII

The Agreement is amended by adding a new Annex 13 entitled "Pollution from Non-Point Sources" as follows:

"ANNEX 13

POLLUTION FROM NON-POINT SOURCES"

"1. Purpose. This Annex further delineates programs and measures for the abatement and reduction of non-point sources of pollution from land-use activities. These include efforts to further reduce non-point source inputs of phosphorus, sediments, toxic substances and microbiological contaminants contained in drainage from urban and rural land, including waste disposal sites, in the Great Lakes System.

"2. Implementation. The Parties, in conjunction with State and Provincial Governments, shall:

"(a) identify land-based activities contributing to water quality problems described in Remedial Action Plans for Areas of Concern, or in Lakewide Management Plans including, but not limited to, phosphorus and Critical Pollutants; and

"(b) develop and implement watershed management plans, consistent with the objectives and schedules for individual Remedial Action Plans or Lakewide Management Plans, on priority hydrologic units to reduce non-point source inputs. Such watershed plans shall include a description of priority areas, intergovernmental agreements, implementation schedules, and programs and other measures to fulfill the purpose of this Annex and the General and Specific Objectives of this Agreement. Such measures shall include provisions for regulation of non-point sources of pollution.

"3. Wetlands and their Preservation. Significant wetland areas in the Great Lakes System that are threatened by urban and agricultural development and waste disposal activities should be identified, preserved and, where necessary, rehabilitated.

"4. Surveillance, Surveys and Demonstration Projects. Programs and projects shall be implemented in order to determine:

"(a) non-point source pollutant inputs to and outputs from rivers and shoreline areas sufficient to estimate loadings to the boundary waters of the Great Lakes System; and

"(b) the extent of change in land-use and land management practices that significantly affect water quality for the purpose of tracking implementation of remedial measures and estimating associated changes in loadings to the Lakes.

"Demonstration projects of remedial programs on pilot urban and rural watersheds shall be encouraged to advance knowledge and enhance information and education services, including extension services, where applicable.

"5. The Parties shall report by December 31, 1988 and biennially thereafter, to the Commission on progress in developing specific watershed management plans and implementing programs and measures to control non-point sources of pollution."

Article XVIII

The Agreement is amended by adding a new Annex 14 entitled "Contaminated Sediment" as follows:

"ANNEX 14

CONTAMINATED SEDIMENT"

"1. Objectives. The Parties shall, in cooperation with State and Provincial Governments, identify the nature and extent of sediment pollution of the Great Lakes System. Based on these findings, they shall develop methods to evaluate both the impact of polluted sediment on the Great Lakes System, and the technological capabilities of programs to remedy such pollution. Information obtained through research and studies pursuant to this Annex shall be used to guide the development of Remedial Action Plans and Lakewide Management Plans pursuant to Annex 2, but shall not be used to forestall the implementation of remedial measures already under way. Dredging for the purpose of navigation is addressed in Annex 7.

"2. Research and Studies.

"(a) General. The Parties, in cooperation with State and Provincial Governments, shall exchange information relating to the mapping, assessment and management of contaminated sediments in the Great Lakes System.

"(b) Surveillance Programs. The Parties, in cooperation with State and Provincial Governments shall:

"(i) evaluate, on or before December 31, 1988 and biennially thereafter, existing methods for quantifying the transfer of contaminants and nutrients to and from bottom sediments for use in determining the impact of polluted sediment on the Great Lakes Basin Ecosystem;

"(ii) review practices in both countries regarding the classification of contaminated sediments and establish compatible criteria for the classification of sediment quality;

"(iii) develop common methods to quantify the transfer of contaminants and nutrients to and from bottom sediments. Such methods shall be used to determine the impact of polluted sediment on the Great Lakes System. As a first step, biological indicators shall be developed to determine accumulation rates in biota from polluted bottom sediments; and

"(iv) develop a standard approach and agreed procedures for the management of contaminated sediments by December 31, 1988.

"(c) Technology Programs

"(i) The Parties shall, on or before December 31, 1988 and biennially thereafter, in co-operation with State and Provincial Governments, evaluate existing technologies for the management of contaminated sediments such as isolation, capping, in-place decontamination and removal of polluted bottom sediment.

"(ii) The Parties, in cooperation with State and Provincial Governments, shall design and implement demonstration projects for the management of polluted bottom sediment at selected Areas of Concern identified pursuant to Annex 2. The design shall be based on the evaluation(s) made pursuant to subparagraph (i) above. The Parties shall meet by June 30, 1988 to jointly design a demonstration program and implementation schedule and report progress biennially thereafter.

"3. Long-Term Measures. The Parties, in cooperation with State and Provincial Governments, shall also ensure that measures are adopted for the management of contaminated sediment respecting:

(a) the construction and the long-term maintenance of disposal facilities; and

(b) the use of contaminated sediment in the creation of land.

"4. Reporting. The Parties shall report their progress in implementing this Annex to the Commission biennially, commencing with a report no later than December 31, 1988."

Article XIX

The Agreement is amended by adding a new Annex 15 entitled "Airborne Toxic Substances" as follows:

"ANNEX 15

AIRBORNE TOXIC SUBSTANCES"

"1. Purpose. The Parties, in cooperation with State and Provincial Governments, shall conduct research, surveillance and monitoring and implement pollution control measures for the purpose of reducing atmospheric deposition of toxic substances, particularly persistent toxic substances, to the Great Lakes Basin Ecosystem.

"2. Research. Research activities shall be conducted to determine pathways, fate and effects of such toxic substances for the protection of the Great Lakes System. In particular, research shall be conducted to:

"(a) understand the processes of wet and dry deposition and those associated with the vapor exchange of toxic substances;

"(b) understand the effects of persistent toxic substances, singly or in synergistic or additive combination with other substances, through aquatic exposure routes on the health of humans and the quality and health of aquatic life where a significant source of these substances is the atmosphere, in accordance with sub-paragraph 4(b) of Annex 12; and

"(c) develop models of the intermediate and long-range movement and transformation of toxic substances to determine:

"(i) the significance of atmospheric loadings to the Great Lakes System relative to other pathways; and

"(ii) the sources of such substances from outside the Great Lakes System.

"3. Surveillance and Monitoring. The Parties shall:

"(a) establish, as part of the Great Lakes International Surveillance Plan (GLISP) instituted under Annex 11, an Integrated Atmospheric Deposition Network in accordance with paragraph 4 below;

"(b) identify, by means of this Network, toxic substances and, in particular, persistent toxic substances, appearing on List No. 1 described in Annex 1, or those designated as Critical Pollutants pursuant to Annex 2 and their significant sources in accordance with sub-paragraph 4(c) of Annex 12, and to track their movements; and

"(c) utilize this Network in order to:

"(i) determine atmospheric loadings of toxic substances to the Great Lakes System by quantifying the total and net atmospheric input of these same contaminants, pursuant to sub-paragraph 3(a) of Annex 11;

"(ii) define the temporal and spatial trends in the atmospheric deposition of such toxic substances in accordance with sub-paragraph 4(a) of Annex 12; and

"(iii) develop Remedial Action Plans and Lakewide Management Plans pursuant to Annex 2.

"4. Components of the Integrated Atmospheric Deposition Network. The Parties shall confer on or before October 1, 1988, regarding:

"(a) the identity of the toxic substances to be monitored;

"(b) the number of monitoring and surveillance stations;

"(c) the locations of such stations;

"(d) the equipment at such stations;

"(e) quality control and quality assurance procedures; and

"(f) a schedule for the construction and commencement of the operation of the stations.

"5. Pollution Control Measures.

(a) The Parties, in cooperation with State and Provincial Governments, shall develop, adopt and implement measures for the control of the sources of emissions of toxic substances and the elimination of the sources of emissions of persistent toxic substances in cases where atmospheric deposition of these substances, singly or in synergistic or additive combination with other substances, significantly contributes to pollution of the Great Lakes System. Where such contributions arise from sources beyond the jurisdiction of the Parties, the Parties shall notify the responsible jurisdiction and the Commission of the problem and seek a suitable response.

(b) The Parties shall also assess and encourage the development of pollution control technologies and alternative products to reduce the effects of airborne toxic substances on the Great Lakes System.

"6. Reporting. The Parties shall report their progress in implementing this Annex to the Commission biennially, commencing with a report no later than December 31, 1988."

Article XX

The Agreement is amended by adding a new Annex 16 entitled "Pollution from Contaminated Ground Water" as follows:

"ANNEX 16

POLLUTION FROM CONTAMINATED GROUNDWATER"

"The Parties, in cooperation with State and Provincial Governments, shall coordinate existing programs to control contaminated groundwater affecting the boundary waters of the Great Lakes System. For this purpose, the Parties shall:

"i) identify existing and potential sources of contaminated groundwater affecting the Great Lakes;

"ii) map hydrogeological conditions in the vicinity of existing and potential sources of contaminated groundwater;

"iii) develop a standard approach and agreed procedures for sampling and analysis of contaminants in groundwater in order to: 1) assess and characterize the degree and extent of contamination; and 2) estimate the loadings of contaminants from groundwater to the Lakes to support the development of Remedial Action Plans and Lakewide Management Plans pursuant to Annex 2;

"iv) control the sources of contamination of groundwater and the contaminated groundwater itself, when the problem has been identified; and

"v) report progress on implementing this Annex to the Commission biennially, commencing with a report no later than December 31, 1988."

Article XXI

The Agreement is amended by adding a new Annex 17 entitled "Research and Development" as follows:

"ANNEX 17

RESEARCH AND DEVELOPMENT"

"1. Purpose. This Annex delineates research needs to support the achievement of the goals of this Agreement.

"2. Implementation. The Parties, in cooperation with State and Provincial Governments, shall conduct research in order to:

"(a) determine the mass transfer of pollutants between the Great Lakes Basin Ecosystem components of water, sediments, air, land and biota, and the processes controlling the transfer of pollutants across the interfaces between these components in accordance with Annexes 13, 14, 15 and 16;

"(b) develop load reduction models for pollutants in the Great Lakes System in accordance with the research requirements of Annexes 2, 11, 12 and 13;

"(c) determine the physical and transformational processes affecting the delivery of pollutants by tributaries to the Great Lakes in accordance with Annexes 2, 11, 12 and 13;

"(d) determine cause-effect inter-relationships of productivity and ecotoxicity, and identify future research needs in accordance with Annexes 11, 12, 13 and 15;

"(e) determine the relationship of contaminated sediments in ecosystem health, in accordance with the research needs of Annexes 2, 12 and 14;

"(f) determine pollutant exchanges between the Areas of Concern and the open lakes including cause-effect inter-relationships among nutrients, productivity, sediments, pollutants, biota and ecosystem health, and to develop in-situ chemical, physical and biological remedial options in accordance with Annexes 2, 12, 14, and sub-paragraph 1(f) of Annex 3;

"(g) determine the aquatic effects of varying lake levels in relation to pollution sources, particularly respecting the conservation of wetlands and the fate and effects of pollutants in the Great Lakes Basin Ecosystem in accordance with Annexes 2, 11, 12, 13, 15 and 16;

"(h) determine the ecotoxicity and toxicity effects of pollutants in the development of water quality objectives in accordance with Annex 1;

"(i) determine the impact of water quality and the introduction of non-native species on fish and wildlife populations and habitats in order to develop feasible options for their recovery, restoration or enhancement in accordance with sub-paragraph 1(a) of Article IV and Annexes 1, 2, 11 and 12;

"(j) encourage the development of control technologies for treatment of municipal and industrial effluents, atmospheric emissions and the disposal of wastes, including wastes deposited in landfills;

"(k) develop action levels for contamination that incorporate multi-media exposures and the interactive effects of chemicals; and

"(l) develop approaches to population-based studies to determine the long-term, low-level effects of toxic substances on human health."

Article XXII

This Protocol shall enter into force on the date of its signature.

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

DONE in duplicate at Toledo, Ohio in the English and French languages, each version being equally authentic, this 18th day of November 1987.

Lee M. Thomas

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

Tom McMillan

FOR THE GOVERNMENT OF
CANADA

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Department of the Environment of the Government of Canada Regarding Accidental and Unauthorized Discharges of Pollutants Along the Inland Boundary, Ottawa, 1985

Done at Ottawa 17 October 1985

Entered into force 17 October 1985

Primary source citation: TIAS 11170

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE DEPARTMENT OF THE ENVIRONMENT OF THE GOVERNMENT OF CANADA REGARDING ACCIDENTAL AND UNAUTHORIZED DISCHARGES OF POLLUTANTS ALONG THE INLAND BOUNDARY

This Memorandum of Understanding between the Department of the Environment of Canada and the Environmental Protection Agency of the United States of America (hereafter; "the Parties") outlines a plan of cooperative measures for dealing with accidental and unauthorized releases of pollutants that cause or may cause damage to the environment along the shared inland boundary and that may constitute a threat to the public health, property or welfare.

ARTICLE I

For the purpose of this Memorandum of Understanding (M.O.U.):

(a) "A polluting incident" means an accidental or unauthorized release of any pollutants on either side of the inland international boundary of a magnitude which causes, or threatens to cause, substantial adverse effects on the environment, public health, property or welfare of the other side.

(b) "Environment" means the atmosphere, land, and surface and ground waters, including the natural resources therein, and all other components of the ecosystem.

(c) "Pollutants" means substances which, if discharged, cause or may cause damage to the environment, public health, property or welfare according to the laws and regulations of each Party and the judgment of the national Co-Chairman of the Joint Response Team (JRT). The JRT and its responsibilities are defined in Appendix I.

(d) "Inland international boundary" means the non-maritime boundary common to both countries, including boundary and transboundary waters not included in the Canada-United States Joint Marine Pollution Contingency Plan.

ARTICLE II

The Parties will establish the "Canada-United States Joint Pollution Contingency Plan" (hereafter; "The Plan", See Appendix I) with the objective to provide cooperative measures to deal effectively with accidental or unauthorized discharges of pollutants along the inland boundary.

ARTICLE III

The Plan is designed to (a) alert the appropriate authorities within federal and provincial/state jurisdictions of the existence or threat of polluting incidents, and (b) to initiate measures that will restrict, contain or eliminate to the extent possible the threat posed to the environment, the public health, property or welfare by such incidents.

ARTICLE IV

The Parties, through the coordinating authorities, will establish a Joint Response Team to design and implement the Plan.

ARTICLE V

The coordinating authority for the Plan for Canada is the Environmental Protection Service of the Department of the Environment, and for the United States of America is the Environmental Protection Agency.

ARTICLE VI

The JRT will respond to a polluting incident in accordance with the Plan. The Plan will be applicable whenever a polluting incident occurs that affects both countries or, although only directly affecting one country, is of such a magnitude as to justify a call on the other country for assistance.

ARTICLE VII

Nothing in this M.O.U. shall be construed to prejudice existing or future agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements or arrangements to which they are or may become party.

ARTICLE VIII

The coordinating authorities may conclude or amend technical appendices or area-specific annexes to the Plan to facilitate prompt and effective measures in response to polluting incidents. In Canada, the appendices and annexes will be concluded or amended by agreement with the jurisdictions listed in Appendix I, Section 5.

ARTICLE IX

The Plan will enter into force by signature of the coordinating authorities.

ARTICLE X

(1) This M.O.U. shall enter into force upon signature.

(2) Either Party may give notice of its intention to terminate this M.O.U. The M.O.U. shall terminate six months after such notification.

Done in duplicate at Ottawa this 17 October, 1985.

Lee M. Thomas
Administrator,
Environmental Protection Agency
For the
United States of America

Tom McMillan
Minister,
Department of the Environment
For
Canada

Appendix I

AN ABSTRACT OF THE JOINT CONTINGENCY PLAN

1. *THE PLAN*

The Canada-United States of America Joint Pollution Contingency Plan provides an organization for cooperative responses to transborder polluting incidents.

2. *THE PURPOSE*

The purpose of the Plan is to establish cooperative measures to deal with polluting incidents by coordinating the federal, state, provincial and regional contingency plans of both countries.

3. *THE OBJECTIVES*

The objectives of the Plan are:

(a) to establish appropriate measures for reporting of polluting incidents along the inland international border;

(b) to establish measures and procedures for responding promptly to such polluting incidents so as to eliminate or minimize any threat to the environment, and to the public health, property or welfare; and

(c) to identify the resources required for coordinated responses to polluting incidents.

4. *PROCEDURES*

The coordinating authority for each Party will divide its territory into planning areas (provinces, regions, states) and will provide annexes to the Plan that, among other matters, will define the jurisdiction, roles and response procedures of regulatory and support agencies within the specific areas of each country.

The Plan will provide for a federal Joint Response Team (JRT) to advise and assist area On-Scene Coordinators/Commanders (OSC) and Advisory and Liaison Coordinators (ALC). The Plan will also provide for alerting and reporting procedures, command structures, clean-up and post clean-up requirements, and arrangements for assuming the responsibility for the cost of clean-up operations.

5. *ANNEXES TO THE PLAN*

In Canada, annexes to the Plan will be developed and maintained by agreement with the following jurisdictions:

- Alberta
- British Columbia
- Manitoba
- New Brunswick
- Ontario
- Québec
- Saskatchewan
- Yukon

and in cooperation with the following federal departments and agencies:

- Department of Energy, Mines and Resources
- Department of Fisheries and Oceans
- Department of Indian Affairs and Northern Development
- Department of National Health and Welfare
- Department of Transport
- Canadian Oil and Gas Lands Administration
- Canadian Transport Commission

In the United States of America, annexes to the Plan will be developed and maintained by agreement with the following departments and agencies:

Department of Agriculture
Department of Defense
Federal Emergency Management Agency
Department of Interior
Department of Labor
Department of State
Environmental Protection Agency
Department of Commerce
Department of Energy
Department of Health and Human Services
Department of Justice
Department of Transportation
United States Coast Guard

and in accord with the plans listed below:

- National Oil and Hazardous Substances Contingency Plan
- Regional Contingency Plans
- Region 1—Boston
- Region 2—New York
- Region 5—Chicago
- Region 8—Denver
- Region 10—Seattle

and appropriate authorities thereof.

6. *JOINT RESPONSE TEAM (JRT)*

The coordinating authority for each Party will designate its Co-Chairman and its members on the JRT and will inform the other Party of its choices.

The JRT will meet as necessary and as determined by the Co-Chairmen. The U.S. Co-Chairman will preside at meetings held in the U.S.A., the Canadian Co-Chairman will preside at meetings in Canada.

On receipt of reports of polluting incidents along the inland international border, the Co-Chairmen of the JRT, following consultation with the OSC, will decide if a joint response is required and if so, will advise the appropriate authorities in each country of the time and place for the initiation and the termination of such a response.

During a joint response, the primary functions and responsibilities of the JRT are to:

- provide an Advisory and Liaison Coordinator (ALC) at the scene of the polluting incident for liaison between the OSC and the JRT, and to advise the OSC on JRT matters;
- provide environmental, technical, logistic, legal, customs, immigration, financial and public information/media-relations advice and assistance requested or needed by the OSC and ALC. (Neither the JRT nor the ALC has operational control over the OSC);
- coordinate all reporting on the status of the polluting incident to the respective national authorities;
- evaluate actions taken by the OSC and make recommendations for additional measures needed to respond to the incident;
- take measures to coordinate the provision and maximum use of the resources that agencies or persons of Canada, or of the United States of America, or of a third party can contribute to support the ALC and the OSC in their respective coordination and operational roles; and
- consider the daily logs and reports of the OSC and ALC, and prepare recommendations for improvements needed in the Plan and in any supporting contingency plans.

7. *ON-SCENE COORDINATOR/COMMANDER (OSC)*

OSCs will be appointed by an agency of the federal or other level of government having direct jurisdiction over the parties involved in the polluting incident in the province, region or state concerned.

The coordinating authority for each Party will divide its territory into planning areas (provinces, regions, states), and will appoint Advisory and Liaison Coordinators (ALCs) to assist the On-Scene Coordinator/Commander for the province, region or state concerned.

Each ALC will be an *ex-officio* member of the Joint Response Team (JRT).

The OSC will integrate and coordinate the federal/provincial/state/regional contingency plans for his/her area of responsibility to ensure that alerting, reporting and response are in place for polluting incidents along the border area.

The OSC, assisted by the ALC, is responsible for ensuring that alerting and situation reports are made promptly to the appropriate agency and to the Co-Chairmen of the JRT on any polluting incident that requires or may require the initiation of a joint response.

The OSC is responsible for recommending the initiation and the termination of a joint response to the Co-Chairmen of the JRT.

If response action is required in the territories of both parties, the OSCs of both Parties will coordinate the measures to be adopted through the collaboration of both ALCs.

The OSC is responsible for determining all facts relevant to a polluting incident, including:

- the identity of the polluter;
- the nature, quantity, location and probable migration of the pollutant;
- the available resources and the additional resources required to deal with the incident;
- the potential effects on public health and welfare, on property or on the environment; and
- priorities for protection in an action plan.

The OSC is the final authority for all decisions related to response and countermeasures operations. In exercising this authority, the OSC will be guided by national and domestic laws and policies, and good environmental practices in such matters as, for example, the use of chemical dispersants or neutralizers.

The OSC will maintain a daily log of events that occur during the response operation and will communicate this daily log, along with periodic situation reports (SITREPs) to the JRT.

On completion of the response operation, the OSC, assisted by the ALC, will submit to the JRT a final report that includes but is not limited to recommendations for improving contingency plans and response operations.

OSCs on both sides of the border will develop and maintain video, graphic or other records of sensitive areas that are to be given a high priority for protection in the event of a polluting incident.

The OSCs, with the assistance of ALCs and the JRT, will ensure that special customs, immigration and other emergency authorisation procedures are in place and understood by area authorities.

Agreement Between the Government of the United States of America and the Government of Canada Concerning the Transboundary Movement of Hazardous Waste, Ottawa, 1986

Done at Ottawa 28 October 1986

Entered into force 8 November 1986

Primary source citation: TIAS 11099

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONCERNING THE TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTE

The Government of the United States of America (the United States), and the Government of Canada (Canada), hereinafter called "The Parties":

RECOGNIZING that severe health and environmental damage may result from the improper treatment, storage, and disposal of hazardous waste;

SEEKING to ensure that the treatment, storage, and disposal of hazardous waste are conducted so as to reduce the risks to public health, property, and environmental quality;

RECOGNIZING that the close trading relationship and the long common border between the United States and Canada engender opportunities for a generator of hazardous waste to benefit from using the nearest appropriate disposal facility, which may involve the transboundary shipment of hazardous waste;

RECOGNIZING further that the most effective and efficient means of achieving environmentally sound management procedures for hazardous waste crossing the United States-Canada border is through cooperative efforts and coordinated regulatory schemes;

BELIEVING that a bilateral agreement is needed to facilitate the control of transboundary shipments of hazardous waste between the United States and Canada;

REAFFIRMING Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment adopted at Stockholm, which asserts that states have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction;

TAKING into account OECD Council Decisions and Recommendations on transfrontier movements of hazardous wastes, the UNEP Cairo Guidelines and principles for the Environmentally Sound Management of Hazardous Waste, and resolutions of the London Dumping Convention,

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement:

(a) "Designated Authority" means, in the case of the United States of America, the Environmental Protection Agency and, in the case of Canada, the Department of the Environment,

(b) "Hazardous Waste" means with respect to Canada, waste dangerous goods, and with respect to the United States, hazardous waste subject to a manifest requirement in the United States, as defined by their respective national legislations and implementing regulations.

(c) "Country of Export" means the country from which the shipment of hazardous waste originated.

(d) "Country of Import" means the country to which hazardous waste is sent for the purpose of treatment, storage (with the exception of short-term storage incidental to transportation) or disposal.

(e) "Country of Transit" means the country which is neither the country of export nor the country of import, through whose land territory or internal waters hazardous waste is transported, or in whose ports such waste is unloaded for further transportation.

(f) "Consignee" means the treatment, storage (with the exception of short-term storage incidental to transportation) or disposal facility in the country of import and the name of the person operating the facility.

(g) "Exporter" means, in the case of the United States, the person defined as exporter, and in the case of Canada, the person defined as consignor, under their respective national laws and regulations governing hazardous waste.

ARTICLE 2

General Obligation

The Parties shall permit the export, import, and transit of hazardous waste across their common border for treatment, storage, or disposal pursuant to the terms of their domestic laws, regulations and administrative practices, and the provisions of this Agreement.

ARTICLE 3

Notification to the Importing Country

(a) The designated authority of the country of export shall notify the designated authority of the country of import of proposed transboundary shipments of hazardous waste,

(b) The notice referred to in paragraph (a) of this article may cover an individual shipment or a series of shipments extending over a twelve month or lesser period and shall contain the following information:

(i) The exporter's name, address and telephone number, and if required in the country of export, the identification number,

(ii) for each hazardous waste type and for each consignee:

(1) A description of the hazardous waste to be exported, as identified by the waste identification number, the classification and the shipping name as required on the manifest in the country of export;

(2) The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;

(3) The estimated total quantity of the hazardous waste in units as specified by the manifest required in the country of export;

(4) The point of entry into the country of import;

(5) The name and address of the transporter(s) and the means of transportation, such as the mode of transportation (air, highway, rail, water, etc.) and type(s) of container (drums, boxes, tanks, etc.);

(6) A description of the manner in which the waste will be treated, stored or disposed of in the importing country;

(7) The mane and site address of the consignee;

(8) As approximate date of the first shipment to each consignee, if available.

(c) The designated authority of the country of import shall have 30 days from the date of receipt of the notice provided pursuant to paragraphs (a) and (b) of this article to respond to such notice, indicating its consent (conditional or not) or its objection to the export, Such response will be transmitted to the designated authority of the country of export. The date of receipt of the notice will be identified in an acknowledgement of receipt made immediately by the designated authority of the country of import to the country of export.

(d) If no response is received by the designated authority of the country of export within the 30 day period referred to in paragraph (c) of this article, the country of import shall be considered as having no objection to the export of hazardous waste described in the notice and the export may take place conditional upon the persons importing the hazardous waste complying with all the applicable laws of the country of import.

(e) The country of import shall have the right to amend the terms of the proposed shipment(s) as described in the notice.

(f) The consent of the country of import, whether express, tacit, or conditional, provided pursuant to paragraphs (c) and (d) of this article, may be withdrawn or modified for good cause. The Parties will withdraw or modify such consent insofar as possible at the most appropriate time for the persons concerned,

ARTICLE 4

Notification to the Transit Country

(a) The designated authority of the country of export shall notify the designated authority of the country of transit of the proposed shipment of hazardous waste at least 7 days prior to the date of the shipment. The notice shall include the information specified in paragraph (b) of Article 3, with the following exceptions:

(i) The points of entry into and departure from the country of transit shall be provided in lieu of the entry point(s) into the country of import; and

(ii) A description of the approximate length of time the hazardous waste will remain in the country of transit and the nature of its handling while there shall be submitted instead of a description of the treatment, storage, or disposal of the waste in the country of import,

ARTICLE 5

Cooperative Efforts

1. The Parties will cooperate to ensure, to the extent possible, that all transboundary shipments of hazardous waste comply with the manifest requirements of both countries.

2. The Parties will cooperate in monitoring and spot-checking transboundary shipments of hazardous waste to ensure, to the extent possible, that such shipments conform to the requirements of the applicable legislation and of this AgreeMent.

3. To the extent any implementing regulations are necessary to comply with this Agreement, the Parties will act expeditiously to issue such regulations consistent with domestic law. Pending such issuance, the Parties will make best efforts to provide notification in accordance with this Agreement where current regulatory authority is insufficient. The Parties will provide each other with a diplomatic note upon the issuance and the coming into effect of any such regulations.

ARTICLE 6

Readmission of Exports

The country of export shall readmit any shipment of hazardous waste that may be returned by the country of import or transit.

ARTICLE 7

Enforcement

The Parties shall ensure, to the extent possible, that within their respective jurisdictions, their domestic laws and regulations are enforced with respect to the transportation storage, treatment and disposal of transboundary shipments of hazardous waste.

ARTICLE 8

Protection of Confidential Information

If the provision of technical information pursuant to articles 3 and 4 would require the disclosure of information covered by agreement(s) of confidentiality between a party and an exporter, the country of export shall make every effort to obtain the consent of the concerned person for the purpose of conveying any such information to the country of import or transit. The country of import or transit shall make every effort to protect the confidentiality of such information conveyed.

ARTICLE 9

Insurance

The Parties may require, as a condition of entry, that any transboundary movement of hazardous waste be covered by insurance or other financial guarantee in respect to damage to third parties caused during the entire movement of hazardous waste, including loading and unloading.

ARTICLE 10

Effects on International Agreements

Nothing in this Agreement shall be deemed to diminish the obligations of the Parties with respect to disposal of hazardous waste at sea contained in the 1972 London Dumping Convention.

ARTICLE 11

Domestic Law

The provisions of this Agreement shall be subject to the applicable laws and regulations of the Parties.

ARTICLE 12

Amendment

This Agreement may be amended by mutual written consent of the Parties or their authorized representatives.

ARTICLE 13

Entry into Force

This Agreement shall enter into force on November 8, 1986 and continue in force for five years. It will automatically be renewed for additional five year periods unless either Party gives written notice of termination to the other at least three months prior to the expiration of any five year period. In any five year period, this Agreement say be terminated upon one year written notice given by one Party to the other.

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

DONE at Ottawa, in duplicate, this 28th day of October, 1986, in the English and French languages, both texts being equally authentic.

Lee M. Thomas

For the Government of
the United States of America

John McMillan

For the Government
of Canada

Amendment to the Agreement Between the Government of the United States of America and the Government of Canada Concerning the Transboundary Movement of Hazardous Wastes, Washington, 1992

Done at Washington 4 and 25 November 1992

Entered into force 25 November 1992

Primary source citation: Copy of text provided by the U.S. Department of State

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DEPARTMENT OF STATE
WASHINGTON

November 4, 1992

His Excellency
Derek H. Burney
Ambassador of Canada

Excellency:

I have the honor to refer to recent discussions between representatives of our two governments regarding the Agreement between the United States of America and Canada Concerning the Transboundary Movement of Hazardous Wastes, which was signed October 28, 1986, and which entered into force November 8, 1986 ("the Agreement"), and to propose, on behalf of the Government of the United States of America, that the agreement be amended as follows:

1. That a new subparagraph (h) be added to Article 1 of the Agreement which reads as follows:

"(h) "Other waste" means municipal solid waste that is sent for final disposal or for incineration with energy recovery, and residues arising from the incineration of such waste, as defined by the Parties' respective national legislations and implementing regulations, but excluding waste covered under paragraph (b) of this Article."

2. That each reference to "hazardous waste" in the Agreement, other than those contained in Article 1, subparagraph (b) be amended to read "hazardous waste and other waste".

3. That the references to "regulations" in Article 5, paragraph 3, be amended to read "laws and regulations."

4. That the reference to "waste dangerous goods" in Article 1, subparagraph (b) be amended to read "hazardous waste."

5. That a new subparagraph (g) be added to Article 3 of the Agreement which reads as follows:

"(g) For the purposes of this Article and Article 5, manifest-related requirements may, with respect to other waste, be substituted by alternative tracking requirements."

If these proposals are acceptable to your Government, I have the further honor to propose that this note, together with your note in reply, shall constitute an agreement between our two Governments which shall enter into force on the date of Your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Acting Secretary of State:

Richard J. Smith

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CANADIAN EMBASSY
Washington

November 25, 1992

The Honourable Lawrence Eagleburger
Acting Secretary of State
Department of State

No. 190

Excellency,

I have the honour to acknowledge with thanks receipt of your Note of November 4, 1992 which refers to recent discussions between representatives of our two governments regarding the Agreement between the Government of Canada and the Government of the United States of America Concerning the Transboundary Movement of Hazardous Waste, which was signed October 28, 1986 and which entered into force on November 8, 1986.

I have the further honour to inform you that the proposals outlined in your Note are acceptable to the Government of Canada.

Therefore, your Note, and this Note in reply, which is equally authentic in English and French, shall constitute an Agreement between the Government of Canada and the Government of the United States of America amending their 1986 Agreement Concerning the Transboundary Movement of Hazardous Waste which will enter into force on the date of this reply.

Accept, Excellency, the renewed assurances of my highest consideration.

D.H. Burney
Ambassador

BILATERAL

CANADA

OTHER

Treaty Between the Government of the United States of America and the Government of the United Kingdom for the Dominion of Canada on Boundary Waters, Washington, 1909

Done at Washington 11 January 1909

*Entered into force 5 May 1910**

Primary source citation: TS 548, 12 Bevans 319

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM FOR THE DOMINION OF CANADA ON BOUNDARY WATERS

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, have resolved to conclude a treaty in furtherance of these ends, and for that purpose have appointed as their respective plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable James Bryce, O.M., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

Preliminary Article

For the purposes of this treaty boundary waters are defined as the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary.

* The third, fourth, and fifth paragraphs of Article V were terminated on 10 October 1950.

ARTICLE I

The High Contracting Parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

It is further agreed that so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the High Contracting Parties may adopt rules and regulations governing the use of such canals within its own territory and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the High Contracting Parties and the ships, vessels, and boats of both of the High Contracting Parties, and they shall be placed on terms of equality in the use thereof.

ARTICLE II

Each of the High Contracting Parties reserves to itself or to the several State Governments on the one side and the Dominion or Provincial Governments on the other as the case may be, subject to any treaty provisions now existing with respect thereto, the exclusive jurisdiction and control over the use and diversion, whether temporary or permanent, of all waters on its own side of the line which in their natural channels would flow across the boundary or into boundary waters; but it is agreed that any interference with or diversion from their natural channel of such waters on either side of the boundary, resulting in any injury on the other side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury took place in the country where such diversion or interference occurs; but this provision shall not apply to cases already existing or to cases expressly covered by special agreement between the parties hereto.

It is understood, however, that neither of the High Contracting Parties intends by the foregoing provision to surrender any right, which it may have, to object to any interference with or diversions of waters on the other side of the boundary the effect of which would be productive of material injury to the navigation interests on its own side of the boundary.

ARTICLE III

It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States on the one side and the Government of the Dominion of Canada on the other, to undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbors, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

ARTICLE IV

The High Contracting Parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary unless the construction or maintenance thereof is approved by the aforesaid International Joint Commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

ARTICLE V

The High Contracting Parties agree that it is expedient to limit the diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected. It is the desire of both Parties to accomplish this object with the least possible injury to investments which have already been made in the construction of power plants on the United States side of the river under grants of authority from the State of New York, and on the Canadian side of the river under licenses authorized by the Dominion of Canada and the Province of Ontario.

So long as this treaty shall remain in force, no diversion of the waters of the Niagara River above the Falls from the natural course and stream thereof shall be permitted except for the purposes and to the extent hereinafter provided.

The United States may authorize and permit the diversion within the State of New York of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of twenty thousand cubic feet of water per second.

The United Kingdom, by the Dominion of Canada, or the Province of Ontario, may authorize and permit the diversion within the Province of Ontario of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of thirty-six thousand cubic feet of water per second.

The prohibitions of this article shall not apply to the diversions of water for sanitary or domestic purposes, or for the service of canals for the purposes of navigation.

ARTICLE VI

The High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow.

The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article II of this treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission.

ARTICLE VII

The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada composed of six commissioners, three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

ARTICLE VIII

This International Joint Commission shall have jurisdiction over and shall pass upon all cases involving the use or obstruction or diversion of the waters with respect to which under Articles III and IV of this treaty the approval of this Commission is required, and in passing upon such cases the Commission shall be governed by the following rules or principles which are adopted by the High Contracting Parties for this purpose:

The High Contracting Parties shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters.

The following order of precedence shall be observed among the various uses enumerated hereinafter for these waters, and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

(1) Uses for domestic and sanitary purposes;

(2) Uses for navigation, including the service of canals for the purposes of navigation;

(3) Uses for power and for irrigation purposes.

The foregoing provisions shall not apply to or disturb any existing uses of boundary waters on either side of the boundary.

The requirement for an equal division may in the discretion of the Commission be suspended in cases of temporary diversions along boundary waters at points where such equal division can not be made advantageously on account of local conditions, and where such diversion does not diminish elsewhere the amount available for use on the other side.

The Commission in its discretion may make its approval in any case conditional upon the construction of remedial or protective works to compensate so far as possible for the particular use or diversion proposed, and in such cases may require that suitable and adequate provision, approved by the Commission, be made for the protection and indemnity against injury of any interests on either side of the boundary.

In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters or in waters flowing therefrom or in waters below the boundary in rivers flowing across the boundary, the Commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.

The majority of the Commissioners shall have power to render a decision. In case the Commission is evenly divided upon any question or matter presented to it for decision, separate reports shall be made by the Commissioners on each side to their own Government. The High Contracting Parties shall thereupon endeavor to agree upon an adjustment of the question or matter of difference, and if an agreement is reached between them, it shall be reduced to writing in the form of a protocol, and shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

ARTICLE IX

The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The International Joint Commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.

The Commission shall make a joint report to both Governments in all cases in which all or a majority of the Commissioners agree, and in case of disagreement the minority may make a joint report to both Governments, or separate reports to their respective Governments.

In case the Commission is evenly divided upon any question or matter referred to it for report, separate reports shall be made by the Commissioners on each side to their own Government.

ARTICLE X

Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor General in Council. In each case so referred, the said Commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague Convention for the pacific settlement of international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

ARTICLE XI

A duplicate original of all decisions rendered and joint reports made by the Commission shall be transmitted to and filed with the Secretary of State of the United States and the Governor General of the Dominion of Canada, and to them shall be addressed all communications of the Commission.

ARTICLE XII

The International Joint Commission shall meet and organize at Washington promptly after the members thereof are appointed, and when organized the Commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Each Commissioner, upon the first joint meeting of the Commission after his appointment, shall, before proceeding with the work of the Commission, make and subscribe a solemn declaration in writing that he will faithfully and impartially perform the duties imposed upon him under this treaty, and such declaration shall be entered on the records of the proceedings of the Commission.

The United States and Canadian sections of the Commission may each appoint a secretary, and these shall act as joint secretaries of the Commission at its joint sessions, and the Commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the Commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the Commission, incurred by it, shall be paid in equal moieties by the High Contracting Parties.

The Commission shall have power to administer oaths to witnesses, and to take evidence on oath whenever deemed necessary in any proceeding, or inquiry, or matter within its jurisdiction under this treaty, and all parties interested therein shall be given convenient opportunity to be heard, and the High Contracting Parties agree to adopt such legislation as may be appropriate and necessary to give the Commission the powers above mentioned on each side of the boundary, and to provide for the issue of subpoenas and for compelling the attendance of witnesses in proceedings before the Commission. The Commission may adopt such rules of procedure as shall be in accordance with justice and equity, and may make such examination in person and through agents or employees as may be deemed advisable.

ARTICLE XIII

In all cases where special agreements between the High Contracting Parties hereto are referred to in the foregoing articles, such agreements are understood and intended to include not only direct agreements between the High Contracting Parties, but also any mutual arrangement between the United States and the Dominion of Canada expressed by concurrent or reciprocal legislation on the part of Congress and the parliament of the Dominion.

ARTICLE XIV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty. The ratifications shall be exchanged at Washington as soon as possible and the treaty shall take effect on the date of the exchange of its ratifications. It shall remain in force for five years, dating from the day of exchange of ratifications, and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other.

IN FAITH WHEREOF the respective plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

DONE at Washington the 11th day of January, in the year of our Lord one thousand nine hundred and nine.

ELIHU ROOT
[Seal]
JAMES BRYCE
[Seal]

BILATERAL

CHILE

ENVIRONMENT AND NATURAL RESOURCES

Agreement Between the Government of the United States of America and the Government of the Republic of Chile Concerning the Establishment of an Enterprise for the Americas Environmental Fund and Environmental Board, Santiago, 1992

Done at Santiago 27 February 1992

Entered into force 27 February 1992

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF CHILE CONCERNING THE ESTABLISHMENT OF AN ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUND AND ENVIRONMENTAL BOARD

The Government of the United States of America and the Government of the Republic of Chile ("the Parties"),

Seeking to implement the Enterprise for the Americas Initiative,

Desiring to enhance the friendship and spirit of cooperation between these two countries,

Desiring to promote environmentally sound and sustainable economic development,

Recognizing that environmental protection, conservation, and sustainable natural resource management are key elements in building an ecologically and economically sound future for all countries in the Western Hemisphere,

Wishing to follow upon the Agreement between the Parties Regarding the Reduction of Certain Debts Owed to the United States Government and its Agencies (the "Debt Reduction Agreement"), of June 27, 1991, which reduces certain debt owed by the Government of the Republic of Chile to the Government of the United States of America, through the exchange of old obligations for a new obligation ("New EAI Obligation"),

Have agreed as follows:

I
PURPOSE

The purpose of this Agreement is to provide for the establishment of an Enterprise for the Americas Environmental Fund and an Enterprise for the Americas Environmental Board in order to promote activities designed to preserve, protect, or manage the natural and biological resources of Chile in an environmentally sound and sustainable manner.

II
ENVIRONMENTAL FUND

1. The Government of Chile shall establish an Environmental Fund (the "Fund") in accordance with the laws of Chile. The Fund shall be administered by the Board established pursuant to Article III. Any monies deposited in the Fund, or grants made from the Fund, will be free from any taxation, levies, fees or other charges imposed by the Parties to the extent permissible by law.

2. Subject to Article IV of the Debt Reduction Agreement, the Government of Chile shall ensure that the entire amount of interest owed on the New EAI Obligation falling due on or after the date of entry into force of this Agreement is deposited in local currency in the Fund in accordance with the payment schedule at Appendix B of the Debt Reduction Agreement.

3. A. Upon entry into force of this Agreement, the Government of Chile shall establish an escrow account pursuant to Chilean law. Notwithstanding paragraph 2 above, the Government of Chile shall deposit into such escrow account interest owed on the New EAI Obligation falling due on or after the date of entry into force of this Agreement but prior to the establishment of the Fund.

B. Funds in the escrow account shall earn interest at a rate not less than the best obtainable rate of interest for Chilean government accounts. Upon establishment of the Fund, the Government of Chile shall promptly transfer all funds in the escrow account, including any interest earned on such funds, to the Fund.

C. If for any reason the Fund is not established consistent with this Agreement within twelve months of the date of entry into force of this Agreement, the escrow account shall be terminated and any funds in the escrow account, including any interest earned on such funds, shall be converted into U.S. dollars and deposited in the appropriate U.S. Government account.

D. Upon termination of the escrow account pursuant to paragraph C above, this Agreement shall terminate immediately, and all interest payments falling due on the New EAI Obligation shall be made pursuant to Article III.2 of the Debt Reduction Agreement until such time as a subsequent environmental framework agreement may be entered into by the Parties.

4. Any interest which becomes due on the New EAI Obligation prior to the date of entry into force of this Agreement, or subsequent to the termination of this Agreement pursuant to Article II or Article IX, shall not be deposited in the Fund, but shall be deposited in U.S. dollars in the appropriate U.S. Government account.

5. Monies from other sources, including public and private creditors of the Government of Chile, in the form of local currency or other currencies, may also be deposited into the Fund. Once deposited, these monies shall be subject to the requirements and conditions agreed to between the donor(s) of such monies and the Parties, so long as these terms are consistent with this Agreement.

6. Deposits in the Fund shall be the property of the Government of Chile until they are disbursed.

7. The Government of Chile, in consultation with the Government of the United States of America, shall appoint a fiscal agent for the Fund, who shall be charged with the investment and disbursement of the monies in the Fund. The fiscal agent shall ensure that the Board is promptly notified in writing when the Government of Chile makes a deposit in the Fund pursuant to paragraph 2 above.

8. Deposits in the Fund shall be prudently invested by the fiscal agent until disbursed. Returns on investment shall be deposited by the fiscal agent in the Fund and remain there until disbursed, pursuant to the procedures set forth in Article VI.

9. The fiscal agent shall make every effort to ensure that such investments yield a positive real interest rate as defined in terms of the Unidad de Fomento price index. To the extent that prudent investment practices cannot accomplish this goal, the Government of Chile shall take steps to maintain the value of the deposits in the Fund in terms of the Unidad de Fomento price index, or such other price index as may be mutually agreed by the Parties.

III
ESTABLISHMENT AND COMPOSITION OF THE BOARD

1. The Government of Chile, taking into account the views of local nongovernmental organizations, shall ensure that an Environmental Board (the "Board") is established in accordance with Chilean law.

2. The Board shall consist of eleven members. It shall be composed of:

A. one representative appointed by the Government of the United States of America;

B. Four representatives appointed by the Government of Chile;

C. Six representatives from a broad range of Chilean environmental and local community development nongovernmental organizations, and scientific and academic bodies, selected in consultation with these groups. These representatives shall be approved jointly by the Parties, and shall constitute a majority of the members of the Board.

3. Board members representing each Party shall serve at the discretion of that Party. Board members described in paragraph 2.C above shall be appointed by the Government of Chile, shall serve for a period of three years, and may be removed only to the extent provided by Chilean law; up to two consecutive terms shall be permitted.

4. A Board member may not participate in the process of approval of any proposed grant which, if approved, would result in a financial benefit for the member, any member of his family, or an organization in which the member or any member of his family has a direct financial interest. Further, a Board member may not participate in the process of approval of any proposed grant to an organization which the member represents.

IV
FUNCTIONS OF THE ENVIRONMENTAL BOARD

1. The Board shall be responsible for the administration and oversight of grant activities funded pursuant to this Agreement. The Government of Chile, in consultation with the Government of the United States of America, shall ensure that the Board has the necessary authority to carry out the functions assigned to it in this Agreement.

2. The Board shall:

A. Issue and widely disseminate a public announcement of the call for grant proposals which states the criteria for the selection of projects eligible for grant assistance, and the qualifications of organizations eligible to submit proposals for grant awards.

B. Receive proposals for grant assistance from entities described in Article V.2 of this Agreement, and make grants to such entities for the activities enumerated in Article V.1 of this Agreement.

C. Publicly announce grants awarded by the Board.

D. Be responsible for the management of the program and oversight of grant activities funded from the resources of the Fund.

E. Present to the Parties annually, by dates to be agreed upon in the Operating Procedures of the Board:

(1) a proposed annual program;

(2) an annual report on the activities funded by the Board during the previous program year, which shall include on-going, multi-year projects;

(3) an annual audit by an independent auditor, covering the previous program year.

3. Proposed grants from the Fund with life-of-project total in excess of $100,000 shall be presented by the Board to both Parties. If either Party disapproves of such a grant, that Party must notify the Board of its disapproval, in which case the Board may not award the proposed grant. Proposed grants not disapproved by either Party within 45 days of presentation to the Parties' members on the Board shall no longer be subject to either Party's disapproval.

4. The Board shall adopt by majority vote procedures for its operation, provided that the majority includes the affirmative votes of the representatives of the Parties appointed in accordance with Article III.2.A and B. No disbursements pursuant to Article VI may be made prior to the adoption of these procedures. The Board shall meet at least once every four months.

5. The Board shall ensure that performance under grants and other agreements is monitored, to determine whether time schedules and other performance goals are being achieved. Grant agreements shall provide for periodic progress reports from the grantee to the Board. Such reports will review all project components essential to the successful achievement of the goals of the project. Such reports should be received from the grantee at least annually.

6. The Board may draw sums from the Fund necessary to pay for the Board's administrative expenses, including the fiscal audit required pursuant to this Article. These sums may not exceed 10% per annum of the annual payments into the Fund made by the Government of Chile pursuant to the Debt Reduction Agreement, except as the Parties may otherwise agree by exchange of notes.

7. The Board's organizing statutes, written policies, operating procedures, minutes of meetings, and reports shall be retained in the files of the Board. A permanent record shall also be maintained on the decision criteria used by the Board in the award of grants. The above records shall be open for public inspection.

V
ELIGIBILITY OF PROJECTS AND ORGANIZATIONS

1. Activities that may be funded under this Agreement are:

(i) restoration, protection, or sustainable use of the world's oceans and atmosphere;

(ii) restoration, protection, or sustainable use of diverse animal and plant species;

(iii) establishment, restoration, protection, and maintenance of parks and reserves;

(iv) development and implementation of sound systems of natural resource management;

(v) development and support of local conservation programs;

(vi) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(vii) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

(viii) design and implementation of sound programs of land and ecosystem management;

(ix) promotion of regenerative approaches in farming, forestry, fishing, and watershed management;

(x) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(xi) local community initiatives that promote conservation and sustainable use of the environment.

2. Organizations which shall be eligible for grants from the Fund are:

A. Chilean nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

B. other appropriate Chilean nongovernmental entities;

C. in exceptional circumstances, the Government of Chile.

3. Grants shall be awarded to organizations strictly on the merits of proposals presented to the Board, without regard to whether the proposing organization is represented on the Board.

4. The Board shall give priority to projects that are managed by nongovernmental organizations and that involve local communities in their planning and execution.

VI
DISBURSEMENT OF FUNDS

1. The Board may order the disbursement of grants from the Fund to organizations eligible under Article V.2 when it approves a proposal eligible under Article V.1. All disbursements shall be made pursuant to a Project Grant Agreement.

2. The fiscal agent of the Fund appointed pursuant to Article II.7 shall make disbursements promptly to designated recipients in accordance with requests received from the Board. In no case shall more than 14 working days elapse between receipt of a request for disbursement and actual disbursement of funds.

VII
CONSULTATION AND REVIEW

1. Upon the request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.

2. Either Party may request consultations with the Board and the other Party after reviewing the Board's reports and audits presented pursuant to Article IV. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.

3. The Parties will meet to review the operation of this Agreement three years from the date of its entry into force.

VIII
SUSPENSION OF DISBURSEMENTS

1. If at any time either of the Parties determines that issues requiring consultation under Article VII have not been satisfactorily resolved, such Party may notify the other in writing.

2. Upon receipt of such written notification from the Government of the United States of America, the Government of Chile shall immediately suspend disbursements under Article VI of this Agreement.

3. Upon providing such written notification to the Government of the United States of America, the Government of Chile may immediately suspend disbursements under Article VI of this Agreement.

4. A. Suspension of disbursements shall mean that no further approval of grants will be undertaken until the Parties agree to resume such activity.

B. Disbursements pursuant to already approved grant agreements shall proceed unless the specific grant agreement is suspended pursuant to that grant agreement.

C. Notwithstanding subparagraph B above, should the Parties jointly certify in writing to the Board that the manner in which the grant agreement was awarded was inconsistent with Article III.4 or the Operating Procedures of the Board, the Parties may require the Board to suspend disbursements pursuant to that grant agreement.

5. If the Government of Chile fails to suspend disbursements under Article VI of the Agreement within 7 days of receiving written notification from the Government of the United States ("the notification period"), the Government of the United States may, at its discretion, require that interest payments on the New EAI Obligation referred to in Article II of this Agreement, falling due subsequent to the notification period, be made in U.S. dollars and be deposited in the appropriate U.S. Government account.

IX
TERMINATION

1. Either Party may terminate this Agreement upon six months written notice to the other Party.

2. No disbursements from the Fund shall occur after a Party has given notice to terminate this Agreement, unless the Parties agree to permit disbursements. The termination of this Agreement shall not prevent expenditures of funds disbursed before notice to terminate is given.

3. Upon termination of this Agreement, the disposition of amounts remaining in the Fund shall be subject to a formula to be mutually agreed upon by the Parties. Such a formula shall provide that those funds which derive from interest payments on the New EAI Obligation will, at the discretion of the United States Government, be converted into United States dollars and deposited into the appropriate United States Government account.

X
ENTRY INTO FORCE, AMENDMENT AND OTHER ARRANGEMENTS

1. This Agreement shall enter into force upon signature and shall remain in force unless terminated by the Parties in accordance with Article II or Article IX.

2. This Agreement may be amended by written agreement of the Parties.

3. Nothing in this Agreement shall prejudice other arrangements between the Parties concerning debt reduction or cooperation and assistance for environmental or conservation purposes.

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

Done at Santiago, this twenty-seventh day of February, 1992, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Curtis Kamman

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE:

[Signature]

BILATERAL

CHILE

MARINE SCIENCE AND EXPLORATION

Agreement Between the Hydrographic Institute of the Navy of Chile and the National Science Foundation Regarding the Marine Scientific Research Activities of the R/V Hero, Santiago, 1983

Done at Santiago 1 June 1983

Entered into force 1 June 1983

Primary source citation: TIAS 10825

AGREEMENT BETWEEN THE HYDROGRAPHIC INSTITUTE OF THE NAVY OF CHILE AND THE NATIONAL SCIENCE FOUNDATION REGARDING THE MARINE SCIENTIFIC RESEARCH ACTIVITIES OF THE R/V HERO

In Santiago on June 1, 1983, between the Hydrographic Institute of the Navy (IHA), represented by its Director, Captain Eduardo Barison Roberts; and on the other part, the National Science Foundation (NSF), represented by Mr. Wade H. B. Matthews, Charge d'Affaires of the Embassy of the United States of America at Santiago, Chile, the following has been agreed:

FIRST. The Government of the United States and the Government of Chile agree that the National Science Foundation (NSF) and the Hydrographic Institute (IHA) shall cooperate in the conduct of scientific and technological research by the R/V HERO in the 200 nautical-mile zone off the coast of Chile.

SECOND. The NSF will notify the IHA of proposed research through diplomatic channels six months in advance of the voyage. A copy of the notice will be sent simultaneously to the IHA. A detailed request will be submitted to the IHA in the manner detailed in Article 2 of Supreme Decree No. 711 of August 22, 1975, at least sixty days in advance of the voyage. This request will include plans for the involvement of Chilean scientists, as required in Supreme Decree No. 711. The form contained in Annex I of D.L. 711 will be completed and a navigation track of the scientific activities will be provided.

THIRD. IHA will forward the request to the Office of the Commander in Chief of the Navy for review. The NSF will be notified of approval, modification, or disapproval action through diplomatic channels.

FOURTH. All data and specimens collected, including film, fossils, minerals, and published materials must be shared between the NSF and IHA. The removal from the country of any material that has been collected, filmed, or recorded, and any minerals or fossil matter collected during research in Chilean canals or territorial waters, authorized in conformity with this agreement, may take place only with prior authorization from the IHA. The IHA shall inform the NSF of the terms of such authorization prior to the conduct of the research. The latter may request the advice of specialized agencies, but in any case the IHA may retain whatever research-related materials, data, or information it considers appropriate.

FIFTH. NSF will, whenever possible include at least two Chilean scientists in each cruise in addition to the Chilean pilots or observers required by Chilean law.

SIXTH. The two Governments shall endeavor to resolve any dispute arising between them concerning the interpretation or application of this agreement by appropriate means.

SEVENTH. This agreement does not affect or prejudice the obligations of the two Governments under other international agreements, the Antarctic Treaty, or the views of either Government concerning the Law of the Sea.

EIGHTH. This agreement shall enter into force upon signature and shall remain in force for two-year periods, unless either party notifies the other in writing of its intention to terminate the agreement at least six months prior to the expiration of a two-year period, in which case it shall terminate at the end of this period.

NINTH. The heads of scientific expeditions must submit a preliminary report to the IHA at the end of the cruise and a final report of the work performed to date no later than ten months after the date of their departure from Chile.

For the Hydrographic Institute
of the Navy of Chile

Captain Eduardo Barison Roberts
Director

For the National Science
Foundation of the United
States of America

Mr. Wade H. B. Matthews
Charge d'Affaires of the
Embassy of the United
States of America

BILATERAL

CHINA, PEOPLE'S REPUBLIC OF

FISHERIES

Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning Fisheries off the Coasts of the United States, Washington, 1985

Done at Washington 23 July 1985

Entered into force 19 November 1985

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the People's Republic of China

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Recognizing that the United States has established by Presidential Proclamation of March 10, 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and

procedures under which fishing may be conducted by nationals and vessels of the People's Republic of China for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means all fish within the exclusive economic zone of the United States (except highly migratory species of tuna), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "fishery" means

   a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b. any fishing for such stocks;

4. "exclusive economic zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

   a. the catching, taking or harvesting of fish;

   b. the attempted catching, taking or harvesting of fish;

   c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d. any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

   a. fishing; or

   b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for foreign fishing vessels to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to foreign fishing vessels in accordance with United States law.

2. The Government of the United States shall determine each year, subject to such adjustments as may be appropriate and in accordance with United States law;

a. the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d. the allocation of such portion that may be made available to qualifying fishing vessels of the People's Republic of China.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include: inter alia:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed; and

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Government of the People's Republic of China of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to vessels of each country, including the People's Republic of China, the Government of the United States will decide on the basis of the factors identified in United States law including:

1. whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of both United States fish and fishery products particularly fish and fishery products for which the foreign nation has requested an allocation;

2. whether, and to what extent such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

3. whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nations require the fish harvested from the exclusive economic zone for their domestic consumption;

5. whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

7. whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

8. such other matters as the United States deems appropriate.

ARTICLE V

The Government of the People's Republic of China shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as reducing or removing impediments to the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the People's Republic of China, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

The Government of the People's Republic of China shall take all necessary measures to ensure:

1. that nationals and vessels of the People's Republic of China refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VII

The Government of the People's Republic of China may submit an application to the Government of the United States for a permit for each fishing vessel of the People's Republic of China that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with the Annex I, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of fees for such permits and for fishing in the United States exclusive economic zone. The Government of the People's Republic of China undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

The Government of the People's Republic of China shall ensure that nationals and vessels of the People's Republic of China refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE IX

The Government of the People's Republic of China shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of the People's Republic of China is prominently displayed in the wheelhouse of such vessel;

2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of the People's Republic of China for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5. all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and appropriate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of the People's Republic of China as determined by applicable United States procedures.

ARTICLE X

The Government of the People's Republic of China shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of the People's Republic of China that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of the People's Republic of China or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of the People's Republic of China by the authorities of the Government of the United States, notification shall be given within four days through diplomatic channels informing the Government of the People's Republic of China of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The Governments of the United States and the People's Republic of China shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Governments shall cooperate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of the People's Republic of China in the United States exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. The Government of the People's Republic of China shall cooperate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States. The Government of the People's Republic of China shall similarly provide such economic data as may be requested by the United States.

ARTICLE XIII

The Government of the United States and the Government of the People's Republic of China shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including cooperation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE XIV

The Government of the United States undertakes to authorize fisheries research vessels and fishing vessels of the People's Republic of China allowed to fish pursuant to this Agreement to enter designated ports in accordance with United States laws and regulations referred to in Annex II, which constitutes an integral part of this Agreement.

ARTICLE XV

Should the Government of the United States indicate to the Government of the People's Republic of China that nationals and vessels of the United States wish to engage in fishing in the fishery zone adjacent to the territorial sea of the People's Republic of China, or its equivalent, the Government of the People's Republic of China will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XVI

Nothing contained in the present Agreement shall prejudice the views of either Government with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

ARTICLE XVII

1. This Agreement, together with the Agreed Minutes, shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Governments, and remain in force until July 1, 1990, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party six months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Governments two years after its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington this 23rd day of July, 1985, in duplicate, in the English and Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

E. E. Wolfe

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

[Signature]

ANNEX I

Application and Permit Procedures

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the People's Republic of China to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. The Government of the People's Republic of China may submit an application to the competent authorities of the United States for each fishing vessel of the People's Republic of China that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify

   a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

   b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

   c. a specification of each fishery in which each vessel wishes to fish;

   d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

   e. the ocean area in which, and the season or period during which, such fishing would be conducted; and

   f. such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and shall inform the Government of the People's Republic of China of such determinations. The Government of the United States reserves the right not to approve applications.

4. The Government of the People's Republic of China shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Government of the People's Republic of China and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of the People's Republic of China, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Government of the People's Republic of China notifies the Government of the United States of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and the Government of the People's Republic of China may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

ANNEX II

Procedures Relating to United States Port Calls

Article XIV of the Agreement provides for the entry of certain vessels of the People's Republic of China into designated ports of the United States in accordance with United States law for certain purposes. This Annex designates the ports and purposes authorized and describes procedures which govern such port entries.

1. The following types of vessels may enter the ports specified following a notice received at least four working days in advance of the entry: Fisheries research vessels, fishing vessels participating in joint ventures involving over-the-side purchases of fish from U.S. fishing vessels, and other fishing vessels (including support vessels) of the People's Republic of China which have been issued permits pursuant to the Agreement are authorized to enter the ports of Kodiak, Dutch Harbor, Seattle, Seward, and Nome.

2. Vessels referred to in paragraph 1 above may enter the ports referred to for a period not exceeding seven calendar days for the purpose of scientific planning and discussion, to exchange scientific data, equipment and personnel, and to replenish ships' stores or fresh water, obtain bunkers, provide rest for or make changes in the vessels' personnel, obtain repairs, or obtain other services normally provided in such ports, and, as necessary, to receive permits; provided, however, that in exceptional cases involving force majeure vessels may remain in port for longer periods required to effect repairs necessary for seaworthiness and operational reliability without which the voyage could not be continued. All such entries into port shall be in accordance with applicable rules and regulations of the United States and of state and local authorities in the area wherein they have jurisdiction.

3. The notice referred to in paragraph 1 shall be made by an agent for the vessel to the United States Coast Guard (GWPE) in accordance with standard procedures using telex (892427), teletype communication "TWX" (710-822-1959), or Western Union. With respect to vessels desiring to enter the United States ports under this Agreement, the United States reserves the right to require such vessels to submit to inspection by authorized personnel of the United States Coast Guard or other appropriate Federal agencies.

4. The Government of the United States of America at the consular sections of its diplomatic missions will accept crew lists in application for visas to be issued in accordance with existing visa regulations and reciprocity agreements. Such a crew list shall be submitted prior to the entry of a vessel into a port of the United States in accordance with existing visa regulations and reciprocity agreements.

5. In cases where a seaman of the People's Republic of China is evacuated from his vessel to the United States for the purpose of emergency medical treatment, authorities of the People's Republic of China shall ensure that the seaman departs from the United States within 14 days after his release from the hospital. During the period that the seaman is in the United States, representatives of the People's Republic of China will be responsible for him.

6. The exchange of crews of vessels of the People's Republic of China in the specified ports shall be permitted subject to submission to the consular section of U.S. diplomatic missions of applications for individual transit visas and crewman visas for replacement crewman. Applications shall be submitted in advance of the date of the arrival of the crewmen in the United States in accordance with existing visa regulations and reciprocity agreements, and shall indicate the names, dates and places of birth, the purpose of the visit, the vessel to which assigned, and the

modes and dates of arrival of all replacement crewmen. Individual passports or seamen's documents shall accompany each application. Subject to United States laws and regulations, the United States mission will affix transit and crewmen visas to each passport or seaman's document before it is returned. In addition to the requirements above, the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen who shall be admitted to the United States under the responsibility of the People's Republic of China representatives for repatriation to the People's Republic of China and the dates and manner of their departure from the United States shall be submitted to the Department of State in accordance with existing visa regulations and reciprocity agreements.

7. In addition, special provisions shall be made as necessary regarding the entry into other ports of the United States of fisheries research vessels of the People's Republic of China which are engaged in a mutually agreed research program in accordance with terms of Article XII of the Agreement. Requests for such entry of fisheries research vessels should be forwarded to the United States Department of State, Washington, D.C. through diplomatic channels.

8. The provisions of this Annex may be amended by agreement through an exchange of notes between the two Governments.

AGREED MINUTES

1. With respect to Article IV of the Agreement, the Representative of the People's Republic of China emphasized the importance of the Chinese fishing industry to the Chinese economy, and urged that the Government of the United States give due consideration to the need for the continuation of stable fishing operations by fishing vessels of the People's Republic of China in the United States Exclusive Economic Zone.

The Representative of the United States of America took note of this statement and indicated that it would be taken into account in accordance with United States laws and regulations.

The Representatives of the Government of the United States of America and the People's Republic of China both acknowledged the advantage to both countries' respective fishing industries of providing continuity and stability of cooperation in fishery relations, including fisheries development, fisheries trade and fishery allocations.

2. With respect to Article IX of the Agreement, the Representative of the People's Republic of China requested that the Government of the United States ensure the prompt and appropriate compensation of Chinese nationals and vessels for any loss, or damage to, Chinese fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of the United States as determined by applicable United States procedures.

The Representative of the United States of America stated that, under the legal system of the United States, the United States Government could not ensure the payment of such compensation. Nevertheless, the Representative of the United States of America stated that the United States Government could assure the Representative of the People's Republic of China that Chinese nationals would have full and equal access to the United States judicial and administrative system under the laws and regulations of the United States for the resolution of any such claims which might arise under the Agreement.

3. With respect to Article XI of the Agreement, the Representative of the People's Republic of China requested protection of Chinese nationals and vessels, that are conducting fishing operations under the Agreement in the United States Exclusive Economic Zone, in accordance with United States laws and regulations and international law. The Representative of the United States of America gave assurances that nationals and vessels would receive the same treatment as the nationals and vessels of any other foreign nation in accordance with United States laws and regulations and under customary international law.

4. Annex II, "Procedures Relating to United States Port Calls" is not intended to apply to the entry of vessels described therein into U.S. territorial waters in instances of force majeure. In cases involving acute medical emergencies, procedures will be coordinated on a case by case basis in a humanitarian manner.

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Embassy of the United States of America
Beijing

November 19, 1985

No. 393

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to refer to the agreement between the Government of the United States of America and the Government of the People's Republic of China concerning fisheries off the coasts of the United States of America, signed at Washington on July 23, 1985 and to the Ministry's note number 324, delivered August 23, 1985, which reads as follows:

Quote: The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the United States of America in China and has the honour to inform the latter as follows: The Government of the People's Republic of China has completed legal procedures regarding the agreement between the Government of the United States of America and the Government of the People's Republic of China concerning fisheries off the coasts of the United States and the agreed minutes signed in Washington on July 23, 1985. According to the provisions of Article XVII, this agreement will come into force after the notification by the U.S. side to the Chinese side of the completion of its legal procedures. The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy the assurances of its highest consideration. Unquote.

The Embassy wishes to inform the Ministry that the Government of the United States of America has completed the internal procedures necessary to allow the agreement to be brought into force for the United States. The Embassy agrees that in accordance with the Ministry's Note 324 and Article XVII paragraph (1) of the agreement that the agreement between our two governments concerning fisheries off the coasts of the United States of America should enter into force on the date of this note.

The Embassy takes this opportunity to renew to the Ministry of Foreign Affairs assurances of its highest consideration.

[Initials]
[Seal]

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(TRANSLATION)

LS NO. 118337
VC
Chinese

(85) Note No. 324

Embassy of the United States of America
China

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments and has the honor to inform the Embassy of the United States of America in China the following:

The Government of the People's Republic of China has completed the legal procedures for the "agreement Between the Government of the People's Republic of China and the Government of the United States of America Concerning Fisheries Off the Coasts of the United States" and the Minutes of Consultations, signed in Washington, D.C. on July 23, 1985. According to Article 17 of the Agreement, the Agreement, together with the Minutes of Consultations, shall enter into force on the date following the completion of legal procedures by the US Party and notification thereof to the Chinese Party.

Accept, Sir, the assurances of our highest consideration.

[Seal]

August 23, 1985
Beijing

Amendment to the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning Fisheries off the Coasts of the United States, Washington, 1987

Done at Washington 24 July 1987 and 6 August 1987

Entered into force 6 August 1987

Primary source citation: Copy of text provided by the U.S. Department of State

The Department of State
The United States of America
Washington, D.C. 20250

066/87

The Embassy of the People's Republic of China presents its compliments to the Department of State, the United States of America.

The Embassy of the People's Republic of China hereby notifies the U.S. Department of State that, as permit issued by your government, Chinese fishing vessels shall conduct fishing in Pacific Ocean area off the coasts of Oregon. Therefore those fishing vessels shall need to enter the ports of ABERDEEN, ASTORIA and COOS BAY for the purpose of providing rest for or making changes in vessel's personnel, replenishing ship's stores or fresh water, obtaining bunkers, repairs or other services normally provided in such ports, etc.

The Embassy of the People's Republic of China proposes to have the above-mentioned three ports added to Annex II of the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES. It is proposed that, if your government agrees to the proposed amendment to the Annex II of such Agreement, this note and the reply of U.S. Department of State shall constitute the Amendment to the Annex II of the Agreement.

The Embassy of the People's Republic of China avails itself of this opportunity to renew to you the assurance of his highest consideration.

[Seal]

Department of State
Washington

August 6, 1987.

The Department of State presents its compliments to the Embassy of the People's Republic of China and refers to its Note No. 066/87 of July 28, 1987.

The Department of State agrees with the proposal of the Embassy of the People's Republic of China to add the ports of Aberdeen in Washington, and Astoria and Coos Bay in Oregon to Annex II, paragraph 1, of the Agreement between the Government of the United States of America and the Government of the People's Republic of China concerning Fisheries off the Coasts of the United States, signed at Washington July 23, 1985. In accordance with the provisions of Annex II, paragraph 8, this note and the Embassy's Note No. 066/87 of July 28, 1987, shall constitute an Amendment to Annex II, paragraph 1 of the Agreement and shall enter into force on the date of this note.

[Initials]

Amendment to the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning Fisheries off the Coasts of the United States, Washington, 1990

Done at Washington 14 and 22 March 1990

Entered into force 8 August 1990, retroactive to 1 July 1990

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

March 14, 1990

His Excellency
Zhu Qizhen,
Ambassador of the People's Republic of China.

Excellency:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the People's Republic of China Concerning Fisheries off the Coasts of the United States of America, signed at Washington on July 23, 1985, as amended, (hereinafter referred to as "the Agreement"). I have further the honor to propose that, in accordance with the provisions of Article XVII, the Agreement be extended until July 1, 1992, and further amended as follows:

1. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgement of the United States, vessels or nationals of the People's Republic of China are harvesting United States origin anadromous species at unacceptable levels, or whether the People's Republic of China is failing to take sufficient action to benefit the conservation and development of United States fisheries."

2. In Annex II, paragraph 1, replace the term "four working days" with the term "twenty-four hours".

3. In Annex II, paragraph 1, replace the term "the ports of Kodiak, Dutch Harbor, Seattle, Seward, Nome, Coos Bay, Aberdeen and Astoria" with the term "any U.S. port except Portsmouth, New Hampshire (including Kittery, Maine and Dover, New Hampshire on the Piscataqua River); New London and Groton, Connecticut; Hampton Roads, Virginia (including Norfolk, Newport News, Jamestown, Yorktown and Portsmouth, Virginia

and access to the James River); Charleston, South Carolina; Kings Bay, Georgia; Port Canaveral, Florida; Panama City, Florida; Pensacola, Florida; Port St. Joe, Florida; San Diego, California; Port Hueneme, California; and Honolulu, Hawaii."

4. In Annex II, paragraph 3, replace the term "United States Coast Guard (GWPE) in accordance with standard procedures using telex (892427), teletype communication 'TWX' (710-822-1959), or Western Union" with the term "local United States Coast Guard Captain of the Port."

I have further the honor to propose that if the said proposal is acceptable to the Government of the People's Republic of China, this Note and your Excellency's Note in reply indicating such acceptance shall be regarded as constituting an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

Edward E. Wolfe

March 22, 1990

His Excellency
James A. Baker III,
Secretary of State,
Washington, D.C.

No. 035/90

Excellency:

I have the honor to acknowledge the receipt of your Note of March 14, 1990, which reads as follows:

"I have the honor to refer to the Agreement between the Government of United States of America and the Government of the People's Republic of China Concerning Fisheries off the Coasts of the United States of America, signed at Washington on July 23, 1985, as amended, (hereinafter referred to as "the Agreement"). I have further the honor to propose that, in accordance with the provisions of Article XVII, the Agreement be extended until July 1, 1992, and further amended as follows:

1. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgement of the United States, vessels or nationals of the People's Republic of China are harvesting United States origin anadromous species at unacceptable levels, or whether the People's Republic of China is failing to take sufficient action to benefit the conservation and development of United States fisheries."

2. In Annex II, paragraph 1, replace the term "four working days" with the term "twenty-four hours".

3. In Annex II, paragraph 1, replace the term "the ports of Kodiak, Dutch Harbor, Seattle, Seward, Nome, Coos Bay, Aberdeen and Astoria" with the term "any U.S. port except Portsmouth, New Hampshire (including Kittery, Maine and Dover, New Hampshire on the Piscataqua River); New London and Groton, Connecticut; Hampton Roads, Virginia (including Norfolk, Newport News, Jamestown, Yorktown and Portsmouth, Virginia and access to the James River); Charleston, South Carolina; Kings Bay, Georgia; Port Canaveral, Florida; Panama City, Florida; Port St. Joe, Florida; San Diego, California; Port Hueneme, California; and Honolulu, Hawaii."

4. In Annex II, paragraph 3, replace the term "United States Coast Guard (GWPE) in accordance with standard procedures using telex (892427), teletype communication 'TWX' (710-822-1959), or Western Union" with the term "local United States Coast Guard Captain of the Port." I have further the honor to propose that if the said proposal is

acceptable to the Government of the People's Republic of China, this Note and your Excellency's Note in reply indicating such acceptance shall be regarded as constituting an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures."

I have further the honor to confirm on behalf of the Government of the People's Republic of China that the said proposal is acceptable to the Government of the People's Republic of China and to agree that Your Excellency's Note and this Note in reply shall be regarded as constituting an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

Zhu Qizhen
Ambassador of the People's
Republic of China

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Department of State
Washington

August 3, 1990

The Department of State refers to the Agreement between the Government of the United States of America and the Government of the People's Republic of China Concerning Fisheries off the Coasts of the United States of America, signed at Washington on July 23, 1985, as amended, and to the exchange of notes, dated March 14, and March 22, 1990 wherein the Government of the United States of America proposed, and the Government of the People's Republic of China agreed, to amend and extend the agreement for two years, until July 1, 1992.

The Department of State wishes to inform the Government of the People's Republic of China that the United States Government has completed its necessary internal procedures and that the agreement may enter into force on a date to be specified in the Embassy's note in reply, effective July 1, 1990, confirming that the Government of the People's Republic of China has completed its necessary internal procedures.

D.A.C.

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The Embassy of the People's Republic of China

August 8, 1990

No. 070/90

The Embassy of the People's Republic of China refers to the note of the U.S. Department of State dated August 3, 1990 which refers to ***the Agreement between the Government of the People's Republic of China and the Government of the United States of America Concerning Fisheries off the Coasts of the United States of America,*** signed at Washington, D.C. on July 23, 1985, as amended, and to the exchange of notes, dated March 14, and March 22, 1990 wherein the Government of the United States of America proposed, and the Government of the People's Republic of China agreed, to amend and extend the agreement for two years, until July 1, 1992.

The Embassy of the People's Republic of China wishes to inform the Government of the United States of America that the Government of the People's Republic of China has completed its necessary internal procedures and agreed that the agreement shall enter into force July 1, 1990.

[Seal]

BILATERAL

COLOMBIA

FISHERIES

Agreement Between the Government of the United States of America and the Government of the Republic of Colombia on Certain Fishing Rights, Bogota, 1983

Done at Bogota 24 October 1983 and 6 December 1983

Entered into force 6 December 1983; effective 1 March 1984

Primary source citation: TIAS 10842

Embassy of the United States of America
Bogota

October 24, 1983.

No. 711

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Colombia and has the honor to refer to the Treaty between the Government of the United States of America and the Government of the Republic of Colombia concerning the status of Quita Sueno, Roncador, and Serrana, signed at Bogota on September 8, 1972 ("the Treaty") and to the accompanying exchange of notes concerning fishing rights. The Government of the United States notes that the Treaty and exchange of notes guarantee certain fishing rights to nationals and vessels of the United States. In order to ensure the effective implementation of these provisions, the Government of the United States proposes that the Parties establish the following procedures, effective March 1, 1984.

1. The Government of the United States shall provide annually to the Government of the Republic of Colombia a list of fishing vessels which intend to fish pursuant to the Treaty. The Government of the United States may add vessels to the list during the course of the year. However, fishing activity cannot be initiated until ten days after the date when the Government of the Republic of Colombia has been notified. The Government of the Republic of Colombia shall acknowledge receipt of the lists and shall provide gratis to the Government of the United States certificates ("the certificates or the certificate") to be transmitted to the listed vessels. The certificate shall be carried on board and shall be valid until December 31 of the year of issuance. United States flag fishing vessels shall be required to have only United States documentation and the certificate in order to fish in the areas referred to in Articles 2 and 3 of the Treaty and described in paragraph 5 below ("described areas").

2. The Government of the United States shall advise all United States vessels on the list to report to designated authorities of the Government of the Republic of Colombia of their arrival in and departure from the described areas. For the purpose of collecting statistics on the fishery resources, the notice of departure shall include a statement regarding the quantity and species of the catch. The Government of the Republic of Colombia shall advise the Government of the United States in a timely manner of the location of the Colombian authorities designated to receive reports from the vessels, as well as appropriate radio frequency and monitoring schedules for vessels.

3. The Colombian authorities may request of United States flag fishing vessels documents that normally are carried by such vessels, as well as the certificates. The United States authorities shall make every effort to ensure that the vessels on the list carry on board such documentation.

4. (a) The Colombian authorities may board a United States flag vessel fishing in the described areas for the purpose of inspecting its documents and verifying the authenticity of the information contained therein. Such boarding, inspection and verification shall be conducted with a minimum of interference to the fishing vessel.

(b) If a vessel is not carrying on board United States documentation, but carries the certificate, the Government of the Republic of Colombia shall immediately notify the Government of the United States of this situation and seek verification of United States registry or nationality. If the Government of the United States confirms United States registry or nationality, the vessel shall be promptly released and shall be permitted to continue fishing.

(c) If a vessel is carrying on board United States documentation but not the certificate, it may not fish unless it is on or added to the list and the certificate has been issued. In this case, until December 31, 1984, a vessel may fish in the described areas without the certificate on board and the ten-day period set out in paragraph 1 shall not apply. However, the vessel may not fish in described areas unless the Embassy of the United States of America in Bogota retains the certificate on behalf of the vessel and makes it available for inspection by the Government of the Republic of Colombia.

(d) If a vessel is carrying on board neither United States documentation nor the certificate, it shall be required to leave the area and shall not be permitted to return until fifteen days have elapsed from the date of boarding, and the vessel is on or has been added to the list and the certificate has been issued. After December 31, 1984, the procedures set out in this subparagraph shall also apply to vessels that carry on board United States documentation but not the certificate.

5. The Parties agree that the adjacent waters to Quita Sueno described in Article 2 cover the area enclosed by coordinates 13 degrees 55 minutes north by 14 degrees 43 minutes north and 80 degrees 55 minutes west by 81 degrees 28 minutes west and the waters adjacent described in Article 3 are the areas within 12 nautical miles of Roncador and Serrana measured from the baselines from which the breadth of the territorial sea is measured.

6. The procedures established in this note shall be subject to modification only by mutual written agreement of both governments.

The Embassy of the United States of America proposes that the Government of the Republic of Colombia affirm by reply note the agreement of the Parties adopting these procedures to implement the Treaty of 1972 and the accompanying exchange of notes of September 8, 1972, concerning fishing rights.

[Initials]

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TRANSLATION

Bogota

December 6, 1983

No. 01763

The Ministry of Foreign Relations presents its compliments to the Embassy of the United States and has the honor to refer to the Treaty between the Government of the United States and the Government of Colombia concerning the status of Quita Sueno, Roncador, and Serrana, signed at Bogota on September 8, 1972 (the Treaty) and to the accompanying notes concerning fishing rights.

In order to regulate the fishing rights granted to United States citizens and vessels in the aforementioned instrument, the Government of Colombia agrees to establish the following procedures, which shall enter into force on March 1, 1984:

[For text of the procedures, see the U.S. note, page 2999.]

The Ministry of Foreign Relations avails itself of this opportunity to renew to the Embassy of the United States the assurances of its highest consideration.

[Signature]
[Seal]

BILATERAL

COLOMBIA

FISHERIES NON-BINDING DOCUMENT

Joint Statement of the Government of the United States of America and the Government of the Republic of Colombia Regarding Fisheries Conservation Measures in the Treaty Waters Adjacent to Quita Sueno, Washington, 1989

Done at Washington 6 October 1989

Primary source citation: Copy of text provided by the National Marine Fisheries Service, U.S. Department of Commerce

JOINT STATEMENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA REGARDING FISHERIES CONSERVATION MEASURES IN THE TREATY WATERS ADJACENT TO QUITA SUENO

During consultations on October 5-6, 1989 in Washington, D.C., representatives of the Government of the United States of America and the Government of the Republic of Colombia agreed to adopt the following conservation measures, as of January 1, 1990, in the waters adjacent to Quita Sueno, which are described in paragraph 5 of the October 24 and December 6, 1983 exchange of notes (hereafter "the area"):

1. With respect to the ban on fishing for conch (Strombus gigas) agreed to by the two governments on January 23, 1987, the two governments agreed to continue this ban.

2. The use of autonomous or semi-autonomous diving equipment (tanks or air hoses) for the extraction of hydrobiological resources, as well as the use of monofilament gillnets made from nylon or similar synthetic materials, is prohibited.

3. Information on fishing activity conducted by U.S. vessels operating in the area shall be included in a trip report form as attached to this Joint Statement. The forms will accompany certificates issued by the Government of Colombia pursuant to the 1983 exchange of notes, and will be completed and submitted by the certificate holder to the appropriate authorities within the Government of Colombia no later than December 31 of the year for which the certificate is valid.

4. Capturing or possessing any spiny lobster Panulirus argus, Latreille, and P. laevicauda, Latreille, with a tail length less than 14 centimeters, is prohibited. The measurement of the tail shall be taken from the anterior upper edge of the first abdominal somite to the posterior edge of the telson, including the natatorial membrane.

5. Capturing or possessing egg-bearing females, or females whose eggs have been forcibly removed, of spiny lobster Panulirus argus, Latreille, and P. laevicauda, Latreille, is prohibited.

6. No factory vessel, defined as a vessel which processes, transforms and packages hydrobiological resources on board, may operate in the area.

The representative of the Government of the United States indicated that nationals and vessels of the United States that receive certificates pursuant to the October 24 and December 6, 1983 exchange of notes will be notified of these conservation measures in effect in the area. The representative also stated that the Government of the United States would not object to the enforcement of these conservation measures by the Government of the Republic of Colombia in the area, provided such enforcement is non-discriminatory and applied to nationals and vessels of the Republic of Colombia and the other States that may fish in the area, and provided further that in the event a vessel of the United States is found to have violated an agreed conservation measure, enforcement by authorities of the Government of Colombia will be to (1) require the vessel to leave the area and (2) notify immediately the Government of the United States of such action in accordance with the provisions of the 1983 exchange of notes.

Both sides agreed that it is necessary to impose appropriate penalties in the event of violation of these conservation measures. They agreed to consult as soon as possible regarding appropriate penalties that U.S. authorities would impose for violations of these conservation measures. The U.S. side emphasized the importance of obtaining information from Colombia to determine whether such penalties could be imposed in a particular case.

Both Delegations reiterated the importance of compliance with provisions established in paragraph 2 of the 1983 exchange of notes regarding reports that U.S. fishing vessels shall make to Colombian authorities on entry into and departure from the area. Both sides will communicate these concerns to the respective U.S. and Colombian interests concerned.

The representatives of both Governments agreed to periodically review these conservation measures and to consult on the implementation of the conservations measures and the desirability of modifying these measures in the future.

6 October 1989

Larry L. Snead

Head of Delegation
United States of America

[Signature]

Head of Delegation
Republic of Colombia

Attachment

CATCH REPORT FORM - SAN ANDRES & PROVIDENCIA ARCHIPELAGO

Vessel name _____ Certificate number _____

Documentation number _____ Vessel length _____ meters ___ feet ___ (check one)

Home port _____ Number of crew members _____

Area Fished (check one): Quita Sueno ___ Roncador ___ Serrana ___
(Use a separate form for each area fished.)

Date commenced fishing in area checked: Year _____ Month _____ Day _____

Date departed area checked: Year _____ Month _____ Day _____

Catch retained:

Species	Number (optional)	Weight* (check one) kg ___ lb ___	Gear (check one)			
			Trap	Long-line	Hook & line	Diving
* Conch may be reported by either number or weight						

If lobster retained, check one:
Whole weight _____ tail weight _____

If conch retained and reported by weight, check one:
Whole weight _____ cleaned weight _____

Catch discarded:

Species	Number discarded

If traps fished:
Type (check one): lobster ___ fish ___
Number fished _____
Mesh size _____ × _____
(check one) cm. ___ in. ___
Trap size: _____ × _____ × _____
(check one) cm. ___ in. ___
Average soak time _____ hrs.

If longlines fished:
Number of hooks set _____
Average soak time _____ hrs.
(per day)

If hook and line fished:
Number of hooks set _____
Hours fished _____ hrs.

If diving:
Man Hours worked _____ hrs.

Captain's Signature _____

Date report filled out Year _____ Month _____ Day _____

BILATERAL

COLOMBIA

OTHER

Treaty Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Status of Quita Sueño, Roncador and Serrana Bogota, 1972

Done at Bogota 8 September 1972

Entered into force 17 September 1981

Primary source citation: 33 UST 1405, TIAS 10120

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA CONCERNING THE STATUS OF QUITA SUEÑO, RONCADOR AND SERRANA

THE PRESIDENT OF THE UNITED STATES OF AMERICA AND
THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,

Desirous of settling the long-standing questions concerning the status of Quita Sueño, Roncador and Serrana, with respect to which the Governments of the two countries agreed to maintain the status quo through an Exchange of Notes signed at Washington on April 10, 1928,

Have designated their Plenipotentiaries, to wit:

The President of the United States of America: The Ambassador Extraordinary and Plenipotentiary to Colombia, Mr. Leonard J. Saccio;

The President of the Republic of Colombia: The Minister of Foreign Affairs, Doctor Alfredo Vazquez Carrizosa;

Who, after exchanging Full Powers and finding them to be in good and due form,

HAVE AGREED AS FOLLOWS

ARTICLE 1

In accordance with the terms of this Treaty, the Government of the United States of America hereby renounces any and all claims to sovereignty over Quita Sueño, Roncador and Serrana.

ARTICLE 2

In recognition of the fact that nationals and vessels of Colombia and the United States are at the present time engaged in fishing in the waters adjacent to Quita Sueño, both governments agree that in the future there shall be no interference by either government or by its nationals or vessels with the fishing activities of nationals and vessels of the other in this area.

ARTICLE 3

The Government of the Republic of Colombia further agrees that with respect to Roncador and Serrana it will guarantee to nationals and vessels of the United States a continuation of fishing in the waters adjacent to these cays with no limitation except as provided in the accompanying letter on fishing rights.

ARTICLE 4

The provisions of Articles 2 and 3 above relating to fishing shall be subject to any obligations accepted by both Governments under the terms of the accompanying notes on fishing rights and any existing or future international agreement pertaining to fishing or related matters.

ARTICLE 5

Each Government agrees that it will not, except in agreement with the other Government, enter into any agreement with a state not party to the present Treaty, by means of which the rights guaranteed nationals and vessels of the other party under this Treaty would be affected or impaired.

ARTICLE 6

Provisions concerning the navigational aids on Quita Sueño, Roncador and Serrana shall be set forth in a separate exchange of notes to be concluded by the parties to this Treaty.

ARTICLE 7

The present Treaty shall not affect the positions or views of either Government with respect to the extent of the territorial sea, jurisdiction of the coastal state over fisheries, or any other matter not specifically dealt with in this Treaty.

ARTICLE 8

The present Treaty shall enter into force upon the exchange of instruments of ratification thereof at Bogota and shall thereupon terminate the exchange of notes signed at Washington on April 10, 1928.

ARTICLE 9

The present Treaty shall remain in force indefinitely unless terminated by agreement of both Governments.

In witness whereof the undersigned have signed this Treaty in duplicate, in the Spanish and English languages, at Bogota this 8th day of September, 1972.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

LEONARD J. SACCIO
Ambassador Extraordinary
and Plenipotentiary

FOR THE GOVERNMENT OF
THE REPUBLIC OF COLOMBIA

ALFREDO VAZQUEZ CARRIZOSA
Minister of Foreign Affairs

[SEAL]

[EXCHANGES OF NOTES]

EMBASSY OF THE UNITED STATES OF AMERICA
BOGOTÁ

September 8, 1972

No. 694

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and has the honor to refer to the treaty signed today between the Government of the United States of America and the Government of the Republic of Colombia concerning the status of Quita Sueño, Roncador and Serrana to replace the exchange of notes signed between our two governments on April 10, 1928. In this connection the Government of the United States wishes to reaffirm to the Government of the Republic of Colombia its legal position respecting Article 1 of that Treaty. That legal position is as follows:

> Quita Sueño, being permanently submerged at high tide, is at the present time not subject to the exercise of sovereignty. The Government of the United States notes that the 1928 Treaty and Protocol between the Government of the Republic of Colombia and the Government of the Republic of Nicaragua specifically provide that the Treaty does not apply to Quita Sueño, Roncador and Serrana, sovereignty over which was recognized as being in dispute between the United States and Colombia. The Government of the United States further notes that under the terms of its exchange of notes with the Government of the Republic of Colombia of April 10, 1928, it was recognized at that time that sovereignty over Quita Sueño was claimed by both the United States and Colombia and it was agreed that the status quo in respect of the matter should be maintained.

The Government of the United States understands the legal position of the Government of the Republic of Colombia to be as follows:

> The physical status of Quita Sueño is not incompatible with the exercise of sovereignty. In the view of the Government of the Republic of Colombia, the stipulations of the Treaty between Colombia and Nicaragua of March 24, 1928 and the protocol of exchange of ratifications of May 10, 1930 recognized Colombia's sovereignty over the islands, islets and cays that make up the archipelago of San Andres and Providencia east of the 82 meridian of Greenwich, with the exception of the cays of Roncador, Quita Sueño and Serrana, the sovereignty of which was in dispute between the United States and the Republic of Colombia. Therefore, with the renunciation of sovereignty by the United States over Quita Sueño, Roncador and Serrana, the Republic of Colombia is the only legitimate title holder on these banks or cays, in accordance with the aforementioned instruments and international law.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Colombia the assurances of its highest consideration.

L.J.S.

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[TRANSLATION]

REPUBLIC OF COLOMBIA
MINISTRY OF FOREIGN AFFAIRS

DM 484

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to refer to the Treaty signed today between the Governments of the United States of America and the Republic of Colombia concerning the status of Quita Sueño, Roncador and Serrana to replace the exchange of notes signed between the two governments on April 10, 1928. In this connection the Government of Colombia wishes to reaffirm to the Government of the United States that its legal position respecting Article 1 of that Treaty is as follows:

The physical status of Quita Sueño is not incompatible with the exercise of sovereignty. In the view of the Government of the Republic of Colombia, the stipulations of the Treaty between Colombia and Nicaragua of March 24, 1928, and the Protocol of exchange of ratifications of May 10, 1930, recognized Colombia's sovereignty over the islands, islets and cays that make up the Archipelago of San Andrés and Providencia east of the 82nd meridian of Greenwich, with the exception of the cays of Roncador, Quita Sueño, and Serrana, the sovereignty of which was in dispute between the United States and the Republic of Colombia. Therefore, with the renunciation of sovereignty by the United States over Quita Sueño, Roncador, and Serrana, the Republic of Colombia is the only legitimate title holder on those banks or cays, in accordance with the aforementioned instruments and international law.

The Government of Colombia understands the legal position of the Government of the United States to be as follows:

Quita Sueño, being permanently submerged at high tide, is at the present time not subject to the exercise of sovereignty. The Government of the United States notes that the 1928 Treaty and Protocol between the Government of Colombia and the Government of Nicaragua specifically provide that the Treaty does not apply to Quita Sueño, Roncador, and Serrana, sovereignty over which was recognized as being in dispute between Colombia and the United States. The Government of the United States further notes that under the terms of its exchange of notes with the Government of Colombia on April 10, 1928, it was recognized at that time that sovereignty over Quita Sueño was claimed by the Governments of both Colombia and the United States and it was agreed that the status quo in respect of that matter should be maintained.

The Ministry of Foreign Affairs expresses to the Embassy of the United States of America its high consideration.

A.V.C.

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EMBASSY OF THE UNITED STATES OF AMERICA
BOGOTÁ

September 8, 1972

His Excellency
DR. ALFREDO VAZQUEZ CARRIZOSA
Minister of Foreign Affairs
Republic of Colombia
Bogotá

No. 692

EXCELLENCY:

In connection with the signing today of a treaty between the Governments of the Republic of Colombia and the United States of America, I have the honor to convey to you the following understandings of my Government:

1. With respect to Article 2 of that treaty, both governments agree they will exchange views periodically on the desirability of bilateral or multilateral action of a conservation nature.

2. With respect to Article 3 of that treaty, it is understood by both governments that the fishing activities of nationals and vessels of the United States will be subject to reasonable conservation measures applied by the Government of the Republic of Colombia to all fishermen permitted to fish within the present fishing zone adjacent to the cays on Roncador and Serrana. The Government of the Republic of Colombia agrees that the conservation measures applied to nationals and vessels of the United States will be non-discriminatory in nature and no more restrictive than those applied to nationals and vessels of the Republic of Colombia and nationals and vessels of other states permitted to fish in these waters.

3. With further respect to Article 3 of the treaty, it is understood by the Government of the Republic of Colombia that the right of United States nationals and vessels to continue fishing in the waters adjacent to Roncador and Serrana will not prejudice the existing rights of nationals and vessels of the Republic of Colombia or the rights of nationals and vessels of any other state which the Government of Colombia now or in the future may permit to conduct fishing and fishing activities in the waters in question. The Government of the Republic of Colombia agrees that prior to the implementation of conservation measures not now in effect, it will give reasonable notice to the Government of the United States of the nature of these regulations and any necessary measures which must be taken by nationals and vessels of the United States in order to comply with these regulations. The Government of the Republic of Colombia also agrees to consult with the Government of the United States of America, at the latter's request, concerning the effects of such proposed regulations on the rights guaranteed United States nationals and vessels by the treaty signed today.

4. It is understood by both governments with respect to the provisions of Article 4 of the treaty that future multilateral agreements shall be applied in a manner consistent with the right of non-discriminatory access by nationals and vessels of the United States to fisheries in accordance with the provision of other articles of the treaty and this note.

Excellency, I have the honor to propose that this note and your reply constitute an agreement between our governments on the matters discussed above.

Accept, Excellency, the renewed assurances of my highest consideration.

LEONARD J. SACCIO

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TRANSLATION

REPUBLIC OF COLOMBIA
MINISTRY OF FOREIGN AFFAIRS
Bogota

September 8, 1972

His Excellency
Leonard J. Saccio,
Ambassador Extraordinary and Plenipotentiary
of the United States of America,
Bogota.

DM 485

Mr. Ambassador:

I have the honor to acknowledge receipt of Your Excellency's note dated today, which reads as follows:

[For the English language text, see page 3011.]

My Government agrees that Your Excellency's note and this reply shall constitute an agreement between our Governments on the matters discussed above.

Accept, Mr. Ambassador, the assurance of my high consideration.

A. Vázquez Carrizosa
Alfredo Vázquez Carrizosa
Minister of Foreign Affairs

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EMBASSY OF THE UNITED STATES OF AMERICA
BOGOTÁ

September 8, 1972

His Excellency
DR. ALFREDO VAZQUEZ CARRIZOSA
Minister of Foreign Affairs
Republic of Colombia
Bogotá

No. 693

EXCELLENCY:

In connection with the signing today of a treaty between the Government of the Republic of Colombia and the Government of the United States of America concerning the status of Quita Sueño, Roncador and Serrana, I have the honor to convey the following understandings of my government with respect to Article 6 of that treaty:

1. The Government of the United States of America agrees to grant in perpetuity to the Republic of Colombia ownership of the lighthouse located on Quita Sueño and the navigational beacons on Roncador and Serrana.

2. The Government of the Republic of Colombia agrees to maintain and operate these installations in accordance with international regulations.

3. The Agreement of the Government of the United States of America to grant to the Government of the Republic of Colombia the lighthouse on Quita Sueño as provided for in paragraph 1 is subject to the understanding that it does so without prejudice to its legal position that Quita Sueño, being permanently submerged at high tide, is not at the present time subject to the exercise of sovereignty.

4. The time and place of the transfer of the lighthouse on Quita Sueño, and the navigational beacons on Roncador and Serrana, shall be agreed upon between the parties. Preparations for the transfer shall be concluded through meetings of experts from each side within six months of the exchange of ratifications of the treaty concerning the status of Quita Sueño, Roncador and Serrana.

Excellency, I have the honor to propose that this note and your reply constitute an agreement between our governments on the matters discussed above.

Accept, Excellency, the renewed assurances of my highest consideration.

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TRANSLATION

REPUBLIC OF COLOMBIA
MINISTRY OF FOREIGN AFFAIRS
Bogota

September 8, 1972

His Excellency
Leonard J. Saccio,
Ambassador Extraordinary and Plenipotentiary
of the United States of America.
Bogota.

DM 482

I have the honor to acknowledge receipt of Your Excellency's note, dated today, which reads as follows:

[For the English language text, see page 3014.]

My Government informs Your Excellency's Government that it is in agreement with the note transcribed above.

With respect to paragraph 3 of that note, my Government is cognizant of the position of the United States and states, in turn, that it reaffirms the Colombian position, expressed in the notes dated today, on the sovereignty of Colombia over Quita Sueño as well as Roncador and Serrana.

My Government agrees that Your Excellency's note and this reply shall constitute an agreement between our Governments on the above matters.

Accept, Mr. Ambassador, the assurance of my high consideration.

A. Vázquez Carrizosa
Alfredo Vázquez Carrizosa
Minister of Foreign Affairs

BILATERAL

ECUADOR

MARINE SCIENCE AND EXPLORATION

Cooperative Scientific and Technical Project Between the Government of the United States of America and the Government of Ecuador for Joint Oceanographic Research, Quito, 1983

Done at Quito 17 March 1983

Entered into force 17 March 1983

Primary source citation: TIAS 10674

EMBASSY OF THE UNITED STATES OF AMERICA
Quito

March 17, 1983

His Excellency
Dr. Rodrigo Valdez Baquero,
Acting Minister of Foreign Relations
Quito

No. 7

Excellency:

I have the honor to refer to conversations between the Naval Oceanographic Institute of Ecuador (INOCAR) and the Atlantic Oceanographic and Meteorological Laboratories of the National Oceanic and Atmospheric Administration (AOML / NOAA) of the United States of America regarding the development of a joint project permitting the collection, from vessels of opportunity, of oceanographic and atmospheric data between Guayaquil and the Galapagos Islands.

At the request of my government, permit me to submit for Your Excellency's consideration a proposed "Cooperative Scientific and Technical Project for Joint Oceanographic Research," the text of which follows:

"A. Introduction

The Atlantic Oceanographic and Meteorological Laboratories (AOML) of NOAA and the Naval Oceanographic Institute (INOCAR) share an interest in the variability of the oceanographic and meteorological conditions in the eastern tropical Pacific Ocean. INOCAR is a participant in the regional program, Estudio Regional del Fenomeno 'El Niño' (ERFEN), and AOML is a participant in the NOAA Equatorial Pacific Ocean Climate Study (EPOCS) program. EPOCS is an investigation of the relationship of sea surface temperature anomalies observed in the equatorial Pacific Ocean to large scale climate variations, of which the 'El Niño' phenomenon is one manifestation. This agreement provides for a cooperative project between AOML and INOCAR for the purpose of collection of oceanographic and atmospheric data between Guayaquil and the Galapagos Islands using vessels of opportunity. INOCAR presently has a program for collection of meteorological and sea surface

data at intervals of approximately every four weeks. This cooperative project will provide for collection also of subsurface temperature data from these vessels. This project is subscribed within the framework of the General Agreement for Economic, Technical and Related Assistance signed by the Governments of Ecuador and the United States on April 17, 1962.

B. Purpose and Structure of the Project

The purpose of the project is to obtain, simultaneously, oceanographic temperature and meteorological data appropriate to observation, understanding, and prediction of the 'El Niño' and related oceanographic and atmospheric phenomena. INOCAR and AOML will cooperate in both acquisition and use of the data.

Operational details of the project will be mutually agreed to by INOCAR and AOML, subsequent to the signing of this document.

C. Responsibilities of AOML

For its part, AOML will supply to INOCAR for use in the project expendable bathythermograph (XBT) launching and recording equipment, XBT probes and other expendable supplies, to be delivered at AOML expense to Guayaquil. AOML will also provide to INOCAR staff training and advisory assistance in use and maintenance of the equipment. In addition, AOML will provide training, including the use of computers, for three personnel designated by INOCAR in the areas of physical oceanography and data processing for scientific purposes, in accordance with the detailed description in Annex 'A'. AOML agrees to assume the costs of training, transportation, meals and lodging for personnel associated with such training in the United States. The details, data, etc. for implementation of Annex 'A' shall be agreed upon by the parties at the appropriate time.

D. Responsibilities of INOCAR

INOCAR will carry out the measurements required for the project from vessels of opportunity at approximately monthly intervals.

INOCAR will also provide observers as needed to ensure reliable data collection. The costs of transportation and per diem for these observers will be assumed by INOCAR. After collection, XBT data may be copied for immediate use in Ecuador. All data collected shall be transmitted by INOCAR to AOML, within one month, through the Consulate of the United States in Guayaquil.

Part of the data for sea surface temperature and for the depth of the fifteen degree isotherm should be available for dissemination for the purpose of monitoring the development of the 'Niño' in real time.

All of the data should be available for use in scientific reports and meetings by AOML and INOCAR staff at any time. Reports for publication shall be approved in accordance with the appropriate administrative procedures of each organization. Surface meteorological data and XBT data from one station per day to be selected by INOCAR should be reported by the IGOSS-BATHY/TESAC procedure.

INOCAR will provide such services and facilities, in Ecuador, as required to carry out the project, and will also provide means to admit equipment and materials into Ecuador for use in the project free of customs and import duties and taxes. These goods will have 'temporary entry' status.

E. Mutual Responsibilities for the Project

Results from the project will be published annually in a report to be authored jointly by the scientific staffs of INOCAR and AOML. Scientists of both institutions will collaborate on analysis and interpretation of observations of special interest or importance in connection with 'El Nino'. Collaboration on such interpretation and reports is probably the best available means of effecting training in scientific use of the data. All data collected shall be the property of INOCAR and AOML and should be available for submission to international data centers twelve (12) months after being collected.

F. Monitoring and Evaluation Mechanisms

For the purpose of having a suitable frame of reference reflecting the level of AOML / NOAA participation and support, before the beginning of each calendar year INOCAR shall present to the Secretariat of the Ecuadorean National Committee for Technical Cooperation an annual work plan for the project. This will include the goals for the period, the activities and timetable for the achievement of those goals and enumeration of the specializations of the involved AOML / NOAA and INOCAR technicians, as well as of the equipment and other material necessary for the proper implementation and development of the project. The first work plan should be presented to the Ecuadorean National Development Council (CONADE) within sixty (60) days of the start of the project. In addition, INOCAR should transmit to CONADE, at the end of each year, a report measuring the progress of the project against the annual work plans presented for the implementation of the programmed activities, for the purpose of recording results, problems identified and suggestions which might be appropriate to implement in order to meet the established goals.

G. Duration of the Project

Because the 'El Niño' phenomenon is an interannual variation with maximum manifestations every several years, maximum value will be realized from the project only if it can be continued for several years. This agreement shall remain in effect for six years, subject to the terms set forth below. It may be renewed in accordance with the wishes of the parties. Because funds are allocated on an annual basis, the project will be continued from year to year as the required funds are acquired. Every two years the parties will meet for the purpose of evaluating the project and analyzing its results. This agreement may be modified by mutual consent at the bi-annual evaluating meetings and may be terminated at any time by either party with thirty days written notice. In the event the project is terminated, possession of all equipment will revert to the original owners unless other arrangements are mutually agreed upon.

* * *

Annex 'A' (Training)

AOML agrees to furnish the following training to personnel participating in the project to obtain bathythermographic data on the Guayaquil-Galapagos route:

1. Data processing including the use of computers

   Personnel: One oceanographer

   Duration: Six months

   Place: U.S.A. (AOML)

2. Studies related to ERFEN

   Personnel: One oceanographer

   Duration: Six months

   Place: U.S.A. (AOML)

3. In the second or third year of the project AOML will assist an oceanographer to receive training for one year."

If this proposal is acceptable to the Government of Ecuador, this note and Your Excellency's note in reply shall constitute an agreement between the Governments of Ecuador and the United States of America and shall enter into force as from this date.

I take this opportunity to renew to Your Excellency the assurances of my highest consideration.

Samuel F. Hart

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TRANSLATION

Republic of Ecuador
Ministry of Foreign Relations
Quito

March 17, 1983

His Excellency
Samuel Hart,
Ambassador of the United States of America,
Quito.

No. 17/DGSN/DMS

Mr. Ambassador:

I have the honor to acknowledge receipt of Your Excellency's note No. 7 of March 17, 1983, submitting for consideration by the Government of Ecuador the "Cooperative Scientific and Technical Project for Joint Oceanographic Research," to be conducted by the Naval Oceanographic Institute of Ecuador (INOCAR) and the Atlantic Oceanographic and Meteorological Laboratories of the National Oceanic and Atmospheric Administration of the United States of America (AOML). The text of the project reads as follows:

[For the English language text, see page 3019.]

I am pleased to inform Your Excellency that the Government of Ecuador accepts the proposal of the Government of the United States of America. Consequently, this note and Your Excellency's note No. 7 of March 17, 1983, shall constitute an agreement between the two Governments, entering into force on this date.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Rodrigo Valdez B.
Acting Minister of Foreign Relations

BILATERAL

ESTONIA

FISHERIES

Agreement Between the Government of the United States of America and the Government of the Republic of Estonia Concerning Fisheries off the Coasts of the United States, Washington, 1992

Done at Washington 1 June 1992

Entered into force 22 December 1992

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF ESTONIA CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the Republic of Estonia (hereafter referred to as "the United States" and "Estonia", respectively, or "the Parties"),

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Recognizing that the United States has established by Presidential Proclamation of March 10, 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and anadromous species of fish of United States origin; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of Estonia for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means all fish within the exclusive economic zone of the United States, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, mollusks, crustaceans, and other forms of marine animal and plant life, other than marine mammals and birds;

3. "fishery" means

   a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b. any fishing for such stocks;

4. "exclusive economic zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

   a. the catching, taking or harvesting of fish;

   b. the attempted catching, taking or harvesting of fish;

   c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d. any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

   a. fishing; or

   b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing; and

7. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Finnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The United States is willing to allow access for fishing vessels of Estonia to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to fishing vessels of Estonia in accordance with United States law.

2. The United States shall determine each year, subject to such adjustments as may be appropriate and in accordance with United States law:

a. the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d. the allocation of such portion that may be made available to Estonia.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include, inter alia:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed; and

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The United States shall notify Estonia of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to Estonia and to other countries, the United States will decide on the basis of the factors identified in United States law, including:

1. whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;

2. whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

3. whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nation requires the fish harvested from the exclusive economic zone for its domestic consumption;

5. whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

7. whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources;

8. whether, and to what extent, such nation is cooperating with the United States in matters pertaining to

a. the implementation of United Nations General Assembly Resolution 46/215 of December, 1991 on Large-scale Pelagic Driftnet Fishing;

b. the conservation and management of anadromous species; and

c. the conservation of the pollock resource in the central Bering Sea; and

9. such other matters as the United States deems appropriate.

ARTICLE V

Estonia shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as facilitating the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into Estonia, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

Estonia shall take all necessary measures to ensure:

1. that nationals and vessels of Estonia refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VII

Estonia may submit an application to the United States for a permit for each fishing vessel of Estonia that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with the Annex, which constitutes an integral part of this Agreement. The United States may require the payment of fees for such permits and for fishing in the exclusive economic zone. While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgement of the United States, vessels or nationals of Estonia are harvesting United States origin anadromous species at unacceptable levels, or whether Estonia is failing to take sufficient action to benefit the conservation and

development of United States fisheries. Estonia undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

Estonia shall ensure that nationals and vessels of Estonia refrain from harassing, hunting/capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the United States.

ARTICLE IX

Estonia shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of Estonia is prominently displayed in the wheel house of such vessel;

2. appropriate position-fixing and identification equipment, as determined by the United States, is installed and maintained in working order on each vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of Estonia for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5. all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of Estonia as determined by applicable United States procedures.

ARTICLE X

Estonia shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of Estonia that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of Estonia or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of Estonia by the authorities of the United States, notification shall be given promptly through diplomatic channels informing Estonia of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The United States and Estonia shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The Parties shall cooperate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of Estonia in the exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. Estonia shall cooperate with the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States. Estonia shall similarly provide such economic data as may be requested by the United States.

5. Estonia shall cooperate with the United States in matters pertaining to the implementation of United Nations General Assembly Resolution 46/215 of December, 1991 on Large-scale Pelagic Driftnet Fishing, the conservation and management of anadromous species, and the conservation of the pollock resource in the central Bering Sea.

ARTICLE XIII

1. The United States and Estonia shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including cooperation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

2. At the request of either Party any dispute concerning the interpretation or application of this Agreement shall be the subject of consultations between them.

ARTICLE XIV

The United States undertakes to authorize fishing vessels of Estonia allowed to fish pursuant to this Agreement to enter ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, changing crews, or for such other purposes as may be authorized.

ARTICLE XV

Should the United States indicate to Estonia that nationals and vessels of the United States wish to engage in fishing in areas within the fisheries jurisdiction of Estonia, Estonia shall allow such fishing on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XVI

Nothing contained in the present Agreement shall prejudice:

1. the views of either Party with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries; or,

2. any other international rights and obligations of either Party.

ARTICLE XVII

The Agreement shall apply to the territories of Estonia, and to the United States, its territories and its possessions.

ARTICLE XVIII

1. This Agreement shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Parties, and shall remain in force until June 30, 1994 unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party six months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Parties two years after its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, in duplicate, this First day of June, 1992 in the English and Estonian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

David A. Colson

FOR THE GOVERNMENT OF THE
REPUBLIC OF ESTONIA:

Tõnis Kaasik

ANNEX

Application and Permit Procedures

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of Estonia to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. Estonia may submit an application to the competent authorities of the United States for each fishing vessel of Estonia that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the United States for that purpose.

2. Any such application shall specify

a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel may be requested;

c. a specification of each fishery in which each vessel wishes to fish;

d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

e. the ocean area in which, and the season or period during which, such fishing would be conducted; and

f. such other relevant information as may be requested, including desired transshipping areas.

3. The United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and shall inform Estonia of such determinations. The United States reserves the right not to approve applications. If permit applications are disapproved, the United States authorities will inform Estonia of the reasons for such disapproval.

4. Estonia shall thereupon notify the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by Estonia and the payment of any fees, the United States shall approve the application and issue a permit for each fishing vessel of Estonia, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event Estonia notifies the United States of its objections to specific conditions and restrictions, the Parties may consult with respect thereto and Estonia may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the Parties.

BILATERAL

EUROPEAN ECONOMIC COMMUNITY

FISHERIES

Agreement Between the Government of the United States of America and the European Economic Community Concerning Fisheries off the Coasts of the United States, Washington, 1984

Done at Washington 1 October 1984

Entered into force 14 November 1984

Primary source citation: TIAS 11033

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE EUROPEAN ECONOMIC COMMUNITY CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE EUROPEAN ECONOMIC COMMUNITY (hereinafter referred to as "the Community"),

CONSIDERING their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

RECOGNIZING that the United States has established by Presidential Proclamation of 10 March 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and anadromous species of fish of United States origin;

RECOGNIZING that the Community has been co-operating for the rational management and conservation of the living resources off the coasts of the United States and that Community fishermen traditionally have been co-operating in the development of these resources under the Agreement between the Government of the United States and the European Economic Community concerning fisheries off the coasts of the United States, signed 15 February 1977; and

DESIROUS of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

HAVE AGREED AS FOLLOWS:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Member States of the Community for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term:

1) "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means:

   all fish within the exclusive economic zone of the United States (except highly migratory species of tuna), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2) "fish" means:

   all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3) "fishery" means:

   a) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b) any fishing for such stocks;

4) "exclusive economic zone" means:

   a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5) "fishing" means:

   a) the catching, taking or harvesting of fish;

   b) the attempted catching, taking or harvesting of fish;

   c) any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d) any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a) through c) above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6) "fishing vessel" means:

   any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for:

   a) fishing, or

b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7) "highly migratory species" means:

species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8) "marine mammal" means:

any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for fishing vessels of the Member States of the Community to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to fishing vessels of Member States of the Community in accordance with United States law.

2. The Government of the United States shall determine each year, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks and in accordance with United States law:

a) the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b) the harvesting capacity of United States fishing vessels in respect of each fishery;

c) the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d) the allocation of such portion that may be made available to the Community.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law.

Such measures may include, inter alia:

a) designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b) limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c) limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel or the total fleet may engage in a designated area for a specified fishery;

d) requirements as to the types of gear that may, or may not, be employed; and

e) requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Community of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to the Community, and to other countries, the Government of the United States will decide on the basis of the factors identified in the Magnuson Fishery Conservation and Management Act, as amended, that is:

" i) whether, and to what extent, such nation imposes tariff barriers or non-tariff barriers on the importation, or otherwise restricts the market access, of United States fish or fishery products;

ii) whether, and to what extent, such nation is co-operating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

iii) whether, and to what extent, such nation and the fishing fleets of such nation have co-operated with the United States fishing regulations;

iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

vii) whether, and to what extent, such nation is co-operating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

viii) such other matters as the Secretary of State, in co-operation with the Secretary, deems appropriate."

ARTICLE V

The Community shall co-operate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as facilitating the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the Community, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

The Community shall take all necessary measures to ensure:

1) that nationals and vessels of the Member States of the Community refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2) that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3) that the total allocation referred to in Article III, paragraph 2 d) of this Agreement is not exceeded for any fishery.

ARTICLE VII

The Community may submit an application to the Government of the United States for a permit for each fishing vessel of a Member State of the Community that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with the Annex, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of fees for such permits and for fishing in the United States exclusive economic zone. The Community undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

The Community shall ensure that nationals and vessels of Member States of the Community refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE IX

The Community shall ensure that in the conduct of the fisheries under this Agreement:

1) the authorizing permit for each vessel of a Member State of the Community is prominently displayed in the wheel house of such vessel;

2) appropriate position-fixing and identification equipment as determined by the Government of the United States, is installed and maintained in working order on each vessel;

3) designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall co-operate with observers in the conduct of their official duties, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4) agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of a Member State of the Community for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5) all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of a Member State of the Community as determined by applicable United States procedures.

ARTICLE X

The Community shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of a Member State of the Community that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall co-operate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of Member States of the Community or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of an enforcement related offense such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of a Member State of the Community by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Community and the Member State concerned of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The Government of the United States and the competent agencies of the Community shall co-operate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Parties shall co-operate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board of a fishing vessel of a Member State of the Community in the United States exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. The Community shall co-operate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States.

ARTICLE XIII

In the interest of conservation, restoration, enhancement and rational management of salmon stocks of United States origin as well as of Community origin, both Parties shall consult and cooperate under the Convention for the Conservation of Salmon in the North Atlantic Ocean.

ARTICLE XIV

1. The Government of the United States and the Community shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further co-operation in the field of fisheries of mutual concern, including co-operation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

2. At the request of either Party any dispute concerning the interpretation or application of this Agreement shall be the subject of consultations between the Parties.

ARTICLE XV

The Government of the United States undertakes to authorize fishing vessels of Member States of the Community allowed to fish pursuant to this Agreement to enter ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, changing crews, or for such other purposes as may be authorized.

ARTICLE XVI

Should the Government of the United States indicate to the Community that nationals and vessels of the United States wish to engage in fishing in the Community's fishing zone the Community shall, in accordance with the provisions of the Common Fisheries Policy, allow such fishing on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XVII

Nothing contained in the present Agreement shall prejudice:

1) the views of either Party with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries; or

2) any other international rights and obligations of either Party.

ARTICLE XVIII

The Agreement shall apply to the territories in which the Treaty establishing the Community applies, under the conditions of that Treaty, and to the United States, its territories and its possessions.

ARTICLE XIX

1. This Agreement, together with the Agreed Minutes which form an integral part thereof, shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Parties, and remain in force until 1 July 1989, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party six months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Parties two years after its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, 1st October, 1984, in the Danish, Dutch, English, French, German, Greek and Italian languages, each of these texts being equally authentic.

ANNEX

APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the Member States of the Community to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. The Community may submit an application to the competent authorities of the United States for each fishing vessel of a Member State of the Community that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify:

   a) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

   b) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

   c) a specification of each fishery in which each vessel wishes to fish;

   d) the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

   e) the ocean area in which, and the season or period during which, such fishing would be conducted; and

   f) such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and. shall inform the Community of such determinations. The Government of the United States reserves the right not to approve applications. If permit applications are disapproved, the United States authorities will inform the Community of the reasons for such disapproval.

4. The Community shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Community and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of a Member State of the Community which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Community notifies the Government of the United States of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and the Community may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Parties.

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Department of State
Washington

November 13, 1984

The Department of State refers the Delegation of the European Communities to the Agreement between the Government of the United States of America and the European Economic Community Concerning Fisheries Off the Coasts of the United States, signed October 1, 1984. With reference to Article XIX, paragraph 1, of the Agreement, the Department of State wishes to inform the Delegation that the United States Government has completed its internal procedures and is prepared for the Agreement to enter into force.

If this is acceptable to the Community, the Department of State proposes that the Agreement enter into force on the date of the Delegation's note in reply.

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DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES
Washington, D.C.

November 14, 1984

I have received your note of November 13, 1984, which reads as follows :

"The Department of State refers the Delegation of the European Communities to the Agreement Between the Government of the United States of America and the European Economic Community Concerning Fisheries Off the Coasts of the United States, signed October 1, 1984. With reference to Article XIX, paragraph 1, of the Agreement, the Department of State wishes to inform the Delegation that the United States Government has completed its internal procedures and is prepared for the Agreement to enter into force.

If this is acceptable to the Community, the Department of State proposes that the Agreement enter into force on the date of the Delegation's note in reply."

I have the honour, on behalf of the European Economic Community, to confirm that the Community agrees to the proposal of the United States of America that the Agreement should enter into force on the date of this present note.

Roy Denman
Head of Delegation
[Seal]

Amendment to the Agreement Between the Government of the United States of America and the European Economic Community Concerning Fisheries off the Coasts of the United States, Brussels, 1988–1989

Done at Brussels 15 September 1988
and 27 February 1989

Entered into force 4 August 1989,
effective 1 July 1989

Primary source citation: Copy of text provided by the U.S. Department of State

The United States Mission to the European Communities

September 15, 1988

No. 10

The United States Mission to the European Communities presents its compliments to the Commission of the European Communities and wishes to draw the attention of the Commission of the European Communities to the agreement between the Government of the United States of America and the European Communities concerning fisheries off the coasts of the United States, signed at Washington on October 1, 1984, and due to expire on July 1, 1989. The United States proposes that the agreement be extended until July 1, 1991, and that it be amended as follows:

A. In Article III, Paragraph 2, replace the words "necessitated by unforeseen circumstances affecting the stocks" with the word "appropriate."

B. In Article IV, replace the phrase, "the Magnuson Fishery Conservation and Management Act, as amended, that is:" with the phrase, "U.S. law, including:". Remove quotation marks and replace italic numerals which follow with corresponding arabic numerals.

C. In Article IV, Paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;"

D. In Article IV, Paragraph 2, replace the present text with the following: "Whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors

and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;"

E. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgment of the United States, vessels or nationals of the member states of the European Communities are harvesting United States origin anadromous species at unacceptable levels, or whether the European Communities are failing to take sufficient action to benefit the conservation and development of United States fisheries."

F. In Article XII, Paragraph 4, at the end of the paragraph, add the following sentence: "The European Communities shall similarly provide such economic data as may be requested by the United States."

G. In Article XIX, replace the date "1 July 1989" with the date "July 1, 1991".

The United States proposes that if the extension and the amendments set out in this note are acceptable to the European Communities, this note and the reply of the European Communities to that effect shall constitute an agreement between the Government of the United States of America and the European Communities amending the agreement concerning fisheries off the coasts of the United States and extending that agreement until July 1, 1991. This agreement shall enter into force on a date to be agreed upon by exchange of diplomatic notes following the completion of internal procedures of both parties.

The Mission takes this opportunity to renew to the Commission the assurance of its highest consideration.

[Initials]
[Seal]

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Note from the European Economic Community

The Directorate General for External Relations of the Commission of the European Communities presents its compliments to the United States Mission of the European Communities and has the honour to acknowledge receipt of the Mission's Note of 15 September 1988, which reads as follows:

"The United States Mission to the European Communities presents its compliments to the commission of the European Communities and wishes to draw the attention of the Commission of the European Communities to the agreement between the Government of the United States of America and the European Communities concerning fisheries off the coasts of the United States, signed at Washington on 1 October 1984, and due to expire on 1 July 1989. The United States proposes that the agreement be extended until 1 July 1991, and that it be amended as follows:

A. In Article III, paragraph 2, replace the words "necessitated by unforeseen circumstances affecting the stocks" with the word "appropriate".

B. In Article IV, replace the phrase, "the Magnuson Fishery Conservation and Management Act, as amended, that is:" with the phrase, "US law, including:". Remove quotations marks and replace italic numerals which follow with corresponding arabic numerals.

C. In Article IV, paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;".

D. In Article IV, paragraph 2, replace the present text with the following: "Whether, and to what extent, such nation is co-operating with the United States in both the advancement of the existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;".

E. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgment of the United States, vessels or nationals of the Member States of the European Communities are harvesting United States origin anadromous species at unacceptable levels, or whether the European Communities are failing to take sufficient action to benefit the conservation and development of United States fisheries.".

F. In Article XII, paragraph 4, at the end of the paragraph, add the following sentence: "The European Communities shall similarly provide such economic data as may be requested by the United States.".

G. In Article XIX, replace the date "1 July 1989" with the date "1 July 1991".

The United States proposes that if the extension and the amendments set out in this note are acceptable to the European Communities, this note and the reply of the European Communities to that effect shall constitute an agreement between the Government of the United States of America and the European Communities amending the agreement concerning fisheries off the coasts of the United States and extending that agreement until 1 July 1991. This agreement shall enter into force on a date to be agreed upon by exchange of diplomatic notes following the completion of internal procedures of both parties.".

The Directorate General for External Relations of the Commission of the European Communities has the honour to confirm that the contents of the above note are acceptable to the European Economic Community and that the above note and this note constitute an Agreement in accordance with the proposal of the Government of the United States of America.

The Directorate General for External Relations of the Commission of the European Communities takes this opportunity to renew to the United States Mission to the European Communities the assurance of its highest consideration.

Done at Brussels on 27th February 1989

On behalf of the Council of the European Communities

Horst Krensler
The Directorate General for External Relations of the
Commission of the European Communities

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Department of State
Washington

July 24, 1989

The Department of State refers the Delegation of the European Communities to the Agreement amending and extending the Agreement of October 1, 1984 between the Government of the United States of America and the European Economic Community Concerning Fisheries Off the Coasts of the United States, effected by exchange of notes at Brussels, September 15, 1988, and February 27, 1989. The Department of State wishes to inform the Delegation that the United States Government has completed its internal procedures and is prepared for the Agreement to enter into force.

If this is acceptable to the Community, the Department of State proposes that the Agreement enter into force on the date of the Delegation's note in reply, effective from July 1, 1989.

[Initials]

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DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES
Washington

4 August 1989

The Delegation of the Commission of the European Communities refers the Department of State to the Agreement extending and amending the Agreement of 1 October 1984 between the Government of the United States of America and the European Economic Community concerning fisheries off the coast of the United States, effected by Exchange of Notes at Brussels, on 15 September 1988 and 27 February 1989.

The Delegation wishes to inform the Department of State that the European Economic Community has completed its internal procedures in respect of the above Agreement and is prepared for the Agreement to enter into force on the date of the present Note, effective from 1 July 1989, as proposed in the Department of State's Note of 24 July 1989.

[Initials]
[Seal]

Amendment to the Agreement Between the Government of the United States of America and the European Economic Community Concerning Fisheries off the Coasts of the United States, Washington and Brussels, 1991

Done at Washington and Brussels 1 February 1991 and 14 June 1991

Entered into force 8 January 1992, effective 1 July 1991

Primary source citation: Copy of text provided by the U.S. Department of State

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DEPARTMENT OF STATE
WASHINGTON

February 1, 1991

His Excellency
Andreas van Agt,
Ambassador of the European Communities.

Excellency:

I have the honor to refer to the agreement between the Government of the United States of America and the European Community concerning fisheries off the coasts of the United States of America, signed at Washington on October 1, 1984, as amended and extended (hereinafter referred to as "the Agreement"), and due to expire on July 1, 1991. Noting the desire by the United States to address cooperatively with the Communities the recommendations outlined in United Nations Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the further honor to propose that, in accordance with the provisions of Article XIX, the Agreement be extended until December 31, 1993, and that it be further amended as follows:

1. In Article II, paragraph 1, delete "(except highly migratory species of tuna)".

2. In Article II, delete existing paragraph 2 in its entirety and replace it with:

"2. "fish" means all finfish, mollusks, crustaceans, and other forms of marine animal and plant life, other than marine mammals and birds;"

3. In Article II, at the end of subparagraph 6) b), add the word "and", delete paragraph 7 and renumber the present paragraph 8 as paragraph 7.

4. In Article IV, paragraph 4, replace the phrase "fishery conservation zone" with "exclusive economic zone of the United States".

5. In Article IV, paragraph 7 delete "; and" and replace with ";".

6. In Article IV, delete existing paragraph 8 and replace with a new paragraph 8 as follows:

"8. whether, and to what extent, such nation is cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

7. In Article IV, add a new paragraph 9 as follows:

"9. such other matters as the Government of the United States deems appropriate."

8. In Article XII, add a new paragraph 5 as follows:

"5. The Community shall cooperate with the Government of the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

I have the further honor to propose that, if these proposals are acceptable to the European Communities, this Note and the Communities' Note in reply to that effect shall constitute an Agreement between the Government of the United States of America and the European Communities, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two parties following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

David A. Colson

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Note from the European Economic Community

Excellency,

We have the honour to acknowledge receipt of the Note from the Government of the United States of America, Department of State, Washington, February 1, 1991, which reads as follows:

"I have the honor to refer to the agreement between the Government of the United States of America and the European Economic Community concerning fisheries off the coasts of the United States, signed at Washington on October 1, 1984, as amended and extended (hereinafter referred to as "the Agreement"), and due to expire on July 1, 1991.

Noting the desire by the United States to address cooperatively with the Communities the recommendations outlined in United Nations Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the further honor to propose that, in accordance with the provisions of Article XIX, the Agreement be extended until December 31, 1993, and that it be further amended as follows:

1) In Article II 1), the words "(except highly migratory species of tuna)" shall be deleted.

2) Article II 2) shall be replaced by:

"2) "fish" means:

all finfish, molluscs, crustaceans and other forms of marine animal and plant life, other than marine mammals and birds;".

3) At the end of subparagraph 6(b) of Article II, the word "and" shall be added, paragraph 7 shall be deleted and paragraph 8 shall become paragraph 7.

4) In Article IV 4) the words "fishery conservation zone" shall be replaced by "exclusive economic zone of the United States".

5) In Article IV 7), the final "and" shall be deleted.

6) Article IV 8) shall be replaced by the following:

"8) whether, and to what extent, such nation is cooperating with the United States in matters pertaining to the fulfilment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea and".

7) The following shall be added to Article IV:

"9) such other matters as the Government of the United States deems appropriate".

8) The following shall be added to Article XII:

"5. The Community shall cooperate with the Government of the United States in matters pertaining to the fulfilment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea".

9) In Article XIX 1., "1 July 1991" shall be replaced by "31 December 1993".

I have the further honor to propose that if these proposals are acceptable to the European Economic Community, this Note and the Communities' Note in reply to that effect shall constitute an Agreement between the Government of the United States of America and the European Economic Community, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two parties following the completion of necessary internal procedures."

With reference to, and in conformity with, the contents of the Commission's letter of 5 March 1991, we have the honour to confirm that the proposals set out in the above note are acceptable to the European Economic Community and that the above note and this note constitute an Agreement between the Government of the United States of America and the European Economic Community.

Please accept, Excellency, the assurance of our highest consideration.

Brussels, 14 June 1991

On behalf of the Council
of the European Communities

Thierry STOLL

Deputy Permanent Representative
of Luxembourg
to the European Communities

José de ALMEIDA SERRA

Director-General
of the Directorate-General for Fisheries
of the Commission of the European Communities

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United States Mission to the European Communities
Brussels

November 20, 1991

No. 82

The United States Mission to the European Communities presents its compliments to the Commission of the European Communities and refers to the agreement of October 1, 1984, amending and extending the agreement between the Government of the United States of America and the European Community concerning fisheries off the coasts of the United States, as amended and extended, effected by exchange of notes at Washington and Brussels, dated February 1 and June 14, 1991.

The Department of State wishes to inform the Commission that the Government of the United States of America has completed its necessary internal procedures for entry into force of the agreement. If it is acceptable to the Commission, the United States Mission to the European Communities proposes that the agreement enter into force on the date of the Commission's note in reply, effective from July 1, 1991.

The United States Mission to the European Communities takes this opportunity to renew to the Commission the assurances of its highest consideration.

[Initials]
[Seal]

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DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES
Washington, D.C.

8 January, 1992

The Delegation of the Commission of the European Communities presents its compliments to the Department of State and has the honour to acknowledge receipt of the Note of the United States Mission to the European Communities dated 20 November, 1991. The said Note informed the Commission of the completion of the procedures for the amendment to and extension of the Agreement between the Government of the United States of America and the European Economic Community of 1 October, 1984 concerning fisheries off the coast of the United States, as amended and extended, effected by an exchange of Notes at Washington and Brussels, dated 1 February, 1991 and 14 June, 1991.

The Delegation wishes to inform the Department of State that the European Economic Community has completed its internal procedures in respect of the above Agreement and is prepared for the Agreement to enter into force on the date of the present Note, effective from 1 July, 1991, as proposed in the Mission's Note no. 82.

The Delegation of the Commission of the European Communities takes this opportunity to renew to the Department of State the assurance of its highest consideration.

[Initials]
[Seal]

BILATERAL

FRANCE

FISHERIES

Agreement Between the Government of the United States of America and the Government of the French Republic on Matters Relating to Fishing in the Economic Zones of the French Overseas Territories of New Caledonia and Wallis and Futuna Islands, Washington, 1991

Done at Washington 1 March 1991

Entered into force 1 November 1991

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FRENCH REPUBLIC ON MATTERS RELATING TO FISHING IN THE ECONOMIC ZONES OF THE FRENCH OVERSEAS TERRITORIES OF NEW CALEDONIA AND WALLIS AND FUTUNA ISLANDS

The Government of the United States of America and the Government of the French Republic of France,

Referring to the meetings that were held recently between representatives of the two countries on matters relating to fishing in the economic zones of the French Overseas Territories of New Caledonia and Wallis and Futuna Islands,

Have agreed as follows:

Article I

Fishing conducted by U.S. nationals and U.S. flag vessels in the zones established by law Nos. 76-655 of July 16, 1976, regarding the economic zone off the coasts of the territory of the French Republic, and by decrees Nos. 78-142 and 78-145 of February 3, 1978, creating an economic zone off the coasts of the territory of New Caledonia and the territory of Wallis and Futuna Islands, shall be in accordance with the provisions of this Agreement.

These zones, hereinafter referred to as "the zones", are subject to the fisheries jurisdiction of the French Republic.

Concerning New Caledonia, fishing activities by U.S. nationals and U.S. flag vessels are not authorized in areas the boundaries of which shall be provided by the Government of the French Republic.

Article II

The competent French authorities shall issue licenses valid for periods to be determined annually, authorizing U.S. flag vessels to fish in the zones concerned, subject to the prior payment of a fishing fee.

Article III

The Government of the United States of America shall encourage cooperative measures aimed at developing the fisheries industry in the territories concerned.

Article IV

1. The Government of the United States of America shall take appropriate measures, in accordance with its laws and regulations, to prevent any U.S. flag vessel from fishing in the zones without a license, as set forth in the provisions of this Agreement, and so that the vessels so licensed abide by the applicable fishing laws and regulations of the French Government, in particular decree No. 78-963 of September 19, 1978, as amended, the provisions of this Agreement, and the conditions stipulated in the license.

2. The Government of the French Republic shall inform the Government of the United States of America in advance of all applicable laws and regulations, as well as the terms and conditions stipulated by the license mentioned in the previous paragraph.

Article V

If U.S. flag vessels are seized or their crews arrested, the competent French authorities shall immediately inform the Government of the United States of America of such action. In such cases, both parties shall abide by the principles of international law as reflected, inter alia, in the 1982 Law of the Sea Convention.

Article VI

1. The two Governments shall consult, at the request of either party, with respect to the application of this Agreement.

2. The Governments will cooperate at the international level in the area of fisheries, in particular in the context of international organizations involved in fisheries. This cooperation shall apply to the management and rational use of fisheries resources, in particular with respect to fishing practices that pose a threat to resource conservation.

Article VII

This agreement shall enter into force on November 1, 1991. It shall remain in force until it is terminated by either Government upon prior notification at least three months before the end of the current fishing year as agreed by the two Governments. Such termination shall be effective on the last day of the fishing year.

The terms and conditions necessary to implement this Agreement shall be established jointly each year by the parties.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose by their respective Governments, have signed this Agreement in duplicate, in the English and French languages, both texts being equally authentic.

Done at Washington, this First day of March, 1991.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

David A. Colson

FOR THE GOVERNMENT OF THE
FRENCH REPUBLIC:

Jacques Iekawe

BILATERAL

GERMANY

ENVIRONMENT AND NATURAL RESOURCES

Agreement Between the Government of the United States of America and the Government of the Federal Republic of Germany on Cooperation in Environmental Affairs, Bonn, 1974

Done at Bonn 9 May 1974

Entered into force 26 March 1975

Primary source citation: 26 UST 840, TIAS 8069

AGREEMENT

BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY ON COOPERATION IN ENVIRONMENTAL AFFAIRS

The Government of the United States of America and the Government of the Federal Republic of Germany, believing that:

- the national environment of each country as well as the global environment must be protected for the health and well-being of present and future generations;

- efficient industrialization and healthful urbanization require effective pollution abatement and control and environmental conservation policies and practices;

- cooperation between the two Governments is of mutual advantage in coping with similar problems in each country and is important in meeting each Government's responsibilities for the maintenance of the global environment;

recognizing the importance of harmonious environmental policies and practices, particularly among industrialized states and groups of states, as well as the European Communities;

acknowledging the significant mutual benefit being derived by both Governments from ongoing cooperation in various fields, including outer space research and technology, nuclear reactor safety research and development, biomedical and health services delivery research, and those covered by the United States-German cooperative program in natural resources, environmental pollution control and urban development (UGNR); and

desiring to demonstrate the increase in importance attached by both Governments to cooperation in environmental affairs;

agree as follows:

Article I

The Government of the United States of America and the Government of the Federal Republic of Germany - hereinafter referred to as Contracting Parties - through their appropriate agencies will maintain and enhance bilateral cooperation in the field of environmental affairs on the basis of equality, reciprocity and mutual benefit.

Article II

Cooperation may be undertaken in mutually agreed areas pertaining to environmental quality management, such as:

A. Pollution problems of mutual concern - their identification and study and assessment of relevant control technology and related health effects, for example:

1. Selected problems of water quality management, including such aspects as waste water treatment for industrial, municipal, and agricultural pollution, development of water standards, sludge disposal, mathematical modeling with a view toward future pollution prevention and reclamation of ground water;

2. Air pollution, including stationary and mobile sources, development of low pollution power systems, and related health effects;

3. Solid waste management and resource recovery;

4. Pesticides, toxic and other harmful substances;

5. Marine pollution;

6. Noise pollution;

7. Environmental effects of energy use, including extraction, conversion, transmission and consumption;

B. Assessment of environmental quality, including techniques of monitoring and surveillance;

C. Discussion of environmental policies, practices and organization;

D. Exchange of experience on the design and cooperation in the development of environmental information systems;

E. Training in environmental protection;

F. Environmental impact evaluations;

G. Consultations on international environmental policy issues; and

H. Other environmental protection and enhancement activities, as agreed.

Article III

The forms of cooperation to be undertaken as mutually agreed may include:

A. Meetings to discuss environmental policy issues, to identify projects which may be usefully undertaken on a cooperative basis and technical symposia and conferences;

B. Implementation of agreed cooperative projects;

C. Exchange of information and data on environmental research and development activities, policies, practices, legislation and regulations, and analysis of operating programs and evaluation of environmental impacts;

D. Visits by scientists, technicians, teachers or administrators on specific or general subjects; and

E. Coordination of specific research activities.

Article IV

The Contracting Parties will use their best efforts to harmonize to the maximum extent practicable their environmental policies and practices, and to promote broad international harmonization of effective measures to prevent and control environmental pollution. In these efforts, they will support steps to:

A. Arrive at internationally agreed scientific criteria, particularly those relating to human health;

B. Achieve agreement on levels of acceptable environmental quality;

C. Develop and disseminate information on best technology available to abate pollution and encourage widespread use of the best technology available for controlling pollution.

The Contracting Parties will use their best efforts to ensure that the cost of carrying out pollution prevention and control measures will be included in the cost of goods and services which cause pollution in production or consumption, and to prevent environmental protective measures being used as nontariff barriers to trade. Where trade distortions result from differences in the environmental practices and procedures of the two countries, the Contracting Parties will consult upon request with a view to mitigating such distortions.

Article V

Each Contracting Party will notify the other of the names of one or more Coordinators responsible for the conduct of its activities under this Agreement. Each Contracting Party may also identify such administrative arrangements as it deems desirable to permit its most effective participation in the various cooperative activities under this Agreement. By mutual agreement, specific cooperative activities may be confirmed by separate Agency-to-Agency arrangements. As mutually agreed, joint meetings of the Coordinators may be held to review current and future activities under this Agreement. Each Contracting Party will ensure for its part appropriate coordination among activities under this Agreement with other cooperative programs between the two Governments.

Article VI

Participants in the cooperative activities under this Agreement may include Government agencies, academic institutions, private economic enterprises, and citizen organizations.

Article VII

Scientific and technological information of a non-proprietary nature derived from the cooperative activities under this Agreement will be made available to the world scientific community through customary channels and in accordance with the normal procedures of the participating agencies. The disposition of patents, know-how, and other proprietary property derived from the cooperative activities under this Agreement will be provided for in detailed arrangements covering specific programs and projects.

Article VIII

Nothing in this Agreement shall be construed to prejudice other arrangements or future arrangements for cooperation between the Contracting Parties or with third parties.

Activities under this Agreement shall be subject to the availability of appropriated funds and to the applicable laws and regulations in each country. Unless otherwise agreed, each Contracting Party will bear the costs of its own participation in this Agreement.

Article IX

This Agreement shall also apply to Land Berlin unless the Government of the Federal Republic of Germany makes a contrary declaration to the Government of the United States of America within three months of the entry into force of the Agreement.

Article X

The present Agreement shall enter into force one month from the date on which the Government of the Federal Republic of Germany shall have notified the Government of the United States of America that the necessary constitutional requirements for such entry into force have been fulfilled, shall remain in force for five years, and be automatically renewed for a further five-year period unless either Party notifies the other three months prior to the expiration of the first five-year period of its desire that the Agreement be terminated. The termination of this Agreement shall not affect the validity of any arrangements made under this Agreement.

Done at Bonn, in duplicate, in the English and German languages, both being equally authentic, this ninth day of May, 1974

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Martin J. Hillenbrand

Russell E. Train

[SEAL]

FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY

Karl Moersch

Guenter Hartkopf

[SEAL]

Amendment to the Agreement Between the Government of the United States of America and the Government of the Federal Republic of Germany on Cooperation in Environmental Affairs, Bonn, 1985

Done at Bonn 22 March 1985

Entered into force 22 March 1985

Primary source citation: TIAS 11251

Courtesy Translation

State Secretary of the Federal Foreign Office
Bonn

March 22nd 1985

H.E. the
Ambassador of the
United States of America, Bonn

Mr. Ambassador,

In view of the fact that the agreement concluded on May 9, 1974 between the Government of the Federal Republic of Germany and the Government of the United States of America on cooperation in environmental affairs, since becoming effective on March 26, 1975 has brought about remarkable advantages for both sides as well as for environmental protection in general, and, in light of the valuable programs of cooperation carried out so far, I have the honour to propose to you, on behalf of the Government of the Federal Republic of Germany, the following amendment for the continuation of the agreement, which expires on March 25, 1985:

1. Article X of the Agreement will be amended to read as follows:

   The present Agreement shall enter into force one month from the date on which the Government of the Federal Republic of Germany shall have notified the Government of the United States of America that the necessary constitutional requirements for such entry into force have been fulfilled, shall remain in force for five years, and be automatically renewed for a further five-year period unless either party notifies the other three months prior to the expiration of the first five-year period of its desire that the Agreement be terminated. Following that further five-year period, the Agreement shall remain in force for successive five-year periods unless terminated by either Party by notice in writing given not later than three months before the expiration of one

of those periods. The termination of this Agreement shall not affect the validity of any arrangements initiated under this Agreement, but not yet completed at the time of termination.

2. This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the United States of America within three months of the date of entry into force of this Agreement.

If the Government of the United States of America expresses its consent to this proposal, this Note and the Note of Your Excellency expressing this consent shall form an Agreement between our two Governments, which enters into force on the date of your Note in reply.

Please accept, Mr. Ambassador, the assurance of my highest consideration.

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EMBASSY OF THE UNITED STATES OF AMERICA
Bonn

March 22, 1985

The Honorable
Juergen Ruhfus
State Secretary
Foreign Office
Bonn

No. 106

Dear Mr. State Secretary:

I have the honor to acknowledge receipt of your Note of March 22, 1985, which reads in English translation as follows:

"Mr. Ambassador:

"In view of the fact that the Agreement concluded on May 9, 1974 between the Government of the Federal Republic of Germany and the Government of the United States of America on Cooperation in Environmental Affairs, since becoming effective on March 26, 1975 has brought about remarkable advantages for both sides as well as for environmental protection in general, and, in light of the valuable programs of cooperation carried out so far, I have the honor to propose to you, on behalf of the Government of the Federal Republic of Germany, the following Amendment for the continuation of the Agreement, which expires on March 25, 1985:

"1. Article X of the Agreement will be amended as follows:

"The present Agreement shall enter into force one month from the date on which the Government of the Federal Republic of Germany shall have notified the Government of the United States of America that the necessary constitutional requirements for such entry into force have been fulfilled, shall remain in force for five years, and be automatically renewed for a further five-year period unless either party notifies the other three months prior to the expiration of the first five-year period of its desire that the Agreement be terminated. Following that further five-year period, the Agreement shall remain in force for successive five-year periods unless terminated by either party by notice in writing given not later than three months before the expiration of one of those periods. The termination of this Agreement shall not affect the validity of any arrangements initiated under this Agreement, but not yet completed at the time of termination.

"2. This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the United States of America within three months of the date of entry into force of this Agreement.

"If the Government of the United States of America expresses its consent to this proposal, this Note and the Note of Your Excellency expressing this consent shall form an Agreement between our two Governments which enters into force on the date of your Note in reply.

"Accept, Mr. Ambassador, the assurance of my highest consideration."

I have the honor to inform you that my Government is agreeable to the proposed Amendment. Accordingly, your Note and this reply constitute an Agreement between our two Governments amending the Agreement of May 9, 1974, and shall enter into force on this date.

Please accept, Mr. State Secretary, the assurances of my highest consideration.

[Signature]

BILATERAL

ICELAND

FISHERIES

Agreement Between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, Washington, 1984

Done at Washington 21 September 1984

Entered into force 16 November 1984

Primary source citation: TIAS 11032

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF ICELAND CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the Republic of Iceland,

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Recognizing that the United States has established by Presidential Proclamation of March 10, 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Republic of Iceland for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means all fish within the exclusive economic zone of the United States (except highly migratory species of tuna), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "fishery" means

   a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b. any fishing for such stocks;

4. "exclusive economic zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

   a. the catching, taking or harvesting of fish;

   b. the attempted catching, taking or harvesting of fish;

   c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d. any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

   a. fishing; or

   b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for foreign fishing vessels to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to foreign fishing vessels in accordance with United States law.

2. The Government of the United States shall determine each year, subject to such adjustments as may be appropriate and in accordance with United States law;

a. the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d. the allocation of such portion that may be made available to qualifying fishing vessels of the Republic of Iceland.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include: inter alia:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed; and

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Government of the Republic of Iceland of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to vessels of each country, including the Republic of Iceland, the Government of the United States will decide on the basis of the factors identified in United States law including:

1. whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish or fishery products;

2. whether, and to what extent such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

3. whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nations require the fish harvested from the exclusive economic zone for their domestic consumption;

5. whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

7. whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

8. such other matters as the United States deems appropriate.

ARTICLE V

The Government of the Republic of Iceland shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as reducing or removing impediments to the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the Republic of Iceland, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

The Government of the Republic of Iceland shall take all necessary measures to ensure:

1. that nationals and vessels of the Republic of Iceland refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VII

The Government of the Republic of Iceland may submit an application to the Government of the United States for a permit for each fishing vessel of the Republic of Iceland that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with the Annex, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of fees for such permits and for fishing in the United States exclusive economic zone. The Government of the Republic of Iceland undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

The Government of the Republic of Iceland shall ensure that nationals and vessels of the Republic of Iceland refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE IX

The Government of the Republic of Iceland shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of the Republic of Iceland is prominently displayed in the wheelhouse of such vessel;

2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of the Republic of Iceland for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5. all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of the Republic of Iceland as determined by applicable United States procedures.

ARTICLE X

The government of the Republic of Iceland shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of the Republic of Iceland that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of the Republic of Iceland or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of the Republic of Iceland by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of the Republic of Iceland of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The Governments of the United States and the Republic of Iceland shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Governments shall cooperate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of the Republic of Iceland in the United States exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. The Government of the Republic of Iceland shall cooperate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States. The Government of the Republic of Iceland shall similarly provide such economic data as may be requested by the United States.

ARTICLE XIII

The Government of the United States and the Government of the Republic of Iceland shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including cooperation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE XIV

Should the Government of the United States indicate to the Government of the Republic of Iceland that nationals and vessels of the United States wish to engage in fishing in the fishery conservation zone of the Republic of Iceland, or its equivalent, the Government of the Republic of Iceland will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XV

Nothing contained in the present Agreement shall prejudice the views of either Government with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

ARTICLE XVI

1. This Agreement shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Governments, and remain in force until July 1, 1989, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party six months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Governments two years after its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, this 21st day of September, 1984, in duplicate in the English language, which shall be the authentic language. The Government of the Republic of Iceland will provide through diplomatic channels the official translation of the Agreement in the Icelandic language.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

E.E. Wolfe

FOR THE GOVERNMENT OF THE REPUBLIC OF ICELAND:

I.E. Andersen

ANNEX

Application and Permit Procedures

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the Republic of Iceland to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. The Government of the Republic of Iceland may submit an application to the competent authorities of the United States for each fishing vessel of the Republic of Iceland that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify

a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

c. a specification of each fishery in which each vessel wishes to fish;

d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

e. the ocean area in which, and the season or period during which, such fishing would be conducted; and

f. such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and shall inform the Government of the Republic of Iceland of such determinations. The Government of the United States reserves the right not to approve applications.

4. The Government of the Republic of Iceland shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Government of the Republic of Iceland and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of the Republic of Iceland, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Government of the Republic of Iceland notifies the Government of the United States of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and the Government of the Republic of Iceland may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

AGREED MINUTES

With respect to Article XIV, the representative of the Government of the United States and the representative of the Government of the Republic of Iceland recognized that bilateral fisheries cooperation can be achieved and sustained only if reciprocal benefits are assured. The representatives of the two Parties further recognized that such benefits may take various forms. The representative of the Government of the United States acknowledged that reciprocal access by fishermen of the United States to the fishery resources of the Republic of Iceland is dependent upon availability of fishery resources for allocation in the zone of the Republic of Iceland. The representative of the Government of the Republic of Iceland noted that such availability does not exist at present in the zone of the Republic of Iceland. The representative of the Government of the United States recognized that, as a practical matter, benefits to the United States at the present time will be achieved and sustained under the Agreement through joint ventures, purchases of United States processed products by the Republic of Iceland, and other possible fishery economic benefits.

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Department of State
Washington

November 13, 1984

The Department of State refers the Embassy of Iceland to the Agreement Between the Government of the United States of America of the Government of the Republic of Iceland Concerning Fisheries Off the Coasts of the United States, signed September 21, 1984. With reference to Article XVI, paragraph 1, of the Agreement, the Department of State wishes to inform the Embassy that the United States Government has completed its internal procedures and is prepared for the Agreement to enter into force.

If this acceptable to the Government of Iceland, the Department of State proposes that the Agreement enter into force on the date of the Embassy's note in reply.

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EMBASSY OF ICELAND
2022 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20008

November 16, 1984

The Embassy of Iceland has the honor to refer to the Department of State's Note of November 13, 1984 reading as follows:

"The Department of State refers the Embassy of Iceland to the Agreement Between the Government of the United States of America of the Government of the Republic of Iceland Concerning Fisheries Off the Coasts of the United States, signed September 21, 1984. With reference to Article XVI, paragraph 1, of the Agreement, the Department of State wishes to inform the Embassy that the United States Government has completed its internal procedures and is prepared for the Agreement to enter into force.

If this is acceptable to the Government of Iceland, the Department of State proposes that the Agreement enter into force on the date of the Embassy's note in reply."

In reply the Embassy wishes to confirm that the Government of Iceland has completed its internal procedures and that the Agreement will enter into force to-day.

[Seal]

Amendment to the Agreement Between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, Reykjavik, 1988–1989

Done at Reykjavik 23 November 1988 and 17 January 1989

Entered into force 25 July 1989, effective 1 July 1989

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE UNITED STATES OF AMERICA
Reykjavik

November 23, 1988.

No. 62

The Embassy of the United States of America presents its compliments to the Ministry for Foreign Affairs of the Republic of Iceland and has the honor to refer to the agreement between the Government of the United States of America and the Government of the Republic of Iceland concerning fisheries off the coasts of the United States, signed at Washington on September 21, 1984, and due to expire on July 1, 1989. The Department of State proposes that the agreement be extended until July 1, 1991, and that it be amended as follows:

1. In Article IV, paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;"

2. In Article IV, paragraph 2, replace the present text with the following: "Whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;"

3. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgment of the United States, vessels or nationals of the Republic of Iceland are harvesting United States origin anadromous species

at unacceptable levels, or whether the Republic of Iceland is failing to take sufficient action to benefit the conservation and development of United States fisheries."

4. In Article VIII, insert after the words "exclusive economic zone," the phrase "and any marine mammal of U.S. origin, such as North Pacific fur seals, on the high seas,".

5. In Article XVI, replace the date "July 1, 1989" with the date "July 1, 1991."

The Embassy proposes that if the extension and the amendments set out in this Note are acceptable to the Republic of Iceland, this Note and the Government of Iceland's reply to that effect shall constitute an agreement between the two Governments amending the agreement between the two countries and extending that agreement until July 1, 1991. This agreement shall enter into force on a date to be agreed upon by exchange of Notes following the completion of internal procedures of both Governments.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry for Foreign Affairs of the Republic of Iceland the assurances of its highest consideration.

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Embassy of the United States of America
Ministry for Foreign Affairs
Reykjavik

17 January 1989

No. 6

The Ministry for Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to acknowledge receipt of the Embassy's Note No. 62 of 23 November 1988 which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry for Foreign Affairs of the Republic of Iceland and has the honor to refer to the agreement between the Government of the United States of America and the Government of the Republic of Iceland concerning fisheries off the coasts of the United States, signed at Washington on September 21, 1984, and due to expire on July 1, 1989. The Department of State proposes that the agreement be extended until July 1, 1991, and that it be amended as follows:

1. In Article IV, paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;"

2. In Article IV, paragraph 2, replace the present text with the following: "Whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;"

3. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgment of the United States, vessels or nationals of the Republic of Iceland are harvesting United States origin anadromous species at unacceptable levels, or whether the Republic of Iceland is failing to take sufficient action to benefit the conservation and development of United States fisheries."

4. In Article VIII, insert after the words "exclusive economic zone," the phrase "and any marine mammal of U.S. origin, such as North Pacific fur seals, on the high seas,".

5. In Article XVI, replace the date "July 1, 1989" with the date "July 1, 1991."

The Embassy proposes that if the extension and the amendments set out in this Note are acceptable to the Republic of Iceland, this Note and the Government of Iceland's reply to that effect shall constitute an agreement between the two Governments amending the agreement between the two countries and extending that agreement until July 1, 1991. This agreement shall enter into force on a date to be agreed upon by exchange of Notes following the completion of internal procedures of both Governments.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry for Foreign Affairs of the Republic of Iceland the assurances of its highest consideration."

The Ministry has the honour to inform the Embassy that the extension of the Agreement between the Government of the Republic of Iceland and the Government of the United States of America concerning fisheries off the coasts of the United States and the amendments set out in the Embassy's Note are acceptable to the Republic of Iceland and that the Embassy's Note and this reply constitute an agreement between our two Governments amending the agreement between our two countries and extending that agreement until 1 July 1991. This agreement shall enter into force on a date to be agreed upon by exchange of Notes following the completion of internal procedures of both Governments.

The Ministry for Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

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Department of State
Washington

July 24, 1989

The Department of State refers the Embassy of Iceland to the Agreement amending and extending the Agreement of September 21, 1984 between the Government of the United States of America and of the Government of the Republic of Iceland Concerning Fisheries Off the Coasts Of the United States, effected by exchange of notes at Reykjavik, November 23, 1988 and January 17, 1989. The Department of State wishes to inform the Embassy that the United States Government has completed its internal procedures and is prepared for the Agreement to enter into force.

If this is acceptable to the Government of Iceland, the Department of State proposes that the Agreement enter into force on the date of the Embassy's note in reply, effective from July 1, 1989.

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July 25, 1989

The Department of State
Washington, D.C.

Ref. 52.C.3

The Embassy of Iceland presents its compliments to the Department of State and has the honor to refer to the latter's note dated July 24, 1989 referring to the Agreement amending and extending the Agreement of September 21, 1984 between the Government of the Republic of Iceland and the Government of the United States of America concerning Fisheries Off the Coasts of the United States, effected by exchange of notes at Reykjavik, November 23, 1988 and January 17, 1989.

The Embassy hereby confirms that the Government of Iceland accepts the proposal of the Department of State that the Agreement enters into force on the date of this Embassy's note in reply, effective from July 1, 1989.

The Embassy of Iceland avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

[Seal]

Amendment to the Agreement Between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, Washington, 1991

Done at Washington 11 February 1991
and 5 April 1991

Entered into force 21 October 1991,
effective 1 July 1991

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

February 11, 1991

His Excellency
Tomas A. Tomasson,
Ambassador of Iceland.

Excellency:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, signed at Washington on September 21, 1984, as amended and extended (hereinafter referred to as "the Agreement") and due to expire on July 1, 1991. Noting the desire by the United States to address cooperatively with the Republic of Iceland the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the further honor to propose that, in accordance with the provisions of Article XVI, the Agreement be extended until December 31, 1993. I have the honor to propose that the Agreement be further amended as follows:

1. In Article II, paragraph 1, delete "(except highly migratory species of tuna)".

2. Delete existing paragraph 2 in its entirety and replace it with:

> "2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals and birds;"

3. In Article II, delete paragraph 7 and renumber the present paragraph 8 as paragraph 7.

4. In Article IV, paragraph 7, delete final "and".

5. In Article IV, add a new paragraph 8 as follows:

"8. whether, and to what extent, such nations are cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

Renumber existing paragraph 8 as a new paragraph 9.

6. In Article XII, add a new paragraph 5 as follows:

"5. The Government of the Republic of Iceland shall cooperate with the Government of the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

I have the further honor to propose that, if these proposals are acceptable to the Government of the Republic of Iceland, this Note and Your Excellency's Note in reply to that effect shall constitute an Agreement between our two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

David A. Colson

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EMBASSY OF ICELAND
WASHINGTON, D.C.

April 5, 1991

The Honorable
Mr. James A. Baker, III
Secretary of State
Washington, D.C.

Sir,

I have the honour to acknowledge receipt of your Note of February 11, 1991 which reads as follows:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, signed at Washington on September 21, 1984, as amended and extended (hereinafter referred to as "the Agreement") and due to expire on July 1, 1991. Noting the desire by the United States to address cooperatively with the Republic of Iceland the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the further honor to propose that, in accordance with the provisions of Article XVI, the Agreement be extended until December 31, 1993. I have the honor to propose that the Agreement be further amended as follows:

1. In Article II, paragraph 1, delete "(except highly migratory species of tuna)".

2. Delete existing paragraph 2 in its entirety and replace it with:

"2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals and birds;"

3. In Article II, delete paragraph 7 and renumber the present paragraph 8 as paragraph 7.

4. In Article IV, paragraph 7, delete final "and".

5. In Article IV, add a new paragraph 8 as follows:

"8. whether, and to what extent, such nations are cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

Renumber existing paragraph 8 as a new paragraph 9.

6. In Article XII, add a new paragraph 5 as follows:

"5. The Government of the Republic of Iceland shall cooperate with the Government of the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

I have the further honor to propose that, if these proposals are acceptable to the Government of the Republic of Iceland, this Note and Your Excellency's Note in reply to that effect shall constitute an Agreement between our two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honour to inform you that the extension of the Agreement between the Government of the Republic of Iceland and the Government of the United States of America concerning Fisheries off the Coasts of the United States until December 31, 1993 and the amendments proposed above are acceptable to the Government of the Republic of Iceland and that your Note and this Note in reply constitute an Agreement between the two Governments, which shall enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Sir, the renewed assurances of my highest consideration.

Tomas A. Tomasson

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Department of State
Washington

August 30, 1991.

The Department of State refers to the Agreement amending and extending the Agreement Between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States of America, signed at Washington on September 21, 1984, as amended and extended, effected by exchange of notes at Washington, dated February 11, 1991 and April 5, 1991. The Department of State wishes to inform the Government of the Republic of Iceland that the Government of the United States has completed its necessary internal procedures for entry into force of the Agreement. If it is acceptable to the Government of the Republic of Iceland, the Department of State proposes that the Agreement enter into force on the date of the Embassy's note in reply, effective from July 1, 1991.

[Initials]

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EMBASSY OF ICELAND
WASHINGTON, D.C.

October 21, 1991

Department of State
Washington, D.C.

The Embassy of Iceland presents its compliments to the Department of State and has the honour to refer to the Department's Note of August 30 regarding the Agreement amending and extending the Agreement between the Government of the Republic of Iceland and the Government of the United States concerning Fisheries off the Coast of the United States of America, signed at Washington on 21 September 1984, as amended and extended, effected by exchange of Notes at Washington, dated 11 February 1991 and 5 April 1991.

The Embassy has the honour to inform the Department of State that the necessary procedures have been completed on behalf of Iceland for entry into force of the above mentioned Agreement and further that the Government of Iceland can accept the proposal of the Department of State that the Agreement enter into force on the date of this Note, effective from 1 July 1991.

The Embassy of Iceland avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

[Seal]

BILATERAL

ICELAND

MARINE MAMMALS

Agreement Between the Government of the United States of America and the Government of the Republic of Iceland Concerning Icelandic Whaling for Scientific Purposes, Washington, 1987

Done at Washington 14 and 15 September 1987

Entered into force 15 September 1987

Primary source citation: Copy of text provided by the U.S. Department of State

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

September 14, 1987

Mr. Hordur H. Bjarnason
Charge d'Affaires ad interim of Iceland
Embassy of Iceland
2022 Connecticut Avenue, N.W.
Washington, D.C. 20008

Dear Mr. Bjarnason:

I am writing to you regarding the recent meetings between representatives of the Government of Iceland and the Government of the United States concerning possible certification of Iceland under the Pelly Amendment to the Fishermen's Protective Act.

Article VI of the International Convention for the Regulation of Whaling provides that the International Whaling Commission (IWC) may make recommendations to its member nations on any matter relating to whales or whaling and to the objectives and purposes of the Convention. Pursuant to Article VI, the IWC, at its 1987 annual meeting, adopted a resolution regarding the Government of Iceland's research whaling program. Adopting the view that Iceland's program does not fully satisfy the criteria set forth in the IWC's 1986 Resolution on Special Permits for Scientific Research, the IWC recommended that Iceland suspend research whaling "until the uncertainties [in its program] identified in the Scientific Committee Report (IWC/39/4) have been resolved to the satisfaction of the Scientific Committee" (IWC/39/41).

Under paragraph 1 of the arrangement set forth in the "Summary Discussions," enclosed with this letter, Iceland has undertaken for 1988 to submit its research program for review by the IWC Scientific Committee and to carry out the scientific recommendations of that Committee. By this undertaking I understand Iceland to have agreed not to resume research whaling in 1988 until it has, to the satisfaction of the IWC Scientific Committee: (1) resolved the uncertainties in its current program identified in Scientific Committee Report IWC/39/4; or (2) responded to recommendations the Committee may make regarding a revised program submitted by Iceland in the interim.

Under paragraph 2 of the arrangement set forth in the "Summary of Discussions," the Secretary of Commerce undertakes not to certify Iceland for the 80 fin whales, and provided that Iceland has previously agreed to the understanding, as set forth in this letter, the Secretary of Commerce will not certify for the taking of any or all of the 20 sei whales in 1987. When the Secretary of Commerce determines that nationals of a foreign country are conducting fishing operations which diminish the effectiveness of an international fishery conservation program, the Pelly Amendment requires the Secretary to certify that fact to the President.

After consulting with the United States Commissioner to the IWC, I have determined that the taking of 80 fin whales and 20 sei whales in 1987 by Icelandic nationals for scientific purposes would not, in light of the undertaking made by Iceland for 1988, diminish the effectiveness of the International Convention for the Regulation of Whaling or its conservation program.

My determination is based, inter alia, on the following factors: Iceland has agreed to comply, to the satisfaction of the IWC Scientific Committee, with the recommendations of the Committee before resuming research whaling in 1988. Iceland's research whaling program is an ongoing program, having commenced in 1986. Iceland had already begun taking fin whales in 1987 by the time the IWC adopted the resolution directed to Iceland. Iceland's research whaling program for 1987 had called for 200 whales — 80 fin, 40 sei and 80 minke; Iceland has agreed to take only 100 whales this year — 80 fin and 20 sei.

Under paragraph 3 of the arrangement, the United States undertakes to work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee process for the review of research permits, so as to build confidence in that process and its scientific basis. Although we look forward to working with you in this regard, it must be understood that the undertaking by Iceland under paragraph 1 of the arrangement is not in any respect conditioned upon the outcome of the efforts to be undertaken to implement paragraph 3.

I look forward to your letter that will confirm the Government of Iceland's acknowledgment of the understanding set forth in this letter of the Summary of Discussions dated September 14, 1987. The agreement between our two Governments will become effective immediately upon the receipt of your response to that effect.

Sincerely,

Bruce Smart
Acting Secretary of Commerce

Enclosure

September 14, 1987

SUMMARY OF DISCUSSIONS ON ICELANDIC WHALING FOR SCIENTIFIC PURPOSES, SEPTEMBER 9, 1987, OTTAWA, CANADA

Dr. Anthony Calio
United States Commissioner to the
International Whaling Commission

Ambassador Ingvi Ingvarsson
Ambassador of Iceland to the
United States of America

The latest in a series of meetings between Iceland and the United States were held in Ottawa, Canada, September 9, 1987, in an effort to determine whether it would be possible, in accordance with the laws and regulations in effect in each country, for the United States Secretary of Commerce to refrain from "certifying" whaling for scientific purposes by Icelandic nationals, if they take whales under the conditions reflected by the terms of this arrangement:

1. For 1988 and thereafter, the Government of Iceland would submit its research program for review by the IWC Scientific Committee and would carry out the scientific recommendations of that Committee.

2. The United States would not certify the Government or nationals of Iceland for the 80 fin whales and the 20 sei whales taken in 1987, nor for the whales taken in 1988 and thereafter in the Icelandic program of scientific research, so long as the Government of Iceland complies with the provisions of paragraph 1.

3. The United States will work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee's process for the review of research permits, so as to build confidence in that process and its scientific basis.

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EMBASSY OF ICELAND
2022 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20008

15 September 1987

The Honorable
Bruce Smart
Acting Secretary of Commerce
Washington, D.C.

Dear Mr. Secretary,

I am in receipt of your letter of September 14, 1987, and acknowledge that it sets forth the United States interpretation and understanding of the three-point agreement discussed by representatives of our respective Governments in Ottawa on September 9, 1987. The Government of Iceland intends to implement the three-point agreement from Ottawa, which reads as follows:

1. For 1988 and thereafter, the Government of Iceland would submit its research program for review by the IWC Scientific Committee and would carry out the scientific recommendations of that Committee.

2. The United States would not certify the Government or nationals of Iceland for the 80 fin whales and the 20 sei whales taken in 1987, nor for the whales taken in 1988 and thereafter in the Icelandic program of scientific research, so long as the Government of Iceland complies with the provisions of paragraph 1.

3. The United States will work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee's process for the review of research permits, so as to build confidence in that process and its scientific basis.

The Government of Iceland does not believe that it is necessary to offer interpretations of the three-point agreement, the intent and effect of which are clear on its face.

This agreement between our two Governments will become effective immediately upon the delivery of this response.

Sincerely,

Hordur H. Bjarnason
Chargé d'Affaires, a.i.
Embassy of Iceland

BILATERAL

ISRAEL

ENVIRONMENT AND NATURAL RESOURCES

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Ministry of the Environment of Israel Concerning Cooperation in the Field of Environmental Protection, Jerusalem, 1991

Done at Jerusalem 20 February 1991

Entered into force 20 February 1991

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF THE ENVIRONMENT OF ISRAEL CONCERNING COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION

ARTICLE I

The Environmental Protection Agency of the United States of America (hereinafter referred to as the "EPA") and the Ministry of the Environment of Israel (hereinafter referred to as the "Ministry") hereby agree to enter into a program of scientific and technical cooperation with regard to the protection of the environment according to the procedures established in this Memorandum of Understanding (hereinafter referred to as the "Memorandum"). Such cooperation will proceed on the basis of equality, reciprocity and mutual benefit. The purpose of the Memorandum is to establish a framework to encourage and increase cooperative activities between EPA and the Ministry (hereinafter referred to as the "Parties") regarding the protection of the environment.

ARTICLE II

Cooperative activities between the Parties under the Memorandum may consist of exchanges of scientific and technical information; exchange visits of scientific personnel; cooperation in the holding of scientific symposia and workshops; cooperative research projects concerning problems of common interest that fall within the scope of the Parties' national programs; and such other cooperative activities as are mutually agreed upon. The terms of such

cooperative activities shall be established through an exchange of letters between the appropriate officials of EPA and of the Ministry.

The Parties may utilize, as is appropriate and mutually acceptable, the services of other government agencies, universities, organizations and institutions of both countries in order to develop and conduct the cooperative programs. Technical experts from third countries or international organizations may also be invited to participate, providing that each of the Parties concurs.

ARTICLE III

Unless otherwise agreed upon by the Parties, there shall be no exchange of funds, each side providing resources adequate to carry out its activities under the Memorandum. It is expressly understood that the ability of each side to carry out cooperative activities under the Memorandum is subject to the availability of appropriated funds.

ARTICLE IV

All cooperative activities conducted under the Memorandum shall be subject to the respective applicable national laws and regulations.

ARTICLE V

The Assistant Administrator for International Activities of EPA, or his designee, and the Director General of the Ministry, or his designee, shall be responsible for the management of the cooperative activities conducted under the Memorandum. They shall jointly undertake periodic reviews of such activities, addressing, in addition, future policy direction and research plans.

ARTICLE VI

To the extent feasible and permitted by their national laws, the Parties shall facilitate the granting of visas and other clearances necessary for personnel and equipment to enter into and exit from their respective territories for purposes of undertaking cooperative activities under the Memorandum.

ARTICLE VII

Protection of intellectual property and rights thereto will be as set forth in Annex I appended hereto, which forms an integral part of the Memorandum.

ARTICLE VIII

Reciprocal security obligations related to cooperative activities under this Memorandum shall be observed in accordance with the provisions of Annex II appended hereto, which forms an integral part of the Memorandum.

ARTICLE IX

The Memorandum shall enter into force upon signature and shall remain in force for five years. It shall be automatically renewed for further five-year periods unless either party notifies the other three months prior to the

expiration of one of those five-year periods of its desire that the Memorandum be terminated. The Memorandum also may be terminated by either Party upon three months' notice to the other Party. The termination of the Memorandum shall not affect the validity of any arrangements initiated under its provisions, but not yet completed at the time of termination.

ARTICLE X

The Memorandum may be amended at any time by mutual written agreement of the Parties.

Done at Jerusalem, in duplicate, in the English language, this twentieth day of February, 1991.

For the Environmental
Protection Agency of the
United States of America

William A. Brown
Ambassador of the
United States of America

For the Ministry of the
Environment of Israel

Yitzhak Shamir
Prime Minister of Israel

ANNEX I
INTELLECTUAL PROPERTY RIGHTS

I. GENERAL

A. For the purposes of this Memorandum, "Intellectual Property" shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

B. The Parties shall ensure, through their respective laws and the provisions of this Annex, adequate and effective legal protection for intellectual property created or furnished in the course of cooperation under the Memorandum and relevant implementing arrangements thereunder.

C. This Annex addresses the allocation of intellectual property rights as between the Parties. As between a Party and its own participants, the ownership of rights and interests in intellectual property shall remain in accordance with that Party's national laws and practices. Recognizing that, under such national laws and practices, intellectual property rights may belong to individuals or other legal persons other than the Parties, each Party shall, through contracts or other legal means, obtain the rights necessary to fulfill the terms of this Annex.

II. COPYRIGHTS

A. The Parties shall take all necessary steps in accordance with their respective national laws and the applicable international agreements to which both countries are Parties to secure copyrights to original works created in the course of cooperation under the Memorandum.

B. In the case of scientific and technical articles, reports, and books created in the course of cooperation under the Memorandum, each Party shall enjoy in its own country a non-exclusive, irrevocable, royalty-free license to produce, sell, translate, reproduce, and publicly distribute copies of such aforementioned original works, or any part or parts thereof, and to authorize others to exercise the rights vested in the Party by this license in its own country. Each Party is entitled to a similar license in third countries upon delivery of prior written notice to that effect to the other Party.

C. With respect to other copyrighted works, including computer programs or software:

1. If a work is created in the course of a program of cooperative activity that involves only the transfer or exchange of information between the Parties, such as by joint meetings, seminars, or the exchange of technical reports or papers:

a. The Party whose participant creates the work ("the creating Party") has the right to obtain all rights and interests in the work in all countries in accordance with applicable national laws of such countries; and

b. In any country where the creating Party decides not to obtain such rights and interests, the other Party has the right to do so;

2. If a work is created by the participant of one Party ("the assigning Party") while assigned to the other Party ("the receiving Party") in the course of a program of cooperative activity that involves only the visit or exchange of scientific and technical personnel:

a. The receiving Party has the right to obtain all rights and interests in the work in all countries in accordance with applicable national laws of such countries; and

b. In any country where the receiving Party decides not to obtain such rights and interests, the assigning Party has the right to do so;

3. If a work is created through other forms of cooperation, such as a joint research project with an agreed scope of work (including the case where a work created through a joint research project falls outside the agreed scope of work), each Party has the right to obtain in its own country all rights and interests in the work, whereas the Party in whose country the work was created has first option to secure legal protection of that work in third countries, as well as the right to license or transfer such rights and interests in third countries;

4. Notwithstanding paragraph 3 above, if a work is created through other forms of cooperation, such as a joint research project with an agreed scope of work, and it is specifically provided in a particular implementing arrangement that the participants expect that works resulting from cooperation will be developed under the Memorandum for utilization or commercialization, each Party has the right to obtain in its own country all rights and interests in the work, and the implementing arrangement will contain an agreed allocation of rights in third countries.

D. A Party receiving rights under the Memorandum to copyrighted works which contain confidential information shall also protect such information in accordance with Article IV of this Annex.

III. INVENTIONS

A. For the purposes of this Annex, "invention" means any invention made in the course of a program of cooperative activity under the Memorandum which is or may be patentable or otherwise protectable under the laws of the United States of America, Israel, or any third country. An invention "made" means one conceived or first actually reduced to practice.

B. If an invention is made in the course of a program of cooperative activity that involves only the transfer or exchange of information between the parties, such as by joint meetings, seminars, or the exchange of technical reports or papers:

1. The Party whose participant makes the invention ("the inventing Party") has the right to obtain all rights and interests in the invention in all countries in accordance with applicable national laws of such countries; and

2. In any country where the inventing Party decides not to obtain such rights and interests, the other Party has the right to do so.

C. If an invention is made by the participant of one Party ("the assigning Party") while assigned to the other Party ("the receiving Party") in the course of a program of cooperative activity that involves only the visit or exchange of scientific and technical personnel:

1. The receiving Party has the right to obtain all rights and interests in the invention in all countries in accordance with applicable national laws of such countries; and

2. In any country where the receiving Party decides not to obtain such rights and interests, the assigning Party has the right to do so.

D. If any invention is made through other forms of cooperation, such as a joint research project with an agreed scope of work (including the case where an invention made through a joint research project falls outside the agreed scope of work), each Party has the right to obtain in its own country all rights and interests in the invention, whereas the Party in whose country the invention was made has first option to secure legal protection of that invention in third countries, as well as the right to license or transfer such rights and interests in third countries.

E. Notwithstanding paragraph D above, if an invention is made through other forms of cooperation, such as a joint research project with an agreed scope of work, and it is specifically provided in a particular implementing arrangement that the participants expect that inventions resulting from cooperation will be developed under the Memorandum for utilization or commercialization, each Party has the right to obtain in its own country all rights and interests in the invention, and the implementing arrangement will contain an agreed allocation of rights in third countries.

F. Notwithstanding paragraphs B through E above, if an invention is of a type for which exclusive rights are available under the laws of one country but not of the other country, the Party or participant from the country whose laws provide for exclusive rights shall be entitled to an assignment of all such rights worldwide.

IV. CONFIDENTIAL INFORMATION

A. For the purposes of this Annex, "confidential information" means information of a confidential nature that meets all of the following conditions:

1. It is of a type customarily held in confidence for commercial reasons;

2. It is not generally known or publicly available from other sources;

3. It has not been previously made available by the owner to others without an obligation concerning its confidentiality; and

4. It is not already in the possession of the recipient party without an obligation concerning its confidentiality.

B. The Parties do not expect that any confidential information will be furnished or created in the course of cooperation under the Memorandum. However, if such information is furnished or created, the Parties shall protect such information as confidential information in accordance with their respective laws, regulations, and administrative practices.

C. Information to be protected as confidential information shall be identified as such by the side furnishing such information or asserting that it is to be protected, except as otherwise provided in the Parties' respective laws, regulations, and administrative practices. Subject to such laws, regulations, and administrative practices, unidentified information will be assumed not to be information to be protected, except that one party may notify the other Party in writing within a reasonable period of time after furnishing such information that such information is confidential information under the laws, regulations, and administrative practices of its own country. Such information will thereafter be protected in accordance with paragraph B above.

V. OTHER FORMS OF INTELLECTUAL PROPERTY

"Other forms of intellectual property" means any intellectual property protectable in accordance with the laws, regulations, and administrative practices of either Party or any third country other than those forms described in Articles II and III above and includes, for example, industrial designs and models and semiconductor circuit topographies. Rights to other forms of intellectual property shall be determined in the same manner as for inventions, as set forth in Article III of this Annex. If a subject matter that is invented or created in the course of a program of cooperative activity under the Memorandum is of a type for which protection is available under the intellectual property laws of one Party but not of the other Party, the Party whose laws provide for such protection shall be entitled to an assignment of all such rights worldwide.

VI. MISCELLANEOUS

A. Each Party and each cooperating organization shall take all necessary and appropriate steps to provide for the cooperation of its authors and inventors that is required to carry out the provisions of this Annex.

B. Each Party shall pay to its participants such awards or compensation as may be required in accordance with its laws and regulations. This Annex does not create any entitlement or prejudice any right or interest of the author or inventor to an award or compensation for his or her work or invention. If a Party does not intend either to exercise its rights to intellectual property or to transfer such rights to a third party, it shall, if required by its national laws, transfer such rights to the author or inventor of such intellectual property.

C. The Parties shall disclose to each other any intellectual property arising in the course of a program of cooperative activity and furnish to each other any documentation and information necessary to enable them to secure any rights to which they may be entitled. The Parties may ask each other in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting their respective rights. Unless otherwise agreed in writing, such restriction shall not exceed a period of six months from the date of the disclosure of the intellectual property. Communications shall be through the Parties to the applicable implementing arrangement.

VII. RESOLUTION OF DISPUTES

Intellectual property disputes arising under the Memorandum should be resolved, if possible, through discussions between the concerned cooperating organizations. If the cooperating organizations cannot resolve a dispute, it shall be settled through consultations between the Parties or their designees.

VIII. EFFECT OF TERMINATION OR EXPIRATION

Termination or expiration of the Memorandum shall not affect rights or obligations under this Annex.

IX. APPLICABILITY

This Annex shall apply to any implementing arrangements or other cooperative activities under the Memorandum, except as may be specifically provided otherwise with respect to any or all provisions of this Annex in individual implementing arrangements.

ANNEX II
SECURITY OBLIGATIONS

I. PROTECTION OF INFORMATION OR EQUIPMENT

Both Parties agree that no information or equipment requiring protection in the interests of national defense or foreign relations of either Party and classified in accordance with the applicable national laws and regulations shall be provided under this Memorandum. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities undertaken pursuant to the Memorandum, it shall be brought immediately to the attention of the appropriate officials and the Parties shall consult concerning the need for and level of appropriate protection to be accorded such information or equipment.

II. TRANSFER OF INFORMATION OR EQUIPMENT

The transfer of unclassified export-controlled information or equipment between the Parties shall be in accordance with the relevant laws and regulations of each Party to prevent the unauthorized transfer or retransfer of such information or equipment provided or produced under the Memorandum. If either Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or implementing arrangements.

BILATERAL

ISRAEL

MARINE SCIENCE AND EXPLORATION

Memorandum of Understanding Between the National Oceanic and Atmospheric Administration of the Department of Commerce of the United States of America and the Israel Oceanographic and Limnological Research of Israel Covering Marine and Freshwater Scientific and Technical Cooperation, Jerusalem, 1989

Done at Jerusalem 5 June 1989

Entered into force 5 June 1989

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING BETWEEN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OF THE DEPARTMENT OF COMMERCE OF THE UNITED STATES OF AMERICA AND THE ISRAEL OCEANOGRAPHIC AND LIMNOLOGICAL RESEARCH OF ISRAEL COVERING MARINE AND FRESHWATER SCIENTIFIC AND TECHNICAL COOPERATION

ARTICLE I. SCOPE AND OBJECTIVES

The National Oceanic and Atmospheric Administration of the Department of Commerce of the United States of America (hereinafter referred to as the "NOAA") and the Israel Oceanographic and Limnological Research of Israel (hereinafter referred to as the "IOLR") hereby agree to enter into a program of marine and freshwater scientific and technical cooperation according to the procedures established in this Memorandum of Understanding.

The purpose of this Memorandum of Understanding (hereinafter referred to as the "Memorandum") is to establish a framework to encourage and increase cooperative scientific activities between NOAA and IOLR scientists; to provide opportunities for the exchange of information, ideas, skills and techniques; to investigate problems of common interest; and to utilize facilities and equipment available to both countries for scientific research.

NOAA and IOLR (hereinafter referred to as the "Parties") may use, as is appropriate and mutually acceptable, the services of other government agencies, universities, organizations and institutions of both countries for the development and conduct of the cooperative programs. Technical experts from third countries or international organizations may also be invited to participate, provided both NOAA and IOLR concur. Similarly, NOAA and IOLR may seek opportunities to submit joint research proposals to third party granting institutions as appropriate.

ARTICLE II. COOPERATIVE ACTIVITIES

Activities under this Memorandum may consist of exchanges of scientific data and technical information; exchange visits; cooperative research within the scope of the Parties' national programs, between scientists with mutual research interests; cooperation in the holding of scientific symposia and workshops; and other cooperative activities as are mutually agreed. Specific areas of cooperative work may include oceanography, limnology, and marine biotechnology. Details of specific activities agreed upon within the terms of this Memorandum shall be confirmed by the Parties in written project annexes. All activities will be subject to applicable laws and regulations of the United States of America and Israel.

ARTICLE III. SOURCES OF FUNDING

Cooperative activities under this Memorandum will be subject to and dependent upon the financial support and personnel available to the Parties. The terms of financing will be agreed upon by the Parties before the commencement of projects.

ARTICLE IV. PERSONNEL AND EQUIPMENT

To the extent feasible and permitted by their national laws, the Parties shall facilitate the granting of visas and other clearances necessary for personnel and equipment to enter into and exit from their territories for purposes of cooperation under this Memorandum.

ARTICLE V. INTELLECTUAL PROPERTY

Protection of intellectual property and rights thereto will be as set forth in Annex I, which is an integral part of this Memorandum.

ARTICLE VI. SECURITY OBLIGATIONS

Reciprocal security obligations related to cooperative activities under this Memorandum shall be observed in accordance with the provisions of Annex II, which forms an integral part of this Memorandum.

ARTICLE VII. PLANNING AND REVIEW OF ACTIVITIES

The Parties shall jointly review the progress of cooperation under this Memorandum on a periodic basis. Such review shall be undertaken by representatives nominated by NOAA and IOLR in a manner deemed mutually appropriate.

ARTICLE VIII. ENTRY INTO FORCE AND TERMINATION

This memorandum shall enter into force upon signature by both Parties and shall remain in force for five (5) years. It may be modified or extended by mutual agreement and may at any time be terminated by either Party upon ninety (90) days written notice to the other Party. In the event of termination of this Memorandum, arrangements will be made for completion of activities already underway pursuant thereto.

Done at Jerusalem, in duplicate, this fifth day of June, 1989.

For the:
National Oceanic and
Atmospheric Administration of
the Department of Commerce of
the United States of America

William A. Brown
Ambassador of the
United States of America

For the:
Israel Oceanographic and
Limnological Research
of Israel

Yuval Cohen
Director-General of the
Israel Oceanographic and
Limnological Research

ANNEX I
INTELLECTUAL PROPERTY

I. GENERAL

A. For the purposes of this Memorandum, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm July 14, 1967.

B. The Parties shall ensure adequate and effective protection for intellectual property created or furnished in the course of cooperation under this Memorandum and relevant implementing arrangements thereunder.

II. COPYRIGHTS

A. Each Party shall take appropriate measures to ensure that participants take necessary steps, in accordance with applicable national laws, to secure copyright to works created in the course of cooperative activity under this Memorandum.

B. Between NOAA and its participants under this Memorandum and between IOLR and its participants under this Memorandum, the ownership of rights and interests in copyrights shall be determined in accordance with the national laws and practices of the United States of America and Israel, respectively.

C. In the case of scientific and technological articles, reports and books created in the course of cooperation under this Memorandum, each Party shall enjoy in the territory of its country a non-exclusive, irrevocable, royalty-free license to translate, reproduce and publicly distribute copies of such works and to authorize others to exercise the rights vested in the Party by this license. Each Party is entitled to a similar license in third countries upon request. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work.

D. With respect to other copyrighted works, including computer programs or software, the following provisions shall apply to the allocation of rights under this Memorandum, except as otherwise provided in project annexes:

1. If a work is created by the personnel of one Party while assigned to the other Party (the Receiving Party) in the course of cooperative activity that involves only the visit or exchange of such personnel, the Receiving Party shall enjoy in the United States of America and Israel, and in third countries, a royalty-free, irrevocable, exclusive license to all rights in such work created during the course of such cooperation.

2. If a work is created during the course of a joint research project with an agreed scope of work, each Party shall enjoy in the territory of its country a royalty-free, irrevocable, exclusive license to all rights in such work and the party in whose country the work was created has the first option to such a license in third countries.

E. Notwithstanding the foregoing, if at the time of its creation, any work is of a type for which copyright protection is available under the laws of either the United States of America or Israel, but not under the laws of the other country, the Party from the country in which laws provide such protection shall be entitled to an assignment of all rights in such work worldwide. If a work is created under this Memorandum by a government officer or employee, it will be considered to be of a type for which copyright protection is available if such protection would be available to a non-government creator of such a work.

F. Each Party shall take necessary measures to ensure that its participants protect, in accordance with Article IV of this Annex, business-confidential information contained in works for which a Party has the right to copyright under this Memorandum.

III. INVENTIONS

A. For purposes of this Annex, "invention" means any invention made in the course of projects under this Memorandum which is or may be patentable or otherwise protectable under the laws of the United States of America, Israel or any third country. An invention "made" means conceived or first actually reduced to practice.

B. Between NOAA and its participants under this Memorandum and between IOLR and its participants under this Memorandum, the ownership of rights and interests in inventions will be determined in accordance with the national laws and practices of the United States of America and Israel, respectively.

C. As between the Parties, the Parties agree that:

1. If an invention is made in the course of a cooperative project that involves only a transfer or exchange of information between the participants in the cooperative activities, such as by joint meetings, seminars or the exchange of technical reports or papers, unless provided otherwise in an applicable implementing arrangement:

a. Either the Party whose personnel makes the invention ("the Inventing Party") or the participant who makes the invention, has the right to obtain all rights and interests in the invention available under the national laws of all third countries.

b. In any country where the Inventing Party or participant decides not to obtain such rights and interests, the other Party has the right to do so.

2. If the invention is made by a participant of one Party ("the Assigning Party") while assigned to the other Party ("the Receiving Party") in the course of a program of cooperative activity that involves only the visit or exchange of scientific and technical personnel:

a. The Receiving Party has the right to obtain from the Assigning Party those rights and interests in the invention that the Assigning Party can, consistent with the laws of its country, require the inventor to assign to it, and the Receiving Party may obtain these rights in all countries where they are recognized.

b. In any country where the Receiving Party decides not to obtain such rights and interests, the Assigning Party or its participant has the right to do so.

3. For other forms of cooperation, such as joint research projects with an agreed scope of work, each Party has the right to obtain in its country's territory all rights and interests in any invention made as a result of such cooperation, whereas the party in whose country the invention was made, or the participant who made the invention, has first option to secure legal protection of that invention in third countries, as well as the right to license or transfer such rights and interests in third countries.

D. Notwithstanding the foregoing, if an invention is of a type for which exclusive rights are available under the laws of either the United States of America or Israel, the Party or participant from the country whose laws provide for exclusive rights shall be entitled to an assignment of all such rights worldwide.

E. The Parties shall disclose to one another inventions made in the course of a program of cooperative activity and furnish to one another any documentation and information necessary to enable them to secure any rights to which they may be entitled. The Parties may ask one another in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting their respective rights related to inventions. Unless otherwise agreed in writing, such restriction shall not exceed a period of six months from the date of communication of such information. Communication shall be through the Parties.

IV. BUSINESS-CONFIDENTIAL INFORMATION

A. The Parties do not expect, in the course of cooperative projects under this Memorandum, to furnish to one another or to create, or have the participants in the cooperative activities furnish or create, business-confidential information. In the event that such information is inadvertently furnished or created or that the Parties agree to furnish such information, each Party shall take necessary measures to ensure that its participants in the cooperative activities give full protection to such information in accordance with applicable laws, regulations and administrative practices.

B. For the purposes of this Annex, "business-confidential information" means information of a confidential nature which meets all of the following conditions:

1. It is of a type customarily held in confidence for commercial reasons;

2. It is not generally known or publicly available from other sources;

3. It has not been previously made available by the owner to others without an obligation concerning its confidentiality; and

4. It is not already in the possession of the recipient without an obligation concerning its confidentiality.

C. Each Party shall take necessary measures to ensure that any information to be protected as "business-confidential" shall be appropriately identified by the participants who furnish or assert that such information is to be protected. Information not identified as business-confidential need not be protected, except that a participant in the cooperative activity may by written notice sent within a reasonable period of time after furnishing or transferring such information, notify another participant that such information is business-confidential information. Such information will thereafter be protected.

D. It is the responsibility of the Party whose personnel accept such information to secure any clearances or registrations required under applicable laws, regulations or administrative practices governing the protection and dissemination of business-confidential information. The Party accepting business-confidential information shall notify the other Party before funishing such information to third parties and shall take appropriate steps to safeguard the information furnished from unauthorized disclosure.

V. OTHER FORMS OF INTELLECTUAL PROPERTY

"Other forms of intellectual property" means any intellectual property other than those described in Articles II, III and IV above and includes, for example, mask works. Rights to other forms of intellectual property shall be determined in the same manner as for inventions. If an intellectual property created in the course of a program of cooperative activity under this Memorandum is of a type for which protection is not available under the laws of both the United States of America and Israel, the Party whose country's laws provide such protection shall be entitled to all such rights worldwide.

VI. MISCELLANEOUS

A. Each Party shall take all necessary and appropriate steps to provide for that cooperation of its authors, inventors, and discoverers which is required to carry out the provisions of this Annex.

B. Each Party shall assume the responsibility to pay to its authors, inventors and discoverers such awards or compensation as may be in accordance with the laws and regulations of its country. This Annex does not create any entitlement or prejudice any right or interest of the author, inventor or discoverer to an award or compensation for his or her work, invention or discovery.

C. Intellectual property disputes arising under this Memorandum should be resolved, if possible, through discussions between the concerned participants. If the participants cannot resolve such disputes, they shall be settled through consultations between the Parties or their designees.

VII. EFFECT OF TERMINATION OR EXPIRATION

Termination or expiration of this Memorandum shall not affect rights or obligations under this Annex.

VIII. APPLICABILITY

This Annex is applicable to all cooperative activities under this Memorandum unless it is specifically agreed in individual project annexes that any or all of its provisions do not apply.

ANNEX II
SECURITY OBLIGATIONS

Both Parties agree that no information or equipment requiring protection in the national security interest of either Party and classified in accordance with applicable national laws and regulations shall be provided under this Memorandum. Such information or equipment, unexpectedly created in the course of projects undertaken pursuant to this Memorandum, shall be protected from disclosure in accordance with applicable national laws and regulations and shall be brought immediately to the attention of the appropriate government officials for evaluation. Provision for protection of such information from unauthorized disclosure shall be set forth in writing by the Parties.

The transfer of unclassified information and equipment between the Parties under this Memorandum shall be subject to the national export control laws and regulations of each Party. The Parties will take all necessary and appropriate measures, in accordance with the international obligations, national laws and regulations of each Party, to prevent the unauthorized transfer or retransfer of unclassified, export-controlled information and equipment provided or produced under this Memorandum. Detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated, as appropriate, into all project annexes implementing this Memorandum.

BILATERAL

ITALY

ENVIRONMENT AND NATURAL RESOURCES

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Ministry of Environment of Italy Concerning Cooperation in the Field of Environmental Protection, Rome, 1987

Done at Rome 3 March 1987

Entered into force 3 March 1987

Primary source citation: TIAS 11283

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF ENVIRONMENT OF ITALY CONCERNING COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION

The Environmental Protection Agency (EPA) of the United States of America and the Ministry of Environment (The Ministry) of Italy, recognizing that strong national environmental programs contribute not only to the protection of national environments but to that of the global environment as well, that cooperation between national environmental authorities is of mutual benefit at both the national and global level, that sound economic and social policies require the development and application of anticipatory environmental controls, and that harmonious policies, regulations and practices contribute to the social and economic well-being of States and groups of States,

have agreed as follows:

ARTICLE I

EPA and the Ministry will undertake a programme of cooperation in the field of environmental affairs on the basis of equality, reciprocity, and mutual benefit, within the framework of the Agreement between the United States of America and the Republic of Italy for scientific and technological cooperation.

ARTICLE II

EPA and the Ministry will provide each other with information on environmental issues and on significant common policy, research, and economic and regulatory elements of their respective programs. A list of such common interests will be developed, and will be modified in line with future program and priority changes. Unless otherwise agreed, information on toxic substances and radioactive waste will be transferred through the OECD and other multilateral organizations. Otherwise, information may be exchanged on a bilateral basis. The exchange of information under this MOU will be subject to the laws and regulations of the country providing the information. EPA and the Ministry will seek to assure the accuracy of data and information exchanged pursuant to this Memorandum but without consequential liability for any inaccuracy.

ARTICLE III

In addition to exchanges of information, other forms of cooperation may be undertaken appropriate to the nature of the topic. Work in these areas may include exchanges of personnel and joint projects on research, pollution measurement and control, and development and demonstration of environmental techniques and technologies as well as organization of joint scientific symposia and conferences. The terms of such activities shall be established through exchange of letters between appropriate officials of EPA and of the Ministry. At the outset, the following subjects have been identified as having mutually high priority and are being pursued at appropriate levels of effort:

1. Hazardous and municipal solid waste management, including health and environmental hazards arising from waste sites and waste incineration;

2. Development, field test, demonstration and evaluation of environmental technology in areas such as control of hazardous waste sites and air pollution from stationary sources, rehabilitation of contaminated land, and waste water treatment;

3. Research on:

- A) Acid deposition resulting from air pollution, including photochemical oxidants;

- B) Global CO_2 buildup, the greenhouse effects, and possible associated sea level rise;

- C) The interaction of Chlorofluorocarbons and other chemicals with the ozone layer;

- D) Indoor air pollution;

- E) Development of pollution control and monitoring equipment as well as of techniques to measure low-level chemical exposure to tissues;

4. Prevention of chemical accidents; contingency planning for and emergency response to accidents involving the release of toxic chemicals.

ARTICLE IV

The heads of the International Office of EPA and of the Pollution Prevention and Environmental Reclamation Service of the Ministry of Environment shall be the coordinators responsible for the management of this cooperative program. The coordinators shall make an annual review of cooperation, evaluating the existing program and determining policy and implementation plans for future work. As progress is made in the areas identified in article III, and as respective national priorities permit, the coordinators will consider possible additional topics for inclusion in the work program under this Memorandum. They shall also be responsible for furthering the appropriate participation of other U.S. and Italian organizations (governmental, business, and academic) in the activities conducted under this Memorandum.

ARTICLE V

Unless otherwise agreed, there shall be no exchange of funds, each side providing resources adequate to carry out its responsibilities. It is expressly understood that the ability of each side to carry out long-term activities is subject to the availability of appropriated funds. No financial commitment can be made without concurrence of appropriate authorities on each side.

ARTICLE VI

The parties agree that protection of copyrights and confidential information, and the treatment of inventions or discoveries made or conceived under this MOU, shall be as set forth in the agreement between the United States of America and the Republic of Italy for Scientific and Technological Cooperation, and the relevant Annex thereto.

ARTICLE VII

This Memorandum shall enter into force upon signature and shall remain in force for five years, and be automatically renewed for further five year periods unless either party notifies the other, three months prior to the expiration of one of those five year periods, of its desire that the Memorandum be terminated. The termination of this Memorandum shall not affect the validity of any arrangements initiated under its provisions, but not yet completed at the time of termination.

ARTICLE VIII

This Memorandum may be amended at any time by mutual agreement of EPA and the Ministry in writing.

Done at Rome in duplicate, in the English and Italian languages, both texts being equally authentic, this day of March 3, 1987.

For the United States
Environmental Protection
Agency

John W. Holmes
Chargé d'Affaires
ad Interim

For the Italian
Ministry of the
Environment

F. De Lorenzo
Minister

BILATERAL

JAMAICA

ENVIRONMENT AND NATURAL RESOURCES

Agreement Between the Government of the United States of America and the Government of Jamaica Concerning the Establishment of an Enterprise for the Americas Environmental Foundation, Washington, 1991

Done at Washington 26 November 1991

Entered into force 26 November 1991

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAMAICA CONCERNING THE ESTABLISHMENT OF AN ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FOUNDATION

The Government of the United States of America and the Government of Jamaica ("The Parties"),

Seeking to implement the Enterprise for the Americas Initiative,

Desiring to enhance the friendship and spirit of cooperation between the Parties,

Desiring to promote environmentally sound and sustainable economic development,

Recognizing that environmental protection, conservation and sustainable natural resource management are key elements in building an ecologically and economically sound future for all countries in the Western Hemisphere,

Wishing to follow upon the Agreement Between the Parties Regarding the Reduction of Certain Debts Owed to the United States Government and its Agencies (the "Debt Reduction Agreement") of August 23, 1991, which reduces certain debt owed by the Government of Jamaica to the Government of the United States of America, through the exchange of old obligations for a new obligation ("New EAI Obligation"),

Have agreed as follows:

Article I
PURPOSE

The purpose of this Agreement is to provide for the establishment of an Enterprise for the Americas Environmental Foundation for the promotion and implementation of activities designed to conserve and manage the natural resources and environment of Jamaica in the interest of sustainable development.

Article II
ESTABLISHMENT OF THE ENVIRONMENTAL FOUNDATION

1. The Government of Jamaica shall ensure that an environmental foundation (the "Foundation") is established in accordance with the laws of Jamaica.

2. The Parties, jointly in consultation with prospective members of the Board of the Foundation to be established pursuant to Article IV, shall agree on Articles of Association governing the operation of the Board of the Foundation. No disbursements pursuant to Article VII 1. and VII 2. may be made prior to the adoption of the Articles of Association. The procedures for its operations, other than those set forth in the Articles of Association, shall be adopted by the Board by a majority vote provided that the majority includes the affirmative votes of the representatives of the Parties appointed in accordance with Article IV 1.a. and b.

Article III
ESTABLISHMENT OF THE ENVIRONMENTAL FUND

1. The Government of Jamaica shall create an environmental fund (the "Fund") which shall be administered by the Foundation established pursuant to Article II. Any monies deposited in the Fund, or grants made from the Fund, shall be free from any taxation, levies, fees or other charges imposed by the Parties to the extent permissible by law.

2. Subject to Article IV of the Debt Reduction Agreement, the Government of Jamaica shall ensure that the entire amount of interest owed on the New EAI Obligation falling due on or after the date of entry into force of this Agreement is deposited in local currency in the Fund in accordance with the payment schedule at Appendix B of the Debt Reduction Agreement. Any interest which becomes due on the New EAI Obligation prior to the date of the entry into force of this Agreement, or subsequent to the termination of this Agreement pursuant to Article X, shall not be deposited in the Fund but shall be deposited in U.S. dollars in the appropriate U.S. Government account.

3. Monies from other sources, including public and private creditors of the Government of Jamaica, in the form of local currency or other currencies, may also be deposited into the Fund. Once deposited, these monies shall be subject to the requirements and conditions agreed to between the donor(s) of such monies and the Parties, so long as these terms are consistent with this Agreement.

4. Deposits in the Fund shall be the property of the Government of Jamaica until they are disbursed.

Article IV
THE BOARD OF THE ENVIRONMENTAL FOUNDATION

1. The Parties shall ensure that a Board of the Foundation is suitably constituted. It shall consist of the following seven members:

a. one representative of the Government of Jamaica;

b. one representative of the Government of the United States of America;

c. one representative of the University of the West Indies;

d. four representatives from a broad range of Jamaican environmental and local community development nongovernmental organizations, and scientific and academic bodies. These representatives shall constitute a majority of the members of the Board.

2. The four representatives described in paragraph 1.d. above shall be appointed by the Government of Jamaica in consultation with nongovernmental organizations.

3. The appointment of the representative described in paragraph 1.c. above shall be made by the Government of Jamaica on the recommendation of the Vice-Chancellor of the University of the West Indies.

4. Board members representing each Party shall serve at the discretion of that Party. Board members described in paragraph 1.c. and 1.d. above shall serve for a period of two years and may be removed only to the extent provided by law. Consecutive terms may be permitted.

5. If at any time the Board considers a particular issue involving activities or interests of any organization, a representative of which is a member of the Board, that representative shall present to the Board a statement of such activities or interests. Such representative shall not participate in the discussions or decisions of the Board involving that particular issue, to the extent such participation would present a conflict of interest.

6. The Board of the Foundation shall meet at least once every four months.

7. The quorum for Board meetings shall be five members, of which two shall be representatives of the Parties.

Article V
FUNCTIONS OF THE ENVIRONMENTAL FOUNDATION

1. The Board of the Foundation shall be responsible for the management of the program and oversight of grant activities funded from the resources of the Fund. In this capacity the Board of the Foundation shall:

a. Issue and widely disseminate a public announcement of the call for grant proposals which states the criteria for the selection of projects eligible for grant assistance and the qualifications of organizations eligible to submit proposals for grant awards;

b. Receive proposals for grant assistance from entities described in Article VI 2. of this Agreement, and make grants to such entities for the activities enumerated in Article VI 1. of this Agreement;

c. Publicly announce grants awarded by the Foundation.

2. The Board of the Foundation shall have overall responsibility for the Fund and shall establish policies and approve projects.

3. The Board of the Foundation shall appoint a fiscal agent to manage the investment portfolio of the Fund.

a. The fiscal agent shall be charged with the investment and disbursement of the monies in the Fund. The terms of appointment of the fiscal agent shall include a provision that requires the fiscal agent to ensure that the Board of the Foundation is promptly notified in writing when the Government of Jamaica makes a deposit in the Fund.

b. Deposits in the Fund shall be prudently invested by the fiscal agent. Returns on investment shall be deposited by the fiscal agent in the Fund.

c. The fiscal agent shall make every effort to ensure that such investments yield a positive real interest rate as defined in terms of the Jamaican Consumer Price Index. To the extent that prudent investment practices are not accomplishing this goal, the Foundation shall promptly bring this matter to the attention of the Parties for their consideration, with a view toward pursuing appropriate corrective measures.

4. The Board of the Foundation shall be empowered to engage staff for the proper performance of its functions and to engage independent contractors as technical or professional staff as necessary.

5. The Board of the Foundation shall present to the Parties:

a. An annual program by 1 June 1992, and thereafter on the first of June of each year, covering the following twelve-month period from 1 August through 31 July;

b. An annual report by 30 October 1993, and thereafter on 30 October of each year, on the activities funded by the Foundation (which shall include on-going, multi-year projects) covering the previous 1 August – 31 July period;

c. An annual audit by an independent auditor, by 30 October 1993, and thereafter on 30 October of each year, covering the previous 1 August – 31 July period.

6. Proposed grants from the Fund in excess of U.S. dollars 100,000 over the life of a project shall be presented by the Board to both Parties. If either Party disapproves of such a grant, that Party must notify the Board of its disapproval, in which case the Board may not award the proposed grant. Proposed grants not disapproved by either Party within 45 days of presentation to the Parties' members of the Board shall no longer be subject to either Party's disapproval.

7. The Board of the Foundation shall ensure that performance under grants is monitored to determine whether time schedules and other performance goals are being achieved. Grant agreements shall provide for periodic progress reports from the grantee to the Foundation. Such reports shall review all project components essential to the successful achievement of the goals of the project. Such reports should be received from the grantee at least annually.

Article VI
ELIGIBILITY OF PROJECTS AND ORGANIZATIONS

1. Activities that may be funded under this Agreement are:

(i) restoration, protection, or sustainable use of the world's oceans, seas, and atmosphere;

(ii) restoration, protection, or sustainable use of diverse animal and plant species;

(iii) establishment, restoration, protection, and maintenance of parks and reserves;

(iv) development and implementation of sound systems of natural resource management;

(v) development and support of local conservation programs;

(vi) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(vii) efforts to generate knowledge, increase understanding and enhance public commitment to conservation;

(viii) design and implementation of sound programs of land and ecosystem management;

(ix) promotion of regenerative approaches in farming, forestry, fishing, and watershed management;

(x) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(xi) local community initiatives that promote conservation and sustainable use of the environment.

2. Organizations which shall be eligible for grants from the Fund are:

a. Jamaican nongovernmental environmental, conservation, development, and educational organizations;

b. Other appropriate local or regional entities;

c. In exceptional circumstances, the Government of Jamaica.

Grants shall be awarded to organizations strictly on the merits of proposals presented to the Board of the Foundation without regard to whether the proposing organization does or does not have representation on the Board.

3. The Board of the Foundation shall give priority to projects that are managed by nongovernmental organizations and that involve local communities in their planning and execution.

Article VII
PAYMENTS FROM THE FUND

1. The Board of the Foundation may disburse grants from the Fund to organizations eligible under Article VI 2. when it approves a proposal eligible under Article VI 1. All disbursements shall be made pursuant to a project grant agreement and be made promptly. In no case shall more than 14 days elapse after receipt by the fiscal agent of a request from the Foundation for disbursement of funds and actual disbursement of such funds.

2. The Board of the Foundation may direct the fiscal agent to draw sums from the Fund necessary to pay for the Foundation's administrative expenses, including the fiscal audit required pursuant to Article V. These sums may not exceed 15 percent per annum of the annual payments into the Fund made by the Government of Jamaica pursuant to the Debt Reduction Agreement, except as the Parties may otherwise agree by exchange of notes.

Article VIII
CONSULTATION AND REVIEW

1. Upon the request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement. These consultations shall take place within 60 days after the request for consultation is received in writing from the other Party.

2. Either Party may request consultation with the Foundation and the other Party after reviewing the Foundation's reports and audits presented pursuant to Article V 5. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.

3. The Parties will meet to review the operation of this Agreement three years from the date of its entry into force.

Article IX
SUSPENSION OF DISBURSEMENTS

1. If at any time either of the Parties determines that issues requiring consultation under Article VIII have not been satisfactorily resolved, such Party may notify the other in writing.

2. Upon receipt of such written notification from the Government of the United States of America, the Government of Jamaica shall immediately instruct the Board to suspend disbursements which may be made under Article VII 1. of this Agreement.

3. Upon providing such written notification to the Government of the United States of America, the Government of Jamaica may immediately instruct the Board to suspend disbursements which may be made under Article VII 1. of this Agreement.

4. a. suspension of disbursements shall mean that no further approval of grants will be undertaken until the Parties agree to resume such activity.

b. Disbursements pursuant to already approved grant agreements shall proceed unless the specific grant agreement is suspended pursuant to that grant agreement.

c. Notwithstanding subparagraph 4.b. above, should the Parties jointly certify in writing to the Board that the manner in which the grant agreement was approved was inconsistent with Article IV 5. or the Articles of Association of the Foundation, the Parties may require the Board to suspend disbursements pursuant to that grant agreement.

5. If the Government of Jamaica fails to suspend disbursements which may be made under Article VII 1. of the Agreement within 14 days of receiving written notification from the Government of the United States ("the notification period"), the Government of the United States may, at its discretion, require that interest payments on the New EAI Obligation referred to in Article III of this Agreement falling due subsequent to the notification period, be made in U.S. dollars and be deposited in the appropriate U.S. Government account(s).

Article X
TERMINATION

1. Either Party may terminate this Agreement upon six months' written notice to the other Party.

2. No disbursements from the Fund shall occur after a Party has given notice to terminate this Agreement, unless the Parties agree to permit disbursements. The termination of this Agreement shall not prevent expenditures of funds disbursed before notice to terminate is given.

3. Upon termination of this Agreement, amounts remaining in the Fund shall, at the discretion of the United States Government, be converted into U.S. dollars and transferred by the Government of Jamaica into the appropriate United States Government account(s).

Article XI
ENTRY INTO FORCE, AMENDMENT AND OTHER ARRANGEMENTS

1. This Agreement shall enter into force upon signature and shall remain in force unless terminated by the Parties in accordance with Article X.

2. This Agreement may be amended by written agreement of the Parties.

3. Nothing in this Agreement shall prejudice other arrangements between the Parties concerning debt reduction or cooperation and assistance for environmental or conservation purposes.

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

DONE at Washington, this 26th day of November, 1991, in duplicate, in the English language.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

E.U. Curtis Bohlen

FOR THE GOVERNMENT OF
JAMAICA:

Richard L. Bernal

BILATERAL

JAPAN

ENVIRONMENT AND NATURAL RESOURCES

Convention Between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, Tokyo, 1972

Done at Tokyo 4 March 1972

Entered into force 19 September 1974

Primary source citation: 25 UST 3329, TIAS 7990

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN FOR THE PROTECTION OF MIGRATORY BIRDS AND BIRDS IN DANGER OF EXTINCTION, AND THEIR ENVIRONMENT

The Government of the United States of America and the Government of Japan,

Considering that birds constitute a natural resource of great value for recreational, aesthetic, scientific, and economic purposes, and that this value can be increased with proper management,

Considering that many species of birds migrate between areas of the United States of America and of Japan, where such birds live temporarily,

Considering that island environments are particularly susceptible to disturbance, that many species of birds of the Pacific islands have been exterminated, and that some other species of birds are in danger of extinction, and

Desiring to cooperate in taking measures for the management, protection, and prevention of the extinction of certain birds,

Therefore, have agreed as follows:

Article I

This Convention shall apply:

(a) For the United States of America, to all areas of the United States of America and its possessions including the Trust Territory of the Pacific Islands;

(b) For Japan, to all areas under the administration of Japan.

Article II

1. In this Convention, the term "migratory birds" means:

(a) The species of birds for which there is positive evidence of migration between the two countries from the recovery of bands or other markers; and

(b) The species of birds with subspecies common to both countries or, in the absence of subspecies, the species of birds common to both countries. The identification of these species and subspecies shall be based upon specimens, photographs or other reliable evidence.

2. (a) The list of the species defined as migratory birds in accordance with paragraph 1 of this Article is contained in the Annex to this Convention.

(b) The competent authorities of the Contracting Parties shall review from time to time the Annex and, if necessary, make recommendations to amend it.

(c) The Annex shall be considered amended 3 months after the date upon which the two Governments confirm, by an exchange of diplomatic notes, their respective acceptance of such recommendations.

Article III

1. The taking of the migratory birds or their eggs shall be prohibited. Any sale, purchase or exchange of these birds or their eggs, taken illegally, alive or dead, and any sale, purchase or exchange of the products thereof or their parts shall also be prohibited. Exceptions to the prohibition of taking may be permitted in accordance with the laws and regulations of the respective Contracting Parties in the following cases:

(a) For scientific, educational, propagative or other specific purposes not inconsistent with the objectives of this Convention;

(b) For the purpose of protecting persons and property;

(c) During open hunting seasons established in accordance with paragraph 2 of this Article;

(d) With respect to private game farms;

(e) Taking by Eskimos, Indians, and indigenous peoples of the Trust Territory of the Pacific Islands for their own food and clothing.

2. Open seasons for hunting migratory birds may be decided by each Contracting Party respectively. Such hunting seasons shall be set so as to avoid their principal nesting seasons and to maintain their populations in optimum numbers.

3. Each Contracting Party shall endeavor to establish sanctuaries and other facilities for the protection or management of migratory birds.

Article IV

1. Both Contracting Parties agree that special protection is desirable for the preservation of species or subspecies of birds which are in danger of extinction.

2. Whenever either Contracting Party has determined the species or subspecies of birds which are in danger of extinction and prohibited the taking thereof, the Contracting Party shall inform the other Contracting Party of such determination, and of any cancellation thereafter of such determination.

3. Each contracting Party shall control the exportation or importation of such species or subspecies of birds as are determined in accordance with paragraph 2 of this Article, and of the products thereof.

Article V

1. The Contracting Parties shall exchange data and publications regarding research on migratory birds and birds in danger of extinction.

2. The Contracting Parties shall encourage the establishment of joint research programs on, and conservation of, migratory birds and birds in danger of extinction.

Article VI

Each Contracting Party shall endeavor to take appropriate measures to preserve and enhance the environment of birds protected under Articles III and IV. In particular, it shall:

(a) Seek means to prevent damage to such birds and their environment, including, especially, damage resulting from pollution of the seas;

(b) Endeavor to take such measures as may be necessary to control the importation of live animals and plants which it determines to be hazardous to the preservation of such birds; and

(c) Endeavor to take such measures as may be necessary to control the introduction of live animals and plants which could disturb the ecological balance of unique island environments.

Article VII

Each Contracting Party agrees to take measures necessary to carry out the purposes of this Convention.

Article VIII

Upon the request of either Government, the two Governments shall hold consultations regarding the operation of this Convention.

Article IX

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Convention shall enter into force on the date of the exchange of the instruments of ratification. It shall remain in force for 15 years and shall continue in force thereafter until terminated as provided herein.

3. A Contracting Party may, by giving one year's written notice, terminate this Convention at the end of the initial 15 year period or at any time thereafter.

IN WITNESS WHEREOF the representatives of the two Governments have signed this Convention.

DONE in duplicate, in the English and Japanese languages, both equally authentic, at Tokyo, this fourth day of March, 1972.

For the Government of the United States of America:

Armin H. Meyer

[Seal]

For the Government of Japan:

Takeo Fukada

[Seal]

ANNEX

1	White-billed or Yellow-billed loon	(Gavia adamsii)
2	Arctic loon	(Gavia arctica)
3	Red-throated loon	(Gavia stellata)
4	Red-necked grebe	(Podiceps grisegena)
5	Horned grebe	(Podiceps auritus)
6	Short-tailed albatross	(Diomedea albatrus)
7	Black-footed albatross	(Diomedea nigripes)
8	Laysan albatross	(Diomedea immutabilis)
9	Northern fulmar	(Fulmarus glacialis)
10	Pink-footed shearwater	(Puffinus carneipes)
11	Wedge-tailed shearwater	(Puffinus pacificus)
12	Sooty shearwater	(Puffinus griseus)
13	Slender-billed shearwater	(Puffinus tenuirostris)
14	Christmas shearwater	(Puffinus nativitatis)
15	Bonin Island petrel	(Pterodroma hypoleuca)
16	Bulwer's petrel	(Bulweria bulwerii)
17	Fork-tailed storm petrel	(Oceanodroma furcata)
18	Leach's storm petrel	(Oceanodroma leucorhoa)
19	Harcourt's or Madeiran storm petrel	(Oceanodroma castro)
20	Tristram's storm petrel	(Oceanodroma tristrami)
21	Wilson's storm petrel	(Oceanites oceanicus)
22	Red-tailed tropicbird	(Phaethon rubricauda)
23	White-tailed tropicbird	(Phaethon lepturus)
24	Masked or Blue-faced booby	(Sula dactylatra)
25	Red-footed booby	(Sula sula)
26	Brown booby	(Sula leucogaster)
27	Pelagic cormorant	(Phalacrocorax pelagicus)
28	Red-faced cormorant	(Phalacrocorax urile)
29	Greater frigatebird	(Fregata minor)
30	Lesser frigatebird	(Fregata ariel)
31	Cattle egret	(Bubulcus ibis)
32	Plumed egret	(Egretta intermedia)
33	Reef heron	(Demigretta sacra)
34	Japanese night heron	(Gorsachius goisagi)
35	Chinese little bittern	(Ixobrychus sinensis)
36	Schrenck's little bittern	(Ixobrychus eurhythmus)
37	Whooper swan	(Cygnus cygnus)
38	Canada goose	(Branta canadensis)
39	Brant	(Branta bernicla)
40	Emperor goose	(Anser canagicus)
41	White-fronted goose	(Anser albifrons)
42	Bean goose	(Anser fabalis)
43	Snow goose	(Anser caerulescens)
44	Mallard	(Anas platyrhynchos)
45	Gadwall	(Anas strepera)
46	Pintail	(Anas acuta)
47	Teal (including Green-winged teal)	(Anas crecca)

48	Falcated teal	(Anas falcata)
49	Garganey	(Anas querquedula)
50	Baikal teal	(Anas formosa)
51	European widgeon	(Mareca penelope)
52	American widgeon	(Mareca americana)
53	Shoveler	(Spatula clypeata)
54	Common pochard	(Aythya ferina)
55	Canvasback	(Aythya valisineria)
56	Tufted duck	(Aythya fuligula)
57	Baer's pochard	(Aythya baeri)
58	Common goldeneye	(Bucephala clangula)
59	Bufflehead	(Bucephala albeola)
60	Oldsquaw	(Clangula hyemalis)
61	Harlequin duck	(Histrionicus histrionicus)
62	Steller's eider	(Polysticta stelleri)
63	Common scoter	(Melanitta nigra)
64	Common merganser	(Mergus merganser)
65	Red-breasted merganser	(Mergus serrator)
66	Smew	(Mergus albellus)
67	Rough-legged hawk	(Buteo Lagopus)
68	Gray sea-eagle	(Haliaeetus albicilla)
69	Steller's sea-eagle	(Haliaeetus pelagicus)
70	Japanese sparrow hawk	(Accipiter virgatus)
71	Black kite	(Milvus migrans)
72	Osprey	(Pandion haliaetus)
73	Gyrfalcon	(Falco rusticolus)
74	Peregrine falcon	(Falco peregrinus)
75	Sandhill crane	(Grus canadensis)
76	Common gallinule or Moorhen	(Gallinula chloropus)
77	Eurasian coot	(Fulica atra)
78	Snowy or Kentish plover	(Charadrius alexandrinus)
79	Little ringed plover	(Charadrius dubius)
80	Ringed plover	(Charadrius hiaticula)
81	Greater sand plover	(Charadrius leschenaultii)
82	Mongolian plover	(Charadrius mongolus)
83	Dotterel	(Eudromias morinellus)
84	American golden plover	(Pluvialis dominica)
85	Black-bellied plover	(Pluvialis squatarola)
86	Ruddy turnstone	(Arenaria interpres)
87	Common snipe	(Gallinago gallinago)
88	Swinhoe's snipe	(Gallinago megala)
89	Jacksnipe	(Lymnocryptes minimus)
90	Long-billed dowitcher	(Limnodromus scolopaceus)
91	Bar-tailed godwit	(Limosa lapponica)
92	Wood sandpiper	(Tringa glareola)
93	Wandering or Polynesian tattler	(Tringa incana including T. brevipes)
94	Common sandpiper	(Tringa hypoleucos)
95	Spotted redshank	(Tringa erythropus)
96	Greenshank	(Tringa nebularia)

97	Greater yellowlegs	(Tringa melanoleuca)
98	Whimbrel	(Numenius phaeopus)
99	Bristle-thighed curlew	(Numenius tahitiensis)
100	Least whimbrel or Eskimo curlew	(Numenius minutus including Numenius borealis)
101	Australian curlew	(Numenius madagascariensis)
102	Knot	(Calidris canutus)
103	Great knot	(Calidris tenuirostris)
104	Curlew sandpiper	(Calidris ferruginea)
105	Dunlin	(Calidris alpina)
106	Rufous-necked sandpiper	(Calidris ruficollis)
107	Long-toed stint or Least sandpiper	(Calidris minutilla including Calidris subminuta)
108	Temminck's stint	(Calidris temminckii)
109	Baird's sandpiper	(Calidris bairdii)
110	Sharp-tailed sandpiper	(Calidris acuminata)
111	Pectoral sandpiper	(Calidris melanotos)
112	Spoon-billed sandpiper	(Eurynorhynchus pygmeus)
113	Buff-breasted sandpiper	(Tryngites subruficollis)
114	Ruff	(Philomachus pugnax)
115	Broad-billed sandpiper	(Limicola falcinellus)
116	Sanderling	(Crocethia alba)
117	Northern phalarope	(Lobipes lobatus)
118	Red phalarope	(Phalaropus fulicarius)
119	Skua	(Catharacta skua)
120	Pomarine jaeger	(Stercorarius pomarinus)
121	Parasitic jaeger	(Stercorarius parasiticus)
122	Long-tailed jaeger	(Stercorarius longicaudus)
123	Glaucous gull	(Larus hyperboreus)
124	Glaucous-winged gull	(Larus glaucescens)
125	Slaty-backed gull	(Larus schistisagus)
126	Herring gull	(Larus argentatus)
127	Black-tailed gull	(Larus crassirostris)
120	Black-headed gull	(Larus ridibundus)
129	Black-legged kittiwake	(Rissa tridactyla)
130	Sabine's gull	(Xema sabini)
131	Ivory gull	(Pagophila eburnea)
132	White-winged black tern	(Chlidonias leucopterus)
133	Aleutian tern	(Sterna aleutica)
134	Common tern	(Sterna hirundo)
135	Gray-backed tern	(Sterna lunata)
136	Bridled tern	(Sterna anaethetus)
137	Black-naped tern	(Sterna sumatrana)
138	Least or Little tern	(Sterna albifrons)
139	Sooty tern	(Sterna fuscata)
140	Brown noddy	(Anous stolidus)
141	Lesser or Black noddy	(Anous tenuirostris)
142	Gray ternlet or Blue-gray noddy	(Procelsterna cerulea)
143	White tern or Fairy tern	(Gygis alba)
144	Common murre	(Uria aalge)
145	Thick-billed murre	(Uris lomvia)

146	Pigeon guillemot	(Cepphus columba)
147	Ancient murrelet	(Synthliboramphus antiquus)
148	Parakeet auklet	(Aethia psittacula)
149	Crested auklet	(Aethia cristatella)
150	Whiskered auklet	(Aethia pygmaea)
151	Least auklet	(Aethia pusilla)
152	Rhinoceros auklet	(Cerorhinca monocerata)
153	Tufted puffin	(Lunda cirrhata)
154	Horned puffin	(Fratercula corniculata)
155	Snowy owl	(Nyctea scandiaca)
156	Short-eared owl	(Asio flammeus)
157	Common cuckoo	(Cuculus canorus)
158	Oriental or Himalayan cuckoo	(Cuculus saturatus)
159	Hawk cuckoo	(Cuculus fugax)
160	Jungle nightjar	(Caprimulgus indicus)
161	White-rumped swift	(Apus pacificus)
162	Wryneck	(Jynx torquilla)
163	Barn swallow	(Hirundo rustica)
164	Bank swallow	(Riparia riparia)
165	Hawfinch	(Coccothraustes coccothraustes)
166	Redpoll (including common and hoary redpoll)	(Carduelis flammea including C. hornemanni)
167	Bullfinch	(Pyrrhula pyrrhula)
168	Pine grosbeak	(Pinicola enucleator)
169	Brambling	(Fringilla montifringilla)
170	Rustic bunting	(Emberiza rustica)
171	Golden-crowned sparrow	(Zonotrichia atricapilla)
172	White-crowned sparrow	(Zonotrichia leucophrys)
173	Fox sparrow	(Passerella iliaca)
174	Skylark	(Alauda arvensis)
175	Water pipit	(Anthus spinoletta)
176	Indian tree pipit	(Anthus hodgsoni)
177	Red-throated pipit	(Anthus cervinus)
178	White or Pied wagtail	(Motacilla alba)
179	Gray wagtail	(Motacilla cinerea)
180	Yellow wagtail	(Motacilla flava)
181	Narcissus flycatcher	(Muscicapa narcissina)
182	Chinese gray-spotted flycatcher	(Muscicapa griseisticta)
183	Middendorff's grasshopper warbler	(Locustella ochotensis)
184	Arctic warbler	(Phylloscopus borealis)
185	Eye-browed thrush	(Turdus obscurus)
186	Siberian rubythroat	(Erithacus calliope)
187	Mountain hedge-sparrow or accentor	(Prunella montanella)
188	Violet-backed starling	(Sturnus philippensis)
189	Ashy starling	(Sturnus cineraceus)

Amendments to the Convention Between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, Washington, 1974

Done at Washington 19 September 1974

Entered into force 19 December 1974

Primary source citation: 25 UST 3373, TIAS 7990

DEPARTMENT OF STATE
WASHINGTON

SEPTEMBER 19, 1974

His Excellency
TAKESHI YASUKAWA
Ambassador of Japan.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads in the English translation thereof as follows:

"EXCELLENCY,

"I have the honor to refer to Article II of the Convention between the Government of Japan and the Government of the United States of America for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment, signed at Tokyo on March 4, 1972. The competent authorities of the two Governments agreed to recommend to their respective Governments that the following amendments be made to the Annex to the aforementioned Convention:

"1. '35 Malay Bittarn (*Gorsachius melanolophus*)' shall be inserted immediately after '34 Japanese night heron (*Gorsachius goisagi*)'.

"2. All the subsequent items shall be renumbered accordingly.

"I have further the honor to inform Your Excellency that the Government of Japan accepts the foregoing recommendations and to propose that this Note and Your Excellency's Note in reply, indicating the acceptance

of the foregoing recommendations by the Government of the United States of America, will constitute an agreement between the two Governments amending the Annex to the aforementioned Convention, which will enter into force three months after the date of Your Excellency's reply in accordance with the provisions of Article II of the aforementioned Convention.

"I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

TAKESHI YASUKAWA
Ambassador Extraordinary
and Plenipotentiary of Japan.

"His Excellency
HENRY A. KISSINGER,
Secretary of State."

I have the honor to inform Your Excellency that the Government of the United States of America accepts the proposal contained in Your Excellency's Note which, with this reply, constitutes an agreement between the two Governments amending the Annex to the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment, which will enter into force three months after the date of this reply in accordance with the provisions of Article II of the aforementioned Convention.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ROBERT S. INGERSOLL

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EMBASSY OF JAPAN
WASHINGTON

September 19, 1974

No. 67

The Embassy of Japan presents its compliments to the Department of State and has the honor to refer to the Convention between the Government of Japan and the Government of the United States of America for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment, signed at Tokyo on March 4, 1972.

In accordance with the provision of Article IV of the above-mentioned Convention, the Embassy of Japan has the honor to inform the Department of State that the Government of Japan has determined the species or subspecies of birds which are in danger of extinction and prohibited the taking thereof. The list of them is enclosed with this Note Verbale.

In this connection the Embassy of Japan would be grateful if the Department of State would be good enough to present the Embassy of Japan with the list of the species or subspecies of birds in danger of extinction which have been determined by the Government of the United States of America, in accordance with the provision of Article IV of the said Convention.

The Embassy of Japan takes this opportunity to renew to the Department of State the assurance of its highest consideration.

[Initials]
[Seal]

Enclosure

LIST OF ENDANGERED SPECIES OF BIRDS IN JAPAN

	Japanese name	Common name	Scientific name
1.	Ahōdori	Short-tailed Albatross	Diomedea albatrus
2.	Kōnotori	Oriental White Stork	Ciconia Ciconia boyciana
3.	Toki	Japanese Crested Ibis	Nipponia nippon
4.	Shijūkara-gan	Aleutian Canada Goose	Branta canadensis leucopareia
5.	Ogasawara-nosuri	Bonin Buzzard	Buteo buteo toyoshimai
6.	Nihon-inu-washi	Japanese Golden Eagle	Aquila chrysaetos japonica
7.	Kanmuri-washi	Ryūkyū Serpent Eagle	Spilornis cheela perplexus
8.	Shima-hayabusa	Volcano Islands Peregrine Falcon	Falco peregrinus fruittii
9.	Nihon-raichō	Japanese Ptarmigan	Logopus mutus japonicus
10.	Tanchō	Japanese Crane	Grus japonensis
11.	Karafuto-aoashi-shigi	Nordmann's Greenshank	Tringa guttifer
12.	Yonakuni-karasubato	Stejneger's Wood Pigeon	Columba janthina stejnegeri
13.	Akagashira-karasubato	Red-headed Wood Pigeon	Columba janthina nitens
14.	Ezo-shima-fukurō	Blakiston's Fish-owl	Ketupa blakistoni blakistoni
15.	Noguchi-gera	Pryer's Woodpecker or Okinawa Woodpecker	Sapheopipo noguchi
16.	Ōsuton-ō-akagera	Owston's White-backed Woodpecker	Dendrocopos leucotos owstoni
17.	Ezo-mijubigera	Inoue's Three-toed Woodpecker	Picoides tridactylus inouyei
18.	Yaeyama-shirogashira	Lesser Chinese Bulbul	Pycnonotus sinensis orii
19.	Daitō-misosazai	Borodino Wren	Troglodytes troglodytes orii
20.	Nami-akahige	Ryukyu Robin	Erithacus komadori komadori
21.	Hontō-akahige	Stejneger's Ryukyu Robin	Erithacus komadori namiyei
22.	Usu-akahige	Yaeyama Ryukyu Robin	Erithacus komadori subrufa
23.	Ō-tora-tsugumi	Amami Ground Thrush	Turdus dauma amami
24.	Torishima-uguisu	Torishima Bush-warbler	Cettia diphone panafidinicus
25.	O-sekka	Japanese Swamp-warbler	Megalurus pryeri pryeri
26.	Hahajima-meguro	Hahajima Honey-eater	Apalopteron familiare hahasima
27.	Ogasawara-kawarahiwa	Bonin Islands Japanese Greenfinch	Cardeulis sinica kittlitzi
28.	Ruri-kakesu	Lidth's Jay	Garrulus lidthi

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The Department of State acknowledges the receipt of Note Verbale No. 67 of September 19, 1974, from the Embassy of Japan informing the Department of State that the Government of Japan has determined the species or subspecies of birds in danger of extinction in accordance with the provision of Article IV of the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment.

The Department of State further informs the Embassy of Japan that the Government of the United States of America has also determined the species or subspecies of birds in danger of extinction as listed in the enclosure, in accordance with the relevant provisions of the above-mentioned Convention.

R.S.I.

Enclosure:
List.

LIST OF ENDANGERED SPECIES OF BIRDS IN THE UNITED STATES AND TERRITORIES UNDER ITS JURISDICTION

	Common Names	Scientific Names	Where Found
1.	Albatross, Short-tailed	Diomedea albatrus	USA (Aleutian Islands)
2.	Petrel, Hawaiian dark-rumped	Pterodroma phaeopygia sandwichensis	Hawaii
3.	Pelican, Brown	Pelecanus occidentalis carolinensis	USA (Southeast)
4.	Pelican, Brown	Pelecanus occidentalis californicus	USA (West)
5.	Duck, Hawaiian (koloa)	Anas wyvilliana	Hawaii
6.	Duck, Laysan	Anas laysanensis	Hawaii
7.	Duck, Mexican	Anas diazi	Texas, Arizona, New Mexico
8.	Goose, Aleutian Canada	Branta canadensis leucopareia	USA
9.	Goose, Hawaiian (nene)	Branta sandvicensis	Hawaii
10.	Condor, California	Gymnogyps californianus	California
11.	Eagle, Southern bald	Haliaeetus leucocephalus leucocephalus	USA (South of 40th Parallel)
12.	Falcon, American peregrine	Falco peregrinus anatum	USA
13.	Falcon, Arctic peregrine	Falco peregrinus tundrius	USA
14.	Hawk, Hawaiian (io)	Buteo solitarius	Hawaii
15.	Kite, Florida Everglade (snail kite)	Rostrhamus sociabilis plumbeus	Florida
16.	Megapode, LePerouse's	Megapodius laperouse	Palau Islands, Mariana Islands
17.	Prairie Chicken, Attwater's greater	Tympanuchus cupido attwateri	Texas
18.	Quail, Masked bobwhite	Colinus virginianus ridgwayi	Arizona
19.	Coot, Hawaiian	Fulica americana alai	Hawaii
20.	Crane, Mississippi sandhill	Grus canadensis pulla	Mississippi
21.	Crane, Whooping	Grus americana	USA
22.	Gallinule, Hawaiian	Gallinula chloropus sandvicensis	Hawaii
23.	Rail, California clapper	Rallus longirostris obsoletus	California
24.	Rail, Light-footed clapper	Rallus longirostris levipes	California
25.	Rail, Yuma clapper	Rallus longirostris yumanensis	California, Arizona
26.	Curlew, Eskimo	Numenius borealis	USA
27.	Stilt, Hawaiian	Himantopus himantopus knudseni	Hawaii
28.	Tern, California least	Sterna albifrons browni	USA
29.	Dove, Palau ground	Gallicolumba canifrons	Palau Islands
30.	Pigeon, Puerto Rican plain	Columba inornata wetmorei	Puerto Rico
31.	Parrot, Puerto Rican	Amazona vittata	Puerto Rico
32.	Parrot, Thick-billed	Rhynchopsitta pachyrhyncha	Arizona, New Mexico
33.	Owl, Palau	Otus podargina	Palau Islands
34.	Whip-poor-will, Puerto Rican	Caprimulgus noctitherus	Puerto Rico
35.	Woodpecker, Ivory-billed	Campephilus principalis	USA (South Central, Southeast)
36.	Woodpecker, Red-cockaded	Dendrocopus borealis borealis	USA (Northern race)
37.	Woodpecker, Red-cockaded	Dendrocopus borealis hylonomus	USA (Florida)
38.	Crow, Hawaiian (alala)	Corvus tropicus	Hawaii
39.	Flycatcher, Palau fantail	Rhipidura lepida	Palua Islands
40.	Flycatcher (Tyrant), Tinian monarch	Monarcha takatsukasae	Mariana Islands (Tinian)
41.	Honeycreeper, Akiapolaau	Hemignathus wilsoni	Hawaii
42.	Honeycreeper, Crested (akohekohe)	Palmeria dolei	Hawaii
43.	Honeycreeper, Hawaii akepa (akepa)	Loxops coccinea coccinea	Hawaii
44.	Honeycreeper, Kauai akialoa	Hemignathus procerus	Hawaii
45.	Honeycreeper, Maui parrotbill	Pseudonestor xanthorphrys	Hawaii

Common Names	Scientific Names	Where Found
46. Honeycreeper, Maui akepa (akepuie)	Loxops coccinea ochraceu	Hawaii
47. Honeycreeper, Molokai creeper (kakawahie)	Loxops maculata flammea	Hawaii
48. Honeycreeper, Oahu creeper (alauwahio)	Loxops maculata maculata	Hawaii
49. Honeycreeper, Ou	Psittirostra psittacea	Hawaii
50. Honeycreeper, Palila	Psittirostra bailleui	Hawaii
51. Honeycreeper, Laysan finch	Psittirostra cantans cantans	Hawaiian Islands (Laysan)
52. Honeycreeper, Nihoa finch	Psittirostra cantans ultima	Hawaiian Islands (Nihoa)
53. Honeycreeper, Kauai nukupuu	Hemignathus lucidus hanepepe	Hawaiian Islands (Kauai)
54. Honeycreeper, Maui nukupuu	Hemignathus lucidus offinis	Hawaiian Islands (Maui)
55. Honey-eater, Kauai Oo (oo aa)	Moho braccatus	Hawaii
56. Sparrow, Cape sable	Ammospiza maritima mirabilis	Florida
57. Sparrow, Dusky seaside	Ammospiza maritima nigrescens	Florida
58. Sparrow, Santa Barbara	Melospiza melodia graminea	California
59. Starling, Ponape Mountain	Aplonis pelzelni	Caroline Islands (Ponape)
60. Thrush, Large Kauai	Phaeornis obscurus myadestina	Hawaii
61. Thrush, Molokai (olomau)	Phaeornis obscurus rutha	Hawaii
62. Thrush, Small Kauai (puaiohi)	Phaeornis palmeri	Hawaii
63. Warbler, Nihoa millerbird	Acrocephalus kingi	Hawaii
64. Warbler, Reed	Acrocephalus luscinia luscinia	Mariana Islands (Guam)
65. Warbler (Wood), Bachman's	Vermivoria bachmanii	USA (Southeastern)
66. Warbler (Wood), Kirtland's	Dendroica kirtlandii	USA
67. White-eye, Ponape great	Rukia sanfordi	Caroline Islands (Ponape)

Agreement Between the Government of the United States of America and the Government of Japan on Cooperation in the Field of Environmental Protection, Washington, 1975

Done at Washington 5 August 1975

Entered into force 5 August 1975

Primary source citation: 26 UST 2534, TIAS 8172

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN ON COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION

The Government of the United States of America and the Government of Japan,

Believing that cooperation between the two Governments is of mutual advantage in coping with similar problems of environmental protection in each country and is essential in meeting the responsibilities of each Government for the protection and improvement of the global environment, and

Desiring to strengthen further such cooperation and to demonstrate its importance,

Have agreed as follows:

ARTICLE 1

The two Governments will maintain and promote cooperation in the field of environmental protection on the basis of equality, reciprocity, and mutual benefit. Such cooperation may take the following forms:

(a) Meetings of various forms, particularly those of working-level experts to explore, discuss, and exchange information on technical and operational aspects of specific subjects and to identify projects which may be usefully undertaken on a cooperative basis;

(b) Visits and exchanges of scientists, technicians, or other experts on specific or general subjects;

(c) Implementation of agreed cooperative projects; and

(d) Exchange of information and data on research and development activities, policies, practices, legislation and regulations, and analysis of operating programs.

ARTICLE 2

A Joint Planning and Coordination Committee will be established to discuss major environmental policy issues, to coordinate and review activities and accomplishments under this Agreement, and to make necessary recommendations to the two Governments with regard to the implementation of this Agreement. The Committee will meet, at the level of ministers where appropriate, as a rule once a year alternately in the United States of America and Japan.

ARTICLE 3

Cooperation may be undertaken in mutually agreed areas pertaining to environmental protection and improvement, such as:

(a) Pollution abatement and control, which comprise: air pollution control, including control of emissions from mobile and stationary sources; water pollution control, including municipal and industrial waste-water treatment; marine pollution control; agricultural runoff and pesticide control; solid waste management and resource recovery; control and disposal of toxic substances; noise abatement; studies on health, biological, and genetic effects of environmental degradation; and

(b) Other areas of environmental protection and improvement as may be agreed.

ARTICLE 4

Implementing arrangements specifying the details and procedures of cooperative activities in the areas referred to in Article 3 will be made between the appropriate agencies of the two Governments.

ARTICLE 5

The two Governments reaffirm that the recommendations of international organizations to which both countries are parties will be taken into account in formulating their respective environmental policies.

ARTICLE 6

1. Scientific and technological information of a nonproprietary nature arising from the cooperative activities under this Agreement may be made available to the public by either Government through customary channels and in accordance with the normal procedures of the participating agencies.

2. The disposition of patents, designs, and other industrial property arising from the cooperative activities under this Agreement will be provided for in the implementing arrangements referred to in Article 4.

ARTICLE 7

Nothing in this Agreement shall be construed to prejudice other arrangements or future arrangements for cooperation between the two Governments.

ARTICLE 8

Activities under this Agreement shall be subject to budgetary appropriations and to the applicable laws and regulations of each country.

ARTICLE 9

The termination of this Agreement shall not affect the completion of any project and program undertaken in accordance with the implementing arrangements referred to in Article 4 and not fully executed at the time of the termination of this Agreement.

ARTICLE 10

1. This Agreement shall enter into force upon signature and remain in force for five years.

However, either Government may at any time give notice to the other Government of its intention to terminate this Agreement, in which case this Agreement will terminate six months after such notice has been given.

2. This Agreement may be extended by mutual agreement for a further specified period.

DONE at Washington, on August 5, 1975, in duplicate, in the English and Japanese languages, both being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Henry A. Kissinger

FOR THE GOVERNMENT OF JAPAN:

Kiichi Miyazawa

AGREED MINUTES

The representatives of the Government of the United States of America and of the Government of Japan wish to record the following agreement reached during the negotiations for the Agreement between the Government of the United States of America and the Government of Japan on Cooperation in the Field of Environmental Protection, signed today:

It is agreed that, in implementing the provisions of Article 5 of the above-mentioned Agreement, the two Governments reaffirm that the "Guiding Principles concerning International Economic Aspects of Environmental Policies" adopted in 1972 and reaffirmed in 1974 by the Council of the Organization for Economic Cooperation and Development, and any Guiding Principle or implementing recommendations amendatory or supplementary thereto, will continue to serve as a basis for the formulation of their respective environmental policies.

Washington, August 5, 1975

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Henry A. Kissinger

FOR THE GOVERNMENT OF JAPAN:

Kiichi Miyazawa

Amendment to the Agreement Between the Government of the United States of America and the Government of Japan on Cooperation in the Field of Environmental Protection, Tokyo, 1980

Done at Tokyo 5 August 1980

Entered into force 5 August 1980

Primary source citation: 32 UST 2468, TIAS 9853

English Text of the Japanese Note

Tokyo, August 5, 1980

His Excellency
Michael J. Mansfield
Ambassador Extraordinary
and Plenipotentiary of
the United States of America

Excellency,

I have the honor to refer to the Agreement between the Government of Japan and the Government of the United States of America on Cooperation in the Field of Environmental Protection (herein after referred to as "the Agreement"), signed at Washington on August 5, 1975. I have further the honor to confirm, on behalf of the Government of Japan, the following understanding reached recently between the representatives of the two Governments:

1. The Agreement, as amended by the provisions of paragraph 2 below, shall be extended for a period of five years from August 5, 1980.

2. Article 4 of the Agreement shall be deleted and replaced by the following:

"Article 4

Implementing arrangements setting forth the details and procedures of the specific cooperative activities under this Agreement may be made between the two Governments or their agencies, whichever is appropriate."

I shall be grateful if Your Excellency would be good enough to confirm, on behalf of the Government of the United States of America, the foregoing understanding.

This Note is done in the Japanese and English languages.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Masayoshi Ito
Minister for Foreign Affairs
of Japan

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EMBASSY OF THE
UNITED STATES OF AMERICA
Tokyo

August 5, 1980

His Excellency
Masayoshi Ito,
Minister for Foreign Affairs
of Japan

No. 724

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honor to refer to the Agreement between the Government of Japan and the Government of the United States of America on Cooperation in the Field of Environmental Protection (hereinafter referred to as "the Agreement"), signed at Washington on August 5, 1975. I have further the honor to confirm, on behalf of the Government of Japan, the following understanding reached recently between the representatives of the two Governments:

1. The Agreement, as amended by the provisions of paragraph 2 below, shall be extended for a period of five years from August 5, 1980.

2. Article 4 of the Agreement shall be deleted and replaced by the following:

"Article 4

Implementing arrangements setting forth the details and procedures of the specific cooperative activities under this Agreement may be made between the two Governments or their agencies, whichever is appropriate."

I shall be grateful if Your Excellency would be good enough to confirm, on behalf of the Government of the United States of America, the foregoing understanding.

This Note is done in the Japanese and English languages."

I have further the honor to confirm, on behalf of the Government of the United States of America, the foregoing understanding.

This Note is done in the English and Japanese languages.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Michael J. Mansfield

Amendment to the Agreement Between the Government of the United States of America and the Government of Japan on Cooperation in the Field of Environmental Protection, Tokyo, 1985

Done at Tokyo 31 July 1985

Entered into force 31 July 1985, effective 5 August 1985

Primary source citation: Copy of text provided by the U.S. Department of State

Embassy of the United States of America
Tokyo

July 31, 1985

His Excellency
Shintaro Abe
Minister for Foreign Affairs
of Japan

No. 795

Excellency,

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of Japan on Cooperation in the Field of Environmental Protection (hereinafter referred to as "the Agreement"), signed at Washington on August 5, 1975 and amended by the Exchange of Notes dated August 5, 1980 between the two Governments. I have further the honor to confirm, on behalf of the Government of the United States of America, the following understanding reached recently between the representatives of the two Governments:

The Agreement shall be extended for a period of five years from August 5, 1985, and shall continue in force thereafter until the expiration of six months from the day on which either Government shall give written notice of its intention to terminate the Agreement.

I shall be grateful if Your Excellency would be good enough to confirm, on behalf of the Government of Japan, the foregoing understanding.

This Note is done in the English and Japanese languages.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

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Tokyo, July 31, 1985

His Excellency
Michael J. Mansfield
Ambassador Extraordinary
and Plenipotentiary of
the United States of America

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honor to refer to the Agreement between the Government of the United States of America and the Government of Japan on Cooperation in the Field of Environmental Protection (hereinafter referred to as "the Agreement"), signed at Washington on August 5, 1975 and amended by the Exchange of Notes dated August 5, 1980 between the two Governments. I have further the honor to confirm, on behalf of the Government of the United States of America, the following understanding reached recently between the representatives of the two Governments:

The Agreement shall be extended for a period of five years from August 5, 1985 and shall continue in force thereafter until the expiration of six months from the day on which either Government shall give written notice of its intention to terminate the Agreement.

I shall be grateful if Your Excellency would be good enough to confirm, on behalf of the Government of Japan, the foregoing understanding.

This Note is done in the English and Japanese languages."

I have further the honor to confirm, on behalf of the Government of Japan, the foregoing understanding.

This Note is done in the Japanese and English languages.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Shintaro Abe

Minister for Foreign Affairs
of Japan

BILATERAL

JAPAN

FISHERIES

Agreement Between the Government of the United States of America and the Government of Japan Regarding Squid and Large-Mesh Driftnet Fisheries, Tokyo and Washington, 1989

Done at Tokyo and Washington 2 May 1989 and 26 June 1989

*Entered into force 26 June 1989**

Primary source citation: Copy of text provided by the U.S. Department of State

FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

May 2, 1989

Mr. Richard Smith
Deputy Assistant Secretary
Department of State

Mr. James W. Brennan
Assistant Administrator for Fisheries
National Marine Fisheries Service
Department of Commerce

Government of the United States

Dear Mr. Smith / Brennan

The Japanese side have provided information to the Canadian and U.S. sides regarding the large-mesh driftnet fishery, including regulatory measures for 1985 (attached). The Japanese side intends to modify regulatory measures in the fishery for the 1990 fishing season, and will inform the Canadian and U.S. sides of these measures.

The Japanese side also plans to dispatch a scientific research vessel to conduct research on the distribution of the target and non-target species of the large-mesh driftnet fishery in their fishing ground in the central and southern part of the North Pacific Ocean in the summer of 1989. The Japanese side is ready to accept one U.S. scientist on board the aforementioned research vessel, on the condition that expenses of the boarding will be borne by the U.S. side.

* This Agreement expired on 31 December 1989.

The details of the research plan will be provided to the Canadian and U.S. sides through diplomatic channels by May 30, 1989.

Finally, the Japanese side is prepared to exchange views with the Canadian and U.S. sides regarding voluntary acceptance by the Japanese fishermen concerned of North American scientific observers on board Japanese commercial large-mesh driftnet fishing vessels in the 1990 fishing season.

Sincerely,

Kazuo Shima
Councillor
Fisheries Agency
Government of Japan

c.c. Mr. Pierre Asselin
Assistant Deputy Minister
Department of Fisheries and Oceans
Government of Canada

The main elements of regulations of large-mesh driftnet fishery

1) Limit of the fishing ground and period

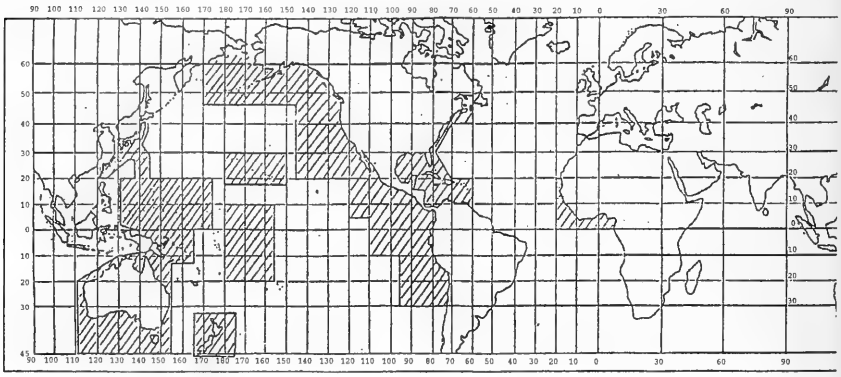
2) Prohibition of retention of anadromous species, even taken incidentaly

3) Mandatory display of the vessel's name on the buoy at both ends of the net and at every 3 km of the center of net

4) One black stripe at least 30 cm in width surrounding the bridge

5) Restriction on mesh size

Fig. 1 Chart of Fishing-prohibited Areas in large-mesh driftnet fishery



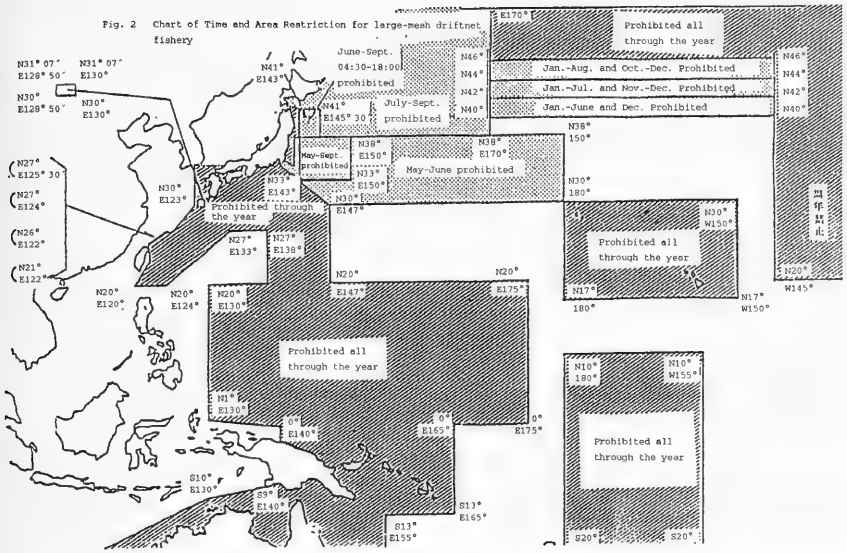


Fig. 2 Chart of Time and Area Restriction for large-mesh driftnet fishery

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FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

May 2, 1989

Mr. Richard Smith
Deputy Assistant Secretary
Department of State

Mr. James W. Brennan
Assistant Administrator for Fisheries
National Marine Fisheries Service
Department of Commerce

Government of the United States

Dear Mr. Smith / Brennan :

I would like to inform you of the following.

In the 1989 fishing season, the Japanese side will implement the attached regulatory and enforcement program on the Japanese squid driftnet fishery in accordance with the principle that enforcement activities with regard to high seas fishery including, but not limited to, the squid driftnet fishery should be conducted under the responsibility and initiative of the flag state.

In devising the program, the Fisheries Agency has paid due respect to your concerns regarding the incidental take of North American origin anadromous species by the squid driftnet fishery. The Details of this program are described in the attachment.

Sincerely,

Kazuo Shima
Councillor
Fisheries Agency
Government of Japan

c.c. Mr. Pierre Asselin
Assistant Deputy Minister
Department of Fisheries and Oceans
Government of Canada

ATTACHMENT

Regulatory and Enforcement Program of the Government of Japan on the Japanese Squid Driftnet Fishery for the 1989 Fishing Season

The Government of Japan (GOJ), as a flag state with established jurisdiction over its high seas fisheries on the basis of the principle of the freedom of the high seas, has instituted necessary regulatory measures to control the squid driftnet fishery on the high seas and has constructed enforcement programs to ensure compliance with those measures for the 1989 fishing season. The Japanese side intends to continue to make information available to the Canadian and U.S. sides.

I. Regulatory Measures

(i) Overview

In response to the rapid expansion of the squid driftnet fishery, the GOJ introduced a limited-entry-licensing system and other regulations in August, 1981, prohibiting the fishing operation in the North Pacific targeting for squid by using driftnet without a license issued by the Minister of Agriculture, Forestry and Fisheries. Since then there has been steady decrease in the number of vessels. The following are the main elements of these measures.

1) Limit on the number of the vessels engaged in this fishery

2) Limit of the fishing ground and period : in particular, establishment of the northern boundary by month based on the best scientific information available in order to minimize incidental takes of the anadromous species inhabiting to the north of the waters where flying squids (Ommastrephes bartrami) are distributed.

3) Prohibition of retention of anadromous species, even taken incidentally

4) Prohibition of transfer of catch at sea

5) Mandatory display of the vessel's name, registration number, and others on the hull for facilitating the identification of the vessel at sea

6) Mandatory marking on fishing gears for identification

7) Restriction on mesh size for stock conservation

8) Mandatory record and submission to the Fisheries Agency of NNSS data in order to identify operational positions

9) Mandatory vessel position reports

10) Mandatory submission of catch reports to the Government

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

The period of "port confinement" which is an administrative penalty imposed on violations has been doubled effective from the 1988 fishing season.

(ii) Number of licensed vessels

Licensing certificates are to be issued to squid driftnet fishing vessels operating in the North Pacific late in May after the necessary domestic procedures. The list of the licensed vessels, enlisting name, license number and vessel registration number will be made available to the Canadian and U.S. authorities on request at the earliest possible time after the licences are issued. In addition, each driftnet vessel must submit to the FAJ a color photograph of the vessel. The number of licensed vessels is limited to that of the previous year.

(iii) Restriction of fishing period and area

The operation of this fishery is permitted only within the limits of the waters surrounded by 20 degrees N, 170 degrees E, 145 degrees W and the northern boundary that changes by month (40 -46 degrees N). The period in which the operation is permitted is limited from June to December. The northern and eastern boundaries have been specifically established to minimize incidental takes of anadromous species.

Starting in the 1989 fishing season, it has been decided that for the two months of July and August the northern boundary line will be moved up by 1 degree in latitude in July between 170 degrees W-145 degrees W, and in August by 1 degree in latitude between 170 degrees E-170 degrees W and by 2 degrees in latitude between 170 degrees W-145 degrees W.

For the area between 170 degrees E to 145 degrees W longitude, the northern boundaries are as follows.

January through May	Closed to fishing
June	Latitude 40 degrees N
July	Latitude 42 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 43 degrees N
	Between 170 degrees W - 145 degrees W
August	Latitude 45 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 46 degrees N
	Between 170 degrees W - 145 degrees W
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

The Fisheries Agency of the Government of Japan (FAJ) would consider a further revision in subsequent years of the northern boundaries established for the months of July and August, if necessary, taking into account the information from the July-August observer program and research cruises and also the views of the Canadian and U.S. sides.

(iv) Display of the vessel's name, and other identifications on the hull

In order to facilitate the identification of vessels at sea, displaying vessel's name, license number and vessel's registration number in a specified size on the hull is mandatory to all the licensed vessels.

Each driftnet vessel is to be assigned a license number. This license number is to be displayed on both sides of the hull and on both sides of the bridge in a color in contrast to the background. The license number affixed

to the hull must be in roman letters and arabic numerals at least 50 cm in height. The license number affixed to the bridge must be in roman letters and arabic numerals at least 30 cm in height. In addition, each driftnet vessel will have two blue stripes, one at least 30 cm in width and the other at least 20 cm in width, surrounding the bridge.

(v) Marking of fishing gear

Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every tan (45-50m) of net with the name of the vessel and its corresponding license number. Each vessel is also required to refrain from discarding used or damaged driftnets, to stow them on the vessel, and to return to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the FAJ.

II. Enforcement program

(i) Intensification of enforcement activities

In the 1989 season, enforcement activities such as deployment of patrol boats, surveillance at landing ports by the Japanese enforcement officers will be intensified.

The number of vessel-days of patrol cruises focusing mainly on the enforcement of the northern boundary will be greatly increased in the 1989 season (4 patrol-boats deployed for 265 vessel-days in 1988 and 5 patrol-boats to be deployed for about 600 vessel-days in 1989).

FAJ will consider installation of satellite transmitters on Japanese squid driftnet vessels in 1990, taking into account the results from the U.S. test of effectiveness of such devices on commercial fishing vessels which will be conducted in 1989, and also the views of the Canadian and U.S. sides.

FAJ intends to provide the Canadian and U.S. sides with the compiled weekly position data reported from the squid driftnet vessels during the season by October 31, 1989 for the June-August fisheries and by February 1, 1990 for the September-December fisheries. Such compilation will be made by 1 degree x 1 degree area, by vessel type and by week.

(ii) Communication with the U.S. enforcement authorities

FAJ will conduct surveillance and boardings of Japanese driftnet fishing vessels, both dockside and at sea. On the high seas, FAJ will coordinate with the appropriate U.S. authorities communications between their respective patrol units. Both sides use state-of-the-art communications equipment such as International Marine Satellite (INMARSAT) and facsimile to facilitate communications, where possible.

(iii) Utilization of the information supplied by the U.S. officials in Japanese investigations

The Japanese side intends to continue to utilize, to the maximum extent, the information supplied by the U.S. officials, indicating alleged violations by the Japanese squid driftnet fishing vessels, in the investigation and identification of the violator. In order to facilitate the investigation on the Japanese side, photographs are expected to be as clear as possible, and/or with reliable information of sighting positions.

The Japanese side intends to continue to provide the U.S. authorities with the results of our investigation, which has utilized the information supplied by the U.S. officials, including specific penalty imposed on the violators.

(iv) Notice of the outline of Japanese enforcement activities:

The Japanese side intends to continue to be prepared to provide the Canadian and U.S. authorities with the outline of the Japanese enforcement activities on a voluntary basis after the 1989 fishing season.

III. Exchange of Enforcement Observers

The Japanese side is prepared to invite a U.S. observer to the patrol cruise of the Hakuryu-Maru of FAJ.

The Japanese side understands that the U.S. side is prepared to invite a Japanese observer to be on a U.S. Coast Guard surveillance plane. The flight will stage out of Coast Guard Air Station, Kodiak Alaska or other appropriate U.S. facilities.

The Japanese side also understands that both sides will pay the travel and per diem costs of their own observers and each side will cover all operational costs of their patrol operations.

IV. Exchange of information on driftnet operations by the vessels of non-contracting parties to the INPFC

When Japanese patrol vessels have witnessed driftnet operations by the vessels of non-contracting parties to the INPFC which are deemed to be engaged in fishing for anadromous species, we are prepared to transmit the following information on those vessels to the Canadian and U.S. sides as quickly as possible.

All driftnet vessels of non-contracting parties to the INPFC sighted by the Japanese salmon fishery patrol vessels and those vessels of non-contracting parties to the INPFC sighted in operation in waters north of the northern boundary by the Japanese squid fishery patrol vessels will be reported. Information will include if available:

1. position (coordinate) sighted
2. nationality and registry
3. name of vessel
4. registration number
5. estimated tonnage
6. color of hull
7. activities, including description of fishing procedures and nature of catch

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FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

May 2, 1989

Mr. Richard Smith
Deputy Assistant Secretary
Department of State

Mr. James W. Brennan
Assistant Administrator for Fisheries
National Marine Fisheries Service
Department of Commerce

Government of the United States

Dear Mr. Smith/Brennan:

I have the pleasure to write this letter in response to the matters of your interest with respect to the Japanese squid driftnet fishery, which is operating in the high seas area of the North Pacific beyond the 200-mile zones of any coastal state to utilize the flying squid resource rationally, and its impact on the stocks of various species, particularly recognizing the significance of collecting adequate information on the incidental take of anadromous species in this fishery.

I would like to notify you of the intention of the Japan Squid Driftnet Fishery Association to take the following voluntary measures to accept Japanese researchers and North American scientific observers on board the Japanese squid driftnet fishing vessels in 1989.

1. For the squid driftnet fishing period of June to December, a scientific observer program, which will collect data for the general understanding of the squid driftnet fishery including the catch of target and non-target species, will be implemented involving ten Japanese researchers on board ten squid driftnet vessels. Five North American scientific observers are also to be voluntarily accepted on board five of the ten squid driftnet vessels mentioned above. The details of this program are set forth in the attached Annex.

2. In the fishing area newly established in 1989 by the Government of Japan by modifying the northern boundary for July and August (the northern area), another scientific observer program, which will collect data on the bycatch of anadromous species in the northern area, will be implemented involving twenty-two Japanese researchers on board twenty-two squid driftnet vessels. Nine North American scientific observers are also to be voluntarily accepted on board nine of the twenty-two squid driftnet vessels mentioned above to collect data for the general understanding of the squid driftnet fishery including the catch of all target and non-target species. In order to fulfill the main objective of this program, the Fisheries Agency of Japan will coordinate with the vessel masters with the purpose of ensuring that those twenty-two vessels conduct their fishing operations within the northern area in a pattern consistent with the distribution of the fleet as a whole within that area. The details of this program are set forth in the attached Annex.

I understand that logistical details of those two observer programs have been agreed by the appropriate organizations of Japan, Canada, and the United States. I also understand that each side will be responsible for bearing the expenses incurred with respect to the boarding of its own scientific observers.

In addition, I would like to notify you of the plan of the Fisheries Agency of Japan to send two scientific research vessels in 1989 to collect data on the distribution of squid and salmonids and oceanographic conditions in the waters near the northern boundary of the Japanese squid driftnet fishery in July and August. The Japanese side is ready to accept one U.S. scientist and one Canadian scientist respectively on board the R/V Syoyo-maru, one of the two vessels mentioned above, on condition that the boarding expenses will be borne by the Canadian or U.S side that dispatches the scientist. The details of the research plan will be provided later through diplomatic channels.

I would also like to notify you of the intention of the Japanese side to exchange views with Canadian and the U.S. sides in early 1990 to plan a scientific observer program adequate to obtain needed data for the 1990 squid driftnet fishery, taking into account the 1989 observations.

Finally, I would like to repeat the basic position of the Government of Japan on the subject of high seas fishery including, but not limited to, the squid driftnet fishery, that is, the research programs and other activities with regard to those high seas fisheries should be undertaken under the responsibility and initiative of the flag state, i.e. Japan.

Sincerely,

Kazuo Shima
Councillor
Fisheries Agency
Government of Japan

c.c. Mr. Pierre Asselin
Assistant Deputy Minister
Department of Fisheries and Oceans
Government of Canada

ANNEX

The arrangements described below represent the process for collecting, handling, and providing the squid driftnet fishery data by Japanese researchers and North American scientific observers during 1989 fishing season. The primary purpose of these activities is to secure information on the catch of flying squid and the incidental take of

salmonids and other fin fishes shown Appendix A, and the secondary purpose is to secure information on incidental take of marine mammals, seabirds, and other marine species of mutual interest shown in Appendix C.

1. Deployment of Japanese researchers and North American scientific observers will follow the schedules outlined in Table 1 for the June to December program and Table 2 for the July-August augmented program. The number of observers to be deployed in each program will be as follows:

	Japan	Canada	U.S.	vessel
June to December program	10	0	5	10
July to August program	22	5	4	22

Embarkation of Japanese researchers and North American scientific observers will be from Japanese ports designated by the Japan Squid Driftnet Fisheries Association (JSDFA). Disembarkation shall be conducted according to procedures agreed upon prior to embarkation, or during the course of the cruise among the appropriate organizations of Japan, Canada and the United States (the organizations). Further details for conditions of deployment and arrangements for observation of Japanese high seas squid driftnet operations are addressed in the attached specific agreements between JSDFA and each of the Governments of Canada and the United States. Each North American scientific observer will present a Letter of Introduction to the Ship's master which will describe the detailed arrangements consistent with understandings between the organizations for deployment, observation, and other terms and conditions as appropriate. Such Letter of Introduction should be written in Japanese.

2. All organizations will cooperate to ensure that their respective scientific observers will collect and record data in an agreed upon and standardized format. The designated liaison persons of the organizations will exchange a training and field research manuals, by May 12, 1989.

3. Data collected are to include, for each set:

(A) Information on fishing methods including net mesh sizes, method of net deployment (i.e., whether the vessel fished individually or in conjunction with other vessels), depth of the top of the net from the water surface (estimated by the host vessel if necessary), total net depth from corkline to lead line (furnished by the host vessel), true compass direction of the set, length (M) of a tan of net, number of tans per net section, number and arrangement of net sections deployed per net set, and tans of net lost or discarded;

(B) Environmental conditions including: surface water temperatures at the beginning and ending of net deployment, weather conditions (air temperature, wind speed and direction, visibility, cloud cover and oceanographic conditions such as sea state, swell direction and height, etc.);

(C) Date and location of net at time of set and retrieval to nearest minute of latitude and longitude; and

(D) Catches and take of the species indicated on Appendix A and Appendix C recorded by each net section observed except for the target species which will be recorded by three categories (low, medium and high abundance) for each net section observed with the actual numbers or project weight for the set to be provided by the host vessel.

(E) Observers may record biological information from salmonids incidentally caught prior to those fish being immediately returned to the water in compliance with Japanese regulations. For the 1989 observer program, this information will include the taking of scale samples, species determination, weight and fork length determination. These data will be exchanged by the parties at the same time as other observer information is exchanged following return of observers to port.

4. All data identified in paragraph 3 will be recorded daily onto a data form identified in Appendix B and Appendix D. These forms will be duplicated and provided to appropriate authorities of the three countries within 30 days after the Japanese researcher or the North American scientific observer disembarks the host vessel.

5. Total fishing effort and the total catch in metric tons of the squid fleet will be compiled by month and 1 x 1 degree statistical areas. Such data are to be provided to the INPFC within 6 months or less, if possible, following the closing of the fishing season. The number of vessels by type are also to be provided to the INPFC within 6 months

or less following the closing of the fishing season. Three measures of effort are to be reported: the cumulative number of standardized tans, number of vessels fishing and vessel days of operations.

6. A report on results of the 1989 research cruises in the squid driftnet fishing area will be provided to the INPFC after the completion of the cruises.

7. Canadian and the U.S. sides should provide the Japanese side with information they obtain based on their own efforts on scientific data including incidental catch of various non-target species caught by relevant fisheries, to the extent permitted by their laws and regulations.

8. Data reporting will be made by the appropriate authorities of Canada, Japan, and the U.S. according to the following schedules:

(a) For the June-December observer program described in paragraph 1, the appropriate authorities of the three sides will jointly produce by April 1, 1990, a preliminary data summary of average catch rates collected by Japanese researchers and North American scientific observers of the dominant species of salmonids, marine mammals and seabirds identified in paragraph 3 by 1 x 1 degree areas by month.

To facilitate the production of the preliminary data summary, Japanese, Canadian, and U.S. scientists will meet in Japan early in 1990. A final report reviewing data identified in paragraph 3 collected by Japanese researchers and North American scientific observers during 1989 will be jointly produced by the appropriate organizations of the three countries within 6 months after the termination of the fishery. The preliminary data summary and the final report will include data collected on the catch and bycatch of species listed in Appendices A and C during the July-August observer program described in paragraph 1.

(b) For the July-August observer program described in paragraph 1, the appropriate authorities of the three sides will jointly produce a preliminary data summary of average catch rates collected by Japanese researchers and North American scientific observers of salmonids and target squid species identified in paragraph 3 by December 1, 1989. To facilitate the production of the preliminary data summary, Japanese, Canadian, and U.S. scientists will meet. A report reviewing all data collected on salmonids in the July-August observer program identified in paragraph 1 by Japanese researchers and North American scientific observers will be jointly produced by February 1, 1990.

If there are disagreements between the three sides pertaining to the data summaries or reports, the differences will be provided therein.

9. All observed field data per set shall not be opened to the public. The summary reviews and the final reports of the observations made by the Japanese researchers and North American scientific observers shall not be opened to the public until their completion as specified in paragraph 8.

10. Observers, without neglecting their duties aboard the host vessel as described herein, may record observations of the fishing operations of non-INPFC member nations. This activity will consist of visual observation and recording of a description of activities observed and is not intended to disrupt or divert the host vessel in any way from its normal fishing activities. These data will be exchanged by the parties at the same time as other observer information is exchanged following return of observers to port.

Table 1. Deployment of Researchers and Scientific Observers on Squid Driftnet Fishing Vessels, June-December 1989.

Japanese squid driftnet fishing vessels, with Japanese Researchers accompanied North American Scientific observers shown in parentheses.

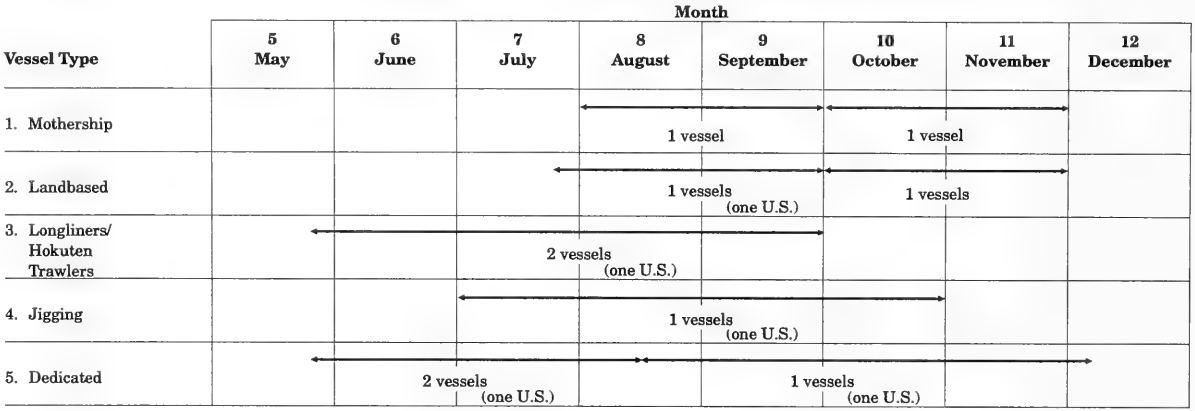

Table 2 -- Deployment of researchers and scientific observers on squid driftnet fishing vessels, July-August 1989

	Month							
	5	6	7	8	9	10	11	12
Type of Cruise period	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
A	←	—	—	—	→			
B		←	—	—	→			

Footnote 1. Type of the vessels involved in this program will be Longliners/Hokuten trawlers, Dedicated and Distant water Jigging (Breakdown of the 22 vessels among these vessel types to be determined shortly).

2. Breakdown of 9 North American observers between the types of cruise period to be informed by May 10, 1989.

Appendix A

flying squid

boreal squid

clubhook squid

eight-armed squid

pomfret

albacore

yellowtail

skipjack

blue shark

salmonids (chinook, coho, chum, pink, sockeye, steelhead)

Appendix B

SQUID DRIFTNET OBSERVER FORM

Vessel name _____ Observer name _____

Net Set Start
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Net Set End
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Net Retrieval Start
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Net Retrieval End
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Dir. of Set
Array Fishing? _____

Stretched Mesh Size _____mm Net Depth from Water Surface: Top _____M Bottom _____M Tan Length _____M
SST (Start of Set) _____°C Wind speed _____N/S Swell Height _____M Beaufort No. _____ Air Temp. _____°C
SST (End of Set) _____°C Wind Dir. _____°T Swell Dir. _____°T Cloud Cover _____ Visibility _____M

Section Number	Total No. of Tans	Tans Not Fishing	Species Catch in Numbers									
			Flying Squid	Boreal Squid	8-Arm Squid	Pomfret	Albacore	Yellow-tail	Skip-jack	Blue Shark	Salmonids Species	Salmonids Number
1.												
2.												
3.												
4.												
5.												
6.												
7.												
8.												
9.												
10.												
11.												
12.												
13.												
14.												
15.												
Total												
HOST VESSEL TOTAL CATCH												

Appendix C

Dall's porpoise

northern fur seal

Pacific white-sides dolphin

northern right whale dolphin

common dolphin

striped dolphin

other cetaceans

short tailed albatross

black-footed albatross

Laysan albatross

sooty shearwater

short tailed shearwater

flesh footed shearwater

Buller's shearwater

tufted puffin

horned puffin

Leach's storm-petrel

northern fulmar

marine turtles

Appendix D

SQUID DRIFTNET OBSERVER FORM

Vessel name Observer name _____

Net Set Start
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Net Set End
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Net Retrieval Start
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Net Retrieval End
Date Time (JST) _____
Lat. _____°N
Long. _____°E/W

Dir. of Set
Array Fishing? _____

Stretched Mesh Size _____mm Net Depth from Water Surface:Top _____M Bottom _____M Tan Length _____M
SST (Start of Set) _____°C Wind speed _____M/S Swell Height _____M Beaufort No. _____ Air Temp. _____°C
SST (End of Set) _____°C Wind Dir. _____°T Swell Dir. _____°T Cloud Cover _____ Visibility _____M

Section Number	Total No. of Tans	Tans Net Fishing	Marine Mammals S. D. A. L. T.	Shearwaters S. D. A. L. T.	Albatrosses S. D. A. L. T.	Other Spp. S. D. A. L. T.
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
TOTAL						

❧ ❧ ❧ ❧ ❧ ❧ ❧

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE
Washington, D.C. 20235

June 26, 1989

Mr. Kazuo Shima
Councillor
Oceanic Fisheries Department
Fisheries Agency of Japan
2-1, 1-Chome, Kasumigaseki
Chiyoda-ku
Tokyo 100, Japan

Dear Mr. Shima:

Thank you for your letters of May 2, 1989 regarding the collection and exchange of scientific information under the June-December and the July-August observer programs for the Japanese squid driftnet fishery, the enforcement program for the Japanese squid driftnet fishery, and the observer and enforcement program for the Japanese large-mesh driftnet fishery.

As you have requested, the United States is prepared to resume consultations with a view to resolving salmon issues, including your request for a conversion of Japan's mothership salmon fleet to a landbased-type operation for 1990 at the earliest date convenient to all sides.

I wish to note that in connection with the July-August observer program, North American observers would collect data on bycatch of all non-target species, and that this data would be incorporated into the data summary and report for the June-December program.

Under the Driftnet Impact Monitoring, Assessment and Control Act of 1987, the Secretary of Commerce must by June 29, if he finds the cooperative arrangement inadequate, certify such fact to the President. We believe that implementation of the programs described in these letters and their attachments, including adequate observer and enforcement programs anticipated for 1990 and beyond, would provide the basis for withholding certification of Japan under the Act in 1989. In that regard, we place great reliance on your intentions to plan more extensive cooperative programs in the future.

As you are aware, our objective is to obtain statistically reliable data on the bycatch of Japan's driftnet vessels and effective enforcement programs. We view the 1989 programs as an important step in developing such programs.

We have previously objected to the Fisheries Agency of Japan's decision to extend the northern boundary of the squid fishery for July and August. U.S. participation in the described programs should not be understood to imply a change in this position. Neither should such participation be understood as reflecting the U.S. position on the practice of high-seas driftnet fishing generally.

Finally, I would like to repeat the position of the U.S. Government that the United States has jurisdiction over U.S.-origin anadromous species throughout their migratory range, except during the time they are found within another nation's territorial sea or 200-mile zone, as recognized by the United States.

Sincerely

James W. Brennan
Assistant Administrator for Fisheries

Richard J. Smith
Principal Deputy Assistant
Secretary, OES
Department of State

❧ ❧ ❧ ❧ ❧ ❧ ❧

FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

June 26, 1989

Dr. Frederick M. Bernthal
Assistant Secretary for Oceans and International
Environment and Scientific Affairs
Department of State
Washington, D.C. 20520

Dr. William E. Evans
National Oceanic and Atmospheric Administration
Under Secretary
Department of Commerce
Washington, D.C. 20230

Dear Dr. Bernthal / Dr. Evans:

In response to the strong request of the Government of the United States, I am writing to clarify the intention of the Japanese side with respect to the Japanese monitoring and enforcement programs for the Japanese high seas driftnet fisheries in the North Pacific, which are described in Mr. Shima's letters dated May 2, 1989.

1. While the Japanese high seas driftnet fisheries are conducted and managed under the jurisdiction of Japan as a flag state on the basis of the principle of the freedom of the high seas, the Japanese side, taking into consideration the concerns of the Canadian and U.S. sides regarding the high seas driftnet fisheries, decided to carry out the programs for 1989 by overcoming a series of difficulties, including the need of persuading the Japanese fishermen concerned. I would like to assure you that these efforts on the part of the Japanese side will be continued beyond the termination of this year's fishing season.

2. With regard to the observer programs, the objective of the Japanese side is to obtain statistically reliable data. Therefore, the number of commercial fishing vessels that accept scientific observers on board will be increased, if deemed necessary in the light of the outcome of the 1989 programs. It is also noted that, in formulating the 1990 observer programs, logistical feasibility of expanded programs will require careful consideration. I would like to reiterate that the Japanese side has the intention to meet with the Canadian and U.S. sides in early 1990 and exchange views to formulate observer programs for the 1990 fishing season.

3. With regard to the Japanese enforcement programs, the objective of the Japanese side is to maintain an effective enforcement program.

4. With regard to the installation of satellite transmitter real-time position-fixing devices, I understand that even the Government of the United States has never directed the U.S. commercial fishing vessels to install the devices for enforcement purposes. The Fisheries Agency of Japan is prepared to install satellite transmitters on its enforcement and/or research vessels operating in the North Pacific, including the Japanese squid driftnet fishing areas, for the purpose of supplementing the planned U.S. tests of effectiveness of the devices on U.S. commercial fishing vessels in 1989 fishing season. In order to exchange views regarding the details of these tests, the Japanese side proposes to hold a meeting of Japanese and U. S. experts as soon as possible.

As indicated in Mr. Shima's letter, the Fisheries Agency of Japan will consider installation of the devices on the Japanese squid driftnet fishing vessels in 1990, taking into account the results of the 1989 tests as well as the Canadian and U.S. views. If it is proved appropriate after careful consideration of the results of the 1989 tests, and in connection with formulation of 1990 enforcement and monitoring programs, the Agency will ask the squid driftnet fishing vessels to install a substantial number of satellite transmitters in 1990.

5. The Japanese side would like to finalize the details of the 1990 observer and enforcement programs by April 30, 1990.

6. Finally, I am of the view that a smooth and faithful implementation of the cooperative measures contained in Mr. Shima's letters of May will provide the bases for the formulation of the programs for 1990 and thereafter which might be expanded as necessary. The Fisheries Agency of Japan is therefore prepared to accept, at sea, U.S. observers, who have missed the opportunities of embarkation.

Sincerely,

Hirohisa Tanaka
Director General
Fisheries Agency
Government of Japan

c.c. Mr. Richard J. Smith
Principal Deputy Assistant Secretary
for Oceans and International
Environment and Scientific Affairs
Department of State

Mr. James W. Brennan
Assistant Administrator
for Fisheries
National Marine Fisheries
Service
Department of Commerce

Agreement Between the Government of the United States of America and the Government of Japan Regarding Squid and Large-Mesh Driftnet Fisheries, Tokyo and Silver Spring, 1990

Done at Tokyo and Silver Spring 12 April 1990

*Entered into force 12 April 1990**

Primary source citation: Copy of text provided by the U.S. Department of State

FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

April 12, 1990

Ambassador Edward E. Wolfe
Deputy Assistant Secretary
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for
Fisheries
National Marine Fisheries
Service, Department of Commerce

Dear Ambassador Wolfe / Dr. Fox:

With reference to the letters of Mr. K. Shima dated May 2, 1989 and of Mr. Tanaka dated June 26, 1989, I have the pleasure to write this letter concerning the 1990 observer program with respect to the Japanese squid and large-mesh driftnet fisheries, which are operating in the high seas areas of the North Pacific beyond the 200-mile zones of any coastal states. The details of this program are set forth in the attached Annexes A and B.

I would like to notify you of the intention of the Japan Squid Driftnet Fishery Association and the Japan Large-mesh Driftnet Fishery Association to take the voluntary measures to accept Japanese researchers and North American scientific observers on board the Japanese squid driftnet and large-mesh driftnet fishing vessels in 1990.

I understand that logistical details of the program have been agreed by the appropriate organizations of Japan, Canada, and the United States. I also understand that each side will be responsible for bearing the expenses incurred with respect to the boarding of its own scientific observers.

* This Agreement expired on 31 December 1990.

In addition, I would like to notify you of the plan of the Fisheries Agency of Japan to send scientific research vessels to the North Pacific in 1990 to collect various scientific data with respect to the Japanese squid and large-mesh driftnet fisheries as follows:

4 research vessels to the squid driftnet fishing area
1 research vessel to the large-mesh driftnet fishing area

The Japanese side is ready to accept two North American scientists on board the R/V Syoyo-maru and Wakatori-maru respectively and one North American scientist on board each of the other 3 vessels mentioned above, on condition that the boarding expenses will be borne by the Canadian or U.S. side that dispatches the scientist. The Canadian and U.S. sides will be provided with the details of the research plan and are requested to inform the Japanese side in a timely fashion of the intent to participate in the research cruises.

I would like to state that the program has been devised in response to your interests with respect to the Japanese high seas squid and large-mesh driftnet fisheries and their impact on the stocks of various species, particularly recognizing the significance of collecting adequate information on the incidental take of anadromous species in these fisheries, taking into account the 1989 observations, and with full respect to the United Nations Resolution A/C 2/44/L.81.

I understand that Japanese, Canadian and the U.S. sides share the view that the data to be obtained from the program will be statistically reliable.

I would also like to notify you of the intention of the Japanese side to exchange views with Canadian and the U.S. sides in early 1991 to plan a scientific observer program adequate to obtain needed data for the 1991 squid and large-mesh driftnet fisheries, taking into account the 1990 observations.

Finally, I would like to repeat the basic position of the government of Japan on the subject of high seas fishery including, but not limited to, the squid and large-mesh driftnet fisheries, that is the research programs and other activities with regard to those high seas fisheries should be undertaken under the responsibility and initiative of the flag state, i.e. Japan.

Sincerely,

Kouji Imamura
Councillor
Fisheries Agency
Government of Japan

c.c. Dr. J. C. Davis
Regional Director-Science
Pacific Region
Department of Fisheries and Oceans
Government of Canada

ANNEX A
Japanese High Seas Driftnet Fishery 1990 Observer Program

The arrangements described below represent the process for collecting, handling, and providing driftnet fishery data by Japanese and North American scientific observers during 1990. The purpose of these activities is to secure statistically reliable information on the catch of target species such as squid and tuna and the incidental take of salmonids, all other fin fishes, marine mammals, seabirds, sea turtles, and other species of marine life.

1. Observer Deployment

A. Squid Driftnet Fishery

During the 1990 fishing season, 10 Canadian, 35 U.S. and 29 Japanese scientific observers (total of 74 observers) will be deployed on a total of 74 squid driftnet vessels so that a total of approximately 4380 operations will be observed throughout the squid fishing area. Allocation of observer effort will follow the plan outlined in Table 1.

B. Large-Mesh Driftnet Fishery

During the twelve month period from May 1990 through April 1991, a scientific observer program on large-mesh driftnet vessels will be implemented. 12 North American and 12 Japanese scientific observers (total of 24 observers) will be deployed on a total of 24 large-mesh driftnet vessels. Allocation of observer effort will follow the plan outlined in Table 2.

C. Embarkation and Disembarkation of Observers

In principle, embarkation and disembarkation of North American scientific observers will be from Japanese ports designated by the Japanese side.

Further details regarding arrangements for observation of Japanese high seas squid driftnet and large-mesh operations are addressed in Annex B of this letter.

Each North American scientific observer will present a Letter of Introduction to the Ship's master which will describe the detailed arrangements consistent with understandings among the appropriate organizations of Japan, Canada and the United States for deployment, observation, and other terms and conditions as appropriate. Such Letter of Introduction should be written in Japanese. The Japanese side will provide the ship's master and crew of each squid or large-mesh driftnet vessel with written instructions describing duties of scientific observers and required assistance from the crew.

2. Data Collection

A. Data to be Collected. For each operation, observers will collect the following data according to standardized procedures and format:

(a) Information on fishing methods including net mesh sizes, method of net deployment (i.e., whether the vessel fished individually or in conjunction with other vessels), depth of the top of the net from the water surface, total net depth from corkline to lead line, true compass direction of the set, length (m) of a tan of net (as measured by the observer), number of tans per net section, number and arrangement of net sections deployed per net set, and tans of net lost or discarded, description of net materials, number of driftnet vessels fishing in an array and number of such arrays in the area (within 15 nm of the observer vessel);

(b) Environmental conditions at the beginning and again at the ending of each net deployment, including: surface water temperatures, weather conditions (wind speed and direction), and sea condition (swell height);

(c) Date and location of net at the time of the beginning and the end of the set and at retrieval to nearest minute of latitude and longitude as recorded by the scientific observer directly from the navigation equipment;

(d) Catches and take of all species, including target species and incidental take species, recorded by each net section observed. Dropout rates will be recorded according to the procedures agreed upon at the March 1990 meeting in Tokyo by scientists of Canada, Japan and the United States and described in section B. below ("Agreed Procedures").

(e) The vertical distribution of seabirds and seabird prey species (such as squid, saury, and pomfret) in the net webbing maybe recorded by net section.

(f) Observers will record biological information from any salmonid incidentally caught. For the 1990 observer program, this information will include the taking of scale samples, species determination, sex, fork length determination and the collection of snouts from all salmonids missing the adipose fin. Gonad weight will be measured

whenever feasible. After sampling the salmonids will be returned to the water, in compliance with Japanese domestic regulations. All salmonid information will be exchanged by the appropriate authorities of Japan, Canada and the United States by February 1, 1991.

(g) Observers will record biological information from any sea turtles caught. Carapace measurements will be taken whenever feasible. Whenever conditions permit, turtles taken alive will be freed from net fragments, tagged by the observer, and released. Turtles taken aboard dead may be dissected for examination of stomach contents and collection of organs or tissue samples. All biological data from sea turtles will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1991.

(h) Observers will record biological information and collect biological samples including length measurements from albacore and other tunas and billfish species. All biological data from finfish (other than salmonids) will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1991.

(i) Observers will record biological information and collect biological samples according to the agreed procedures from marine mammals incidentally caught. The data will include species, sex, body length, lactation, pregnancy, fetal length and sex, teeth and reproductive organs. These data will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1991.

(j) Observers will record biological information and collect biological samples from sea birds incidentally caught according to the agreed procedures. The data will include species, color phase, age, brood patch, culman length, wing length, molt, stomach contents, sex, and weight. One whole specimen of each species may be retained and frozen as a voucher specimen by each observer. These data will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1991.

(k) Observers may record data on sightings of marine mammals and seabirds when the vessel is in transit to a new fishing location. The data will include standard sighting information such as location, environmental conditions, species sighted, number of animals sighted, distance from the vessel, etc. Such sighting activity is not to alter the course or interrupt in any way the normal operations of the vessel, except that access to information on the vessel's position and environmental conditions will be assured.

(l) Secure freezer space adequate (up to 2 m^3 for vessels of 100 gross tonnes or larger and 1 m^3 for vessels smaller than 100 gross tonnes) to hold biological samples and specimens will be available for the observer. Specimens will be promptly removed from the ship's freezers upon the vessel's arrival in port.

(m) Observers, without neglecting their duties aboard the host vessel as described herein, may record observations of the fishing operations of non-INPFC member nations. This activity will consist of visual observation and recording of a description of activities observed and is not intended to disrupt or divert the host vessel in any way from its normal fishing activities. These data will be exchanged by the appropriate authorities of Japan, Canada and the United States at the same time as other observer information is exchanged following return of observers to port.

(n) On a daily basis, the vessel captain will provide to the observer information on the quantities of albacore, billfish and sharks retained by the vessel and the quantities discarded. Information on the quantities retained by the vessel will be provided with respect to each processed form, including whole fish, fillets, loins, fins, and belly portions. In a manner not to interfere with efficient operations of the vessel, observers may collect data to determine the size composition of albacore discarded by the vessel, the size composition of those retained by the vessel, and the relative weights of whole fish and the various processed forms.

B. Agreed Procedures

The procedures for catch and bycatch data collection and sampling agreed upon by scientists of Canada, Japan and U.S. are as follows :

1. Catch and Bycatch Data Collection Procedures

(a) Number of sections to be observed for catch and bycatch records on all animal species:

Sections will be randomly selected for observations. Six sections will be observed in operations consisting of six to nine sections and seven sections will be observed in operations consisting of ten or more sections.

(b) Number of observed sections for counting dropouts by species:

Two sections out of the sections mentioned above. During the observation of these two sections, the number of all finfishes which have dropped out of the net should be counted and recorded except for squid. Mammal, sea bird and sea turtle dropouts are to be recorded for every section observed. When counting dropouts, the counting of pomfret may be excluded if it impacts on the ability of the observer to accurately count the dropouts of other species.

(c) Observers do not work on non-fishing days. Should a vessel fish continuously for many days, the observers may take every 6th consecutive fishing day off.

(d) For Canada and Japan, a common data sheet (format) should be used. Variables will be common among the three countries.

(e) The computer file of observer data should be common among the three countries at the section level of resolution.

2. Sampling and Biological Measurements

(a) Sampling and biological measurements will be done on observed days and observed sections. Sampling should not be done on off-duty days and non-observed sections.

(b) For salmonids, species, fork length and sex will be recorded and scale samples will be taken. Gonad weight may be measured. For salmonids missing the adipose fin, snouts will be collected.

(c) All observers will record species, sex and body length for marine mammals and will collect teeth from all dead cetaceans. Sampling of internal organs will be limited to marine mammal experts on board vessels of more than 300 gross tonnes.

(d) For sea birds, the number of incidental take by species will be recorded. Each observer will preserve one specimen of each species during each cruise. Detailed biological measurements and dissection may be done by sea bird experts.

(e) For tuna fishes, fork length measurements will be taken for the first 30 individuals caught in each week for each species. For albacore, samples will be frozen if fish less than 30 cm in length are caught.

C. Coordination, Standardization, and Observer Training

1. All data identified in section 2 for collection by observers will be recorded daily onto data forms developed by the parties. These forms will be duplicated and provided to the appropriate authorities of Japan, Canada and the United States within 30 days after the Japanese or the North American scientific observer disembarks the host vessel.

2. Canadian, U.S. and Japanese scientists will cooperate to ensure that their respective scientific observers will collect and record data in an agreed and standardized format produced at the March 1990 meetings in Tokyo. The designated liaison persons of the appropriate authorities of Japan, Canada and the United States will exchange final versions of the observer training and field data collection manuals by May 1, 1990.

3. Data Exchange and Reporting

A. Data Exchange

1. Total fishing effort and the total catch in numbers of salmonids and in metric tons of animals of the squid driftnet fleets will be compiled by 10-day period and month and 1° x 1° statistical areas, for the following species: flying squid, albacore, skipjack tuna, swordfish, marlin, yellowtail, pomfret, sharks, and other fishes. Total fishing effort and the total catch in numbers of animals of the large-mesh driftnet fleets will be compiled by 10-day period and month and 1° x 1° statistical areas, for the following species: salmonids, albacore, skipjack tuna, other tuna, swordfish, marlin, pomfret, sharks and other fishes. Such data will be provided to the appropriate authorities of Japan, Canada and the United States by May 31, 1991. The number of vessels by type are also to be provided to the appropriate authorities of Japan, Canada and the United States by May 31, 1991. Three measures of effort are to be reported for each fishery: the cumulative number of standardized tans (50m standard tan length), number of vessels fishing and vessel days of operations.

2. A report on results of the 1990 research cruises in the squid and large-mesh driftnet fishing areas will be provided to the appropriate authorities of Japan, Canada and the United States within 90 days after the completion of the cruises.

3. Reports of results of other research related to the high seas driftnet programs will be provided to the appropriate authorities of Japan, Canada and the United States upon completion.

B. Reporting

1. Data reporting will be made by the appropriate authorities of Japan, Canada and the United States according to the following schedules:

(a) For the squid and large-mesh driftnet observer programs, the appropriate authorities of Japan, Canada and the United States will jointly produce by April 1, 1991, a preliminary data summary, of total catches and average catch rates collected by Japanese and North American scientific observers of the species of cephalopods, finfish, marine mammals, seabirds and sea turtles identified in section 2.A by 1° x 1° areas by 10-day period and month. To facilitate the production of the preliminary data summaries, Canadian, Japanese and U.S. scientists will meet early in 1991.

(b) A final report reviewing data identified section 2.A collected by Japanese and North American scientific observers during 1990 will be jointly produced by the appropriate authorities of Japan, Canada and the United States by May 31, 1991. The preliminary data summaries and the final report will include data collected on the catch and bycatch of all species. If there are disagreements among the appropriate authorities of Japan, Canada and the United States pertaining to the data summaries or reports, the differences will be described therein.

2. All observed field data collected from individual operations shall not be opened to the public. The summary reviews and the final reports of the observations made by the Japanese and North American scientific observers shall not be opened to the public until their completion as specified in Section 3.B.1(b).

4. Research Coordination

Recognizing that canada, the U.S. and Japan are conducting research programs relevant to the interpretation of driftnet fisheries observer data, the range and scope of potential cooperation in these programs should be thoroughly considered prior to implementations of the 1990 driftnet fisheries observer program. Canadian, Japanese and U.S. scientists familiar with these programs will exchange views on potential collaboration.

Discussions will include:

(1) current and anticipated research on the biology and population dynamics of species taken in the North Pacific driftnet fisheries;

(2) current and anticipated research on the physical and biological oceanography of the high seas driftnet fishing area;

(3) current and anticipated research and development of fisheries technologies relevant to driftnet fisheries and the avoidance of non-target species; and

(4) research vessel and chartered fishing vessel activities for the North Pacific high seas region in 1990.

Table 1. Deployment of Scientific Observers and the number of Squid Driftnet Fishing Vessels to be observed during 1990.

	June	July	August	September	October	November	December
United States	23	24	17	8	7	2	1
Canada	← — — — — — — — 10* — — — — — — — →						
Japan	17	18	10	6	2	2	1

* Emphasis June-August

Table 2. Deployment of Scientific Observers and the number of Large-mesh Driftnet Fishing Vessels to be observed during 1990-1991.

	1990 May-August	1990 September-December	1991 January-April
North American	1	2	9
Japan	1	2	9

ANNEX B
ARRANGEMENTS FOR OBSERVATION OF JAPANESE HIGH SEAS DRIFTNET OPERATIONS FOR 1990

This Annex describes the arrangements for the implementation of the scientific observer programs on board Japanese high seas driftnet vessels in the North Pacific Ocean for 1990.

1. Coordinators: The National Marine Fisheries Service (NMFS) of the United States, Department of Fisheries and Oceans (DFO) of Canada and the Fisheries Agency of Japan (FAJ) will take necessary measures within their respective competence for smooth implementation of the scientific observer programs. They will nominate their respective coordinators and exchange the names of their coordinators and contact procedures for implementation of this program by April 15, 1990.

2. Host Vessels: The FAJ will provide a list of the Japanese squid driftnet vessels scheduled to host Canadian and U.S. scientific observers to the DFO and the NMFS respectively by April 30, 1990. Similar lists for large-mesh driftnet vessels will be provided at least one month before the departure of the host vessels. These lists will include the vessel name, size, expected dates for taking on observers, and expected areas of fishing. Host vessels will be selected taking into account the sampling schedules in ANNEX A and views of the DFO and NMFS. The FAJ will notify the DFO and NMFS of the itineraries of each host vessel at least 15 days prior to embarkation of observers.

3. Embarkation and Disembarkation: In principle, embarkation and disembarkation of Canadian and U.S. scientific observers will be from Japanese ports. Should such arrangements be impractical, the embarkation and/or disembarkation of Canadian and U.S. scientific observers to and from the host driftnet vessel may be made via transport or other vessels. The FAJ may arrange for such transportation in consultation with the DFO and NMFS. If necessary, the FAJ will assist scientific observers the procurement of standard biological supplies and preservatives (formalin, etc.) as may be required for specimen collection.

4. Travel to Port: The DFO and NMFS will provide travel arrangements for Canadian and U.S. scientific observers respectively to and from the ports of embarkation and disembarkation and the cost of stay on land. Canadian and U.S. scientific observers are required to arrive at ports at least two working days prior to the scheduled departure dates of their host vessel.

5. At-sea Transfer: In the event that a host vessel of a Canadian or U.S. scientific observer cannot continue operation and must return to port due to such incident as accident or mechanical trouble, the FAJ will arrange for a substitute vessel to continue observations. However, if such transfer opportunity is unavailable, the observer will return to port aboard the host vessel.

6. Redeployment of Observers: If a Canadian or U.S. scientific observer is unexpectedly returned to port, the FAJ will arrange for the observer to board a substitute Japanese driftnet vessel to complete the required number of observations.

7. Observer Training and Duties: The Alaska Fisheries Science Center (AFSC) of the NMFS will send observer trainers to Japan in early 1990 to coordinate training and standardize sampling procedures with the National Research Institute of Far Seas Fisheries, FAJ (NRIFSF). The NRIFSF will also spend Japanese observer trainers to the AFSC in early 1990 to coordinate training and standardize sampling procedures. Canada will also participate in such joint training sessions held at the AFSC. All expenses for the travel described in this paragraph will be borne by the side sending observers.

The duties of Canadian, U.S. and Japanese scientific observers will be standardized according to training procedures developed by the DFO, AFSC and NRIFSF, and will be described in the observer manual. The data collection procedures and data forms used by each scientific observer will be standardized by the DFO, AFSC and NRIFSF.

8. Information: In the event that the FAJ obtains information that will affect the implementation of the above arrangements, the FAJ will immediately provide such information to Canadian and U.S. authorities.

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FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

April 12, 1990

Ambassador Edward E. Wolfe
Deputy Assistant Secretary
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for
Fisheries
National Marine Fisheries
Service, Department of Commerce

Dear Ambassador Wolfe / Dr. Fox:

With reference to the letters of Mr. K. Shima dated May 2, 1989 and of Mr. Tanaka dated June 26, 1989, I would like to inform you of the following.

In the 1990 fishing season, the Japanese side will implement the attached regulatory, enforcement and information gathering program on the Japanese squid and large-mesh driftnet fisheries in accordance with the principle that enforcement activities with regard to high seas fishery including, but not limited to, those driftnet fisheries should be conducted under the responsibility and initiative of the flag state.

In devising the program, the Fisheries Agency has paid full respect to the United Nations Resolution A/C 2/44/L.81 and taken into account your concerns regarding the incidental take of North American origin anadromous species by the squid and large-mesh driftnet fisheries. The details of this program are described in the attachment.

Sincerely,

Kouji Imamura
Councillor
Fisheries Agency
Government of Japan

c.c. Dr. J. C. Davis
Pacific Director-Science
Pacific Region
Department of Fisheries and Oceans
Government of Canada

ATTACHMENT

REGULATORY, ENFORCEMENT AND INFORMATION GATHERING PROGRAM OF THE GOVERNMENT OF JAPAN ON THE JAPANESE HIGH SEAS SQUID AND LARGE-MESH DRIFTNET FISHERIES FOR THE 1990 FISHING SEASON

The Government of Japan (GOJ), as a flag state with established jurisdiction over its high seas fisheries on the basis of the principle of the freedom of the high seas, has instituted necessary regulatory measures to control the squid driftnet and large-mesh fisheries on the high seas and has constructed enforcement programs to ensure compliance with those measures for the 1990 fishing season. The Japanese side intends to continue to make information available to the Canadian and U.S. sides.

1. Regulatory Measures

(i) Overview

(a) Squid Driftnet Fishery

In response to the rapid expansion of the squid driftnet fisheries, the GOJ introduced a limited-entry licensing system and other regulations in August, 1981, prohibiting fishing operations in the North Pacific targeting for squid by using driftnets without a license issued by the Minister of Agriculture, Forestry and Fisheries (MAFF). Since then there has been a steady decrease in the number of vessels. The following are the main elements of these measures.

1) Limit on the number of the vessels engaged in this fishery

2) Limit of the fishing ground and period: in particular, establishment of the northern boundary by month based on the best scientific information available in order to minimize incidental takes of the anadromous species inhabiting waters to the north of the waters where flying squids (Ommastrephes bartrami) are distributed.

3) Prohibition of retention on anadromous species, even taken incidentally

4) Prohibition of transfer of catch at sea

5) Mandatory display of the vessel's name, registration number, and license number on the hull for facilitating the identification of the vessel at sea

6) Mandatory marking on fishing gears for identification

7) Restriction on mesh size for stock conservation

8) Mandatory record and submission to the Fisheries Agency of NNSS data in order to identify operational positions

9) Mandatory vessel position reports

10) Mandatory submission of catch reports to the Government

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

The period of "port confinement" which is an administrative penalty imposed on violations has been doubled effective from the 1988 fishing season.

(b) Large-mesh Driftnet Fishery

Major enforcement measures imposed upon this fishery have been restrictions on the fishing season, the fishing grounds and the fishing gears. In addition to these measures, the MAFF introduced a registration system to this fishery in August 1989 by modifying its ministerial ordinance. Under this registration system large-mesh fishermen operating on the high seas are required to register their fishing plan in order to engage in the fishery and submit catch reports and other necessary information to the MAFF for a better understanding of the fishing operations.

The following are the main elements of these measures.

1) Restrictions on fishing ground and period

2) Prohibition of retention of anadromous species, even taken incidentally

3) Mandatory display of vessel's name and registration number for facilitating identification of the vessel at sea

4) Mandatory marking of fishing gears for identification

5) Restriction on mesh size for stock conservation

6) Mandatory submission of catch reports to the Government

Based upon the 1989 registration system, the FAJ will adopt a new regulatory system for the high seas large-mesh driftnet fishery at the earliest possible time within 1990. The regulatory system will impose a limited entry system which will restrict the number of vessels which can participate in the high seas fishery for 1990 and beyond, strictly limit new entrants to the fishery, and prohibit expansion of the capacity of fishing vessels. Furthermore, the regulatory system will provide for the adoption of measures which require the deployment of transmitters on all high seas vessels, prohibit transfers at sea, and mandate the submission of vessel position reports. Other regulatory measures will be adopted as necessary.

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

(ii) Restriction on the number of vessels

(a) Squid Driftnet Fishery

Licensing certificates will be issued to squid driftnet fishing vessels operating in the North Pacific late in May after the necessary domestic procedures. The number of licensed vessels is limited to that of the previous year.

The list of the licensed vessels, including enlisting name, license number and vessel registration number, will be made available to the Canadian and U.S. authorities on request at the earliest possible time after the licenses are issued. In addition, each driftnet vessel must submit to the FAJ a color photograph of each side of the vessel.

(b) Large-mesh Driftnet Fishery

Based upon the 1989 registration system, the FAJ will impose a new regulatory system to limit the number of fishing vessels to be engaged in the high seas large-mesh driftnet fishery to a number less than the actual number of vessels which operated during the last twelve months. The FAJ estimates that no more than 200 vessels will be permitted in this high seas fishery for the 1990 season and beyond. In addition, each driftnet vessel must submit to the FAJ a color photograph of each side of the vessel. The list of the vessels will be made available to the Canadian and U.S. authorities upon request as soon as possible after the regulatory system is adopted.

(iii) Restriction of fishing period and area

(a) Squid Driftnet Fishery

The operation of the squid driftnet fishery is permitted only within the limits of the waters surrounded by 20 degrees N, 170 degrees E, 145 degrees W and the northern boundary that changes by month (40-46 degrees N). The period in which the operation is permitted is limited from June to December. The northern and eastern boundaries have been specifically established to minimize incidental takes of anadromous species.

For squid driftnet vessels operating during the 1990 fishing season in the area between 170 degrees E to 145 degrees W longitude, the northern boundaries are established as follows:

January through May	Closed to fishing
June	Latitude 40 degrees N
July	Latitude 42 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 43 degrees N
	Between 170 degrees W - 145 degrees W
August	Latitude 45 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 46 degrees N
	Between 170 degrees W - 145 degrees W

September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

The FAJ will, if necessary, revise in subsequent years the northern boundaries established for the months of July and August taking into account the information from the observer program and research cruises and also the views of the Canadian and U.S. sides.

(b) Large-mesh Driftnet Fishery

The FAJ will maintain existing time and area restrictions (Figures 1 and 2), including the prohibition of the large-mesh driftnet operation in the following areas.

1) north of 20 degrees N latitude and east of 145 degrees W longitude

2) north of the northern boundaries between 170 degrees E and 145 degrees W longitude described below;

January through June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

The FAJ will introduce additional northern boundaries established as follows for the indicated areas and times for the large-mesh driftnet fishery, as a part of the new regulatory system.

Between 170 degrees E and 145 degrees W

January through April	Latitude 36 degrees N
May	Latitude 37 degrees N

Area west of 170 degrees E longitude:

January through April	Latitude 36 degrees N
May	Latitude 30 degrees N
June	Latitude 40 degrees N
July through September	Latitude 38 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

(iv) Display of the vessel's name, and other identification on the hull

(a) Squid Driftnet Fishery

In order to facilitate the identification of squid driftnet vessels at sea, displaying vessel's name, license number and vessel's registration number in a specified size on the hull is mandatory for all the licensed vessels.

Each squid driftnet vessel is to be assigned a license number. This license number is to be displayed on both sides of the hull and on both sides of the bridge in a color in contrast to the background. The license number affixed to the hull must be in Roman letters and Arabic numerals at least 50 cm in height. The license number affixed to the bridge must be in Roman letters and Arabic numerals at least 30 cm in height. In addition, each squid driftnet vessel will have two blue stripes, one at least 30 cm in width and the other at least 20 cm in width, surrounding the bridge.

(b) Large-mesh Driftnet Fishery

Each large-mesh driftnet vessel will have one black stripe at least 30 cm in width surrounding the bridge. For the identification of large-mesh driftnet vessels at sea, displaying the vessel's name and the vessel's registration number in a specified size on the bridge is mandatory. The registration number affixed to the bridge must be in Roman letters and Arabic numbers at least 30 cm in height and in a color in contrast to the background.

(v) Marking of fishing gear

Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every tan (45-50 m) of net with the name of the vessel and its corresponding license number or port of registry if the vessel has not been issued a license number. Each vessel is also required to refrain from discarding used or damaged driftnets, to stow them on the vessel, and to return them to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the FAJ.

(vi) Gear prohibition

Driftnet vessels may only carry the gear type for which they are permitted (large mesh (15 cm or more) or small mesh (10-13.5 cm)). No driftnet vessel can be permitted to engage in more than one kind of driftnet fishery during any given scheduled fishing trip.

II. Enforcement program

(i) Intensification of enforcement activities

In the 1990 season, enforcement activities such as the deployment of patrol boats and surveillance at landing ports by Japanese enforcement officers will be maintained.

The number of vessel-days of patrol cruises focusing mainly on the enforcement of the northern boundary will be maintained in the 1990 season (5 patrol-boats to be deployed for about 600 vessel-days in 1990).

(ii) Communication with the U.S. enforcement authorities

FAJ will conduct surveillance and boardings of Japanese driftnet fishing vessels, both dockside and at sea. On the high seas, FAJ will coordinate with the appropriate U.S. authorities communications between their respective patrol units. Both sides will use state-of-the-art communications equipment such as International Marine Satellite (INMARSAT) and facsimile to facilitate communications, where possible.

(iii) Utilization of the information supplied by the U.S. officials in Japanese investigations

The Japanese side intends to continue to utilize, to the maximum extent, the information supplied by the U.S. officials indicating alleged violations by the Japanese driftnet fishing vessels, in the investigation and identification of the violator. In order to facilitate the investigation on the Japanese side, photographs are expected to be as clear as possible, and/or with reliable information of sighting positions.

The Japanese side intends to continue to provide the U.S. authorities with the results of its investigation, which has utilized the information supplied by the U.S. officials, including specific penalty imposed on the violators.

(iv) Notice of the outline of Japanese enforcement activities:

The Japanese side intends to continue to be prepared to provide the Canadian and U.S. authorities with the outline of the Japanese enforcement activities on a voluntary basis.

III. Exchange of Enforcement Observers

The Japanese side is prepared to invite a U.S. observer to at least one 30 day patrol cruise of the Hakuryu-maru of FAJ in 1990.

The Japanese side understands that the U.S. side will invite a Japanese observer to get on board a U.S. Coast Guard surveillance plane. The flight will stage out of Coast Guard Air Station, Kodiak, Alaska or other appropriate U.S. facilities.

The Japanese side also understands that both sides will pay the travel and per diem costs of their own observers and each side will cover all operational costs of their patrol operations.

IV. Deployment of Satellite Transmitters

In 1990, real-time automatic satellite position fixing devices (transmitters) will be deployed by the relevant fishery organization on board 100% of the Japanese squid and large-mesh driftnet fishing vessels which allow automatic, real-time monitoring of the location and identity of each vessel.

All squid driftnet vessels which have pre-scheduled their first cruise from the beginning of the fishing season have ordered transmitters to be installed before their first scheduled departure. Those vessels which will not be able to install transmitters before their first scheduled departure due solely to reasons beyond the control of the vessel owner will be required to be equipped with the device in their second cruise. In any case, all vessels leaving port after July 1 will be equipped with operating satellite transmitters.

Real-time vessel location and identification data and information from the satellite transmitters will be made available to the FAJ under contract with Argos. Based upon the information received from Argos, the FAJ will take immediate and appropriate action as required.

The FAJ authorizes Argos to make those data and information available to the appropriate Canadian and U.S. authorities under contract between Argos and these authorities. In this connection, it is confirmed that such access by those Canadian and U.S. authorities to the said data and information shall not be deemed to authorize in any way the Canadian and U.S. sides to be engaged in enforcement activities with respect to Japanese high seas squid driftnet fishery and large-mesh driftnet fishery. The Japanese side understands that raw transmitter data shall be kept confidential within these authorities.

V. Exchange of information on driftnet operations by the vessels of non-contracting parties to the INPFC

When Japanese patrol vessels have witnessed driftnet operations by the vessels of non-contracting parties to the INPFC which are deemed to be engaged in fishing for anadromous species, the Japanese side will continue to transmit the following information on those vessels to the Canadian and U.S. sides as quickly as possible.

All driftnet vessels of non-contracting parties to the INPFC sighted by the Japanese salmon fishery patrol vessels and those vessels of non-contracting parties to the INPFC sighted in operation in waters north of the northern boundary by the Japanese squid fishery patrol vessels will be reported. Information will include if available:

1. position (coordinates) sighted
2. nationality and registry
3. name of vessel
4. registration number
5. estimated tonnage
6. color of hull
7. activities, including description of fishing procedures, nature of catch, and estimated course and speed

Fig. 1 Chart of Fishing-prohibited Areas in large-mesh driftnet fishery

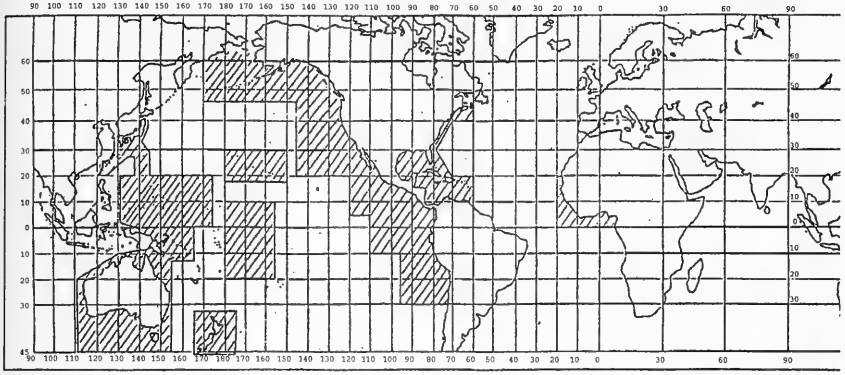
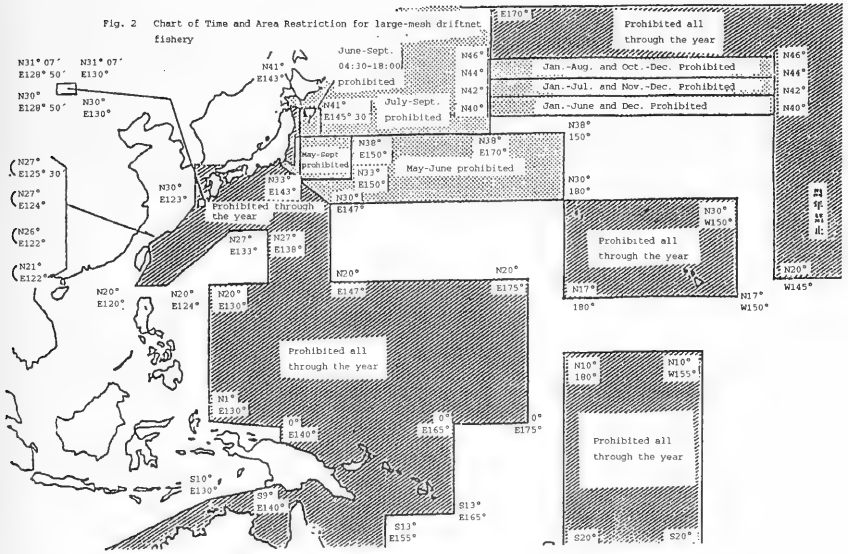


Fig. 2 Chart of Time and Area Restriction for large-mesh driftnet fishery



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
OFFICE OF THE DIRECTOR / THE ASSISTANT ADMINISTRATOR FOR FISHERIES

April 12, 1990

Mr. Koji Imamura
Councillor
Department of Oceanic Fisheries
Fisheries Agency of Japan
2-1, 1-Chome, Kasumigaseki
Tokyo 100, Japan

Dear Mr. Imamura:

Thank you for your letters of April 12, 1990, regarding the collection and exchange of scientific information under the 1990 programs for the Japanese squid driftnet and large-mesh driftnet fisheries and the enforcement programs for these fisheries.

The U.S. Government reaffirms its support for the United Nations General Assembly Resolution, "Large Scale Pelagic Driftnet Fishing and its Impacts on the Living Marine Resources of the World's Oceans and Seas." We are pleased to participate in the programs designed to collect and share scientific data. Our participation in these programs, however, does not signify our satisfaction with, or approval of, the measures described in your letters, their Annexes and Attachments, as effective to prevent unacceptable impacts of these fisheries on the living marine resources of the North Pacific or to ensure the conservation of these resources.

We have repeatedly and consistently protested the Fisheries Agency of Japan's decision to extend the northern boundary of the squid fishery for July and August. Such an expansion of the fishery is unwarranted in view of the risk that such expansion will have unacceptable impacts on the living marine resources of the region. We place great importance on your decision, in the regulatory, enforcement, and information gathering program, to revise the boundary next year if the results of the scientific program warrant a change.

Finally, we would like to repeat the position of the U.S. Government that the United States has jurisdiction over U.S.-origin anadromous species throughout their migratory range, except during the time they are found within another nation's territorial sea or 200-mile zone as recognized by the United States. The United States has great concern for all living resources of the North Pacific, as expressed in the United Nations Resolution mentioned previously.

Sincerely,

William W. Fox, Jr.

Edward E. Wolfe
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Agreement Between the Government of the United States of America and the Government of Japan Regarding Squid and Large-Mesh Driftnet Fisheries, Tokyo and Washington, 1991

Done at Tokyo and Washington 12 and 23 April 1991

*Entered into force 23 April 1991**

Primary source citation: Copy of text provided by the U.S. Department of State

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FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-811 EXT:

April 12, 1991

Mr. David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for
Fisheries
National Marine Fisheries
Service

Dear Mr. Colson/Dr. Fox:

I have the pleasure to write this letter concerning the observer program with respect to the Japanese squid and large-mesh driftnet fisheries operating during the coming season in the high seas area of the North Pacific beyond the 200-mile zone of any coastal states. The details of this program are set forth in the attached Annexes A, B, and C.

I would like to notify you of the intention of the Japan Squid Driftnet Fishery Association and the Japan Large-Mesh Driftnet Fishery Association to take the voluntary measures to accept Japanese researchers and North American scientific observers on board Japanese squid driftnet and large-mesh driftnet vessels for the time periods specified in the Annexes.

I understand that logistical details of the program have been agreed upon by the appropriate organizations of Japan, Canada, and the United States. I also understand that each side will be responsible for bearing the expenses incurred with respect to the boarding of its own scientific observers.

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*This Agreement expired on 30 June 1992.

In addition, I would like to notify you of the plan of the Fisheries Agency of Japan to send scientific research vessels to the North Pacific in 1991 to collect various scientific data with respect to the Japanese squid and large-mesh driftnet fisheries as follows:

4 research vessels to the squid driftnet fishing area
1 research vessel to the large-mesh driftnet fishing area

The Japanese side is ready to accept North American scientists on board these five vessels mentioned above, on condition that the boarding expenses will be borne by the Canadian or U.S. side that dispatches the scientist. The Canadian and U.S. sides will be provided with the details of the research plan and are requested to inform the Japanese side in a timely fashion of their intent to participate in the research cruises.

I would like to state that the program has been devised in response to your interests with respect to the Japanese high seas squid and large-mesh driftnet fisheries and their impact on the stocks of various species, particularly recognizing the significance of collecting adequate information on the incidental take of anadromous species in these fisheries, taking into account the 1989 and 1990 observations, and with full respect to United Nations General Assembly Resolutions 44/225 and 45/197.

I understand that Japanese, Canadian and the U.S. sides share the view that the data to be obtained from the programs are intended to provide statistically reliable information.

Finally, I would like to repeat the basic position of the government of Japan on the subject of high seas fishing including, but not limited to, the squid and large-mesh driftnet fisheries; that is, the research programs and other activities with regard to those high seas fisheries should be undertaken under the responsibility and initiative of the flag state, i.e., Japan.

Sincerely,

Koji Imamura
Councillor
Fisheries Agency
Government of Japan

cc: Dr. J. C. Davis
Regional Director-Science
Pacific Region
Department of Fisheries and Oceans
Government of Canada

ANNEX A
Japanese High Seas Squid Driftnet Fishery 1991 Observer Program

The arrangements described below represent the process for collecting, handling, and providing driftnet fishery data by Japanese and North American scientific observers during 1991. The purpose of these activities is to secure statistically reliable information on the catch of target species such as squid and the incidental take of salmonids, all other fin fishes, marine mammals, seabirds, sea turtles, and other species of marine life.

1. Observer Deployment

A. Squid Driftnet Fishery

During 1991, 10 Canadian, 30 U.S. and 21 Japanese scientific observers will be deployed aboard 61 commercial driftnet vessels throughout the driftnet fishing area to monitor an average of 44 driftnet operations each so that a minimum of 2626 operations will be observed throughout the fishing season and area. Observers will be deployed to reflect the typical monthly pattern of fishing effort based on the 1990 season. Allocation of the observer effort will follow the plan in Table 1.

Observers are also to be deployed on vessels by type (large and small classes) in proportion to the 1990 fishing effort by each vessel type. Out of 61 observers, 45 will be on large type vessels (over 100 gross tons)[1] and 16 on small type vessels (under 100 gross tons).

Table 1. Deployment of Scientific Observers and the Number of Squid Driftnet Fishing Vessels to be Observed during 1991.

	June	July	Aug	Sept	Oct	Nov	Dec	
United States	10	17	11	6	4	2	1	
Canada	6	8	5	3				
Japan	8	13	9	4	2	1		
Total Observers	24	38	25	13	6	3	1	
Estimated Number of Observed Operations[2]								Total
	578	938	599	299	126	76	10	2626

These monthly numbers of observed operations are a guideline based on the distribution of fishing effort in the 1990 fishing season; the actual numbers may vary. However, the minimum total number of observed operations will be 2626.

[2]Assumptions:

1. A total of 2626 observed driftnet operations will provide bycatch estimates within plus or minus 10% tolerable error at a confidence interval of 90% based on 1990 fishing effort.
2. Observers will monitor about 81% of vessel operations during a month. This is a correction for operations that are not monitored due to work breaks, weather conditions and transits within the fishing grounds.
3. The estimated number of observers will be on board fishing vessels continuously on the fishing grounds. This schedule does not account for transit time between port and the fishing grounds.

B. Embarkation and Disembarkation of Observers

In principle, embarkation and disembarkation of North American scientific observers will be from Japanese ports designated by the Japanese side.

Further details regarding arrangements for observation of Japanese high seas squid driftnet operations are addressed in Annex C of this letter.

Each North American scientific observer will present a Letter of Introduction to the ship's master which will describe the detailed arrangements consistent with understandings among the appropriate organizations of Japan, Canada and the United States for deployment, observation, and other terms and conditions as appropriate. Such Letter of Introduction should be written in Japanese. The Japanese side will provide the ship's master and crew of each squid driftnet vessel with written instructions describing duties of scientific observers and required assistance from the crew.

2. Data Collection

A. Data to be Collected.

For each operation, observers will collect the following data in accordance with standardized procedures and format:

(a) Information on fishing methods including net mesh-sizes, method of net deployment (i.e., whether the vessel fished individually or in conjunction with other vessels), depth of the top of the net from the water surface, total net depth from corkline to lead line, true compass direction of the set, length (meters) of a tan of net (as measured by the observer), number of tans per net section, number and arrangement of net sections deployed per net set, and tans of net lost or discarded, description of net materials, number of driftnet vessels fishing in an array and number of such arrays in the area (within 15 nm of the observer vessel as determined from the radio officer's daily "array chart" and RADAR);

[1] This is over 130 gross tons in the new Japanese tonnage classification.

(b) Environmental conditions at the beginning and again at the ending of each net deployment, including: surface water temperatures, weather conditions (wind speed and direction), and sea condition (swell height);

(c) Date and location of net at the time of the beginning and the end of the set and at retrieval to nearest minute of latitude and longitude as recorded by the scientific observer directly from the navigation equipment;

(d) Catches and take of all species, including target species and incidental take species, recorded by each net section observed. Dropout rates will be recorded in accordance with the procedures agreed upon at the March 1990 meeting in Tokyo by scientists of Canada, Japan and the United States, described in section B below ("Agreed Procedures") and as may be modified in subsequent meetings early in 1991.

(e) The vertical distribution of seabirds and seabird prey species (such as squid, saury, and pomfret) in the net webbing may be recorded by net section.

(f) Observers will record biological information from any salmonid incidentally caught. For the 1991 observer program, this information will include the taking of scale samples, species determination, sex, fork length measurement and the collection of snouts from all salmonids missing the adipose fin. Gonad weight will be measured whenever feasible. After sampling, the salmonids will be returned to the water in compliance with Japanese domestic regulations. All salmonid information will be exchanged by the appropriate authorities of Japan, Canada and the United States by February 1, 1992.

(g) Observers will record biological information from any sea turtles caught. Carapace measurements will be taken whenever feasible. Whenever conditions permit, turtles taken alive will be freed from the net or net fragments, tagged by the observer, and released. Turtles taken aboard dead may be dissected for examination of stomach contents and collection of organs or tissue samples. All biological data from sea turtles will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1992.

(h) Observers will record biological information and collect biological samples, including structures for age determination, and length measurements from flying squid, albacore and other tunas, billfishes, sharks, and other non-salmonid fishes. All biological data from squid and non-salmonid finfishes will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1992.

(i) Observers will record biological information and collect biological samples in accordance with the Agreed Procedures from marine mammals incidentally caught. The data will include species, sex, body length, lactation, pregnancy, fetal length and sex. The samples will include stomachs, tissues, skulls, teeth and reproductive organs. These data will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1992.

(j) Observers will record biological information and collect biological samples from sea birds incidentally caught in accordance with the Agreed Procedures. The data will include species, color phase, age, brood patch, culmen length, wing length, molt, stomach contents, sex, weight and the collection of and information on, all recovered tags and bands. One whole specimen of each species may be retained and frozen as a voucher specimen by each observer. These data will be exchanged by the appropriate authorities of Japan, Canada and the United States by April 1, 1992.

(k) Observers may record data on sightings of marine mammals and seabirds when the vessel is in transit to a new fishing location. The data will include standard sighting information such as location, environmental conditions, species sighted, number of animals sighted, distance from the vessel, etc. Such sighting activity is not to alter the course or interrupt in any way the normal operations of the vessel, except that access to information on the vessel's position and environmental conditions will be assured.

(l) Secure freezer space adequate (up to 2 m^3 for vessels of 100 gross tons or larger and 1 m^3 for vessels smaller than 100 gross tons) to hold biological samples and specimens will be available for the observer. Specimens will be promptly removed from the ship's freezers upon the vessel's arrival in port.

(m) Observers, without neglecting their duties aboard the host vessel as described herein, may record observations of the fishing operations of other nations. This activity will consist of visual observation and recording of a description of activities observed and is not intended to disrupt or divert the host vessel in anyway from its normal fishing activities. These data will be exchanged by the appropriate authorities of Japan, Canada and the United States at the same time as other observer information is exchanged following return of observers to port.

(n) The observers will collect from the vessel captain general information on the disposition and shipboard processing of tunas, billfishes, sharks, and other non-salmonid fish species. Such information will indicate which species are discarded and which species are retained for landing in Japan. In the case of retained species the observer will document the various methods of shipboard processing employed (e.g., frozen whole, gilled and gutted, filleted, only fins retained, belly portions kept, etc.).

B. Agreed Procedures

Detailed procedures for biological sampling and specific sampling requirements are described fully in the official observer field manual. The general procedures for catch and bycatch data collection and sampling agreed upon by scientists of Canada, Japan and U.S. are as follows (these procedures may be modified by scientists of Canada, Japan and U.S. in subsequent meetings or correspondence early in 1991):

1. Catch and Bycatch Data Collection Procedures

(a) Number of sections to be observed for catch and bycatch records on all animal species:

Sections will be randomly selected for observations. Up to six sections will be observed in operations consisting of six to nine sections and up to seven sections will be observed in operations consisting of ten or more sections.

(b) Number of observed sections for counting dropouts by species:

Two sections out of the sections mentioned above may be observed for counting dropouts. During the observation of these two sections, the number of all finfishes which have dropped out of the net should be counted and recorded except for squid. Mammal, sea bird and sea turtle dropouts are to be recorded for every section observed. When counting dropouts, the counting of pomfret may be excluded if it affects the ability of the observer to accurately count the dropouts of other species.

(c) Observers do not work on non-fishing days. Should a vessel fish continuously for many days, the observers may take every 6th consecutive fishing day off.

(d) Although field data collection forms may differ, all observers will collect data on common variables.

(e) The computer file of observer data should be common among the three countries at the section level of resolution.

2. Sampling and Biological Measurements

Due to the great variety of specialized sampling tasks, certain tasks identified in the official observer field manual will be performed routinely by all observers. Other more specialized sampling tasks may be assigned only to designated observers.

(a) Sampling and biological measurements will be done on observed days and observed sections. Sampling may also be done on off-duty days and non-observed sections.

(b) For salmonids, species, fork length and sex will be recorded and scale samples will be taken. Gonad weight may be measured. For salmonids missing the adipose fin, snouts will be collected.

(c) For marine mammals all observers will record species, sex, body length and lactation. Marine mammal experts will note if females are pregnant. Mammary glands, uterus, ovaries, or testes may be collected by marine mammal experts. Sampling of internal organs will be limited to marine mammal experts on board vessels of more than 300 gross tons.

(d) For sea birds, the number of incidental take by species will be recorded. Each observer will preserve one specimen of each species during each cruise. Detailed biological measurements and dissection may be done by sea bird experts.

(e) For tuna fishes, fork length or eye fork length measurements will be taken for the first 30 individuals of each species caught each week. If conditions permit, additional individuals of all species of significance may be measured. Other non-salmonid fishes may be measured based on methods agreed upon by scientists of Canada, Japan and the United States. All observers will freeze a sample of (whole) albacore less than 30 cm fork length and retain them as biological specimens.

(f) For flying squid, designated observers will measure the mantle lengths of 30 flying squid randomly sampled from a single observed section each day. A small number of squid specimens will be measured, weighted, and dissected for studies of age and growth and reproductive biology.

(g) For sea turtles, carapace lengths will be measured on all turtles taken aboard. Stomach or stomach contents may be dissected from dead turtles longer than 35 cm carapace length and frozen. A sample of dead turtles less than 35 cm carapace length will be frozen whole and retained as biological specimens. All turtles taken aboard alive will be measured, photographed, tagged, and released.

C. Coordination, Standardization, and Observer Training

1. All data identified in section 2 "Data collection" for collection by observers will be recorded daily onto data forms developed by the parties. These forms will be duplicated and provided to the appropriate authorities of Japan, Canada and the United States within 30 days after the Japanese or the North American scientific observer disembarks the host vessel.

2. Canadian, U.S. and Japanese scientists will cooperate to ensure that their respective scientific observers will collect and record data in an agreed and standardized format produced at the March 1990 meetings in Tokyo and as may be modified in subsequent meetings early in 1991. The designated liaison persons of the appropriate authorities of Japan, Canada and the United States will exchange final versions of the observer training and field data collection manuals by April 15, 1991.

3. Data Exchange and Reporting

A. Data Exchange

1. Total fishing effort and the total catch in numbers of salmonids and of other animals in metric tons of the squid driftnet fleets will be compiled by 10-day period and month and 1° x 1° statistical areas, for the following species: flying squid, albacore, skipjack tuna, swordfish, marlin, yellowtail, pomfret, sharks, and other fishes. Such data will be provided to the appropriate authorities of Japan, Canada and the United States by April 1, 1992. The number of vessels by type are also to be provided to the appropriate authorities of Japan, Canada and the United States by April 1, 1992. Three measures of effort are to be reported for the fishery: the cumulative number of standardized tans (50m standard tan length), number of vessels fishing and vessel days of operations.

For each vessel on which an observer is deployed the following data will be provided by the appropriate authorities of Japan, to the appropriate authorities of Canada and the United States by April 1, 1992: (1) the vessel's total landed tonnage of flying squid, albacore, skipjack tuna, other tunas, swordfish, marlins, pomfret, yellowtail, sharks, and other fishes for the 1991 squid fishing season; and (2) for each day on which an observer was deployed on the vessel, a record of the vessel's retained catch of major species groups indicated in (1) above.

2. A report on results of the 1991 research cruises in the squid driftnet fishing areas will be provided to the appropriate authorities of Japan, Canada and the United States within 90 days after the completion of the cruises.

3. Reports of results of other research related to the high seas driftnet programs will be provided to the appropriate authorities of Japan, Canada and the United States upon completion.

B. Reporting

1. Data reporting will be made by the appropriate authorities of Japan, Canada and the United States in accordance with the following schedules:

(a) For the squid driftnet observer program, the appropriate authorities of Japan, Canada and the United States will jointly compile by April 1, 1992, a preliminary data set of total catches and average catch rates collected by Japanese and North American scientific observers of the species of cephalopods, finfish, marine mammals, seabirds and sea turtles identified in section 2.A by 1° x 1° areas by 10-day period and month. To facilitate the compilation of the preliminary data set, Canadian, Japanese and U.S. scientists will meet early in 1992.

(b) A final report reviewing data identified in section 2.A collected by Japanese and North American scientific observers during 1991 will be jointly produced by the appropriate authorities of Japan, Canada and the United States by May 1, 1992. The compiled data set and the final report will include data collected on the catch and bycatch of all species. If there are disagreements among the appropriate authorities of Japan, Canada and the United States pertaining to the data set or reports, the differences will be described therein.

2. All observed field data collected from individual operations shall not be opened to the public. The final reports of the observations made by the Japanese and North American scientific observers shall not be opened to the public until its completion as specified in section 3.B.1(b).

4. Research Coordination

Recognizing that Canada, the United States and Japan are conducting research programs relevant to the interpretation of driftnet fisheries observer data, the range and scope of potential cooperation in these programs should be thoroughly considered prior to implementation of the 1991 driftnet fisheries observer program. Canadian, Japanese and U.S. scientists familiar with these programs will exchange views on potential collaboration.

Discussions will include:

(1) current and anticipated research on the biology and population dynamics of species taken in the North Pacific driftnet fisheries;

(2) current and anticipated research on the physical and biological oceanography of the high seas driftnet fishing area;

(3) current and anticipated research plans and development of fisheries technologies relevant to driftnet fisheries and the avoidance of non-target species; and

(4) research vessel and chartered fishing vessel activities for the North Pacific high seas region in 1991.

ANNEX B
Japanese High Seas Large-Mesh Driftnet Fishery 1991-1992 Observer Program

The arrangements described below represent the process for collecting, handling, and providing driftnet fishery data by Japanese and U.S. scientific observers during late 1991 and the early part of 1992. The purpose of these activities is to secure statistically reliable information on the catch of target species such as tuna and billfish, and the incidental take of salmonids, all other fin fishes, marine mammals, seabirds, sea turtles, and other species of marine life.

1. Observer Deployment

A. Large-Mesh Driftnet Fishery

Based on analyses of the 1990-91 pilot observer monitoring data, the 1990-91 catch and effort data, and any other relevant data from the Japanese large-mesh driftnet fishery, representatives from the National Marine Fisheries Service (NMFS) the Fisheries Agency of Japan (FAJ) will by September 30, 1991, agree on the number and distribution of observers needed in the Japanese large-mesh driftnet fishery in late 1991 and the early part of 1992. This monitoring program will involve approximately equal numbers of Japanese and U.S. observers.

B. Embarkation and Disembarkation of Observers

In principle, embarkation and disembarkation of U.S. scientific observers will be from Japanese ports designated by the Japanese side.

Further details regarding arrangements for observation of Japanese high seas large-mesh operations are addressed in Annex C of this letter.

Each U.S. scientific observer will present a Letter of Introduction to the Ship's master which will describe the detailed arrangements consistent with understandings among the appropriate organizations of Japan and the United States for deployment, observation, and other terms and conditions as appropriate. Such Letter of Introduction should be written in Japanese. The Japanese side will provide the ship's master and crew of each large-mesh driftnet vessel with written instructions describing duties of scientific observers and required assistance from the crew.

2. Data Collection

A. Data to be Collected

For each operation, observers will collect the following data in accordance with standardized procedures and format:

(a) Information on fishing methods including net mesh-sizes, method of net deployment (i.e., whether the vessel fished individually or in conjunction with other vessels), depth of the top of the net from the water surface, total net depth from corkline to lead line, true compass direction of the set, length (m) of a tan of net (as measured by the observer), number of tans per net section, number and arrangement of net sections deployed per net set, and tans of net lost or discarded, description of net materials, number of driftnet vessels fishing in an array and number of such arrays in the area (within 15 nm of the observer vessel as determined from the radio officer's daily "array chart" and RADAR);

(b) Environmental conditions at the beginning and again at the ending of each net deployment, including: surface water temperatures, weather conditions (wind speed and direction), and sea condition (swell height);

(c) Date and location of net at the time of the beginning and the end of the set and at retrieval to nearest minute of latitude and longitude as recorded by the scientific observer directly from the navigation equipment;

(d) Catches and take of all species, including target species and incidental take species, recorded by each net section observed. Dropout rates will be recorded in accordance with the procedures agreed upon at the March 1990 meeting in Tokyo by scientists of Canada, Japan and the United States, described in section B below ("Agreed Procedures") and as may be modified in subsequent meetings early in 1991.

(e) The vertical distribution of seabirds and seabird prey species (such as squid, saury, and pomfret) in the net webbing may be recorded by net section.

(f) Observers will record biological information from any salmonid incidentally caught. For the 1991-92 observer program, this information will include the taking of scale samples, species determination, sex, fork length measurement and the collection of snouts from all salmonids missing the adipose fin. Gonad weight will be measured whenever feasible. After sampling the salmonids will be returned to the water, in compliance with Japanese domestic regulations. All salmonid information will be exchanged by the appropriate authorities of Japan and the United States by August 1, 1992.

(g) Observers will record biological information from any sea turtles caught. Carapace measurements will be taken whenever feasible. Whenever conditions permit, turtles taken alive will be freed from the net or net fragments, tagged by the observer, and released. Turtles taken aboard dead may be dissected for examination of stomach contents and collection of organs or tissue samples. All biological data from sea turtles will be exchanged by the appropriate authorities of Japan and the United States by August 1, 1992.

(h) Observers will record biological information and collect biological samples including length measurements from flying squid, albacore and other tunas, billfishes, sharks, and other non-salmonid fishes. All biological data from squid and non-salmonid finfishes will be exchanged by the appropriate authorities of Japan and the United States by August 1, 1992.

(i) Observers will record biological information and collect biological samples in accordance with the Agreed Procedures from marine mammals incidentally caught. The data will include species, sex, body length, lactation, pregnancy, fetal length and sex. The samples will include stomachs, tissues, skulls, teeth and reproductive organs. These data will be exchanged by the appropriate authorities of Japan and the United States by August 1, 1992.

(j) Observers will record biological information and collect biological samples from sea birds incidentally caught in accordance with the Agreed Procedures. The data will include species, color phase, age, brood patch, culmen length, wing length, molt, stomach contents, sex, weight and the collection of and information on all recovered tags and bands. One whole specimen of each species may be retained and frozen as a voucher specimen by each observer. These data will be exchanged by the appropriate authorities of Japan and the United States by August 1, 1992.

(k) Observers may record data on sightings of marine mammals and seabirds when the vessel is in transit to a new fishing location. The data will include standard sighting information such as location, environmental conditions, species sighted, number of animals sighted, distance from the vessel, etc. Such sighting activity is not to alter the course or interrupt in any way the normal operations of the vessel, except that access to information on the vessel's position and environmental conditions will be assured.

(l) Secure freezer space adequate (up to 2 m^3 for vessels of 100 gross tons or larger and 1 m^3 for vessels smaller than 100 gross tons) to hold biological samples and specimens will be available for the observer. Specimens will be promptly removed from the ship's freezers upon the vessel's arrival in port.

(m) Observers, without neglecting their duties aboard the host vessel as described herein, may record observations of the fishing operations of other nations. This activity will consist of visual observation and recording of a description of activities observed and is not intended to disrupt or divert the host vessel in any way from its normal fishing activities. These data will be exchanged by the appropriate authorities of Japan and the United States at the same time as other observer information is exchanged following return of observers to port.

(n) The observers will collect from the vessel captain general information on the disposition and shipboard processing of tunas, billfishes, sharks, and other non-salmonid fish species. Such information will indicate which species are discarded and which species are retained for landing in Japan. In the case of retained species the observer will document the various methods of shipboard processing employed (e.g., frozen whole, gilled and gutted, filleted, only fins retained, belly portions kept, etc.).

B. Agreed Procedures

Detailed procedures for biological sampling and specific sampling requirements are described fully in the official observer field manual. The general procedures for catch and bycatch data collection and sampling agreed upon by scientists of Japan and U.S. are as follows (these procedures may be modified by scientists of Japan and U.S. in subsequent meetings or correspondence early in 1991.).

1. Catch and Bycatch Data Collection Procedures

(a) Number of sections to be observed for catch and bycatch records on all animal species:

Sections will be randomly selected for observations. Up to six sections will be observed in operations consisting of six to nine sections and up to seven sections will be observed in operations consisting of ten or more sections.

(b) Number of observed sections for counting dropouts by species:

Two sections out of the sections mentioned above may be observed for counting dropouts. During the observation of these two sections, the number of all finfishes which have dropped out of the net should be counted and recorded except for squid. Mammal, sea bird and sea turtle dropouts are to be recorded for every section observed. When counting dropouts, the counting of pomfret may be excluded if it affects the ability of the observer to accurately count the dropouts of other species.

(c) Observers do not work on non-fishing days. Should a vessel fish continuously for many days, the observers may take every 6th consecutive fishing day off.

(d) Although field data collection forms may differ, all observers will collect data on common variables.

(e) The computer file of observer data should be common among the two countries at the section level of resolution.

2. Sampling and Biological Measurements

Due to the great variety of specialized sampling tasks, certain tasks identified in the official observer field manual will be performed routinely by all observers. Other more specialized sampling tasks may be assigned only to designated observers.

(a) Sampling and biological measurements will be done on observed days and observed sections. Sampling should not be done on off duty days and non-observed sections.

(b) For salmonids, species, fork length and sex will be recorded and scale samples will be taken. Gonad weight may be measured. For salmonids missing the adipose fin, snouts will be collected.

(c) For marine mammals all observers will record species, sex, body length and lactation. Marine mammal experts will note if females are pregnant. Mammary glands, uterus, ovaries, or testes may be collected by marine mammal experts. Sampling of internal organs will be limited to marine mammal experts on board vessels of more than 300 gross tons.

(d) For sea birds, the number of incidental take by species will be recorded. Each observer will preserve one specimen of each species during each cruise. Detailed biological measurements and dissection may be done by sea bird experts.

(e) For tuna fishes, fork length or eye fork length measurements will be taken for the first 30 individuals of each species caught each week. If conditions permit, additional individuals may be measured. Other non-salmonid fishes may be measured based on methods agreed upon by scientists of Canada, Japan and the United States. All observers will freeze a sample of (whole) albacore less than 30 cm fork length and retain them as biological specimens.

(f) For sea turtles, carapace lengths will be measured on all turtles taken aboard. Stomach or stomach contents may be dissected from dead turtles longer than 35 cm carapace length and frozen. A sample of dead turtles less than 35 cm carapace length will be frozen whole and retained as biological specimens. All turtles aboard alive will be measured, photographed, tagged, and released.

C. Coordination, Standardization, and Observer Training

1. All data identified in section 2 "Data collection" for collection by observers will be recorded daily onto data forms developed by the parties. These forms will be duplicated and provided to the appropriate authorities of Japan and the United States within 30 days after the Japanese or the U.S. scientific observer disembarks the host vessel.

2. U.S. and Japanese scientists will cooperate to ensure that their respective scientific observers will collect and record data in an agreed and standardized format produced at the March 1990 meetings in Tokyo and as may be modified in subsequent meetings early in 1991. The designated liaison persons of the appropriate authorities of Japan and the United States will exchange final versions of the observer training and field data collection manuals by April 15, 1991.

3. Data Exchange and Reporting

A. Data Exchange

1. Total fishing effort and the total catch in numbers of animals of the large-mesh driftnet fleets will be compiled by 10-day period and month and 1° x 1° statistical areas, for the following species: salmonids, albacore, skipjack tuna, other tuna, swordfish, marlin, pomfret, sharks and other fishes. Such data will be provided to the appropriate authorities of Japan and the United States by August 1, 1992. The number of vessels by type are also to be provided to the appropriate authorities of Japan and the United States by August 1, 1992. Three measures of effort are to be reported for the fishery: the cumulative number of standardized tans (50m standard tan length), number of vessels fishing and vessel days of operations.

For each vessel on which an observer is deployed the following data will be provided by the appropriate authorities of Japan to the appropriate authorities of the United States by August 1, 1992: (1) the vessel's total landed tonnage of flying squid, albacore, skipjack tuna, other tunas, swordfish, marlins, pomfret, yellowtail, sharks, and other fishes for the 1991-1992 fishing season; and (2) for each day on which an observer was deployed on the vessel, a record of the vessel's retained catch of major species groups indicated in (1) above.

2. A report on results of the 1991 research cruises in the large-mesh driftnet fishing areas will be provided to the appropriate authorities of Japan and the United States within 90 days after the completion of the cruises.

3. Reports of results of other research related to the high seas driftnet programs will be provided to the appropriate authorities of Japan and the United States upon completion.

B. Reporting

1. Data reporting will be made by the appropriate authorities of Japan and the United States according to the following schedules:

(a) For the large-mesh driftnet observer programs, the appropriate authorities of Japan and the United States will jointly compile by August 1, 1992, a preliminary data set of total catches and average catch rates collected by Japanese and U.S. scientific observers of the species of cephalopods, finfish, marine mammals, seabirds and sea turtles identified in section 2.A by 1° x 1° areas by 10-day period and month. To facilitate the compilation of the preliminary data set, Japanese and U.S. scientists will meet early in 1992.

(b) A preliminary report reviewing available data identified in section 2.A collected by Japanese and U.S. scientific observers during 1991 and the first part of 1992 will be jointly produced by the appropriate authorities of Japan and the United States by June 1, 1992.

(c) A final report reviewing data identified in section 2.A collected by Japanese and U.S. scientific observers during 1991 and the first part of 1992 will be jointly produced by the appropriate authorities of Japan and the United States by September 30, 1992. The compiled data set and the final report will include data collected on the catch and bycatch of all species. If there are disagreements among the appropriate authorities of Japan and the United States pertaining to the data summaries or reports, the differences will be described therein.

2. All observed field data collected from individual operations shall not be opened to the public. The preliminary and final reports of the observations made by the Japanese and U.S. scientific observers shall not be opened to the public until their completion as specified in Section 3.B.1(b) and (c).

4. Research Coordination

Recognizing that the United States and Japan are conducting research programs relevant to the interpretation of driftnet fisheries observer data, the range and scope of potential cooperation in these programs should be thoroughly considered prior to implementation of the 1991-92 driftnet fisheries observer program. Japanese and U.S. scientists familiar with these programs will exchange views on potential collaboration. Discussions will include:

(1) current and anticipated research on the biology and population dynamics of species taken in the North Pacific driftnet fisheries;

(2) current and anticipated research on the physical and biological oceanography of the high seas driftnet fishing area;

(3) current and anticipated research and development of fisheries technologies relevant to driftnet fisheries and the avoidance of non-target species; and

(4) research vessel and chartered fishing vessel activities for the North Pacific high seas region in 1991-92.

ANNEX C
ARRANGEMENTS FOR OBSERVATION OF JAPANESE HIGH SEAS DRIFTNET OPERATIONS FOR 1991 AND 1992

This Annex describes the arrangements for the implementation of the scientific observer programs on board Japanese high seas driftnet vessels in the North Pacific Ocean for 1991 and the early part of 1992.

1. Coordinators: The National Marine Fisheries Service (NMFS) of the United States, Department of Fisheries and Oceans (DFO) of Canada and the Fisheries Agency of Japan (FAJ) will take necessary measures within their respective competence for smooth implementation of the scientific observer programs. They will nominate their respective coordinators and exchange the names of their coordinators and contact procedures for implementation of this program by April 15, 1991.

2. Host Vessels: The FAJ will provide by April 15, 1991 to the DFO and NMFS the number of squid driftnet vessels scheduled to host Canadian and U.S. scientific observers in June 1991. The FAJ will provide a list of all Japanese squid driftnet vessels scheduled to host Canadian and U.S. scientific observers to the DFO and the NMFS respectively by April 30, 1991. The FAJ will provide a list of Japanese large-mesh driftnet vessels scheduled to host U.S. scientific observers to the NMFS by October 1, 1991, or at least one month before the departure of the host vessels. These lists will include the vessel name, size, expected dates for taking on observers, and expected areas of fishing. Host vessels will be selected taking into account the sampling schedules in Annexes A and B and views of the DFO and NMFS. The FAJ will notify the DFO and NMFS of the itineraries of each host vessel at least 15 days prior to embarkation of observers.

3. Embarkation and Disembarkation: In principle, embarkation and disembarkation of Canadian and U.S. scientific observers will be from Japanese ports. Should such arrangements be impractical, the embarkation and/or disembarkation of Canadian and U.S. scientific observers to and from the host driftnet vessel may be made via transport or other vessels. The FAJ may arrange for such transportation in consultation with the DFO and NMFS. If necessary, the FAJ will assist scientific observers in the procurement of standard biological supplies and preservatives (formalin, etc.) as may be required for specimen collection.

4. Travel to Port: The DFO and NMFS will provide travel arrangements for Canadian and U.S. scientific observers respectively to and from the ports of embarkation and disembarkation and the cost of stay on land. Canadian and U.S. scientific observers are required to arrive at ports at least two working days prior to the scheduled departure dates of their host vessels.

5. At-sea Transfer: In the event that a host vessel of a Canadian or U.S. scientific observer cannot continue operation and must return to port due to such incident as accident or mechanical trouble, the FAJ will arrange for a substitute vessel to continue observations. However, if such transfer opportunity is unavailable, the observer will return to port aboard the host vessel.

If transfer at sea is required, observers are to wear U.S. Coast Guard approved personal flotation devices during transfer.

6. Redeployment of Observers: In the event that a host vessel with an observer aboard ceases operations and returns to port unexpectedly, the FAJ, in consultation with the NMFS or DFO, as appropriate, will arrange for the observer to board the same vessel during its next trip, or a substitute vessel, in order to complete the observations or fully cover the fishing season by vessel category.

7. Observer Training and Duties: The Alaska Fisheries Science Center (AFSC) of the NMFS will send observer trainers to Japan in early 1991 to coordinate training and standardize sampling procedures for the squid driftnet fishery with the National Research Institute of Far Seas Fisheries, FAJ (NRIFSF). The NRIFSF will also send Japanese observer trainers to the AFSC in early 1991 to coordinate training and standardize the squid driftnet fishery sampling procedures. Canada will participate in these joint training sessions held at the AFSC. Also in 1991, the AFSC will send an observer trainer to Japan and the NRIFSF will send an observer trainer to the AFSC to coordinate training and standardize procedures for the large-mesh fishery. All expenses for the travel described in this paragraph will be borne by the side sending participants.

The duties of Canadian, U.S. and Japanese scientific observers will be standardized according to training procedures developed by the DFO, AFSC and NRIFSF, and will be described in the observer manual. The data collection procedures and data forms used by each scientific observer will be standardized by the DFO, AFSC and NRIFSF.

8. Program Review: The coordinators of the three parties for the squid scientific observer programs will evaluate the progress of the observer programs in late July 1991, and adjust scientific observer coverage as necessary to achieve objectives of the monitoring design set forth in Annex A. The parties will exchange on a weekly basis the number of observations made by each deployed observer in order to check the accumulated total number of observations and adjust the coverage as needed.

9. Information: In the event that the FAJ obtains information that will affect the implementation of the above arrangements, the FAJ will immediately provide such information to Canadian and U.S. authorities.

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FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, 1-Chome, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan TEL:03-502-8111 EXT:

April 12, 1991

Mr. David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for
Fisheries
National Marine Fisheries
Service

Dear Mr. Colson/Dr. Fox:

I would like to inform you that the Japanese side, in the fishing season for 1991 through June 1992, will implement the attached regulatory, enforcement, and information gathering program on the Japanese squid and large-mesh driftnet fisheries in accordance with the principle that enforcement activities with regard to high seas fishing including, but not limited to, those driftnet fisheries should be conducted under the responsibility and initiative of the flag state.

In devising the program, the Fisheries Agency has paid full respect to the United Nations General Assembly Resolutions 44/225 and 45/197 and taken into account your concerns regarding the incidental take of North American-origin anadromous species by the squid and large-mesh driftnet fisheries. The details of this program are described in the Attachment.

Sincerely,

Koji Imamura
Councillor
Fisheries Agency
Government of Japan

cc: Dr. J. C. Davis
Regional Director-Science
Pacific Region
Department of Fisheries and Oceans
Government of Canada

ATTACHMENT

REGULATORY, ENFORCEMENT AND INFORMATION GATHERING PROGRAM OF THE GOVERNMENT OF JAPAN ON THE JAPANESE HIGH SEAS SQUID AND LARGE-MESH DRIFTNET FISHERIES FOR THE 1991 FISHING SEASON AND PERIOD THROUGH JUNE 30, 1992

The Government of Japan (GOJ), as a flag state with established jurisdiction over its high seas fisheries on the basis of the principle of the freedom of the high seas, has instituted necessary regulatory measures to control the squid driftnet and large-mesh fisheries on the high seas and has constructed enforcement programs to ensure compliance with those measures for the 1991 fishing season and the period through June 30, 1992. The Japanese side intends to continue to make information available to the Canadian and U.S. sides.

I. Regulatory Measures

(i) Overview

(a) Squid Driftnet Fishery

In response to the rapid expansion of the squid driftnet fisheries, the GOJ introduced a limited-entry licensing system and other regulations in August, 1981, prohibiting fishing operations in the North Pacific targeting for squid by using driftnets without a license issued by the Minister of Agriculture, Forestry and Fisheries (MAFF). Since then there has been a steady decrease in the number of vessels. The following are the main elements of these measures.

1. Limit on the number of the vessels engaged in this fishery

2. Limit of the fishing ground and period; in particular, establishment of the northern boundary by month based on the best scientific information available in order to minimize incidental takes of the anadromous species inhabiting waters to the north of the waters where flying squids (Ommastrephes bartrami) are distributed.

3. Prohibition on retention of anadromous species, even taken incidentally

4. Prohibition of transfer of catch at sea

5. Mandatory display of the vessel's name, registration number, and license number on the hull for facilitating the identification of the vessel at sea

6. Mandatory marking on fishing gears for identification

7. Restriction on mesh size for stock conservation

8. Mandatory record and submission to the Fisheries Agency of NNSS data in order to identify operational positions

9. Mandatory vessel position reports

10. Mandatory submission of catch reports to the Government

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

The period of "port confinement" which is an administrative penalty imposed on violations has been doubled effective from the 1988 fishing season.

(b) Large-mesh Driftnet Fishery

Major enforcement measures imposed upon this fishery have been restrictions on the fishing season, the fishing grounds and the fishing gears. In addition to these measures, the MAFF introduced a registration system to this

fishery in August 1989 by modifying its ministerial ordinance. Under this registration system large-mesh fishermen operating on the high seas are required to register their fishing plan in order to engage in the fishery and submit catch reports and other necessary information to the MAFF for a better understanding of the fishing operations.

The following are the main elements of these measures:

1) Restrictions on fishing ground and period

2) Prohibition of retention of anadromous species, even taken incidentally

3) Mandatory display of vessel's name and registration number for facilitating identification of the vessel at sea

4) Mandatory marking of fishing gears for identification

5) Restriction on mesh size for stock conservation

6) Mandatory submission of catch reports to the Government

Based upon the 1989 registration system, the FAJ adopted a new regulatory system for the high seas large-mesh driftnet fishery in 1990. The regulatory system imposed a limited entry system which restricts the number of vessels which can participate in the high seas fishery for 1990 and beyond, strictly limiting new entrants to the fishery, and prohibits expansion of the capacity of fishing vessels. Furthermore, the regulatory system provided for the adoption of measures which require the deployment of transmitters on all high seas vessels, prohibit transfers at sea, and mandate the submission of vessel position reports. Other regulatory measures will be adopted as necessary.

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

(ii) Restriction on the number of vessels

(a) Squid Driftnet Fishery

Licensing certificates will be issued to squid driftnet fishing vessels operating in the North Pacific late in May after the necessary domestic procedures. The number of licensed vessels is limited to that of the previous year.

The list of the licensed vessels, including enlisting name, license number and vessel registration number, will be made available to the Canadian and U.S. authorities on request at the earliest possible time after the licenses are issued. In addition, each driftnet vessel must submit to the FAJ a color photograph of each side of the vessel.

(b) Large-mesh Driftnet Fishery

Based upon the 1989 registration system, the FAJ imposed a new regulatory system to limit the number of fishing vessels engaged in the high seas large-mesh driftnet fishery to a number less than the actual number of vessels which operated during the last twelve months. No more than 200 vessels are permitted in this high seas fishery for the 1991 season and beyond. In addition, each driftnet vessel must submit to the FAJ a color photograph of each side of the vessel. The list of the vessels will be made available to the Canadian and U.S. authorities upon request.

(iii) Restriction of fishing period and area

(a) Squid Driftnet Fishery

The operation of the squid driftnet fishery is permitted only within the limits of the waters surrounded by 20 degrees N, 170 degrees E, 145 degrees W and the northern boundary that changes by month (40-46 degrees N). The period in which the operation is permitted is limited from June to December. The northern and eastern boundaries have been specifically established to minimize incidental takes of anadromous species.

For squid driftnet vessels operating in the area between 170 degrees E to 145 degrees W longitude, the northern boundaries are established as follows:

January through May	Closed to fishing
June	Latitude 40 degrees N
July	Latitude 42 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 43 degrees N
	Between 170 degrees W - 145 degrees W
August	Latitude 45 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 46 degrees N
	Between 170 degrees W - 145 degrees W
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

(b) Large-mesh Driftnet Fishery

The FAJ will maintain existing time and area restrictions (Figures 1 and 2), including the prohibition of the large-mesh driftnet operation in the following areas.

1) north of 20 degrees N latitude and east of 145 degrees W longitude

2) north of the northern boundaries between 170 degrees E and 145 degrees W longitude described below:

January through June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

The FAJ has introduced additional northern boundaries established as follows for the indicated areas and times for the large-mesh driftnet fishery, as a part of the new regulatory system.

Between 170 degrees and 145 degrees W

January through April	Latitude 36 degrees N
May	Latitude 37 degrees N

Area west of 170 degrees longitude:

January through April	Latitude 36 degrees N
May	Latitude 30 degrees N
June	Latitude 40 degrees N
July through September	Latitude 38 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

(iv) Display of the vessel's name, and other identification on the hull

(a) Squid Driftnet Fishery

In order to facilitate the identification of squid driftnet vessels at sea, displaying vessel's name, license number and vessel's registration number in a specified size on the hull is mandatory for all the licensed vessels.

Each squid driftnet vessel is to be assigned a license number. This license number is to be displayed on both sides of the hull and on both sides of the bridge in a color in contrast to the background. The license number affixed to the

hull must be in Roman letters and Arabic numerals at least 50 cm in height. The license number affixed to the bridge must be in Roman letters and Arabic numerals at least 30 cm in height. In addition, each squid driftnet vessel will have two blue stripes, one at least 30 cm in width and the other at least 20 cm in width, surrounding the bridge.

(b) Large-mesh Driftnet Fishery

Each large-mesh driftnet vessel will have one black stripe at least 30 cm in width surrounding the bridge. For the identification of large-mesh driftnet vessels at sea, displaying the vessel's name and the vessel's registration number in a specified size on the bridge is mandatory. The registration number affixed to the bridge must be in Roman letters and Arabic numbers at least 30 cm in height and in a color in contrast to the background.

(v) Marking of fishing gear

Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every tan (45-50 m) of net with the name of the vessel and its corresponding license number or port of registry if the vessel has not been issued a license number. Each vessel is also required to refrain from discarding used or damaged driftnets, to stow them on the vessel, and to return them to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the FAJ.

(vi) Gear restrictions

Driftnet vessels may only carry the gear type for which they are permitted (large mesh (15 cm or more) or small mesh (10-13.5 cm)). No driftnet vessel can be permitted to engage in more than one kind of driftnet fishery during any given scheduled fishing trip.

II. Gear materials

In 1991, the FAJ will continue its basic research, started in 1989, on the development of biodegradable materials which break into segments that do not represent a significant threat to the living marine resources. Reports of this research will be provided to the U.S. side. The FAJ will also make best efforts to conduct a field experiment of the fishing nets constructed with biodegradable materials by a research vessel in the squid fishing grounds in 1991. The U.S. side will provide the FAJ with any useful information for the development of biodegradable materials.

III. Enforcement program

(i) Intensification of enforcement activities

In the 1991 season and thereafter, enforcement activities such as the deployment of patrol boats and surveillance at landing ports by Japanese enforcement officers will be maintained.

The number of vessel-days of patrol cruises focusing mainly on the enforcement of the northern boundary will be maintained in the 1991 season (5 patrol-boats to be deployed for about 600 vessel-days in 1991). During January-June 1992 an enforcement presence at sea will be maintained comparable to that during the same period of 1991 unless violations should indicate otherwise.

(ii) Communication with the U.S. enforcement authorities

FAJ will conduct surveillance and boardings of Japanese driftnet fishing vessels, both dockside and at sea. On the high seas, FAJ will coordinate with the appropriate U.S. authorities communications between their respective patrol units. Both sides will use state-of-the-art communications equipment such as International Marine Satellite (INMARSAT) and facsimile to facilitate communications, where possible.

(iii) Utilization of the information supplied by the U.S. officials in Japanese investigations

The Japanese side intends to continue to utilize, to the maximum extent, the information supplied by the U.S. officials indicating alleged violations by the Japanese driftnet fishing vessels, in the investigation and identification of the violator. In order to facilitate the investigation on the Japanese side, photographs are expected to be as clear as possible, and/or with reliable information of sighting positions.

The Japanese side intends to continue to provide the U.S. authorities with the results of its investigation, which has utilized the information supplied by the U.S. officials, including specific penalty imposed on the violators.

(iv) Notice of the outline of Japanese enforcement activities:

The Japanese side intends to continue to be prepared to provide the Canadian and U.S. authorities with the outline of the Japanese enforcement activities on a voluntary basis.

IV. Exchange of Enforcement Observers

The Japanese side is prepared to invite a U.S. observer to at least one 30 day patrol cruise of the Hakuryu-maru of FAJ in 1991.

The Japanese side understands that the U.S. side will invite a Japanese observer to get on board a U.S. Coast Guard surveillance plane. The flight will stage out of Coast Guard Air Station, Kodiak, Alaska or other appropriate U.S. facilities.

The Japanese side also understands that both sides will pay the travel and per diem costs of their own observers and each side will cover all operational costs of their patrol operations.

V. Deployment of Satellite Transmitters

Real-time automatic satellite position fixing devices (transmitters) will be deployed by the relevant fishery organization on board 100% of the Japanese driftnet fishing vessels which leave port for operation beyond the 200 nautical mile zone of the flag state after January 1, 1991, and which allow automatic, real-time monitoring of the location and identity of each vessel at all times while at sea.

Real-time vessel location and identification data and information from the satellite transmitters will be made available to the FAJ under contract with Argos. Based upon the information received from Argos, the FAJ will take immediate and appropriate action as required.

The FAJ authorizes Argos to make those data and information available to the appropriate Canadian and U.S. authorities under contract between Argos and these authorities. In this connection, it is confirmed that such access by those Canadian and U.S. authorities to the said data and information shall not be deemed to authorize in any way the Canadian and U.S. sides to be engaged in enforcement activities with respect to Japanese high seas driftnet fisheries. The Japanese side understands that raw transmitter data shall be kept confidential within these authorities.

VI. Exchange of information on driftnet operations by the vessels of non-contracting parties to the INPFC

When Japanese patrol vessels have witnessed driftnet operations by the vessels of non-contracting parties to the INPFC which are deemed to be engaged in fishing for anadromous species, the Japanese side will continue to transmit the following information on those vessels to the Canadian and U.S. sides as quickly as possible.

All driftnet vessels of non-contracting parties to the INPFC sighted by the Japanese salmon fishery patrol vessels and those vessels of non-contracting parties to the INPFC sighted in operation in waters north of the northern boundary by the Japanese squid fishery patrol vessels will be reported. Information will include if available:

1. position (coordinates) sighted
2. nationality and registry
3. name of vessel
4. registration number
5. estimated tonnage
6. color of hull
7. activities, including description of fishing procedures, nature of catch, and estimated course and speed

Fig. 1 Chart of Fishing-prohibited Areas in large-mesh driftnet fishery

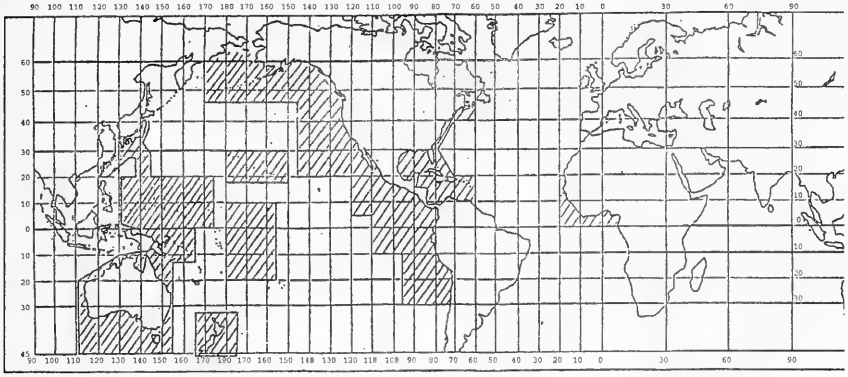
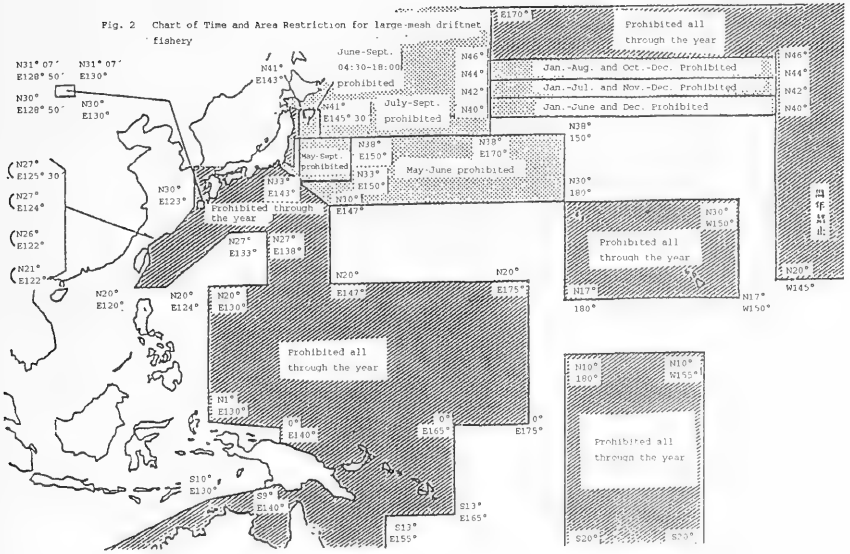


Fig. 2 Chart of Time and Area Restriction for large-mesh driftnet fishery



VII. Reflagging

The FAJ will review their regulatory measures regarding the reflagging of Japanese driftnet vessels. If necessary, the FAJ intends to reinforce under its competence appropriate regulations and penalties to prohibit such reflagging.

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United States Department of State
Bureau of Oceans and International Environmental and Scientific Affairs
Washington, D.C. 20520

April 23, 1991

Councillor Koji Imamura
Department of Oceanic Fisheries
Fisheries Agency of Japan
2-1, 1-chome, Kasumigaseki
Chiyoda-ku
Tokyo 100, Japan

Dear Mr. Imamura:

Thank you for your letters of April 12, 1991, regarding the collection and exchange of scientific information under the programs for the Japanese squid driftnet and large-mesh driftnet fisheries and the enforcement programs for these fisheries, as specified in the Annexes and the Attachment.

The U.S. Government reaffirms its support for United Nations General Assembly Resolutions 44/225 and 45/197. We are pleased to participate in programs designed to collect and share scientific data. Our participation in these programs, however, does not signify our satisfaction with, or approval of, the measures described in your letters, their Annexes and the Attachment, as effective to prevent unacceptable impacts of these fisheries on the living marine resources of the North Pacific or to ensure the conservation of these resources.

We have repeatedly and consistently protested the Fisheries Agency of Japan's decision to extend the northern boundary of the squid fishery for July and August. Such an expansion of the fishery is unwarranted in view of the risk that such expansion will have unacceptable impacts on the living marine resources of the region.

Finally, we would like to repeat the position of the U.S. Government that the United States has jurisdiction over U.S.-origin anadromous species throughout their migratory range, except during the time they are found within another nation's territorial sea or 200-mile zone as recognized by the United States.

Sincerely,

David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs

William W. Fox, Jr.
Assistant Administrator
for Fisheries
National Marine Fisheries
Service
Department of Commerce

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AGREEMENT BETWEEN THE NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND THE JAPAN SQUID DRIFTNET FISHERY ASSOCIATION AND THE JAPAN LARGE-MESH DRIFTNET FISHERY ASSOCIATION RELATING TO ARRANGEMENTS FOR OBSERVATION OF JAPANESE HIGH SEAS DRIFTNET OPERATIONS

This document constitutes an agreement between the National Marine Fisheries Service, National Oceanic and Atmospheric Administration (hereinafter referred to as "NMFS"), the Japan Squid Driftnet Fishery Association (hereinafter referred to as "JSDFA") and Japan Large-mesh Driftnet Fishery Association (hereinafter referred to as "JLDFA") relating to arrangements for observation of Japanese high seas squid and large-mesh driftnet operations in the central North Pacific Ocean.

The parties agree that:

1. The JSDFA is responsible for observer deployment for the Japanese squid driftnet fishery. The JLDFA is responsible for observer deployment for the Japanese large-mesh driftnet fishery. The Alaska Fisheries Science Center (hereinafter referred to as "AFSC") of the NMFS, the JSDFA and the JLDFA shall exchange the names of their coordinators and contact procedures for implementation of this agreement by April 15, 1991.

2. The number of the U.S. observers to be hosted by the Japanese squid driftnet vessels is specified in Annex A, and the date for determining the number of observers to be deployed on large-mesh driftnet vessel is specified in Annex B of the letter signed on April 12, 1991 by Mr. Imamura.

3. Every effort will be made for the U.S. scientific observers to have at least a working knowledge of Japanese. A list of common phrases in Japanese and English will be provided to the observers.

4. The U.S. scientific observers shall comply with the instructions of the captain of the host vessel under all circumstances.

5. A U.S. scientific observer shall comply with the customs and rules of the host vessel (i.e., meal hours, use of water, bathing time, etc.) and instructions of the captain so as to secure the safety for the crew members as well as the U.S. observer. The captain of a host vessel is required to pay special attention to ensure the safety of the U.S. observer at all times, especially during at-sea transfers (if such transfers must be made) of the observer between vessels.

The U.S. scientific observer shall not interfere with the fishing operations of the host vessels.

6. The JSDFA and the JLDFA shall arrange for the host vessel to provide proper food and lodging, observation and equipment storage space, and assistance for the U.S. scientific observer. The observation space shall allow for unobstructed viewing of driftnet retrieval operations. Storage and freezer spaces shall also be provided on the host vessel to keep frozen and formalin-preserved materials retained by the observer in accordance with Annex A or Annex B of Mr. Imamura's letter of April 12, 1991. Assistance shall be given by the captain in instructing the crew when requested by the observer to temporarily retain specimens of any catch and incidental catch, including any birds, mammals, fish, and turtles in accordance with Annex A or Annex B of Mr. Imamura's letter of April 12, 1991 for sampling by the observer.

The U.S. observer shall have access to the navigational equipment to determine vessel position during set and retrieval operations, and at other times as required to accomplish data collections.

The AFSC shall prepare a poster explaining observer functions and letters of introduction (in the Japanese language) for U.S. observers to the host vessels. The JSDFA and the JLDFA shall educate the Japanese driftnet industry about the scientific observer program and distribute the literature prepared by the AFSC to the host vessels. The U.S. observers shall also be allowed to post the letter of introduction and poster of observer functions on the host vessels.

The JSDFA and the JLDFA will arrange pre-cruise briefings for the U.S. scientific observers that include protocol, work schedules, and safety precautions.

7. In principle, embarkation and disembarkation of a U.S. observer shall be from a Japanese port designated by the relevant organization. In the event that such arrangements should be impracticable, the embarkation and/or disembarkation of U.S. observers to and from the host driftnet vessel may he made with available Japanese or U.S. vessels. In addition, for extended cruises, the relevant organization in consultation with the AFSC may arrange disembarkation via ships of opportunity after the U.S. observer has observed the expected fishing trip length as stipulated in Annex A or Annex B of Mr. Imamura's letter of April 12, 1991.

In the event that a host vessel of a U.S. observer must cease operation and return to port due to incidents such as an accident or mechanical trouble, the relevant organization shall find a substitute vessel and transfer the U.S. observer so that the observer can continue observations. However, if such transfer opportunity is unavailable, the U.S. observer shall return to port aboard the fishing vessel.

8. Scientific specimens: Scientific specimens will be collected by the observers as specified in Annex A or Annex B of Mr. Imamura's letter of April 12, 1991. The observer and designated crewman shall place the specimens in the assigned storage or freezer space for storage on the host vessel. The host vessel will maintain the preserved specimens until the vessel returns to port. Each observer, or a designated U.S. agent, will make arrangements with the assistance of the host vessel to promptly remove and take possession of the specimens.

9. At-sea Communications: At-sea communications by the U.S. scientific observers will be permitted with the consent of the host vessel captain on all alternate calendar days and at such other times as special circumstances may require. The host vessel must allow prompt communication in case of an emergency. Communications will be through the host vessel's communications officer to the NMFS. Communications will be conducted according to the following procedures:

Communications from a U.S. observer aboard Japanese vessels with radio operators authorized to communicate with U.S. stations will be transmitted from the host vessel, to the NMFS AFSC located in Seattle, Washington, directly or via commercial shore stations.

Communications from U.S. observers aboard Japanese vessels that cannot transmit directly to U.S. stations will be transmitted from the host vessel to the JSDFA or JLDFA, which shall promptly relay these communications by facsimile to the U.S. observer program coordinator.

The U.S. observer on a host vessel will be allowed to communicate with other U.S. observers on Japanese driftnet vessels. These communications shall be arranged with the captain of the host vessel at a time which would not interfere with vessel fishing operations.

The AFSC will reimburse the costs of transmitting U.S. observer messages from the JSDFA and JLDFA to the AFSC, and the cost, if any, of at-sea radio communications.

10. Insurance: The AFSC shall provide adequate insurance to cover potential liability for accidents and /or illness that may occur during the U.S. scientific observer's stay aboard the host vessels.

11. Food and Lodging: The NMFS shall prepay the costs of food and berthing for the U.S. scientific observers at the rate of 2,900 Yen per day for the time that they are aboard the host vessels. These costs shall be paid by the NMFS to the JSDFA and JLDFA for disbursement to the host vessel. The NMFS shall reimburse the JSDFA and JLDFA for any additional necessary incidental expenses relating to the U.S. scientific observer (such as medical examination fees) up to a maximum of 50,000 Yen.

12. Reimbursement of Costs: Reimbursements are identified in Item 9 for message transmission, and in item 11 for food and lodging and incidental expenses.

Itemized invoices for reimbursement will be sent from JSDFA or JLDFA to the AFSC for payment on a quarterly basis. Except as otherwise indicated, all adjustments to costs are to be completed by no later than April 1, 1992 for the squid fishery and June 31, 1992 for the large-mesh fishery.

13. Emergency: In the event of medical or other emergency circumstances relating to a U.S. scientific observer, evacuation shall be accomplished according to established international practice.

In witness whereof, all parties have executed this agreement in triplicate on the date and year indicated.

For the Japan Squid Driftnet Fishery Association	For the Japan Large-mesh Driftnet Fishery Association	For the National Marine Fisheries Service
[Signature]	[Signature]	[Signature]
Date: April 12, 1991	Date: April 12, 1991	Date: April 22, 1991

Agreement Between the Government of the United States of America and the Government of Japan Regarding Squid and Large-Mesh Driftnet Fisheries of the North Pacific, Tokyo and Washington, 1992

Done at Tokyo and Washington
11 and 16 June 1992

*Entered into force 16 June 1992**

Primary source citation: Copy of text provided by the U.S. Department of State

FISHERIES AGENCY
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN
2-1, I-Chome, Kasumigaseki, Chiyoda-ku
Tokyo 100, Japan
TEL:03-502-8111 EXT:

June 11, 1992

Mr. David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for
Fisheries
National Marine Fisheries Service

Dear Mr. Colson/Dr. Fox:

I would like to inform you that the Japanese side, in the fishing season for the period of July through December 1992, will implement the attached regulatory, enforcement, and information gathering program on the Japanese squid and large-mesh driftnet fisheries in accordance with the principle that enforcement activities with regard to high seas fishing including, but not limited to, those driftnet fisheries should be conducted under the responsibility and initiative of the flag state.

In devising the program, the Fisheries Agency has paid full respect to the United Nations General Assembly Resolutions 44/225, 45/197 and 46/215 and taken into account your concerns regarding the incidental take of North

* This Agreement was terminated on 31 December 1992.

American-origin anadromous species by the squid and large-mesh driftnet fisheries. The details of this program are described in the Attachment.

Sincerely,

Koji Imamura
Councillor
Fisheries Agency
Government of Japan

cc: Dr. J. C. Davis
Regional Director-Science
Pacific Region
Department of Fisheries and Oceans
Government of Canada

ATTACHMENT

REGULATORY, ENFORCEMENT AND INFORMATION GATHERING PROGRAM OF THE GOVERNMENT OF JAPAN ON THE JAPANESE HIGH SEAS SQUID AND LARGE-MESH DRIFTNET FISHERIES FOR THE PERIOD JULY 1, 1992, THROUGH DECEMBER 31, 1992

The Government of Japan (GOJ), as a flag state with established jurisdiction over its high seas fisheries on the basis of the principle of the freedom of the high seas, has instituted necessary regulatory measures to control the squid driftnet and large-mesh fisheries on the high seas and has constructed enforcement programs to ensure compliance with those measures for the period July 1, 1992, through December 31, 1992. The Japanese side intends to continue to make information available to the Canadian and U.S. sides.

I. Regulatory Measures

(i) Overview

(a) Squid Driftnet Fishery

In response to the rapid expansion of the squid driftnet fisheries, the GOJ introduced a limited-entry licensing system and other regulations in August 1981, prohibiting fishing operations in the North Pacific targeting for squid by using driftnets without a license issued by the Minister of Agriculture, Forestry and Fisheries (MAFF). Since then there has been a steady decrease in the number of vessels. The following are the main elements of these measures.

1. Limit on the number of the vessels engaged in this fishery

2. Limit of the fishing ground and period; in particular, establishment of the northern boundary by month based on the best scientific information available in order to minimize incidental takes of the anadromous species inhabiting waters to the north of the waters where flying squids (Ommastrephes bartrami) are distributed.

3. Prohibition on retention of anadromous species, even taken incidentally

4. Prohibition of transfer of catch at sea

5. Mandatory display of the vessel's name, registration number, and license number on the hull for facilitating the identification of the vessel at sea

6. Mandatory marking on fishing gears for identification

7. Restriction on mesh size for stock conservation

8. Mandatory record and submission to the Fisheries Agency of Japan (FAJ) of NNSS data in order to identify operational positions

9. Mandatory vessel position reports

10. Mandatory submission of catch reports to the Government

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

The period of "port confinement", which is an administrative penalty imposed on violations, has been doubled effective from the 1988 fishing season.

(b) Large-mesh Driftnet Fishery

Major enforcement measures imposed upon this fishery have been restrictions on the fishing season, the fishing grounds and the fishing gears. In addition to these measures, the MAFF introduced a registration system to this fishery in August 1989 by modifying its ministerial ordinance. Under this registration system, large-mesh fishermen operating on the high seas are required to register their fishing plan in order to engage in the fishery and submit catch reports and other necessary information to the MAFF for a better understanding of the fishing operations.

The following are the main elements of these measures:

1) Restrictions on fishing ground and period

2) Prohibition of retention of anadromous species, even taken incidentally

3) Mandatory display of vessel's name and registration number for facilitating identification of the vessel at sea

4) Mandatory marking of fishing gears for identification

5) Restriction on mesh size for stock conservation

6) Mandatory submission of catch reports to the Government

Based upon the 1989 registration system, the FAJ adopted a new regulatory system for the high seas large-mesh driftnet fishery in 1990. The regulatory system imposed a limited entry system which restricts the number of vessels which can participate in the high seas fishery for 1990 and beyond, strictly limiting new entrants to the fishery, and prohibits expansion of the capacity of fishing vessels. Furthermore, the regulatory system provided for the adoption of measures which require the deployment of transmitters on all high seas vessels, prohibit transfers at sea, and mandate the submission of vessel position reports. Other regulatory measures will be adopted as necessary.

In the event of the violation of any of the regulations above, penalties will be imposed in accordance with the Japanese domestic regulations.

(ii) Restriction on the number of vessels

(a) Squid Driftnet Fishery

Licensing certificates will be issued to squid driftnet fishing vessels operating in the North Pacific after the necessary domestic procedures. The number of licensed vessels is no more than 426 for the 1992 season.

The list of the licensed vessels, including enlisting name, license number and vessel registration number, will be made available to the Canadian and U.S. authorities on request at the earliest possible time after the licenses are issued. In addition, each driftnet vessel must submit to the FAJ a color photograph of each side of the vessel.

(b) Large-mesh Driftnet Fishery

Based upon the 1989 registration system, the FAJ imposed a new regulatory system to limit the number of fishing vessels engaged in the high seas large-mesh driftnet fishery to a number less than the actual number of vessels which operated during the last twelve months. No more than 31 vessels are permitted in this high seas fishery for the 1992

season. In addition, each driftnet vessel must submit to the FAJ a color photograph of each side of the vessel. The list of the vessels will be made available to the Canadian and U.S. authorities upon request.

(c) Measures to be taken for implementation of the U.N. Resolution 46/215

In addition to what is mentioned in (a) and (b) above, the FAJ will take the following measures to implement the provisions in paragraph 3 of the U.N. Resolution 46/215 for both the squid and large-mesh driftnet fisheries on the high seas.

1) The average number of squid and large-mesh driftnet fishing vessels to engage in actual operations is limited to 280 per month between July and December of 1992, and no license for any high seas driftnet fishing will be valid after December 31, 1992.

2) In order to secure smooth implementation of the measures described in 1) above, the maximum number of fishing vessels to engage in actual operations is established for each month, beginning at 420 in July and August with reduction of 140 in every subsequent two months. The maximum number of fishing vessels to engage in actual operations in each month is shown in the table below.

Year	1992							1993
Month	July	Aug.	Sep.	Oct.	Nov.	Dec.	Ave.	
Max. #	420	420	280	280	140	140	280	0

3) If, by any chance, the actual number of fishing vessels in any particular month should exceed the maximum number set for that month, such an excess effort will be adjusted and subtracted from the maximum number allowed in December, and if necessary, November, October, etc. Furthermore, even if the actual number of fishing vessels does not reach the maximum number in any particular month, such a shortfall will not be compensated and transferred to the later months.

(iii) Restriction of fishing period and area

(a) Squid Driftnet Fishery

The operation of the squid driftnet fishery is permitted only within the limits of the waters surrounded by 20 degrees N, 170 degrees E, 145 degrees W and the northern boundary that changes by month (40-46 degrees N). The period in which the operation is permitted is limited from June to December. The northern and eastern boundaries have been specifically established to minimize incidental takes of anadromous species.

For squid driftnet vessels operating in the area between 170 degrees E to 145 degrees W longitude, the northern boundaries are established as follows:

January through May	Closed to fishing
June	Latitude 40 degrees N
July	Latitude 42 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 43 degrees N
	Between 170 degrees W - 145 degrees W
August	Latitude 45 degrees N
	Between 170 degrees E - 170 degrees W
	Latitude 46 degrees N
	Between 170 degrees W - 145 degrees W
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

In addition to what is mentioned above, for the 1992 fishing season, the FAJ will introduce additional area restrictions for implementation of the U.N. Resolution 46/215. These are prohibitions of operations as specified below:

August 1 to August 10	West of 175 degrees E North of 44 degrees N
September	East of 150 degrees W
October	East of 155 degrees W
November	East of 160 degrees W
December	East of 165 degrees W
July through December	South of 34 degrees N

(b) Large-mesh Driftnet Fishery

The FAJ will maintain existing time and area restrictions, including the prohibition of the large-mesh driftnet operation in the following areas.

1) north of 20 degrees N latitude and east of 145 degrees W longitude

2) north of the northern boundaries between 170 degrees E and 145 degrees W longitude described below:

January through June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

The FAJ has introduced additional northern boundaries established as follows for the indicated areas and times for the large-mesh driftnet fishery, as a part of the new regulatory system.

Between 170 degrees E and 145 degrees W:

January through April	Latitude 36 degrees N
May	Latitude 37 degrees N

Area west of 170 degrees E longitude:

January through April	Latitude 36 degrees N
May	Latitude 30 degrees N
June	Latitude 40 degrees N
July through September	Latitude 38 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

Beginning on January 1, 1992, the FAJ has introduced additional area restrictions for the January-June fishing period in response to the provisions in paragraph 3 (a) and (b) of the U.N. Resolution 46/215, and these restrictions will be maintained through December 31, 1992. These are prohibitions of operations as specified below:

North of 44 degrees N, between 170 degrees E and 180 degrees
North of 40 degrees N, east of 180 degrees
South of 20 degrees N, east of 175 degrees E
East of 150 degrees W

For the July-December fishing period, the FAJ will further introduce additional area restrictions for implementation of the U.N. Resolution 46/215. These are prohibitions of operations as specified below:

September	East of 150 degrees W
October	East of 155 degrees W
November	East of 160 degrees W
December	East of 165 degrees W

(iv) Display of the vessel's name, and other identification on the hull

(a) Squid Driftnet Fishery

In order to facilitate the identification of squid driftnet vessels at sea, displaying vessel's name, license number and vessel's registration number in a specified size on the hull is mandatory for all the licensed vessels.

Each squid driftnet vessel is to be assigned a license number. This license number is to be displayed on both sides of the hull and on both sides of the bridge in a color in contrast to the background. The license number affixed to the hull must be in Roman letters and Arabic numerals at least 50 cm in height. The license number affixed to the bridge must be in Roman letters and Arabic numerals at least 30 cm in height. In addition, each squid driftnet vessel will have two blue stripes, one at least 30 cm in width and the other at least 20 cm in width, surrounding the bridge.

(b) Large-mesh Driftnet Fishery

Each large-mesh driftnet vessel will have one black stripe at least 30 cm in width surrounding the bridge. For the identification of large-mesh driftnet vessels at sea, displaying the vessel's name and the vessel's registration number in a specified size on the bridge is mandatory. The registration number affixed to the bridge must be in Roman letters and Arabic numbers at least 30 cm in height and in a color in contrast to the background.

(v) Marking of fishing gear

Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every tan (45-50 m) of net with the name of the vessel and its corresponding license number or port of registry if the vessel has not been issued a license number. Each vessel is also required to refrain from discarding used or damaged driftnets, to stow them on the vessel, and to return them to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the FAJ.

(vi) Gear restrictions

Driftnet vessels may only carry the gear type for which they are permitted (large mesh (15 cm or more) or small mesh (10-13.5 cm)). No driftnet vessel can be permitted to engage in more than one kind of driftnet fishery during any given scheduled fishing trip.

II. Gear materials

In 1992, the FAJ will continue its basic research, started in 1989, on the development of biodegradable materials which break into segments that do not represent a significant threat to the living marine resources. Reports of this research will be provided to the U.S. and Canadian sides. The U.S. and Canadian sides will provide the FAJ with any useful information for the development of biodegradable materials.

III. Enforcement program

(i) Intensification of enforcement activities

In the 1992 season, enforcement activities such as the deployment of patrol boats and surveillance at landing ports by Japanese enforcement officers will be maintained.

The number of vessel-days of patrol cruises focusing mainly on the enforcement of the northern boundary will be maintained in the 1992 season (5 patrol-boats to be deployed for about 600 vessel-days in 1992). During July-December 1992, an enforcement presence at sea will be maintained comparable to that during the same period of 1991 unless violations should indicate otherwise.

(ii) Communication with the U.S. enforcement authorities

FAJ will conduct surveillance and boardings of Japanese driftnet fishing vessels, both dockside and at sea. On the high seas, FAJ will coordinate with the appropriate U.S. authorities communications between their respective patrol units. Both sides will use state-of-the-art communications equipment such as International Marine Satellite (INMARSAT) and facsimile to facilitate communications, where possible.

(iii) Utilization of the information supplied by the U.S. officials in Japanese investigations

The Japanese side intends to continue to utilize, to the maximum extent, the information supplied by the U.S. officials indicating alleged violations by the Japanese driftnet fishing vessels, in the investigation and identification of the violator. In order to facilitate the investigation on the Japanese side, photographs are expected to be as clear as possible, and/or with reliable information of sighting positions.

The Japanese side intends to continue to provide the U.S. authorities with the results of its investigation, which has utilized the information supplied by the U.S. officials, including specific penalty imposed on the violators.

(iv) Notice of the outline of Japanese enforcement activities

The Japanese side intends to continue to be prepared to provide the Canadian and U.S. authorities with the outline of the Japanese enforcement activities on a voluntary basis.

IV. Exchange of Enforcement Observers

The Japanese side is prepared to invite a U.S. observer to at least one 30 day patrol cruise of the Hakuryu-maru of FAJ in 1992.

The Japanese side understands that the U.S. side will invite a Japanese observer to get on board a U.S. Coast Guard surveillance plane. The flight will stage out of Coast Guard Air Station, Kodiak, Alaska or other appropriate U.S. facilities.

The Japanese side also understands that both sides will pay the travel and per diem costs of their own observers and each side will cover all operational costs of their patrol operations.

V. Deployment of Satellite Transmitters

Real-time automatic satellite position fixing devices (transmitters) will continue to be deployed by the relevant fishery organization on board 100% of the Japanese driftnet fishing vessels which leave port for operation beyond the 200 nautical mile zone of the flag state in the 1992 fishing season, and which allow automatic, real-time monitoring of the location and identity of each vessel at all times while at sea.

Real-time vessel location and identification data and information from the satellite transmitters will be made available to the FAJ under contract with Argos. Based upon the information received from Argos, the FAJ will take immediate and appropriate action as required.

The FAJ authorizes Argos to make those data and information available to the appropriate Canadian and U.S. authorities under contract between Argos and these authorities. In this connection, it is confirmed that such access by those Canadian and U.S. authorities to the said data and information will not be deemed to authorize in any way the Canadian and U.S. sides to be engaged in enforcement activities with respect to Japanese high seas driftnet fisheries. The Japanese side understands that raw transmitter data will be kept confidential within these authorities.

VI. Exchange of information on driftnet operations by the vessels of non-contracting parties to the INPFC

When Japanese patrol vessels have witnessed driftnet operations by the vessels of non-contracting parties to the INPFC which are deemed to be engaged in fishing for anadromous species, the Japanese side will continue to transmit the following information on those vessels to the Canadian and U.S. sides as quickly as possible.

All driftnet vessels of non-contracting parties to the INPFC sighted by the Japanese salmon fishery patrol vessels and those vessels of non-contracting parties to the INPFC sighted in operation in waters north of the northern boundary by the Japanese squid fishery patrol vessels will be reported. Information will include if available:

1. position (coordinates) sighted
2. nationality and registry
3. name of vessel
4. registration number
5. estimated tonnage
6. color of hull
7. activities, including description of fishing procedures, nature of catch, and estimated course and speed

VII. Reflagging

The FAJ will review their regulatory measures regarding the reflagging of Japanese driftnet vessels. If necessary, the FAJ intends to reinforce under its competence appropriate regulations and penalties to prohibit such reflagging.

VIII. Data Exchange

1. For the 1992 squid driftnet fishery, total fishing effort and catch in weight by species group by 1° x 1° statistical block, 10-day period, and vessel size class (i.e., large and small vessels) will be provided to the appropriate authorities of Canada and the United States by April 1, 1993. Fishing effort will be expressed in the number of standardized (50m) tans and number of fishing operations. Species groups will include flying squid, salmonids, albacore, skipjack tuna, swordfish, marlins, pomfret, sharks, yellowtail, and other fishes.

2. For the 1992 large-mesh driftnet fishery, total fishing effort and catch in weight by species group by 1° x 1° statistical block, 10-day period, and vessel size class (i.e., large and small vessels) will be provided to the appropriate authorities of Canada and the United States by April 1, 1993. Fishing effort will be expressed in the number of standardized (50m) tans and number of fishing operations. Species groups will include albacore, skipjack tuna, bigeye tuna, northern bluefin tuna, yellowfin tuna, striped marlin, blue marlin, black marlin, sailfish, spearfish, swordfish, sharks, pomfret, and other fishes.

3. A report on results of the 1992 research cruises in the squid driftnet fishing areas will be provided to the appropriate authorities of Japan, Canada and the United States within 90 days after the completion of the cruises.

4. Reports of results of other research related to the high seas driftnet fisheries will be provided to the appropriate authorities of Japan, Canada and the United States upon completion.

IX. Research Coordination

Canadian, Japanese and U.S. scientists familiar with North Pacific high seas fisheries research will exchange views on potential research collaboration.

Discussions will include:

(1) current and anticipated research on the biology and population dynamics of species taken in the North Pacific high seas fisheries;

(2) current and anticipated research on the physical and biological oceanography of the high seas fishing area;

(3) current and anticipated research plans and development of fisheries technologies relevant to high seas fisheries and the avoidance of non-target species; and

(4) research vessel and chartered fishing vessel activities for the North Pacific high seas region in 1992.

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United States Department of State
Washington, D.C. 20520

June 16, 1992

Councillor Koji Imamura
Department of Oceanic Fisheries
Fisheries Agency of Japan
2-1, 1-Chome, Kasumigaseki
Tokyo 100, Japan

Dear Mr. Imamura:

Thank you for your letter of June 11, 1992, regarding the regulatory, enforcement and information gathering program for the Japanese squid driftnet and large-mesh driftnet fisheries for the period of July through December 1992. The U.S. Government reaffirms its support for United Nations General Assembly Resolutions 44/225, 45/197, and 46/215. We look forward to cooperating with the Government of Japan to ensure that the global moratorium on large-scale high seas driftnet fishing is realized by December 31, 1992.

We have repeatedly and consistently protested the Fisheries Agency of Japan's decision to extend the northern boundary of the squid fishery for July and August. Such an expansion of the fishery is unwarranted in view of the risk that it will have unacceptable impacts on the living marine resources of the region.

Finally, we would like to repeat the position of the U.S. Government that the United States has jurisdiction over U.S.-origin anadromous species throughout their migratory range, except during the time they are found within another nation's territorial sea or 200-nautical mile zone as recognized by the United States. The United States has great concern for all living resources of the North Pacific, as expressed in the United Nations Resolutions mentioned previously.

Sincerely,

Ambassador David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Dr. William W. Fox, Jr.
Director, National Marine
Fisheries Service
Department of Commerce

BILATERAL

JAPAN

MARINE MAMMALS

Memorandum of Understanding Between the Government of the United States of America and the Government of Japan Concerning the Incidental Take of Dall's Porpoise (*Phocoenoides dalli*) with Regard to the International Convention on High Seas Fisheries of the North Pacific Ocean, Washington, 1978

*Done at Tokyo 25 April 1978**

Entered into force 15 February 1979

Primary source citation: 30 UST 1161, TIAS 9242

MEMORANDUM OF UNDERSTANDING

The Delegations of the Government of the United States of America and the Government of Japan have agreed to record the following in connection with Article X of and Paragraph 1. (c) of the Annex to the International Convention for the High Seas Fisheries of the North Pacific Ocean, as amended by the Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean signed this day (hereinafter referred to as "the Convention").

1. The Government of Japan will provide the following statistical data to the Government of the United States of America within six months of annual termination of the fishery:

   A. For the land-based driftnet salmon fishery in the waters east of 160 degrees East Longitude, number of Dall porpoise (Phocoenoides dalli), taken by 2° x 5° INPFC statistical area and 10-day period.

   B. For the mothership gillnet salmon fishery, number and species of marine mammals, particularly Dall porpoise, taken by 1° x 1° statistical area and 10-day period.

2. The Government of Japan will provide:

   A. By January 1, 1979, available past incidental catch data for all classes of research vessels, to the extent possible by 2° x 5° INPFC statistical area and 10-day period with corresponding effort in tans fished and metric tons of salmon harvested.

* This Memorandum of Understanding was concluded with the 1978 Protocol to the 1952 International Convention for the High Seas Fisheries of the North Pacific Ocean (see Volume II, page 1198). It was terminated on 21 February 1993.

B. Within six months of annual termination of the Japanese salmon fishery, incidental catch data for all classes of research vessels by 2° x 5° INPFC statistical area and 10-day period with corresponding effort in tans fished and metric tons of salmon harvested.

3. Scientists of the Government of the United States of America and the Government of Japan will independently or jointly study data on incidental catch of Dall porpoise per tan of gillnet and incidental catch per ton of salmon harvested, with a view to determining suitability of such data as indices of Dall porpoise abundance, and biological data and samples of Dall porpoises collected by the Japanese salmon fishery and research vessels to develop the information on life history, stock differentiation, status and trends.

4. Scientists of the Government of the United States of America and the Government of Japan will consult with regard to the research programs of Japanese salmon research vessels including sighting surveys on Dall porpoises, with a view to developing the most effective program to determine the status and trends of their populations. They will also consult on methods to reduce or eliminate their incidental catch in the Japanese mothership gillnet salmon fishery pursuant to the provisions of Paragraph 1. (c) of the Annex to the Convention. The first such consultation will be held prior to the 1978 Japanese salmon fishing season.

5. Scientists of the Government of the United States of America and the Government of Japan will conduct for the period ending June 9, 1981, annual sighting surveys on Dall porpoises on Japanese salmon research vessels operating in the Convention area with a view to obtaining adequate sighting data to provide estimates of abundance. The sighting data collected will include, inter alia, time of observation, location, number seen, distance and direction from vessel, sea state, wind direction and strength, and visibility.

6. The Government of Japan intends to allow for the period ending June 9, 1981, up to two scientists of the Government of the United States of America on board each of no less than three salmon research vessels of the Government of Japan for the studies on Dall porpoise. Scientists of the Government of the United States of America may be accepted on board additional Japanese salmon research vessels. The Government of the United States of America will bear expenses incurred in such boarding of scientists.

7. Scientists of the Government of the United States of America will analyze the Dall porpoise sightings data collected by its Pelagic Fur Seal Investigations and, as possible, by other sources to develop information on stock differentiation, distribution and abundance in the eastern North Pacific Ocean.

8. To obtain adequate specimen material for biological studies:

A. The Government of Japan will ensure for the period ending June 9, 1981, that nationals and fishing vessels of Japan conducting salmon fishery operations within the United States fishery conservation zone make every effort to return to the motherships, where feasible, all Dall porpoises captured incidentally by gillnets of the Japanese salmon fishery for collection of biological data and samples. In this connection, the Government of Japan will require that accurate records be kept of the number of Dall porpoises captured but not returned to the mothership and the circumstances preventing their return. The Government of Japan will ensure for the above-mentioned period that the scientists of the Government of the United States of America accepted pursuant to the provisions of Paragraph 1. (c) of the Annex to the Convention on board each mothership operating within the United States fishery conservation zone be allowed to collect appropriate marine mammal data. It is understood that the total number of scientists of the Government of the United States of America on board each mothership will, in any case, be no more than two.

B. The Government of Japan intends to take appropriate measures for the period ending June 9, 1981, to collect biological data and samples from Dall porpoises captured incidentally by the Japanese mother ship gillnet salmon fishery in the areas specified in Paragraph 1. (a) and (b) of the Annex to the Convention, with a view to obtaining a representative sample of Dall porpoises captured incidentally in these areas.

9. A. Scientists of the Government of the United States of America will examine the acoustic characteristics of gillnets and of the Dall porpoise in an effort to determine appropriate gear modifications that contribute to reducing incidental mortality.

B. Scientists of the Government of Japan will review past research data to determine if variations in gear resulted in reduced incidental catch rates.

C. Scientists of the Government of Japan will conduct field trials of proposed gear modifications to determine their usefulness in reducing incidental catches when a program is mutually agreed upon between scientists of the Government of the United States of America and the Government of Japan.

10. The Government of Japan intends to ensure that cooperative Dall porpoise research be conducted with use of an appropriate Japanese vessel not later than the 1979 salmon fishing season, unless it is agreed that such research can be accomplished in another manner.

FOR THE DELEGATION OF THE UNITED STATES OF AMERICA:

FOR THE DELEGATION OF JAPAN:

Agreement Between the Government of the United States of America and the Government of Japan Concerning Commercial Sperm Whaling in the Western Division Stock of the North Pacific, Washington, 1984

Done at Washington 13 November 1984

Entered into force 13 November 1984

Primary source citation: TIAS 11070

EMBASSY OF JAPAN
2520 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20008
(202) 234-2260

November 13, 1984

The Honorable
Malcolm Baldrige
The Secretary of Commerce
Washington, D.C. 20230

Dear Mr. Secretary:

I am writing to you concerning the recent meetings between the representatives of the Government of Japan and the Government of the United States on the subject of commercial sperm whaling in the western division stock of the North Pacific.

As you know, the Government of Japan is keenly aware that the whaling issue poses a threat of friction between our two countries. The Government of Japan wishes to resolve this issue as quickly and amicably as possible to avoid a confrontation which might be caused by the application of United States domestic statutes, namely Section 8(a) of the Fishermen's Protective Act (the Pelly Amendment) and Section 201(e) (2) of the Magnuson Fishery Conservation and Management Act (the Packwood-Magnuson Amendment).

Unfortunately, while both Governments are Parties to the International Convention for the Regulation of Whaling (the Convention) and while we both share the concern for the general objectives of the Convention, there are certain differences between our two countries which arise from our different cultural and domestic situations.

As you know, footnote 1 added in 1981 to Table 3 of the Schedule to the Convention prohibits the commercial harvest of sperm whales from the western division stock of the North Pacific unless the International Whaling

Commission affirmatively decides otherwise. The Government of Japan has lodged an objection to footnote 1, in accordance with the provision of paragraph 3 of Article V of the Convention, and is therefore not bound by the footnote.

The Government of Japan, recognizing the need to take measures including the withdrawal of the objection mentioned above in order to avoid a confrontation between our two countries, seeks an additional period of time for the purpose of minimizing the economic and social hardship of those who are engaged in commercial sperm whaling. The Government of Japan endeavors to take appropriate measures in order to meet this purpose.

I therefore request that, as long as Japanese commercial whaling is conducted in a manner as indicated in the arrangement set forth in the Summary of Discussions attached to this letter, you not consider that the whaling will diminish the effectiveness of the Convention or its conservation program and not certify such whaling as provided for in the Pelly Amendment or the Packwood-Magnuson Amendment.

Sincerely yours,

Yasushi Murazumi
Charge d'Affaires ad interim
of Japan

November 13, 1984

SUMMARY OF DISCUSSIONS ON COMMERCIAL SPERM WHALING IN THE WESTERN DIVISION STOCK OF THE NORTH PACIFIC, NOVEMBER 1–12, 1984, WASHINGTON, D.C.

DR. JOHN V. BYRNE, United States Commissioner to the International Whaling Commission

MR. HIROYA SANO, Director-General, Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries, the Government of Japan

The latest in a series of bilateral discussions between Japan and the United States were conducted in Washington, D.C., November 1–12, 1984, in an effort to determine whether it would be possible, in accordance with the laws and regulations in effect in each country, to develop an arrangement whereby the United States Secretary of Commerce might refrain from "certifying" sperm whaling by Japanese nationals, if they take sperm whales under the objection of the Government of Japan to footnote 1 to Table 3 of the Schedule to the International Convention for the Regulation of Whaling, 1946 (the Convention). The heads of the delegations shared the view that such an arrangement might be possible, subject to satisfactory resolution of certain details and to approval and implementation by the cognizant authorities of each Government. The essential points of such a possible arrangement would be the following:

1. (A) The Government of Japan may permit a catch of 400 sperm whales during each of the 1984 and 1985 coastal seasons, subject to the provisions on by-catch of females as set forth in footnote 2 to Table 3 of the Schedule (dated November, 1983) to the Convention.

(B) If, by December 13, 1984, the Government of Japan withdraws its objection, lodged November 9, 1981 under paragraph 3 of Article V of the Convention, effective on or before April 1, 1988, the United States would not consider sperm whaling permitted under sub-paragraph (A) above to diminish the effectiveness of the Convention or its conservation program, and would therefore not certify such sperm whaling as provided for in Section 8(a) of the Fishermen's Protective Act (the Pelly Amendment) or Section 201(e)(2) of the Magnuson Fishery Conservation and Management Act (the Packwood-Magnuson Amendment).

2. If, by April 1, 1985, the Government of Japan withdraws its objection, lodged November 4, 1982, to paragraph 10(e) of the Schedule, effective such that Japanese commercial coastal whaling will cease following the 1987 coastal season and Japanese commercial pelagic whaling will cease following the 1986/87 pelagic season, the United States would not consider that whaling specified below would diminish the effectiveness of the Convention or its conservation program and would not certify such whaling under the Pelly Amendment or the Packwood-Magnuson Amendment, if such whaling were limited to the following species and catch limits:

1986 and 1987 Coastal Whaling Seasons

Western Division, North Pacific sperm whales --

200 per season, subject to the provisions on by-catch of females as set forth in footnote 2 to Table 3 of the Schedule (dated November, 1983) to the Convention;

Okhotsk Sea-West Pacific minke whales--

catch limits acceptable to the Government of the United States after consultation with the Government of Japan;

Western North Pacific Bryde's whales--

catch limits acceptable to the Government of the United States after consultation with the Government of Japan; and

1985/1986 and 1986/1987 Pelagic Whaling Seasons

Southern Hemisphere minke whales

catch limits acceptable to the Government of the United States after consultation with the Government of Japan.

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THE SECRETARY OF COMMERCE
Washington DC 20230

November 13, 1984

Mr. Yasushi Murazumi
Charge d'Affaires ad interim
of Japan
Embassy of Japan
2520 Massachusetts Avenue, NW.
Washington, D.C. 20008

Dear Mr. Murazumi:

Thank you for your letter about the recent bilateral consultations between representatives of our governments on the Japanese harvest of sperm whales from the western division stock of the North Pacific and the possibility that I, as Secretary of Commerce, may certify any confirmed harvest of sperm whales by Japanese nationals.

After consulting with the United States Commissioner to the International Whaling Commission (IWC), I have concluded that commercial harvests of whales by Japanese nationals within the limits and under the circumstances set forth in the Summary of Discussions attached to your letter would not diminish the effectiveness of the International Convention for the Regulation of Whaling, 1946, or its conservation program.

The reports of the IWC's Scientific Committee, as well as the IWC's 1982 decision to permit quotas of 450 and 400 whales for the 1982 and 1983 coastal sperm whaling seasons, respectively, indicate that sperm whaling in accordance with paragraph 1 of the Summary of Discussions attached to your letter is not inconsistent with the IWC's essential conservation purposes. Moreover, in deciding that Japanese commercial whaling in accordance with paragraph 2 of that Summary of Discussions would not thwart the essential conservation purposes of the IWC, I have noted the apparent purpose of the IWC in having itself provided for a delayed effective date of paragraph 10(e).

This arrangement does not insulate from certification any Japanese whaling in excess of the 1984-85 quota for Southern Hemisphere minke whales. I urge that the Government of Japan comply with that quota. Furthermore,

the withdrawals of your government's objections to footnote 1 to Table 3 and paragraph 10(e) of the Schedule would be irrevocable, notwithstanding their prospective effective dates.

Finally, in judging whether the Government of the United States would accept the catch limits for the 1986 and 1987 coastal seasons and 1985/86 and 1986/87 pelagic seasons as contemplated in paragraph 2 of the Summary of Discussions, the Government of the United States would be guided by the most recent quota voted by the IWC prior to those seasons.

Our purpose in recent consultations with the Government of Japan has been to encourage adherence by the Government of Japan to all provisions of the Convention's Schedule. We regard the provisions of paragraph 10(e) of the Schedule to be of central importance to the rational conservation and management of the world's remaining whale stocks. This is reflected in President Reagan's 1981 letter to each of the IWC Commissioners encouraging them to take action along the lines now reflected in paragraph 10(e) of the Schedule.

Sincerely,

Malcolm Baldrige
Secretary of Commerce

BILATERAL

KOREA, REPUBLIC OF

FISHERIES

Agreement Between the Government of the United States of America and the Government of the Republic of Korea Concerning Fisheries off the Coasts of the United States, Washington, 1982

Done at Washington 26 July 1982

Entered into force 28 April 1983

Primary source citation: TIAS 10571

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States and the Government of the Republic of Korea,

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Recognizing that the United States has established a fishery conservation zone within 200 nautical miles of its coasts within which the United States exercises exclusive fishery management authority over all fish and that the United States also exercises such authority over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin;

Recognizing that the Republic of Korea is heavily dependent on fish as a major source of animal protein for the fulfillment of the nutritional needs of its population;

Recognizing that the two Governments have closely cooperated with each other in the development of mutual fisheries relations within the framework of the 1977 Agreement Between the Government of the United States and the Government of the Republic of Korea Concerning Fisheries off the Coasts of the United States;

Taking into account international law relating to oceans and fisheries; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States exercises exclusive fishery management authority;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Republic of Korea for the living resources over which the United States exercises exclusive fishery management authority as provided by United States law.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States exercises exclusive fishery management authority" means all fish within the fishery conservation zone of the United States, (except highly migratory species), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States fishery conservation zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "fishery" means

   a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b. any fishing for such stocks;

4. "fishery conservation zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

   a. the catching, taking or harvesting of fish;

   b. the attempted catching, taking or harvesting of fish;

   c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d. any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

   a. fishing; or

   b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for vessels of the Republic of Korea to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, the Republic of Korea portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to foreign fishing vessels in accordance with United States law.

2. The Government of the United States shall determine each year, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks, and in accordance with United States law,

a. the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d. the allocation of such portion that may be made available to the Republic of Korea for its qualifying fishing vessels.

3. In implementation of paragraph 2.d. of this Article, the United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law.

4. The Government of the United States shall notify the Government of the Republic of Korea of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to vessels of each country, including the Republic of Korea, the Government of the United States will decide on the basis of the factors identified in United States law including:

1. whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish or fishery products;

2. whether, and to what extent such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

3. whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nations require the fish harvested from the fishery conservation zone for their domestic consumption;

5. whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

7. whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

8. such other matters as the United States deems appropriate.

ARTICLE V

The Government of the Republic of Korea shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as reducing or removing impediments to the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the Republic of Korea, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking such other actions as may be appropriate.

ARTICLE VI

The Government of the Republic of Korea shall take all necessary measures to insure:

1. that nationals and vessels of the Republic of Korea refrain from fishing for living resources over which the United States exercises exclusive fishery management authority except as authorized pursuant to this Agreement;

2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VII

The Government of the Republic of Korea may submit an application to the Government of the United States for a permit for each fishing vessel of the Republic of Korea that wishes to engage in fishing in the fishery conservation zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with Annex I, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of fees for such permits and for fishing in the United States fisheries zone. The Government of the Republic of Korea undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

The Government of the Republic of Korea shall insure that nationals and vessels of the Republic of Korea refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE IX

The Government of the Republic of Korea shall insure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of the Republic of Korea is prominently displayed in the wheelhouse of such vessel;

2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of the Republic of Korea for any cause arising out of the conduct of fishing activities for the living resources over which the United States exercises exclusive fishery management authority; and

5. all necessary measures are taken to minimize fishing gear conflicts and to insure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of the Republic of Korea as determined by applicable United States procedures.

ARTICLE X

The Government of the Republic of Korea shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the fishery conservation zone and to insure that each vessel of the Republic of Korea that engages in fishing for living resources subject to the exclusive fishery management authority of the United States shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of the Republic of Korea or their owners or operators, that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. The representatives of the Government of the United States shall generally recommend to the court in any case arising out of fishing activities under this Agreement that the penalty for violation of fishery regulations not include imprisonment.

4. In cases of seizure and arrest of a vessel of the Republic of Korea by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of the Republic of Korea of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The Governments of the United States and the Republic of Korea shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the exclusive fishery management authority of the United States, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Governments shall cooperate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of the Republic of Korea in the United States fishery conservation zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. The Government of the Republic of Korea shall cooperate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States.

ARTICLE XIII

The Government of the United States and the Government of the Republic of Korea shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the participation in the appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE XIV

Should the Government of the United States indicate to the Government of the Republic of Korea that nationals and vessels of the United States wish to engage in fishing in the fishery conservation zone of the Republic of Korea, or its equivalent, the Government of the Republic of Korea will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XV

Nothing contained in the present Agreement shall prejudice the views of either Government with respect to the territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

ARTICLE XVI

1. This Agreement shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Governments, and remain in force until July 1, 1987, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party twelve months in advance.

2. This Agreement shall be subject to review by the two Governments two years after its entry into force at the request of either or upon the conclusion of a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, July 26, 1982, in the English and Korean languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

James L. Malone

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA:

B. H. Lew

ANNEX I

APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the Republic of Korea to engage in fishing for living resources over which the United States exercises exclusive fishery management authority:

1. The Government of the Republic of Korea may submit an application to the competent authorities of the United States for each fishing vessel of the Republic of Korea that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify

a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

c. a specification of each fishery in which each vessel wishes to fish;

d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

e. the ocean area in which, and the season or period during which, such fishing would be conducted; and

f. such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and shall inform the Government of the Republic of Korea of such determinations. The Government of the United States reserves the right not to approve applications.

4. The Government of the Republic of Korea shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Government of the Republic of Korea and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each Republic of Korea fishing vessel, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Government of the Republic of Korea notifies the Government of the United States of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and the Government of the Republic of Korea may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

ANNEX II
CONSERVATION AND MANAGEMENT MEASURES

With respect to Article III (3), the United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include, inter alia:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed; and

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

AGREED MINUTES

1. The representative of the Government of the United States and the representative of the Government of the Republic of Korea acknowledge the advantages to their respective industries of providing stability of expectations in fishery relations, including fishery allocations, fisheries development, and fisheries trade, over reasonable periods of time.

2. The representative of the Government of the Republic of Korea stated that, with reference to Article V, the Government of the Republic of Korea would necessarily give appropriate consideration to its other international commitments. The representative of the Government of the United States expressed his appreciation for past efforts of the Government of the Republic of Korea in encouraging exports of United States fishery products and looked forward to continued cooperation in this area.

3. With respect to Article IX (5) of the Agreement, the representative of the Government of the Republic of Korea expressed concern that prompt and adequate compensation be provided to nationals of the Republic of Korea for any loss of, or damage to, their fishing vessels, fishing gear or catch that is caused by any fishing vessel of the United States. The representative of the Government of the United States stated that such remedies are available to nationals of the Republic of Korea through the laws and judicial procedures of the United States.

4. In connection with Article X of the Agreement, the representative of the Government of the United States noted the request of the Government of the Republic of Korea that in carrying out their responsibilities under United States law, United States officials would take only such actions as are necessary to fulfill their obligations under such laws and regulations, paying due regard to the economic loss such action may inflict on vessels of the Republic of Korea in operation.

5. The representative of the Government of the United States noted that the commitment in Article XI (3) to recommend that imprisonment not be imposed as a penalty for violation of fishery regulations does not apply in

the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

6. The representative of the United States stated that, with respect to Annex 1 paragraph 3, it was his expectation that this provision would normally be applied in the case of vessels which had a record of law enforcement violations.

7. The representative of the Government of the United States and the representative of the Government of the Republic of Korea noted that they would cooperate in the exchange of scientific and technical information relating to species of tuna of mutual interest with a view to the establishment of regional arrangements, including appropriate international organizations, to ensure conservation of the species. Such scientific exchanges would also include the reporting of tuna and associated catches. The two representatives further noted that, commencing with the effective date of the Agreement and until such time as appropriate regional arrangements are in place, the Government of the Republic of Korea would, in order to establish a base of scientific information to further such arrangements, provide to the appropriate United States authorities, statistics on tuna and associated catches off the coasts of the United States.

8. The representative of the Government of the United States stated that, subject to the applicable laws and regulations of the United States, fishing vessels of the Republic of Korea could enter United States ports for the purpose of obtaining supplies and services normally available in those ports.

Amendment to the Agreement Between the Government of the United States of America and the Government of the Republic of Korea Concerning Fisheries off the Coasts of the United States, Seoul, 1987

Done at Seoul 11 and 20 May 1987

Entered into force 27 October 1987

Primary source citation: TIAS 11271; copy of notes effecting entry into force provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA
Seoul

May 11, 1987

No. 225

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Korea and has the honor to draw to the attention of the Government of the Republic of Korea the Governing International Fishery Agreement between the Government of the United States of America and the Government of the Republic of Korea signed at Washington, D.C. on July 26, 1982, which will expire on July 1, 1987 by its own terms. The Department proposes that the agreement be extended until July 1, 1989 and that it be amended as follows:

1) Amend paragraph 3 of the preamble to read: "Recognizing that the United States has established by presidential proclamation of March 10, 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin;"

2) Amend paragraph 7 of the preamble to read: "Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concerns over which the United States has sovereign rights to explore, exploit, conserve and manage;"

3) Amend Article I by inserting a comma after "off the coasts of the United States" and the phrase "to facilitate the rapid and full development of the United States fishing industry," and replacing the words "exercises exclusive management authority" with the words "has sovereign rights to explore, exploit, conserve, and manage"

4) In Article II, paragraph 1, replace the words "exercises exclusive fishery management authority" with the words "has sovereign rights to explore, exploit, conserve, and manage", and where the words "fishery conservation zone" appear, replace them with the words "exclusive economic zone"

5) In Article II, paragraph 4, replace the phrase "fishery conservation zone" with "exclusive economic zone"

6) In Article III, paragraph 2, replace the phrase "necessitated unforseen circumstances affecting stocks" with the phrase "appropriate"

7) In Article IV, paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;"

8) In Article IV, Paragraph 2, replace the present text with the following: "whether, and to what extent such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and advancement of fisheries trade through the purchase of fish and fishery products from United States fisherman, particularly fish and fishery products for which the foreign nation has requested an allocation;"

9) In Article IV, paragraph 4, replace the words "fishery conservation zone" with the words "exclusive economic zone"

10) In Article VI, paragraph 1, replace the words "exercise exclusive fishery management authority" with the words "has sovereign rights to explore, exploit, conserve, and manage"

11) In Article VII, where the words "fishery conservation zone" appear, replace them with the words "exclusive economic zone"

12) In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether in the judgment of the United States vessels or nationals of the Republic of Korea are harvesting United States origin anadromous species at unacceptable levels, or whether the Republic of Korea is taking insufficient action to benefit the conservation and development of United States fisheries."

13) In Article VIII, replace the words "fishery conservation zone" with the words "exclusive economic zone"

14) In Article IX, paragraph 4, replace the words "exercises exclusive fishery management authority" with the words "has sovereign rights to explore, exploit, conserve and manage"

15) In Article X, replace the words "fishery conservation zone" with the words "exclusive economic zone" and the words "subject to the exclusive fishery management authority of the United States" with the words "over which the United States has sovereign rights to explore, exploit, conserve, and manage"

16) In Article XII, paragraph 1, replace the words "subject to the exclusive management authority of the United States" with the words "over which the United States has sovereign rights to explore, exploit, conserve, and manage"

17) In Article XII, paragraph 3. replace the words "fishery conservation zone" with the words "exclusive economic zone"

18) In Article XII, paragraph 4, at the end of the paragraph add the following sentence, "The Republic of Korea shall similarly provide such economic data as may be requested by the United States."

19) In Article XIV, replace the words "fishery conservation zone" with the words "exclusive economic zone"

20) In the opening paragraph of the annex, replace the words "exercises exclusive fishery management authority" with the words "has sovereign rights to explore, exploit, conserve, and manage"

21) In the agreed minutes, amend paragraph 5 to read

"5. The representative of the Government of the United States informed the representative of the Government of the Republic of Korea that Article XI (1) applies to crews as well as to vessel owners and operators, and that the commitment in Article XI (3) to recommend that imprisonment not be imposed as a penalty for violation of fishery regulations does not apply in the case of enforcement related offenses such as assault on an environment officer or an observer or refusal to permit boarding and inspection."

22) In the agreed minutes, add a new paragraph to read:

"9. The representative of the Government of the Republic of Korea and the representative of the Government of the United States expressed their understanding that the economic data referred to in Article XII (4) does not include confidential business information regarding individual Korean companies."

The Embassy proposes that if the extension and the amendments set out in this note are acceptable to the Government of the Republic of Korea, this note and the Government of the Republic of Korea's note in reply to that effect shall constitute an agreement between the Government of the United States of America and the Government of the Republic of Korea amending the Governing International Fishery Agreement between the two countries and extending that agreement until July 1, 1989. This agreement shall enter into force following written confirmation of the completion of the two countries' internal procedures.

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

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MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF KOREA
Seoul

May 20, 1987

OGT-418

The Ministry of Foreign Affairs of the Republic of Korea presents its compliments to the Embassy of the United States of America and has the honor to acknowledge the receipt of the latter's Note No. 225 dated May 11, 1987, which reads as follows:

[For text of the U.S. note, see page 3232.]

The Ministry of Foreign Affairs has the honor to inform the Embassy of the United States of America that the foregoing proposals are acceptable to the Government of the Republic of Korea and to confirm that the latter's Note and this Note in reply thereto shall constitute an agreement between the Government of the Republic of Korea and the Government of the United States of America amending the Governing International Fishery Agreement between the two countries and extending that agreement until July 1, 1989, which shall enter into force following written confirmation of the completion of the two countries' internal procedures.

The Ministry of Foreign Affairs of the Republic of Korea avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

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Department of State
Washington

October 20, 1987

The Department of State refers to the Governing International Fishery Agreement between the Government of the United States and the Government of the Republic of Korea Concerning Fisheries off the Coast of the United States, signed July 26, 1982 and amended and extended by an exchange of notes in Seoul on May 31, 1987. Under the terms of this agreement, it shall enter into force following written notification of the completion of internal procedures of both Governments.

The Department of State hereby confirms that the United States has completed the necessary internal procedures. Consequently the agreement to extend and amend the Governing International Fishery Agreement shall enter into force on the date of written notification of the completion of internal procedures of the Government of the Republic of Korea.

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Washington, D.C.

October 27, 1987

KAM 87/170

The Embassy of the Republic of Korea presents its compliments to the Department of State of the United States of America and has the honour to acknowledge the receipt of the latter's note dated October 20, 1987 with regard to the entry into force of the Governing International Fishery Agreement between the Government of the Republic of Korea and the Government of the United States of America, signed at Washington D.C. on July 26, 1982 and amended and extended by an exchange of notes in Seoul on May 20, 1987.

The Embassy has further the honour to notify that the Korean side has also completed the necessary internal procedures. Accordingly, the Embassy confirms that the said agreement shall enter into force on the date of this Embassy's note in accordance with the terms of the agreement.

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

[Initials]
[Seal]

Amendment to the Agreement Between the Government of the United States of America and the Government of the Republic of Korea Concerning Fisheries off the Coasts of the United States, Washington, 1991

Done at Washington 29 May 1991 and 19 June 1991

Entered into force 26 November 1991, effective 1 July 1991

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

May 29, 1991

His Excellency
Hong-Choo Hyun,
Ambassador of the Republic of Korea.

Excellency:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Korea Concerning Fisheries off the Coasts of the United States, signed at Washington on July 26, 1982, as amended and extended (hereinafter referred to as "the Agreement") and due to expire on July 1, 1991. Noting the desire by the United States to address cooperatively with Korea the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the honor to propose that, in accordance with the provisions of Article XVI, the Agreement be extended until December 31, 1993. I have the honor to propose that the Agreement be further amended as follows:

1. In Article II, paragraph 1, delete "(except highly migratory species),".

2. In Article II, delete existing paragraph 2 in its entirety and replace it with:

"2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals and birds;"

3. In Article II, at the end of subparagraph 6. b., add the word "and", delete paragraph 7 and renumber the present paragraph 8 as paragraph 7.

4. In Article IV, paragraph 7, delete "; and" and replace with ";".

5. In Article IV, add a new paragraph 8 as follows:

"8. whether, and to what extent, such nations are cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

6. In Article IV, renumber existing paragraph 8 as new paragraph 9 and insert the words "Government of the" before "United States".

7. In Article XII, add a new paragraph 5 as follows:

"5. The Government of the Republic of Korea shall cooperate with the Government of the United States of America in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

I have the further honor to propose that, if these proposals are acceptable to the Government of the Republic of Korea, this Note and the Embassy's Note in reply to that effect shall constitute an Agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

David A. Colson

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EMBASSY OF THE REPUBLIC OF KOREA
Washington, D.C.

June 19, 1991

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of May 29, 1991 which reads as follows:

"I have the honour to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Korea concerning Fisheries off the Coasts of the United States, signed at Washington on July 26, 1982, as amended and extended (hereinafter referred to as "the Agreement") and due to expire on July 1, 1991. Noting the desire by the United States to address cooperatively with Korea the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollack in the central Bering Sea area, I have the honor to propose that, in accordance with the provisions of Article XVI, the Agreement be extended until December 31, 1993. I have the honor to propose that the Agreement be further amended as follows:

1. In Article II, paragraph 1, delete "(except highly migratory species),"

2. In Article II, delete existing paragraph 2 in its entirety and replace it with:

"2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine animals and birds;"

3. In Article II, at the end of subparagraph 6.b., add the word "and", delete paragraph 7 and renumber the present paragraph 8 as paragraph 7.

4. In Article IV, paragraph 7, delete "; and" and replace with ";".

5. In Article IV, add a new paragraph 8 as follows:

"8. whether, and to what extent, such nations are cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

6. In Article IV, renumber existing paragraph 8 as new paragraph 9 and insert the words "Government of the" before the "United States".

7. In Article XII, add a new paragraph 5 as follows:

"5. The Government of the Republic of Korea shall cooperate with the Government of the United States of America in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/255 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

I have the further honor to propose that, if these proposals are acceptable to the Government of the Republic of Korea, this Note and Your Excellency's Note in reply to that effect shall constitute an Agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures."

I have the honour to inform you that the extension of the Agreement between the Government of the Republic of Korea and the Government of the United States of America concerning Fisheries off the coasts of the United States signed at Washington on July 26, 1982, as amended and extended, until December 31, 1993 and the amendments proposed above are acceptable to the Government of the Republic of Korea and to confirm that Your Excellency's Note and this Note in reply shall constitute an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Ambassador:

Ki Ho Chang

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EMBASSY OF THE REPUBLIC OF KOREA
WASHINGTON, D.C.

June 25, 1991

KAM 91/106

The Embassy of the Republic of Korea presents its compliments to the Department of State of the United States of America and has the honour to refer to the Agreement between the Government of the Republic of Korea and the Government of the United States of America concerning Fisheries off the Coast of the United States, signed July 26, 1982 and amended and extended by Exchange of Notes at Washington, May 29 and June 19, 1991, under the terms of this Agreement.

The Embassy has further the honor to notify that the said Agreement shall enter into force following written notification of the completion of internal procedures of both governments, and be effective from July 1, 1991. The

Embassy of the Republic of Korea hereby confirms that the Republic of Korea has completed the necessary internal procedures. Accordingly the said Agreement shall enter into force on the date of written notification of the completion of internal procedures of the Government of the United States of America, and be effective from July 1, 1991.

The Embassy of the Republic of Korea avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its highest consideration.

[Initials]
[Seal]

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Department of State
Washington

November 26, 1991

The Department of State refers to the Agreement amending and extending the Agreement of July 26, 1982 Between the Government of the United States of America and the Government of the Republic of Korea Concerning Fisheries Off the Coasts of the United States, as amended and extended, effected by exchange of notes at Washington, dated May 29 and June 19, 1991. The Department of State wishes to acknowledge receipt of the Government of the Republic of Korea note No. KAM 91/106 dated June 25, 1991 informing the Government of the United States of America that the internal procedures of the Government of the Republic of Korea have been completed. The Department further wishes to inform the Government of the Republic of Korea that the Government of the United States of America has completed its necessary internal procedures for entry into force and confirms that the Agreement shall enter into force on the date of this note, effective from July 1, 1991.

Agreement Between the Government of the United States of America and the Government of the Republic of Korea Regarding the Collection and Exchange of Data on Fisheries Harvests in the International Waters of the Bering Sea, Washington, 1988

Done at Washington 25 April 1988 and 14 July 1988

Entered into force 14 July 1988

Primary source citation: Copy of text provided by the U.S. Department of State

Department of State
Washington

April 25, 1988.

The Department of State of the United States of America wishes to draw the attention of the Embassy of the Republic of Korea to the importance of close cooperation in the compilation of best available records on fisheries harvests and fishing effort in the areas of the Bering Sea beyond national fisheries jurisdiction of any nation for purpose of effective management of stocks which are of mutual interest. On the basis of this recognition, the Government of the United States of America proposes that the Government of the Republic of Korea provide to the Government of the United States available statistics on harvests and incidental takes of target species, anadromous species, marine mammals, seabirds, and other living marine resources, and fishing effort in the area of the Bering Sea beyond the national fisheries jurisdiction of any nation. Such statistics shall be delineated by biweekly periods and by one degree longitude and by one half degree latitude statistical blocks and provided by the end of May for the fishing season beginning in January and ending in December of the previous year. In addition, preliminary catch statistics by month and aggregate quantity shall be provided by September 15 of each year for the fishing period beginning in January and ending in June of the same year.

If the Government of the Republic of Korea agrees to the proposals contained in the paragraph above, this note and the Embassy's note in reply thereto shall constitute an agreement between the two Governments, which shall enter into force on the date of the Embassy's note in reply.

[Initials]

EMBASSY OF THE REPUBLIC OF KOREA
WASHINGTON, D. C.

July 14, 1988

KAM 88/108

The Embassy of the Republic of Korea presents its compliments to the Department of State of the United States of America and has the honour to acknowledge the receipt of the latter's Note dated April 25, 1988, which reads as follows:

"The Department of State of the United States of America wishes to draw the attention of the Embassy of the Republic of Korea to the importance of close cooperation in the compilation of the best available records on fisheries harvests and fishing effort in the area of the Bering Sea beyond the national fisheries jurisdiction of any nation for the purpose of effective management of stocks which are of mutual interest. On the basis of this recognition, the Government of the United States of America proposes that the Government of the Republic of Korea provide to the Government of the United States available statistics on harvests and incidental takes of target species, anadromous species, marine mammals, seabirds, and other living marine resources, and fishing effort in the area of the Bering Sea beyond the national fisheries jurisdiction of any nation. Such statistics shall be delineated by biweekly periods and by one degree longitude and by one half degree latitude statistical blocks and provided by the end of May for the fishing season beginning in January and ending in December of the previous year. In addition, preliminary catch statistics by month and aggregate quantity shall be provided by September 15 of each year for the fishing period beginning in January and ending in June of the same year.

If the Government of the Republic of Korea agrees to the proposals contained in the paragraph above, this note and the Embassy's note in reply thereto shall constitute an agreement between the two Governments, which shall enter into force on the date of the Embassy's note in reply."

The Embassy of the Republic of Korea has further the honour to inform the Department of State of the United States of America that the foregoing proposals are acceptable to the Government of the Republic of Korea and to confirm that the latter's Note and this Note in reply thereto shall constitute an agreement between the two Governments, which shall enter into force on the date of this reply note.

The Embassy of the Republic of Korea avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its highest consideration.

[Initials]
[Seal]

Agreement Between the Government of the United States of America and the Government of the Republic of Korea on the Korean Squid Driftnet Fisheries for the 1989 and 1990 Fishing Seasons, Washington, 1989

Done at Washington 8, 13, and 26 September 1989 and 2 October 1989

*Entered into force 26 September 1989**

Primary source citation: Copy of text provided by the U.S. Department of State

NATIONAL FISHERIES ADMINISTRATION
REPUBLIC OF KOREA

September 8, 1989

Ambassador Edward E. Wolfe
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Ocean, International Environmental and
Scientific Affairs
United States Department of State
Washington, D.C. 20850

Mr. James W. Brennan
Assistant Administrator for Fisheries
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
1335 East-West Highway, Room 9334
Silver Spring, Maryland 20910

Dear Ambassador Wolfe and Mr. Brennan:

Taking into consideration U.S. concern over the preservation of U.S. origin salmon in the North Pacific Ocean, I am pleased to inform you that my office will take appropriate measures for the masters of Korean driftnet fishing vessels to conduct fishing operations in accordance with "A Directive for the Protection of Salmon, Marine Mammals and

* This Agreement expired on 31 December 1990.

Seabirds in the Pacific Ocean," in the area west of 160 degrees E longitude of the North Pacific Ocean, while maintaining the patterns of fishing area and effort of recent years.

I hope that this type of measure will alleviate the concern you expressed during our recent talks in Washington, D.C.

Sincerely,

Hee Soo Lee
Deputy Administrator

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NATIONAL FISHERIES ADMINISTRATOR
REPUBLIC OF KOREA

September 8, 1989

Ambassador Edward E. Wolfe
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Ocean, International Environmental and
Scientific Affairs
United States Department of State
Washington, D.C. 20850

Mr. James W. Brennan
Assistant Administrator for Fisheries
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
1335 East-West Highway, Room 9334
Silver Spring, Maryland 20910

Dear Ambassador Wolfe and Mr. Brennan:

Recalling the general principle of international law that high seas fisheries shall be conducted and managed under the responsibility and initiative of the flag state and in light of the U.S. concern about the possible incidental taking of the U.S. origin anadromous species of fish by driftnet vessels in the high seas of the North Pacific Ocean, I wish to inform you that the Korean Government will implement the attached Regulatory Program and Monitoring Program on the Korean squid driftnet fishery for the fishing seasons of 1989 and 1990.

Sincerely,

Hee Soo Lee
Deputy Administrator

Enclosures:

Annex I
Annex II

ANNEX I

REGULATORY PROGRAM OF THE REPUBLIC OF KOREA ON THE KOREAN SQUID DRIFTNET FISHERIES FOR THE 1989 AND 1990 FISHING SEASONS

The Government of the Republic of Korea adopted regulatory measures in 1984, which have been intensified as of July 1, 1989 as follows:

1. No driftnet vessel may operate in the North Pacific without a license issued by the appropriate Korean authorities. (No more than 160 driftnet vessel licenses will be issued in 1990).

2. Fishing grounds are limited by time and area.

3. Driftnet vessels are prohibited from retaining anadromous species, even those taken incidentally.

4. Nets may not be discarded.

5. Vessels must display name, registration number, and hull number.

6. Mesh size is restricted to 86 mm or larger.

7. Fishing gear must be marked for identification.

8. Vessels must report weekly their daily noon positions.

9. Vessels must submit catch and effort data.

10. Catch may be landed only at designated ports, and vessels must be inspected upon landing.

11. Catch may be transferred at sea only with prior approval.

I. No driftnet vessel may harvest anadromous species of fish. Any anadromous species of fish incidentally taken in the driftnet fishery are to be immediately returned to the water and included in catch records outlined in Annex II, Paragraph 10(a). All Korean driftnet vessels are to adhere to the following while operating in the North Pacific Ocean beyond national 200-mile zones.

(a) Each squid driftnet vessel seeking to operate in the North Pacific Ocean will have a license issued by the appropriate Korean authorities.

(b) Each squid driftnet vessel will report to the appropriate Korean authorities when it begins and ceases its seasonal fishing operations on the fishing grounds.

(c) Except for transiting from Korea to the squid fishing grounds and returning to Korea, each driftnet vessel is permitted to conduct activities only in the area west of 145 degrees W longitude and south of the following monthly northernmost latitudinal lines of the fishery:

For the area between 160 degrees E and 170 degrees E longitude:

January through April	Latitude 36 degrees N
May	Latitude 38 degrees N
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

For the area between 170 degrees E and 145 degrees W longitude:

December through April	Closed to fishing
May	Latitude 37 degrees N
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N

(d) Before the end of 1989, ten percent of Korean driftnet vessels will be equipped with transmitter equipment that will allow automatic, real-time monitoring by both parties of the location of Korean driftnet vessels (identified here as transmitters). Before the beginning of the 1990 fishing season, all remaining driftnet vessels will be equipped with transmitters before the vessels operate in the North Pacific Ocean. The U.S. authorities will assist the Korean authorities in procuring the transmitters. Representatives of both sides will meet as soon as possible to discuss technical matters on transmitter installation. All costs associated with the purchase, installation, and operation of the transmitters will be borne by the Korean side.

(e) All marine resources harvested by Korean driftnet vessels must be landed in designated Korean ports. The appropriate Korean authorities will continue a port inspection program to monitor landings from all driftnet vessels and squid transport vessels at all designated Korean ports. The following conditions will apply to at-sea transfers:

(1) Catches may only be transferred to vessels managed by Korean companies. Before the beginning of the 1990 fishing season, all such transport vessels operating in the North Pacific must be equipped with transmitters monitored by both parties;

(2) Korean authorities will provide U.S. authorities with a list of the transport vessels;

(3) The transport vessels, after receiving transfers from squid driftnet vessels in the North Pacific fishing grounds, will navigate directly to the designated Korean ports;

(4) When a transport vessel intends to carry on an at-sea transfer, prior permission must be obtained from the appropriate Korean authorities. These authorities will promptly forward this information to the appropriate U.S. authorities prior to transfer;

(5) Detailed records will be kept by all squid transport vessels in connection with the at-sea transfers they carry on, including the name of the fishing vessel from which the transfer is received and the quantity of squid. Upon return of the transport vessel to the designated Korean port, the vessel will immediately report to the competent Korean authorities for inspection.

(f) Each driftnet vessel will be assigned an international radio call sign (IRCS), which is to be displayed amidships on both the port and starboard sides of the deckhouse or hull, and on a weather deck, in a color in contrast to the background and permanently affixed to the vessel in block Roman alphabet letters and Arabic numerals at least one meter in height. Where the vessel size and/or configuration do not permit display of one meter high letters and numerals, the letters and numerals shall be as large as possible, but no less than 50 centimeters in height.

(g) Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at each 50 meter interval of net with the name of the vessel and its corresponding IRCS call sign. Vessels must be prohibited from discarding used or damaged driftnets and related gear while at sea. Such fishing equipment is to be stowed on the vessel and returned to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the appropriate Korean authorities.

II. With regard to Paragraph I(a) of this Annex, the Korean authorities will provide U.S. authorities with a list of licensed vessels, sample photographs, and a brief standard description of characteristics and configurations which would readily identify the different types of Korean driftnet vessels.

III. Korean authorities will conduct surveillance and boardings of Korean driftnet vessels, both dockside and at sea. The appropriate Korean and U.S. authorities will coordinate communications between their respective patrol units. At a minimum, the Korean authorities will provide a continuous presence of one dedicated patrol vessel on the fishing grounds during the 1990 fishing season, and two dedicated patrol vessels during June, July and August.

IV. Korea and the United States may exchange their appropriate officials to facilitate their respective enforcement and surveillance activities of the driftnet fishery. These exchanges may include:

(a) participation by the appropriate U.S. officials on Korean enforcement cruises;

(b) participation by the appropriate Korean officials on U.S. surveillance flights.

V. Korean authorities will adopt sanctions to punish violations of the above regulations adequately. Korean authorities will provide the appropriate U.S. authorities with planned regulatory activities before the fishing season begins. Korean authorities will provide an outline of Korean regulatory activities at the end of the fishing season on the patrols conducted, violations detected, and sanctions imposed. The outline of Korean regulatory activities will include valuations of non-monetary sanctions such as suspended licenses or mandatory in-port periods.

VI. Korean authorities will utilize to the maximum extent the information supplied by U.S. authorities indicating alleged violations by the Korean squid driftnet fishing and transport vessels in investigation and identification of the violator.

ANNEX II

MONITORING PROGRAM OF THE REPUBLIC OF KOREA ON THE KOREAN SQUID DRIFTNET FISHERIES FOR THE 1989 AND 1990 FISHING SEASON

The arrangements described below represent a monitoring program to be implemented in cooperation with U.S. scientists intended to provide information on Korean driftnet fishery operations and catches in the North Pacific Ocean. Under this program, the Korean Government will require each driftnet vessel to collect data on catches of target and non-target species, and Korean and U.S. scientific observers will be deployed on Korean driftnet vessels. The following paragraphs outline the process for collecting, handling and providing data by Korean and U.S. scientific observers aboard Korean commercial driftnet vessels and by Korean vessels.

1. Monitoring During the 1989 Fishing Season: The Korean Government will invite a scientific observer of the United States aboard a driftnet vessel. The observer will have the opportunity to observe approximately 45 driftnet retrievals.

2. Monitoring During the 1990 Fishing Season: The Korean Government will implement a cooperative monitoring program with the United States in 1990 with the objective of obtaining statistically reliable data on the catch of target and non-target species by Korean driftnet fisheries in the North Pacific Ocean. The Korean Government will provide the names of a sufficient number of vessels which are fully seaworthy and equipped to maintain the health and safety of scientific observers who will participate in the 1990 monitoring programs. The 1990 program will include the following:

(a) At least 13 U.S. and 13 Korean scientific observers will be deployed aboard 26 Korean commercial driftnet vessels for at least 45 days each to observe 45 or more driftnet retrievals on each vessel;

(b) The Korean Government will make efforts to seek funding for 1990 for a vessel that would move among the driftnet fleet during three summer months of the fishing season. The vessel would carry two U.S. and two Korean scientific observers. The scientific observers would be deployed from this platform on a series of Korean driftnet commercial fishing vessels to observe a few driftnet retrievals on each vessel.

3. Data collected by the scientific observers will include for each set:

(a) Information on fishing methods including net mesh sizes, method of net deployment, depth of the top of the net from the water surface, total net depth, direction of the set, length of a pok of net, number of poks per net section, number of net sections deployed per net set, and poks of net lost.

(b) Environmental conditions including: surface water temperatures at the beginning and ending of net deployment, weather conditions (air temperature, wind speed and direction, and visibility), and oceanographic conditions (sea state, swell direction and height, CTD casts (when possible), etc.).

(c) Date and location of net at time of the start of retrieval to nearest minute of latitude and longitude.

(d) Dropouts, catches and take of salmonids, marine mammals, seabirds, albacore, and other marine species of mutual interest shown in Appendix A shall be recorded for each net section, except for the target species which will be recorded by three categories (low, medium, and high abundance) for each continuous net section observed with the estimated numbers of product weight for the set to be provided by the host vessels.

(e) Any other data and information which are jointly agreed to.

4. All data identified in paragraph 2 will be recorded daily onto a data form. These forms will be duplicated and exchanged between the parties within 30 days after the Korean and U.S. scientific observers disembark the host vessels.

5. Total catch and fishing effort of the driftnet fleet stratified by month and 1 X 1 degree statistical areas will be provided to the U.S. authorities within six months or less following the closing of the fishing season. Three measures of effort are to be reported for each strata: the cumulative number of standardized poks, number of vessels fishing and vessel days of operation.

6. Using 1990 observer data and any other pertinent data such as logbook data which is acceptable to both sides, the appropriate organizations of the two sides will jointly produce a preliminary data summary of average catch rates of species identified in Appendix A by April 1, 1991. To facilitate the production of the preliminary data summary, Korean and U.S. scientists will meet at an agreed upon location. A report, which includes the data summary and which reviews all the data identified in paragraph 2 collected by Korean and U.S. scientific observers during 1990, will be jointly produced by June 30, 1991. If there are disagreements between the two sides pertaining to either the data summary or report, the differences will be presented therein.

7. All observed field data per set will not be opened to the public. The summary review and the final report of the observations made by the scientific observers will not be opened to the public until their completion as specified in paragraph 6.

8. Scientists from both sides will consult as soon as practical to determine logistical arrangements necessary to implement the 1989 program outlined above. These arrangements will include, inter alia , the selection of the host fishing vessel, probable fishing areas and periods of observation, and the schedule of transport vessels used to embark and disembark the observer. The representatives of Korea will meet the representatives of the United States in early 1990 and complete logistical arrangements for the 1990 observer program by February 28, 1990.

9. The scientific observers will take all reasonable measures to ensure a minimum interference to the fishing activities of the host vessels.

10. The Korean Government will require squid driftnet vessels operating in the North Pacific Ocean to gather and report catch data as follows:

(a) Each driftnet vessel must maintain monthly records of harvests of target species, incidental takes of anadromous species, marine mammals, seabirds, and other living marine resources, and fishing effort, delineated by 1 degree latitude and 1 degree longitude areas, and provide such fishery records to the appropriate Korean authorities at the end of the fishing season.

(b) Each driftnet vessel must validate the time and the location of catch and fishing effort, including the use of location records from an automatic navigation system, and will report such data to the appropriate

Korean authorities. Driftnet vessels with Naval Navigation Satellite System (NNSS) equipment capable of printing a record of location will be required to record their daily noon position on printed tape.

11. Korean authorities will compile the data specified in paragraph 10(a) within six months of the annual termination of fishery operations so that both sides may cooperatively monitor scientific and enforcement aspects of the fishery. Korean authorities will compile the data specified in paragraph 10(b) and make them available at the request of the appropriate authorities of the United States.

APPENDIX A

Marine Mammals

Pacific white-sided dolphin
Northern right whale dolphin
Common dolphin
Striped dolphin
Northern fur seal
Dall's porpoise
Other marine animals

Squid

Neon flying squid
Japanese common squid
Boreal chubhook squid
Eight-armed squid

Fish

Albacore
Pomfret
Yellowtail
Skipjack tuna
Marlin
Swordfish
Other tuna and billfish
Blue shark
Salmonids
Salmon shark

Seabirds

Short-tailed albatross
Black-footed albatross
Laysan albatross
Sooty shearwater
Short-tailed shearwater
Flesh-footed shearwater
Buller's shearwater
Tufted puffin
Horned puffin
Leach's storm-Petrel
Northern fulmar

Marine Turtles

DEPARTMENT OF STATE
WASHINGTON

September 13, 1989

His Excellency
Tong-Jin Park,
Ambassador of the Republic

Excellency:

I have the honor to refer to discussions between the representatives of our two Governments held in Washington during August and September 1989 regarding high seas squid driftnet fisheries in the North Pacific Ocean. I have the further honor to refer to the enclosed arrangement reached as a result of the said discussions.

If the enclosed arrangement is acceptable to the Government of the Republic of Korea, this note and Your Excellency's note in reply confirming the acceptance by the Korean Government of the arrangement shall constitute an agreement between the two Governments, which will enter into force on the date of Your Excellency's note in reply and shall remain in force through December 31, 1990.

Accept, Excellency, the renewed assurances of my highest consideration.

James A. Baker III

Enclosure:
Record of Discussions

RECORD OF DISCUSSIONS

Representatives of the United States and the Republic of Korea met August 18 - September 7, 1989 to discuss matters pertaining to high seas driftnet fishing activities in the North Pacific Ocean. Both sides recognized that driftnet vessel operations in the North Pacific Ocean may result in the take of U.S.-origin anadromous species. Both sides agreed to the following temporary arrangements:

a) Officials of one party, upon encountering a driftnet vessel of the other party that they desire to visit to verify compliance with driftnet fishing regulations, shall transmit to the appropriate officials of the other party a request to conduct a cooperative visit.

b) If the officials of the other party find that they are unable to join in the cooperative visit and verification, they will cooperate and assist the officials of the requesting party to conduct the visit and verification. In those cases where the on-scene officials of the requesting party find that officials of the other party are not immediately present to join in the visit and verification, the officials of the requesting party will initiate the visit and verification.

c) The visiting officials may verify compliance with driftnet fishing regulations, remove any anadromous species on board, document incidental catches of marine mammals, seabirds, and anadromous species, and take representative samples of those resources.

d) Officials of the party conducting the visit and verification shall take all reasonable measures to ensure a minimum interference to legitimate fishing operations of the driftnet vessel. The officials will conduct their operations in accordance with applicable rules of international law and practice.

e) Upon arrival of officials of the other party, the officials of the two parties shall jointly continue the visit and verification.

f) If the officials of the other party do not arrive before the officials of the requesting party complete the visit and verification, the authorities of the requesting party will notify promptly the authorities of the other party of the results of the visit and verification and will consult with the authorities of the other party regarding the disposition of the violations detected.

g) When no violation is detected as a result of the verification activities, the visiting officials shall immediately withdraw from the vessel.

h) The appropriate authorities will ensure that the visit and verification procedure for driftnet vessels will also apply to all transport vessels.

i) The two parties agree that the present arrangements will be effective until the end of 1990.

September 8, 1989

Edward E. Wolfe
For the Delegation of
the United States

Hee Soo Lee
For the Delegation of
the Republic of Korea

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EMBASSY OF THE REPUBLIC OF KOREA
WASHINGTON, D. C.
THE AMBASSADOR
TONG-JIN PARK

September 26, 1989

His Excellency
James A. Baker, III
Secretary of State
United States of America

Excellency:

I have the honor to acknowledge the receipt of your note dated September 13, 1989, which reads as follows:

"Excellency:

I have the honor to refer to discussions between the representatives of our two Governments held in Washington during August and September 1989 regarding high seas squid driftnet fisheries in the North Pacific Ocean. I have the further honor to refer to the enclosed arrangement reached as a result of the said discussions.

If the enclosed arrangement is acceptable to the Government of the Republic of Korea, this note and Your Excellency's note in reply confirming the acceptance by the Korean Government of the arrangement shall constitute an agreement between the two Governments, which will enter into force on the date of Your Excellency's note in reply and shall remain in force through December 31, 1990.

Accept, Excellency, the renewed assurances of my highest consideration.

(James A. Baker, III)"

I have further she honor to accept on behalf of the Government of the Republic of Korea the enclosed arrangement and to agree that Your Excellency's note and this note shall constitute an agreement between our two Governments which will enter into force on the date of this note in reply and shall remain in force through December 31, 1990.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Tong-Jin Park

Enclosure:
Record of Discussions

RECORD OF DISCUSSIONS

Representatives of the Republic of Korea and the United States met August 18 - September 7, 1989 to discuss matters pertaining to high seas driftnet fishing activities in the North Pacific Ocean. Both sides recognized that driftnet vessel operations in the North Pacific Ocean may result in the take of U.S.-origin anadromous species. Both sides agreed to the following temporary arrangements:

a) Officials of one party, upon encountering a driftnet vessel of the other party that they desire to visit to verify compliance with driftnet fishing regulations, shall transmit to the appropriate officials of the other party a request to conduct a cooperative visit.

b) If the officials of the other party find that they are unable to join in the cooperative visit and verification, they will cooperate and assist the officials of the requesting party to conduct the visit and verification. In those cases where the on-scene officials of the requesting party find that officials of the other party are not immediately present to join in the visit and verification, the officials of the requesting party will initiate the visit and verification.

c) The visiting officials may verify compliance with driftnet fishing regulations, remove any anadromous species on board, document incidental catches of marine mammals, seabirds, and anadromous species, and take representative samples of those resources.

d) Officials of the party conducting the visit and verification shall take all reasonable measures to ensure a minimum interference to legitimate fishing operations of the driftnet vessel. The officials will conduct their operations in accordance with applicable rules of international law and practice.

e) Upon arrival of officials of the other party, the officials of the two parties shall jointly continue the visit and verification.

f) If the officials of the other party do not arrive before the officials of the requesting party complete the visit and verification, the authorities of the requesting party will notify promptly the authorities of the other party of the results of the visit and verification and will consult with the authorities of the other party regarding the disposition of the violations detected.

g) When no violation is detected as a result of the verification activities, the visiting officials shall immediately withdraw from the vessel.

h) The appropriate authorities will ensure that the visit and verification procedure for driftnet vessels will also apply to all transport vessels.

i) The two parties agree that the present arrangements will be effective until the end of 1990.

September 8, 1989

Hee Soo Lee
For the Delegation of
the Republic of Korea

Edward E. Wolfe
For the Delegation of
the United States

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United States Department of State
Washington, D.C. 20520

October 2, 1989

Mr. Hee Soo Lee
Deputy Administrator
National Fisheries Administration
Republic of Korea

Dear Mr. Lee:

In view of the general principles of international law that fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, and that all states have the duty to cooperate with other states in taking measures necessary for the conservation of the living resources of the high seas, the United States welcomes the Korean Government's commitments to take the actions described in the Regulatory Program and Monitoring Program on the Korean squid driftnet fishery, as attached to your letter of September 8, 1989, and places great reliance on the commitment of the Korean Government to implement fully the scientific monitoring and regulatory programs outlined for the 1989 and 1990 fishing seasons.

Our participation in the described programs should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by vessels from the Republic of Korea.

Sincerely,

Edward E. Wolfe
Deputy Assistant Secretary
Oceans and Fisheries Affairs
U.S. Department of State

Sincerely,

James E. Douglas, Jr.
Acting Assistant Administrator
for Fisheries
U.S. Department of Commerce

Agreement Between the Government of the United States of America and the Government of the Republic of Korea Regarding High Seas Driftnet Fisheries in the North Pacific Ocean for the 1991 Fishing Season and Period Through June 1992, Washington, 1991

Done at Washington 24 April 1991, 8 May 1991, and 7 August 1991

*Entered into force 7 August 1991**

Primary source citation: Copy of text provided by the U.S. Department of State

NATIONAL FISHERIES ADMINISTRATION
REPUBLIC OF KOREA
Daewoo Center Bldg.
541, 5-Ga, Namdaemoon-Ro
Seoul
Cable: FISHROK
Telex: FISHROK K24719.

April 24, 1991

Mr. David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for Fisheries
National Marine Fisheries Service
Department of Commerce

Dear Mr. Colson and Dr. Fox:

Recalling the general principle of international law that high seas fisheries shall be conducted and managed under the responsibility and initiative of the flag state and in light of the U.S. concern about the possible incidental taking of the U.S. origin anadromous species of fish by driftnet vessels in the high seas of the North Pacific Ocean,

* This Agreement expired on 31 December 1992.

I wish to inform you that the Korean Government will implement the enclosed Regulatory Program and Monitoring Program on the Korean squid drift fishery for time periods outlined in the enclosed documents.

Sincerely,

Hee Soo Lee
Deputy Administrator

Enclosures:
Annex I
Annex II

Annex I

REGULATORY PROGRAM OF THE REPUBLIC OF KOREA ON THE KOREAN SQUID DRIFTNET FISHERIES FOR THE 1991 FISHING SEASON AND PERIOD THROUGH JUNE 1992

The Government of the Republic of Korea adopted regulatory measures in 1984, which have been intensified as of July 1, 1989 as follows:

1. No driftnet vessel may operate in the North Pacific without a license issued by the appropriate Korean authorities. (No more than 160 driftnet vessel licenses will be issued in 1991.)

2. Fishing grounds are limited by time and area.

3. Driftnet vessels are prohibited from retaining anadromous species, even those taken incidentally.

4. Nets may not be discarded.

5. Vessels must display name, registration number, and hull number.

6. Mesh size is restricted to 86 mm or larger.

7. Fishing gear must be marked for identification.

8. Vessels must report weekly their daily noon positions.

9. Vessels must submit catch and effort data.

10. Catch may be landed only at designated ports, and vessels must be inspected upon landing.

11. Catch may be transferred at sea only with prior approval.

I. No driftnet vessel may harvest anadromous species of fish. Any anadromous species of fish incidentally taken in the driftnet fishery are to be immediately returned to the water and included in catch records outlined in Annex II, Paragraph 9(a). All Korean driftnet vessels are to adhere to the following while operating beyond national 200-mile zones.

(a) Each squid driftnet vessel seeking to operate in the North Pacific Ocean will have a license issued by the appropriate Korean authorities.

(b) Each squid driftnet vessel will report to the appropriate Korean authorities when it begins and ceases its seasonal fishing operations on the fishing grounds.

(c) Except for transiting from Korea to the squid fishing grounds and returning to Korea, each driftnet vessel is permitted to conduct activities only in the area west of 145 degrees W longitude and south of the following monthly northern most latitudinal lines of the fishery:

For the area between 160 degrees E and 170 degrees E longitude:

January through April	Latitude 36 degrees N
May	Latitude 38 degrees N
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

For the area between 170 degrees E and 145 degrees W longitude:

December through April	Closed to fishing
May	Latitude 37 degrees N
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N

(d) Before the beginning of the 1991 fishing season, all Korean large-scale driftnet vessels that operate in the North Pacific Ocean beyond the national 200-mile zone of the flag state will be equipped with transmitters that will allow automatic, real-time monitoring by both parties of the location and identity of the vessels at all times while at sea beyond the exclusive economic zone of the flag state. All costs associated with the purchase, installation and operation of the transmitters will be borne by the Korean side. Real-time vessel location and identification data and information from the satellite transmitters will be made available to each side under its separate contract with the CLS service Argos at its own expense.

(e) All marine resources harvested by Korean driftnet vessels must be landed in designated Korean ports. The appropriate Korean authorities will continue a port inspection program to monitor landings from all driftnet vessels and squid transport vessels at all designated Korean ports. The following conditions will apply to at-sea transfers:

(1) Catches may only be transferred to vessels managed by Korean companies. Before the beginning of the 1991 fishing season, all such transport vessels operating in the North Pacific must be equipped with transmitters monitored by both parties;

(2) Korean authorities will provide U.S. authorities with a list of the transport vessels;

(3) The transport vessels, after receiving transfers from squid driftnet vessels in the North Pacific fishing grounds, will navigate directly to the designated Korean ports;

(4) When a transport vessel intends to carry on an at-sea transfer, prior permission must be obtained from the appropriate Korean authorities. These authorities will promptly forward this information to the appropriate U.S. authorities prior to transfer;

(5) Detailed records will be kept by all squid transport vessels in connection with the at-sea transfers they carry on, including the name of the fishing vessel from which the transfer is received and the quantity of squid. Upon return of the transport vessel to the designated Korean port, the vessel will immediately report to the competent Korean authorities for inspection.

(f) Each driftnet vessel will be assigned an international radio call sign (IRCS), which is to be displayed amidships on both the port and starboard sides of the deckhouse or hull, and on a weather deck, in a color in contrast to the

background and permanently affixed to the vessel in block Roman alphabet letters and Arabic numerals at least one meter in height. Where the vessel size and/or configuration do not permit display of one meter high letters and numerals, the letters and numerals shall be as large as possible, but no less than 50 centimeters in height.

(g) Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at each 50 meter interval of net with the name of the vessel and its corresponding IRCS call sign. Vessels must be prohibited from discarding used or damaged driftnets and related gear while at sea. Such fishing equipment is to be stowed on the vessel and returned to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the appropriate Korean authorities.

(h) Korean authorities will extend every possible effort to take advantage of any practical new technology using biodegradable net materials, which break into segments that do not represent a significant threat to living marine resources, that may become available. U.S. authorities will provide to the Korean side any useful information regarding the development of biodegradable net materials.

II. With regard to Paragraph I(a) of this Annex, the Korean authorities will provide U.S. authorities with a list of licensed vessels, including name, corresponding IRCS numbers, transmitter ID number, sample photographs, and a brief standard description of characteristics and configurations which would readily identify the different types of Korean driftnet vessels.

III. Korean authorities will conduct surveillance and boardings of Korean driftnet vessels, both dockside and at sea. The appropriate Korean and U.S. authorities will coordinate communications between their respective patrol units. At a minimum, the Korean authorities will provide a continuous presence of one dedicated patrol vessel on the fishing grounds during the 1991 fishing season, and two dedicated patrol vessels during June, July and August. During January–June 1992, an enforcement presence at sea will be maintained comparable to that during the same period in 1991, unless violations indicate otherwise.

IV. Korea and the United States may exchange their appropriate officials to facilitate their respective enforcement and surveillance activities of the driftnet fishery. These exchanges may include:

(a) participation by the appropriate U.S. officials on Korean enforcement cruises;

(b) participation by the appropriate Korean officials on U.S. surveillance flights.

V. Korean authorities will apply sanctions to punish violations of the above regulations adequately. Korean authorities will provide the appropriate U.S. authorities with planned regulatory activities before the fishing season begins. Korean authorities will provide an outline of Korean regulatory activities at the end of the fishing season on the patrols conducted, violations detected, and sanctions imposed. The outline of Korean regulatory activities will include valuations of non-monetary sanctions such as suspended licenses or mandatory in-port periods.

VI. Korean authorities will utilize to the maximum extent the information supplied by U.S. authorities indicating alleged violations by the Korean squid driftnet fishing and transport vessels in investigation and identification of the violator.

VII. The Korean authorities will review their regulatory measures regarding the reflagging of Korean driftnet vessels.

Annex II

MONITORING PROGRAM OF THE REPUBLIC OF KOREA ON THE KOREAN SQUID DRIFTNET FISHERY FOR 1991 FISHING SEASON

The arrangements described below represent a monitoring program to be implemented in cooperation with U.S. scientists intended to provide information on Korean driftnet fishery operations and catches in the North Pacific Ocean. Under this program, the Korean Government will require each driftnet vessel to collect data on catches of target and non-target species, and Korean and U.S. scientific observers will be deployed on Korean driftnet vessels.

The following paragraphs outline the process for collecting, handling and providing data by Korean and U.S. scientific observers aboard Korean commercial driftnet vessels and by Korean vessels.

1. MONITORING DURING THE 1991 FISHING SEASON:

The Korean Government will implement a cooperative monitoring program with the United States in 1991 with the objective of obtaining statistically reliable data on the catch of target and non-target species by Korean driftnet fisheries in the North Pacific Ocean. The Korean Government will provide by April 1, 1991 the names of a sufficient number of vessels which are fully seaworthy and equipped to maintain the health and safety of scientific observers who will participate in the 1991 monitoring programs. The 1991 program will include the following:

At least 13 U.S. and 13 Korean scientific observers will be deployed aboard 26 Korean commercial driftnet vessels to observe 45 or more driftnet retrievals on each vessel;

2. DATA COLLECTION, AND AGREED PROCEDURES:

A. Data to be Collected: For each operation, observers will collect the following data according to standardized procedures and format:

(a) Information on fishing methods including net mesh-sizes, method of net deployment (i.e., whether the vessel fished individually or in conjunction with other vessels), depth of the top of the net from the water surface, total net depth from corkline to lead line, true compass direction of the set, length (m) of a pok of net (as measured by the observer), number of poks per net section, number and arrangement of net sections deployed per net set, and poks of net lost or discarded, description of net materials, number of driftnet vessels fishing in an array and number of such arrays in the area (within 15 nm of the observer vessel as determined from the radio officer's daily "array chart" and RADAR);

(b) Environmental conditions at the beginning and again at the ending of each net deployment, including: surface water temperatures, weather conditions (wind speed and direction), and sea condition (swell height);

(c) Date and location of net at the time of the beginning and the end of the set and at retrieval to nearest minute of latitude and longitude as recorded by the scientific observer directly from the navigation equipment;

(d) Catches and take of all species, including target species and incidental take species, recorded by each net section observed. Dropout rates will be recorded by U.S. observers according to the procedures as described in section B. below.

(e) The vertical distribution of seabirds and seabird prey species (such as squid, saury, and pomfret) in the net webbing may be recorded by net section.

(f) Observers will record biological information from any salmonid incidentally caught. For the 1991 observer program, this information will include the taking of scale samples, species determination, sex, fork length measurement and the collection of snouts from all salmonids missing the adipose fin. Gonad weight will be measured whenever feasible. After sampling the salmonids will be returned to the water, in compliance with domestic regulations. All salmonid information will be exchanged by the appropriate authorities of ROK and the United States by February 1, 1992.

(g) Observers will record biological information from any sea turtles caught. Carapace measurements will be taken whenever feasible. Whenever conditions permit, turtles taken alive will be freed from net or net fragments, tagged by the observer, and released. Turtles taken aboard dead may be dissected for examination of stomach contents and collection of organs or tissue samples. All biological data from sea turtles will be exchanged by the appropriate authorities of ROK and the United States by April 1, 1992.

(h) Observers will record biological information and collect biological samples including length measurements from flying squid, albacore and other tunas, billfishes, sharks, and other non-salmonid fishes. All biological data from squid and non-salmonid finfishes will be exchanged by the appropriate authorities of ROK and the United States by April 1, 1992.

(i) Observers will record biological information and collect biological samples according to the agreed procedures from marine mammals incidentally caught. The data will include species, sex, body length, lactation, pregnancy, fetal length and sex. The samples will include stomachs, tissues, skulls, teeth and reproductive organs. These data will be exchanged by the appropriate authorities of ROK and the United States by April 1, 1992.

(j) Observers will record biological information and collect biological samples from sea birds incidentally caught according to the agreed procedures. The data will include species, color phase, age, brood patch, culman length, wing length, molt, stomach contents, sex, weight and the collection of and information on, all recovered tags and bands. One whole specimen of each species may be retained and frozen as a voucher specimen by each observer. These data will be exchanged by the appropriate authorities of ROK and the United States by April 1, 1992.

(k) Observers may record data on sightings of marine mammals and seabirds when the vessel is in transit to a new fishing location. The data will include standard sighting information such as location, environmental conditions, species sighted, number of animals sighted, distance from the vessel, etc. Such sighting activity is not to alter the course or interrupt in any way the normal operations of the vessel, except that access to information on the vessel's position and environmental conditions will be assured.

(l) Secure freezer space adequate (up to 2 m^3 for vessels of 100 gross tons or larger and 1 m^3 for vessels smaller than 100 gross tons) to hold biological samples and specimens will be available for the observer. Specimens will be promptly removed from the ship's freezers upon the vessel's arrival in port.

(m) Observers, without neglecting their duties aboard the host vessel as described herein, may record observations of the fishing operations of vessels from other nations. This activity will consist of visual observation and recording of a description of activities observed and is not intended to disrupt or divert the host vessel in any way from its normal fishing activities. These data will be exchanged by the appropriate authorities of ROK and the United States at the same time as other observer information is exchanged following return of observers to port.

(n) The vessel captain will provide to the observer information on the quantities of albacore, other species of tuna, swordfish, marlin, and sharks retained by the vessel and the quantities discarded. For the days the observer is aboard the vessel, information will also be provided with regard to on board processing of major species including a description of the various processed forms. In a manner not to interfere with efficient operations of the vessel, observers may collect data to determine the size composition of albacore and other species discarded by the vessel, the size composition of those retained by the vessel, and the relative weights of whole fish and the various processed forms. Guidelines for size composition sampling are described in the official field manual.

B. Agreed Procedures

Detailed procedures for biological sampling and specific sampling requirements are described fully in the official observer field manual. The general procedures for catch and bycatch data collection and sampling agreed upon by scientists of ROK and U.S. are as follows:

1. Catch and Bycatch Data Collection Procedures:

(a) Number of sections to be observed for catch and bycatch records on all animal species: four of every six sections will be randomly selected for monitoring.

(b) Observers do not work on non-fishing days. Should a vessel fish continuously for many days, the observers may take every 6th consecutive fishing day off.

(c) Although field data collection forms may differ, all observers will collect data on common variables.

(d) The computer file of observer data should be common among the two countries at the section level of resolution.

2. Sampling and Biological Measurements:

Due to the great variety of specialized sampling tasks, certain tasks identified in the official observer field manual will performed routinely by all observers. Other more specialized sampling tasks may be assigned only to designated observers. R.O.K. authorities will extend every possible effort to ensure that all biological sampling tasks are supported.

(a) Sampling and biological measurements will be done on observed days and observed sections. Sampling should not be done on off duty days and non-observed sections.

(b) For salmonids, species, fork length and sex will be recorded and scale samples will be taken. Gonad weight may be measured. For salmonids missing the adipose fin, snouts will be collected.

(c) For marine mammals all observers will record species, sex, body length, and note if females are pregnant and lactating. Sampling of internal organs will only be performed by marine mammal experts on board vessels of more than 300 gross tons.

(d) For sea birds, the number of incidental take by species will be recorded. Each observer will preserve one specimen of each species during each cruise. Detailed biological measurements and dissection may be done by sea bird experts.

(e) For albacore and other non-salmonid fishes, fork length or eye length measurements will be taken for the first 30 individuals (minimum) of each species caught each week. All observers will freeze a sample of (whole) albacore less than 30 cm fork length and retain them as biological specimens.

(f) For flying squid, designated observers will measure the mantle lengths of 30 flying squid randomly sampled from a single observed section each day. A small number of squid specimens will be measured, weighted, and dissected for studies of age and growth and reproductive biology.

(g) For sea turtles, carapace lengths will be measured on all turtles taken aboard. Stomach or stomach contents will be dissected from dead turtles longer than 35 cm carapace length and frozen. A sample of dead turtles less than 35 cm carapace length will be frozen whole and retained as biological specimens. All turtles taken aboard alive will be measured, photographed, tagged, and released.

3. All data identified in section 2 "Data collection and agreed procedures" will be recorded daily onto a data form. These forms will be duplicated and exchanged between the parties within 30 days after the Korean and U.S. scientific observers return to port.

4. Total fishing effort and the total catch in numbers of salmonids and in metric tons of animals of the driftnet fleets will be compiled by 10-day period and month and 1° x 1° statistical areas, for the following species: flying squid, albacore, skipjack tuna, swordfish, marlin, yellowtail, pomfret, sharks, and other fishes. Such data shall be provided to the appropriate authorities of the United States by May 30, 1992. The number of vessels by type are also to be provided to the appropriate authorities of the United States by May 30, 1992. Three measures of effort are to be reported for the fishery: the cumulative number of standardized poks (50m standard pok length), number of vessels fishing and vessel days of operations.

5. Using 1991 observer data and any other pertinent data such as logbook data which is acceptable to both sides, the appropriate organizations of the two sides will jointly compile a preliminary data set of average catch rates of all species by April 1, 1992. To facilitate the compilation of the preliminary data set, Korean and U.S. scientists will meet at an agreed upon location. A report, which includes the data set and which reviews all the data identified in section 2 "Data collection and agreed procedures" collected by Korean and U.S. scientific observers during 1991, will be jointly produced by May 31, 1992. If there are disagreements between the two sides pertaining to report, the differences will be presented therein.

6. All observed field data per set will not be opened to the public. The final report of the observations made by the scientific observers will not be opened to the public until its completion as specified in paragraph 5.

7. Logistical arrangements necessary to implement the 1991 program outlined above, including, inter alia, the selection of the host fishing vessel, probable fishing areas and periods of observation, and the schedule of transport vessels used to embark and disembark the observer are agreed to in the "Arrangement Between the National Fisheries Research and Development Agency of the Republic of Korea (ROK) and the National Marine Fisheries Service Alaska Fisheries Science Center of the United States Regarding Implementation of Monitoring Program of the ROK on the Korean High Seas Squid Driftnet Fisheries for the 1991 Fishing Season" signed by on

8. The scientific observers will take all reasonable measures to ensure minimum interference with the fishing activities of the host vessels.

9. The Korean Government will require squid driftnet vessels operating in the North Pacific Ocean to gather and report catch data as follows:

(a) Each driftnet vessel must maintain 10-day records of harvests of target species, incidental takes of anadromous species, marine mammals, seabirds, and other living marine resources, and fishing effort, delineated by 1 degree latitude and 1 degree longitude areas, and provide such fishery records to the appropriate Korean authorities at the end of the fishing season.

(b) Each driftnet vessel must validate the time and the location of catch and fishing effort, including the use of location records from an automatic navigation system, and will report such data to the appropriate Korean authorities. Driftnet vessels with Naval Navigation Satellite System (NNSS) equipment capable of printing a record of location will be required to record their daily noon position on printed tape.

10. Korean authorities will compile the data specified in paragraph 9(a) by May 30, 1992 so that both sides may cooperatively monitor scientific aspects of the fishery. Korean authorities will compile the data specified in paragraph 9.(b) and make them available at the request of the appropriate authorities of the United States.

3. RESEARCH COORDINATION

A. Recognizing that the Republic of Korea and the United States are conducting research programs relevant to the interpretation of driftnet fisheries observer data, the range and scope of potential cooperation in these programs should be thoroughly considered prior to implementations of the 1991 driftnet fisheries observer program. Korean and U.S. scientists familiar with these programs will exchange views on potential collaboration.

Discussions will include:

(a) current and anticipated research on the biology and population dynamics of species taken in the North Pacific driftnet fisheries;

(b) current and anticipated research on the physical and biological oceanography of the high seas driftnet fishing area;

(c) current and anticipated research plans and development of fisheries technologies relevant to driftnet fisheries and the avoidance of non-target species; and

(d) research vessel and chartered fishing vessel activities for the North Pacific high seas region in 1991.

B. A report on results of the 1991 research cruises in the driftnet fishing areas will be provided to the appropriate authorities of the Republic of Korea and the United States within 90 days after the completion of the cruises.

C. Reports of results of other research related to the high seas driftnet programs will be provided to the appropriate authorities of the Republic of Korea and the United States upon completion.

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United States Department of State
Bureau of Oceans and International
Environmental and Scientific Affairs
Washington, D.C. 20520

May 8, 1991

Mr. Hee Soo Lee
Deputy Administrator
National Fisheries Administration
Republic of Korea

Dear Mr. Lee:

In view of the general principles of international law that fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, and that all states have the duty to cooperate

with other states in taking measures necessary for the conservation of the living resources of the high seas, the United States welcomes the Korean Government's commitments to take the actions described in the Regulatory Program and Monitoring Program on the Korean squid driftnet fishery, as enclosed in your letter of April 24, 1991, and places great reliance on the commitment of the Korean Government to implement fully the scientific monitoring and regulatory programs outlined for the time periods provided in the Annexes enclosed in your letter.

The U.S. Government reaffirms its support for United Nations General Assembly Resolutions 44/225 and 45/197. We are pleased to participate in programs designed to collect and share scientific data. Our participation in these programs, however, does not signify our satisfaction with, or approval of, the measures described in your letter and Annexes as effective to prevent unacceptable impacts of these fisheries on the living marine resources of the North Pacific or to ensure the conservation of these resources.

Sincerely,

David A. Colson
Deputy Assistant Secretary
Oceans and Fisheries Affairs
Department of State

Dr. William W. Fox, Jr.
Assistant Administrator for
Fisheries
National Marine Fisheries Service
Department of Commerce

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Department of State
Washington

May 8, 1991

The Department of State refers the Embassy of the Republic of Korea to the Record of Understandings between the representatives of the United States and the Republic of Korea regarding Korea's high seas squid driftnet fishery in the North Pacific Ocean. The Department of State further refers to the temporary arrangements outlined in the Record of Understandings.

If the enclosed Record of Understandings is acceptable to the Government of the Republic of Korea, the Department of State proposes that this note and the Embassy of the Republic of Korea's note in reply confirming the acceptance by the Government of the Republic of Korea of the temporary arrangements shall constitute an agreement between the two governments, which shall enter into force on the date of the Embassy of the Republic of Korea's note in reply and shall remain in force through June 30, 1992.

D.A.C.

Enclosure:
Record of Understandings

RECORD OF UNDERSTANDINGS

Representatives of the United States and the Republic of Korea agree to the following temporary arrangements through June 1992:

a) Officials of one party, upon encountering a driftnet vessel of the other party that they desire to visit to verify compliance with driftnet fishing regulations, shall transmit to the appropriate officials of the other party a request to conduct a cooperative visit.

b) If the officials of the other party find that they are unable to join in the cooperative visit and verification, they will cooperate and assist the officials of the requesting party to conduct the visit and verification. In those cases where the on-scene officials of the requesting party find that officials of the other party are not immediately present to join in the visit and verification, the officials of the requesting party will initiate the visit and verification.

c) The visiting officials may verify compliance with driftnet fishing regulations, remove any anadromous species on board, document incidental catches of marine mammals, seabirds, and anadromous species, and take representative samples of those resources.

d) Officials of the party conducting the visit and verification shall take all reasonable measures to ensure a minimum of interference to legitimate fishing operations of the driftnet vessel. The officials will conduct their operations in accordance with applicable rules of international law and practice.

e) Upon arrival of officials of the other party, the officials of the two parties shall jointly continue the visit and verification.

f) If the officials of the other party do not arrive before the officials of the requesting party complete the visit and verification, the authorities of the requesting party will notify promptly the authorities of the other party of the results of the visit and verification and will consult with the authorities of the other party regarding the disposition of the violations detected.

g) When no violation is detected as a result of the verification activities, the visiting officials shall immediately withdraw from the vessel.

h) The appropriate authorities will ensure that the visit and verification procedure for driftnet vessels will also apply to all transport vessels.

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Washington, D.C.

May 8, 1991

The Embassy of the Republic of Korea refers to the Department of State's note dated May 8, 1991, regarding the Record of Understandings and the temporary arrangements outlining enforcement activities contained therein for the Korean squid driftnet fishery for the period through June 30, 1992.

The Government of the Republic of Korea will make every effort to accept the Record of Understandings through an exchange of diplomatic notes. Until such time as the Government of the Republic of Korea has completed its internal procedures and formally accepts the Record of Understandings, the Government of the Republic of Korea will provisionally observe the arrangements outlined in the Record of Understandings.

K.H. Chang
For the Embassy of
The Republic of Korea

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EMBASSY OF THE REPUBLIC OF KOREA
WASHINGTON, D.C.

August 7, 1991

The Embassy of the Republic of Korea has the honor to acknowledge the receipt of the Department of State's note dated May 8, 1991, which reads as follows:

"The Department of State refers the Embassy of the Republic of Korea to the Record of Understandings between the representatives of the United States and the Republic of Korea regarding Korea's high seas squid driftnet fishery

in the North Pacific Ocean. The Department of State further refers to the temporary arrangements outlined in the Record of Understandings.

If the enclosed Record of Understandings is acceptable to the Government of the Republic of Korea, the Department of State proposes that this note and the Embassy of the Republic of Korea's note in reply confirming the acceptance by the Government of the Republic of Korea of the temporary arrangements shall constitute an agreement between the two governments, which shall enter into force on the date of the Embassy of the Republic of Korea's note in reply and shall remain in force through June 30, 1992.

Enclosure:
Record of Understandings

Department of State,
Washington,"

The Embassy of the Republic of Korea has further the honor to accept on behalf of the Government of the Republic of Korea the temporary arrangements outlined in the Record of Understandings, and to agree that the Department of State's note and this note in reply shall constitute an agreement between the two Governments which will enter into force on the date of this note in reply and shall remain in force through June 30, 1992.

Enclosure: Record of Understandings*

K.H. Chang

*See page 3261 for Record of Understandings.

BILATERAL

LITHUANIA

FISHERIES

Agreement Between the Government of the United States of America and the Government of the Republic of Lithuania Concerning Fisheries off the Coasts of the United States, Washington, 1992

Done at Washington 12 November 1992

Not in force

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the Republic of Lithuania (hereafter referred to as "the United States" and "Lithuania", respectively, or "the Parties"),

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Recognizing that the United States has established by Presidential Proclamation of March 10, 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and anadromous species of fish of United States origin; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full

development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of Lithuania for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means all fish within the exclusive economic zone of the United States, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, mollusks, crustaceans, and other forms of marine animal and plant life, other than marine mammals and birds;

3. "fishery" means

   a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b. any fishing for such stocks;

4. "exclusive economic zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

   a. the catching, taking or harvesting of fish;

   b. the attempted catching, taking or harvesting of fish;

   c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d. any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

   a. fishing; or

   b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing; and

7. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Finnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The United States is willing to allow access for fishing vessels of Lithuania to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to fishing vessels of Lithuania in accordance with United States law.

2. The United States shall determine each year, subject to such adjustments as may be appropriate and in accordance with United States law:

a. the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d. the allocation of such portion that may be made available to Lithuania.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include, inter alia:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed; and

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The United States shall notify Lithuania of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to Lithuania and to other countries, the United States will decide on the basis of the factors identified in United States law, including:

1. whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;

2. whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

3. whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nation requires the fish harvested from the exclusive economic zone for its domestic consumption;

5. whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

7. whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources;

8. whether, and to what extent, such nation is cooperating with the United States in matters pertaining to

   a. the implementation of United Nations General Assembly Resolution 46/215 of December, 1991 on Large-scale Pelagic Driftnet Fishing;

   b. the conservation and management of anadromous species; and

   c. the conservation of the pollock resource in the central Bering Sea; and

9. such other matters as the United States deems appropriate.

ARTICLE V

Lithuania shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as facilitating the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into Lithuania, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

Lithuania shall take all necessary measures to ensure:

1. that nationals and vessels of Lithuania refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VII

Lithuania may submit an application to the United States for a permit for each fishing vessel of Lithuania that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall

be prepared and processed in accordance with the Annex, which constitutes an integral part of this Agreement. The United States may require the payment of fees for such permits and for fishing in the exclusive economic zone. While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgement of the United States, vessels or nationals of Lithuania are harvesting United States origin anadromous species at unacceptable levels, or whether Lithuania is failing to take sufficient action to benefit the conservation and development of United States fisheries. Lithuania undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

Lithuania shall ensure that nationals and vessels of Lithuania refrain from harassing, hunting/capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the United States.

ARTICLE IX

Lithuania shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of Lithuania is prominently displayed in the wheel house of such vessel;

2. appropriate position-fixing and identification equipment, as determined by the United States, is installed and maintained in working order on each vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of Lithuania for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5. all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of Lithuania as determined by applicable United States procedures.

ARTICLE X

Lithuania shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of Lithuania that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of Lithuania or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of Lithuania by the authorities of the United States, notification shall be given promptly through diplomatic channels informing Lithuania of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The United States and Lithuania shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The Parties shall cooperate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of Lithuania in the exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. Lithuania shall cooperate with the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States. Lithuania shall similarly provide such economic data as may be requested by the United States.

5. Lithuania shall cooperate with the United States in matters pertaining to the implementation of United Nations General Assembly Resolution 46/215 of December, 1991 on Large-scale Pelagic Driftnet Fishing, the conservation and management of anadromous species, and the conservation of the pollock resource in the central Bering Sea.

ARTICLE XIII

1. The United States and Lithuania shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including cooperation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

2. At the request of either Party any dispute concerning the interpretation or application of this Agreement shall be the subject of consultations between them.

ARTICLE XIV

The United States undertakes to authorize fishing vessels of Lithuania allowed to fish pursuant to this Agreement to enter ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, changing crews, or for such other purposes as may be authorized.

ARTICLE XV

Should the United States indicate to Lithuania that nationals and vessels of the United States wish to engage in fishing in areas within the fisheries jurisdiction of Lithuania, Lithuania shall allow such fishing on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XVI

Nothing contained in the present Agreement shall prejudice:

1. the views of either Party with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries; or,

2. any other international rights and obligations of either Party.

ARTICLE XVII

The Agreement shall apply to the territories of Lithuania, and to the United States, its territories and its possessions.

ARTICLE XVIII

1. This Agreement shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Parties, and shall remain in force until December 31, 1994 unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party six months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Parties two years after its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, in duplicate, this twelfth day of November, 1992 in the English and Lithuanian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Lawrence Eagleburger

FOR THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA:

Aleksandras Abisala

ANNEX

Application and Permit Procedures

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of Lithuania to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. Lithuania may submit an application to the competent authorities of the United States for each fishing vessel of Lithuania that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the United States for that purpose.

2. Any such application shall specify

   a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

   b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel may be requested;

   c. a specification of each fishery in which each vessel wishes to fish;

   d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

   e. the ocean area in which, and the season or period during which, such fishing would be conducted; and

   f. such other relevant information as may be requested, including desired transshipping areas.

3. The United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and shall inform Lithuania of such determinations. The United States reserves the right not to approve applications. If permit applications are disapproved, the United States authorities will inform Lithuania of the reasons for such disapproval.

4. Lithuania shall thereupon notify the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by Lithuania and the payment of any fees, the United States shall approve the application and issue a permit for each fishing vessel of Lithuania, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event Lithuania notifies the United States of its objections to specific conditions and restrictions, the Parties may consult with respect thereto and Lithuania may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the Parties.

BILATERAL

MEXICO

ENVIRONMENT AND NATURAL RESOURCES

Convention Between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals, Mexico City, 1936

Done at Mexico City 7 February 1936

Entered into force 15 March 1937

Primary source citation: 9 Bevans 1017, TS 912

Convention Between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals

Whereas, some of the birds denominated migratory, in their movements cross the United States of America and the United Mexican States, in which countries they live temporarily;

Whereas it is right and proper to protect the said migratory birds, whatever may be their origin, in the United States of America and the United Mexican States, in order that the species may not be exterminated;

Whereas, for this purpose it is necessary to employ adequate measures which will permit a rational utilization of migratory birds for the purposes of sport as well as for food, commerce and industry;

The Governments of the two countries have agreed to conclude a Convention which will satisfy the above mentioned need and to that end have appointed as their respective plenipotentiaries: The Honorable Josephus Daniels representing the President of the United States of America, Franklin D. Roosevelt and the Honorable Eduardo Hay, representing the President of the United Mexican States, General Lázaro Cárdenas, who, having exhibited to each other and found satisfactory their respective full powers, conclude the following Convention:

Article I

In order that the species may not be exterminated, the high contracting parties declare that it is right and proper to protect birds denominated as migratory, whatever may be their origin, which in their movements live temporarily in the United States of America and the United Mexican States, by means of adequate methods which will permit, in so far as the respective high contracting parties may see fit, the utilization of said birds rationally for purposes of sport, food, commerce and industry.

ARTICLE II

The high contracting parties agree to establish laws, regulations and provisions to satisfy the need set forth in the preceding Article, including:

A) The establishment of close seasons, which will prohibit in certain periods of the year the taking of migratory birds, their nests or eggs, as well as their transportation or sale, alive or dead, their products or parts, except when proceeding, with appropriate authorization, from private game farms or when used for scientific purposes, for propagation or for museums.

B) The establishment of refuge zones in which the taking of such birds will be prohibited.

C) The limitation of their hunting to four months in each year, as a maximum, under permits issued by the respective authorities in each case.

D) The establishment of a close season for wild ducks from the tenth of March to the first of September.

E) The prohibition of the killing of migratory insectivorous birds, except when they become injurious to agriculture and constitute plagues, as well as when they come from reserves or game farms: provided however that such birds may be captured alive and used in conformity with the laws of each contracting country.

F) The prohibition of hunting from aircraft.

ARTICLE III

The high contracting parties respectively agree, in addition, not to permit the transportation over the American-Mexican border of migratory birds, dead or alive, their parts or products, without a permit of authorization provided for that purpose by the government of each country, with the understanding that in the case that the said birds, their parts or products are transported from one country to the other without the stipulated authorization, they will be considered as contraband and treated accordingly.

ARTICLE IV

The high contracting parties declare that for the purposes of the present Convention the following birds shall be considered migratory:

MIGRATORY GAME BIRDS

Familia Anatidae
Familia Gruidae
Familia Rallidae
Familia Charadriidae
Familia Scolopacidae
Familia Recurvirostridae
Familia Phalaropodidae
Familia Columbidae

MIGRATORY NON-GAME BIRDS

Familia Cuculidae
Familia Caprimulgidae
Familia Micropodidae
Familia Trochilidae
Familia Picidae
Familia Tyrannidae
Familia Alaudidae
Familia Hirundinidae
Familia Paridae
Familia Certhiidae
Familia Troglodytidae
Familia Turdidae
Familia Mimidae
Familia Sylviidae
Familia Motacillidae
Familia Bombycillidae
Familia Ptilogonatidae
Familia Laniidae
Familia Vireonidae
Familia Compsothlypidae
Familia Icteridae
Familia Thraupidae
Familia Fringillidae

Others which the Presidents of the United States of America and the United Mexican States may determine by common agreement.

ARTICLE V

The high contracting parties agree to apply the stipulations set forth in Article III with respect to the game mammals which live in their respective countries.

ARTICLE VI

This Convention shall be ratified by the high contracting parties in accordance with their constitutional methods and shall remain in force for fifteen years and shall be understood to be extended from year to year if the high contracting parties have not indicated twelve months in advance their intention to terminate it.

The respective plenipotentiaries sign the present Convention in duplicate in English and Spanish, affixing thereto their respective seals, in the City of Mexico, the seventh day of February of 1936.

JOSEPHUS DANIELS [SEAL]

EDUARDO HAY [SEAL]

Agreement Supplementing the Convention for the Protection of Migratory Birds and Game Mammals, Mexico City and Tlatelolco, 1972

Done at Mexico City and Tlatelolco 10 March 1972

Entered into force 10 March 1972

Primary source citation: 23 UST 260, TIAS 7302

EMBASSY OF THE UNITED STATES OF AMERICA
MEXICO CITY

March 10, 1972

His Excellency
RUBEN GONZÁLEZ SOSA
Acting Secretary of Foreign Relations,
México, D. F.

No. 283

EXCELLENCY:

I have the honor to refer to the Convention between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on February 7, 1936, and to conversations between representatives of our two Governments relating to the addition to the list of birds considered migratory for the purposes of the Convention.

Pursuant to authority delegated by the President of the United States, I have the honor to propose that the following additions be made to the list of birds set forth in Article IV of the Convention:

Scientific Name	*English Name*	*Spanish Name*
Accipitridae	Eagles, hawks	Gavilanes, aguilas, aguilillas
Alcedinidae	Kingfishers	Martin Pescador
Alcidae	Auklets, murres, puffins	Pato de noche
Anhingidae	Snake birds	Ahuizote
Aramidae	Limpkins	Totalaca
Ardeidae	Herons, egrets, bitterns	Garzas, garzones
Cathartidae	New World vultures	Zopilotes, auras
Ciconiidae	Stork and wood ibis	Jaribu, Galambae
Corvidae	Ravens, crows, jay	Cuervos, urracas
Diomedeidae	Albatrosses	Albatros
Falconidae	Falcons, hawks	Gavilan, Caracara
Fregatidae	Man-of-war birds	Fragata
Phalacrocoracidae	Cormorant	Cormoran, corvejon
Phoenicopteridae	Flamingo	Flamenco
Gaviidae	Loons	Somorgujos

Scientific Name	*English Name*	*Spanish Name*
Haematopodidae	Oyster catcher	Ostrero
Hydrobatidae	Storm petrels	Petreles
Jacanidae	Jacanas	Cirujano
Laridae	Sea gulls, Terns	Gavioetas, Gallito
Pandionidae	Ospreys	Aguililla pescadora
Pelicanidae	Pelicans	Pelicanos
Phaethontidae	Tropic-birds	Raba de junco
Podicipedidae	Grebes	Zambullidores, Buzos
Procellariidae	Shearwaters	Petreles, Fulmaros
Rynchopidae	Skimmers	Rayador
Sittidae	Nuthatches	Saltapalos
Stercorariidae	Jaeger	Estercorario, Skus
Strigidae	Owls	Tecolote, Lechuza
Sulidae	Boobies, Gannets	Bubias
Threskiornithidae	Spoonbill, ibises	Teoquechol, Cucharera
Tytonidae	Barn owl	Lechuzas
Trogonidae	Trogons	Pabellon, Cuauhtotola

Upon the receipt of a note from Your Excellency indicating that the proposal contained in this note is acceptable to the Government of the United Mexican States, the Government of the United States of America will consider that this note and your reply thereto shall constitute an agreement between the two Governments on this subject, which agreement shall enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

ROBERT H. MCBRIDE

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Translation

UNITED MEXICAN STATES
DEPARTMENT OF FOREIGN RELATIONS
MEXICO

TLATELOLCO, D.F., *March 10, 1972*

His Excellency
ROBERT HENRY MCBRIDE,
Ambassador Extraordinary and Plenipotentiary
of the United States of America,
Mexico, D.F.

501874

MR. AMBASSADOR:

I have the honor to acknowledge receipt of Your Excellency's note No. 283 of today's date, the Spanish translation of which is as follows:

[For the English language text, see page 3280.]

In reply, I am happy to inform Your Excellency that my Government accepts the terms of your note No. 283, transcribed above, and consequently agrees to consider that your note and this note in reply shall constitute an agreement between the Government of the United Mexican States and the Government of the United States of America amending Article 4 of the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on February 7, 1936, which agreement shall enter into force on this date.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

R. GONZÁLEZ S.

Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area, La Paz, 1983

Done at La Paz 14 August 1983;
Annex I and II done at San Diego 18 July 1985;
Annex III done at Washington 12 November 1986;
Annex IV done at Washington 29 January 1987;
Annex V done at Washington 3 October 1989

Entered into force 16 February 1984;
Annex I entered into force 18 July 1985;
Annex II entered into force 29 November 1986;
Annex III entered into force 29 January 1987;
Annex IV entered into force 29 January 1987;
Annex V entered into force 22 August 1990

Primary source citation: TIAS 10827;
Copies of texts of Annexes provided
by the U.S. Department of State

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

The United States of America and the United Mexican States,

RECOGNIZING the importance of a healthful environment to the long-term economic and social well-being of present and future generations of each country as well as of the global community;

RECALLING that the Declaration of the United Nations Conference on the Human Environment, proclaimed in Stockholm in 1972, called upon nations to collaborate to resolve environmental problems of common concern;

NOTING previous agreements and programs providing for environmental cooperation between the two countries;

BELIEVING that such cooperation is of mutual benefit in coping with similar environmental problems in each country;

ACKNOWLEDGING the important work of the International Boundary and Water Commission and the contribution of the agreements concluded between the two countries relating to environmental affairs;

REAFFIRMING their political will to further strengthen and demonstrate the importance attached by both Governments to cooperation on environmental protection and in furtherance of the principle of good neighborliness;

Have agreed as follows:

ARTICLE 1

The United States of America and the United Mexican States, hereinafter referred to as the Parties, agree to cooperate in the field of environmental protection in the border area on the basis of equality, reciprocity and mutual benefit. The objectives of the present Agreement are to establish the basis for cooperation between the Parties for the protection, improvement and conservation of the environment and the problems which affect it, as well as to agree on necessary measures to prevent and control pollution in the border area, and to provide the framework for development of a system of notification for emergency situations. Such objectives shall be pursued without prejudice to the cooperation which the Parties may agree to undertake outside the border area.

ARTICLE 2

The Parties undertake, to the fullest extent practical, to adopt the appropriate measures to prevent, reduce and eliminate sources of pollution in their respective territory which affect the border area of the other.

Additionally, the Parties shall cooperate in the solution of the environmental problems of mutual concern in the border area, in accordance with the provisions of this Agreement.

ARTICLE 3

Pursuant to this Agreement, the Parties may conclude specific arrangements for the solution of common problems in the border area, which may be annexed thereto. Similarly, the Parties may also agree upon annexes to this Agreement on technical matters.

ARTICLE 4

For the purposes of this Agreement, it shall be understood that the "border area" refers to the area situated 100 kilometers on either side of the inland and maritime boundaries between the Parties.

ARTICLE 5

The Parties agree to coordinate their efforts, in conformity with their own national legislation and existing bilateral agreements to address problems of air, land and water pollution in the border area.

ARTICLE 6

To implement this Agreement, the Parties shall consider and, as appropriate, pursue in a coordinated manner practical, legal, institutional and technical measures for protecting the quality of the environment in the border area. Forms of cooperation may include: coordination of national programs; scientific and educational exchanges; environmental monitoring; environmental impact assessment; and periodic exchanges of information and data on likely sources of pollution in their respective territory which may produce environmentally polluting incidents, as defined in an annex to this Agreement.

ARTICLE 7

The Parties shall assess, as appropriate, in accordance with their respective national laws, regulations and policies, projects that may have significant impacts on the environment of the border area, so that appropriate measures may be considered to avoid or mitigate adverse environmental effects.

ARTICLE 8

Each Party designates a national coordinator whose principal functions will be to coordinate and monitor implementation of this Agreement, make recommendations to the Parties, and organize the annual meetings referred to in Article 10, and the meetings of the experts referred to in Article 11. Additional responsibilities of the national coordinators may be agreed to in an annex to this Agreement.

In the case of the United States of America the national coordinator shall be the Environmental Protection Agency, and in the case of Mexico it shall be the Secretaría de Desarrollo Urbano y Ecología, through the Subsecretaría de Ecología.

ARTICLE 9

Taking into account the subjects to be examined jointly, the national coordinators may invite, as appropriate, representatives of federal, state and municipal governments to participate in the meetings provided for in this Agreement. By mutual agreement they may also invite representatives of international governmental or non-governmental organizations who may be able to contribute some element of expertise on problems to be solved.

The national coordinators will determine by mutual agreement the form and manner of participation of non-governmental entities.

ARTICLE 10

The Parties shall hold at a minimum an annual high level meeting to review the manner in which this Agreement is being implemented. These meetings shall take place alternately in the border area of Mexico and the United States of America.

The composition of the delegations which represent each Party, both in these annual meetings as well as in the meetings of experts referred to in Article 11, will be communicated to the other Party through diplomatic channels.

ARTICLE 11

The Parties may, as they deem necessary, convoke meetings of experts for the purposes of coordinating their national programs referred to in Article 6, and of preparing the drafts of the specific arrangements and technical annexes referred to in Article 3.

These meetings of experts may review technical subjects. The opinions of the experts in such meetings shall be communicated by them to the national coordinators, and will serve to advise the Parties on technical matters.

ARTICLE 12

Each Party shall ensure that its national coordinator is informed of activities of its cooperating agencies carried out under this Agreement. Each Party shall also ensure that its national coordinator is informed of the implementation of other agreements concluded between the two Governments concerning matters related to this Agreement. The national coordinators of both Parties will present to the annual meetings a report on the environmental aspects of all joint work conducted under this Agreement and on implementation of other relevant agreements between the Parties, both bilateral and multilateral.

Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the Water Treaty of 1944.

ARTICLE 13

Each Party shall be responsible for informing its border states and for consulting them in accordance with their respective constitutional systems, in relation to matters covered by this Agreement.

ARTICLE 14

Unless otherwise agreed, each Party shall bear the cost of its participation in the implementation of this Agreement, including the expenses of personnel who participate in any activity undertaken on the basis of it.

For the training of personnel, the transfer of equipment and the construction of installations related to the implementation of this Agreement, the Parties may agree on a special modality of financing, taking into account the objectives defined in this Agreement.

ARTICLE 15

The Parties shall facilitate the entry of equipment and personnel related to this Agreement, subject to the laws and regulations of the receiving country.

In order to undertake the monitoring of polluting activities in the border area, the Parties shall undertake consultations relating to the measurement and analysis of polluting elements in the border area.

ARTICLE 16

All technical information obtained through the implementation of this Agreement will be available to both Parties. Such information may be made available to third parties by the mutual agreement of the Parties to this Agreement.

ARTICLE 17

Nothing in this Agreement shall be construed to prejudice other existing or future agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements to which they are a party.

ARTICLE 18

Activities under this Agreement shall be subject to the availability of funds and other resources to each Party and to the applicable laws and regulations in each country.

ARTICLE 19

The present Agreement shall enter into force upon an exchange of Notes stating that each Party has completed its necessary internal procedures.

ARTICLE 20

The present Agreement shall remain in force indefinitely unless one of the Parties notifies the other, through diplomatic channels, of its desire to denounce it, in which case the Agreement will terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any arrangements made under this Agreement.

ARTICLE 21

This Agreement may be amended by the agreement of the Parties.

ARTICLE 22

The adoption of the annexes and of the specific arrangements provided for in Article 3, and the amendments thereto, will be effected by an exchange of Notes.

ARTICLE 23

This Agreement supersedes the exchange of Notes, concluded on June 19, 1978 with the attached Memorandum of Understanding between the Environmental Protection Agency of the United States and the Subsecretariat for Environmental Improvement of Mexico for Cooperation on Environmental Programs and Transboundary Problems.

DONE in duplicate, in the city of La Paz, Baja California, Mexico, on the 14th of August of 1983, in the English and Spanish languages, both texts being equally authentic.

Ronald Reagan

FOR THE UNITED STATES OF AMERICA:

George P. Shultz

De la Madrid

FOR THE UNITED MEXICAN STATES:

B. Sepulveda

JOINT CONTINGENCY PLAN

APPENDIX I

1. On-Scene Coordinator

1.1 As soon as the Agreement enters into force each Party will designate, without waiting for a polluting incident to occur, officials responsible for exercising in its territory the functions and responsibilities described in Section 1.2. Said officials will have the title of "On-Scene Coordinator" (OSC). Each Party will also designate officials who will have advisory and liaison functions. Said officials will have the title of "Advisory and Liaison Coordinator" (ALC). Each Party will divide its territory into areas and will designate OSCs and ALCs for each of those areas.

1.2 The functions and responsibilities of the On-Scene Coordinator will be:

(a) To coordinate and direct measures related to the detection of polluting incidents;

(b) To coordinate and direct response measures;

(c) To authorize the use of dispersants and other chemical products in accordance with their respective laws and national policy, provided that such use:

(i) prevents or substantially reduces the risk to human life and health or the risk of fire;

(ii) prevents or reduces a threat to the environment; or

(iii) appears to be the most effective method to reduce the overall adverse effects of the polluting incident.

(d) To determine the facts concerning the polluting incident, including the nature, quantity and location of the pollutant; the direction and probable time of travel of the pollutant; the available resources and those required; and the potential impacts on public health and welfare and on the environment;

(e) To determine priorities and to decide when to initiate a joint response in accordance with this Agreement;

(f) To notify immediately the two Chairmen of the Joint Response Team (JRT) (see Appendix II) about every polluting incident which has occurred, or which is in imminent danger of occurring, which in the judgement of the OSC may require the initiation of a joint response.

(g) To recommend to the Chairman of the JRT of his country that he formally propose to the Chairman of the JRT of the other Party the initiation of the joint response envisaged in Article VI, for a specific pollution incident;

(h) To make detailed situation reports to the Joint Response Team (JRT) described in Appendix II about all aspects of the polluting incident and of the response operation.

(i) To keep a journal of the events occurring during the polluting incident which will be available to the JRT.

(j) To recommend to the Co-Chairmen of the JRT, after consultation with the ALC, the termination of a joint response action;

(k) To prepare and submit to the JRT, with the advice of the ALC, a final report on each polluting incident, which includes any recommendation for the handling of future incidents;

1.3 If response action is required in the territories of both Parties, the OSC's of both Parties will coordinate the measures to be adopted through the collaboration of both ALC's.

1.4 In accordance with national legislation and as soon as the Agreement enters into force, special customs, immigration and other necessary authorization mechanisms will be sought by each Party.

APPENDIX II

2. Joint Response Team (JRT)

2.1 As soon as the Agreement enters into force, the coordinating authorities of each Party will designate, without waiting for a polluting incident to occur, its members on the JRT and will communicate its designations to the other Party.

2.2 The United States coordinating authorities will designate the U.S. Co-Chairman of the JRT. The Mexican coordinating authorities will designate the Mexican Co-Chairman of the JRT.

2.3 When the JRT meets in the United States of America, the U.S. Co-Chairman will preside. When the JRT meets in Mexico, the Mexican Co-Chairman will preside.

2.4 As soon as the U.S. and Mexican sections of the JRT are designated, the Co-Chairmen jointly will call a first meeting to begin developing procedures for a carrying out of a joint response to a polluting incident. The JRT will meet as many times, both in periodic planning meetings and in emergency meetings, as may be decided by the Co-Chairmen.

2.5 Upon being notified of a polluting incident the Co-Chairmen of the JRT will immediately acknowledge receipt of the notification. They will consult and may decide to formally propose to their respective National Coordinators the initiation of the joint response. If the National Coordinators decide to initiate a joint response, the U.S. National Coordinator shall immediately notify its decision to the United States Department of State and the Mexican National Coordinator shall immediately notify its decision to the Mexican Secretariat of Foreign Relations. Each Party shall promptly notify the other through diplomatic channels whether it agrees to initiate a joint response.

2.6 When the two Parties have agreed to initiate a joint response to a polluting incident, the functions and responsibilities of the JRT will be the following:

(a) Based on the OSC's initial notification, advise the OSC under Appendix I, paragraph 1.2, about measures needed to respond to the incident and what resources under Appendix I, are available to carry out those measures.

(b) To evaluate and make recommendations concerning the measures taken by the OSC.

(c) To provide continuing advice to the OSC.

(d) To consider the journal and reports of the OSC and recommend to the National Coordinators improvements needed in the Plan.

(e) Based on the reports of the OSC, to assess the possible impacts of the polluting incident and to recommend measures necessary to mitigate the adverse effects of such incident.

(f) To take measures to coordinate and use to the maximum the resources which agencies or persons of the United States of America, or of the United Mexican States, or of a third party can contribute.

2.7 The JRT will make decisions by the agreement of the Co-Chairmen.

2.8 Upon the recommendation of the OSC and the ALC to terminate the joint response, the Co-Chairmen shall consult with the National Coordinators and the joint response may be terminated by mutual agreement. The U.S. National Coordinator shall immediately notify the decision to the U.S. Department of State and the Mexican National Coordinator to the Mexican Secretariat of Foreign Relations.

ANNEX I TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES FOR SOLUTION OF THE BORDER SANITATION PROBLEM AT SAN DIEGO, CALIFORNIA - TIJUANA, BAJA CALIFORNIA

Taking note of the extensive discussions held in the last two years between the Governments of the United States of America and the United Mexican States regarding the border sanitation problems in San Diego, California, and Tijuana, Baja California, and cognizant of the obligations adopted by both governments in approving Minute 270 of the International Boundary and Water Commission, United States and Mexico (IBWC), signed April 30, 1985 in Ciudad Juarez, Chihuahua, and the special conditions and recommendations adopted on March 6, 1985 by the Inter-American Development Bank in its loan to the Banco Nacional de Obras y Servicios Publicos, S.A. for the expansion and improvement of the potable water supply and sewerage systems of Tijuana (Document PR-1414), the Governments of the United States of America and the United Mexican States have agreed as follows:

1. That, as provided in Articles 6 and 7 of the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area, and noting Paragraph 7 of the special conditions and recommendations adopted on March 6, 1985 by the Inter-American Development Bank in its loan to the Banco Nacional de Obras y Servicios Publicos, S.A. for the expansion and improvement of the potable water supply and sewerage systems of Tijuana (Document PR-1414), the United States of America and the United Mexican States agree to cooperate in accordance with their prevailing national legislation in order to anticipate and consider the effects and consequences that the works planned may have on environmental conditions in the Tijuana-San Diego zone and, if necessary, agree on a determination of the measures necessary to preserve environmental conditions and ecological processes.

2. That the two governments will hold periodically bilateral consultations through the IBWC in order to address the concerns of both Parties regarding Mexico's plans for the construction of the waste-water treatment facilities included in the second stage of the integrated project.

3. That, as agreed upon in Minute 270, in case of breakdown or interruption in service of the system, Mexico will take special measures to make immediate repairs; and, if Mexico so requests through the IBWC, the United States Section will be responsible for making arrangements so that its country may provide assistance to Mexico in order to ensure that the repairs are carried out immediately through the IBWC and under its supervision.

4. That the two governments will consult immediately on any matter brought to their attention as a result of the joint monitoring of the construction, operation and maintenance of the disposal and treatment facilities conducted by both sections of the IBWC in accordance with Article 2 of the 1944 Water Treaty and Resolution No. 10 of IBWC Minute 270, with a view to taking timely corrective action.

5. Should there develop, despite the best efforts of both parties, sewage spills from Tijuana into the United States, the National Coordinators will consider additional joint actions or measures which each might take in their respective territories to remedy the situation.

Done at San Diego on this 18 day of July, 1985 in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America:

Fitzhugh Green

Clifton G. Metzner, Jr.

For the United Mexican States:

Alicia Barcena

Marco Antonio Alcázar

ANNEX II TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING POLLUTION OF THE ENVIRONMENT ALONG THE INLAND INTERNATIONAL BOUNDARY BY DISCHARGES OF HAZARDOUS SUBSTANCES

The Government of the United States of America and the Government of the United Mexican States;

In recognition of Article 3 of the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area;

Aware of the importance of preserving the environment along the joint inland international boundary;

Recognizing that pollution by hazardous substances causes or may cause damage to the environment along the joint inland boundary and may constitute a threat to the public health and welfare;

Have agreed as follows:

ARTICLE I

For the purpose of this Agreement:

(a) "A polluting incident" means a discharge or the threat of a discharge of any hazardous substance on one side of the inland international boundary of a magnitude which causes, or threatens to cause, imminent and substantial adverse effects on the public health, welfare, or the environment.

(b) "Environment" means the atmosphere, land, and surface and ground water, including the natural resources therein, such as fish, wildlife, forests, crop and rangeland, rivers, streams, aquifers and all other components of the ecosystem.

(c) "Hazardous substances" means elements and compounds which if discharged present or may present an imminent and substantial danger to the public health, welfare or the environment according to the laws of each party and the determination of the Joint Response Team (JRT). The JRT and its responsibilities are defined in Appendix II.

(d) "Border area along the joint inland international boundary" means the non-maritime area which is the area situated 100 km on either side of the inland international boundary.

ARTICLE II

The Parties agree to establish the "United States-Mexico Joint Contingency Plan" (hereafter, "The Plan") regarding polluting incidents of the border area along the joint inland international boundary by discharges of hazardous substances. The object of the Plan is to provide cooperative measures to deal effectively with polluting incidents.

ARTICLE III

The Parties, consistent with their means, commit themselves to the development of response plans designed to permit detection of the existence or the imminent possibility of the occurrence of polluting incidents, within their respective areas and to provide adequate response measures to eliminate to the extent possible the threat posed by such incidents and to minimize any adverse effects on the environment and the public health and welfare.

ARTICLE IV

The coordinating authority for the Plan for the United States of America is the United States Environmental Protection Agency. The coordinating authority for the Plan for the United Mexican States is the Secretaria de Desarrollo Urbano y Ecologia.

ARTICLE V

The Parties will consult and exchange up-to-date information under the Plan.

ARTICLE VI

A joint response with respect to a polluting incident will be implemented upon agreement of the Parties in accordance with the plan. When a joint response is implemented, the measures necessary to respond to the polluting incident will also be determined by agreement of the Parties in accordance with the Plan.

ARTICLE VII

Nothing in this Agreement shall be construed to prejudice other existing or future Agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements to which they are a party.

Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the Water Treaty of 1944.

ARTICLE VIII

The Parties may, through an exchange of notes, add technical Appendices to this Agreement, or amend existing Appendices. The Appendices to this Agreement and any additional agreed Appendices shall form an integral part of the Agreement.

ARTICLE IX

Pursuant to this Agreement, the Parties may conclude specific arrangements for the solution of common problems in the border area.

ARTICLE X

The National Coordinators shall be responsible for the development of an implementation schedule and putting the Plan into effect.

ARTICLE XI

(1) This Agreement shall enter into force upon the date of an exchange of notes informing each Party that the other Party has completed its necessary internal procedures.

(2) The present Agreement shall remain in force indefinitely unless one of the Parties notifies the other, through diplomatic channels, of its desire to denounce it, in which case the Agreement will terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any arrangements made under this Agreement.

Done at San Diego on this 18 day of July, 1985 in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America:

Fitzhugh Green

Clifton G. Metzner, Jr.

For the United Mexican States:

Alicia Barcena

Marco Antonio Alcázar

ANNEX III TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING THE TRANSBOUNDARY SHIPMENTS OF HAZARDOUS WASTES AND HAZARDOUS SUBSTANCES

PREAMBLE

The Government of the United States of America ("the United States"), and the Government of the United Mexican States ("Mexico"), ("the Parties"),

Recognizing that health and environmental damage may result from improper activities associated with hazardous waste;

Realizing the potential risks to public health, property and the environment associated with hazardous substances;

Seeking to ensure that activities associated with the transboundary shipment of hazardous waste are conducted so as to reduce or prevent the risks to public health, property and environmental quality, by effectively cooperating in regard to their export and import;

Seeking also to safeguard the quality of public health, property and environment from unreasonable risks by effectively regulating the export and import of hazardous substances;

Considering that transboundary shipments of hazardous waste and hazardous substances between the Parties, if carried out illegally and thus without the supervision and control of the competent authorities, or if improperly managed could endanger the public health, property and environment, particularly in the United States/Mexico border area;

Recognizing that the close trading relationship and the long common border between the Parties make it necessary to cooperate regarding transboundary shipments of hazardous waste and hazardous substances without unreasonably affecting the trade of goods and services;

Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Recognizing that Article 3 of the Agreement between the Parties on Cooperation for the Protection and Improvement of the Environment in the Border Area of 1983 provides that the Parties may conclude specific arrangements for the solution of common problems in the border area as annexes to that Agreement;

Have agreed as follows:

ARTICLE I

Definitions

1. "Designated Authority" means, in the case of the United States, the Environmental Protection Agency and, in the case of Mexico, the Secretariat of Urban Development and Ecology through the Subsecretariat of Ecology.

2. "Hazardous waste" means any waste, as designated or defined by the applicable designated authority pursuant to national policies, laws or regulations, which if improperly dealt with in activities associated with them, may result in health or environmental damage.

3. "Hazardous substance" means any substance, as designated or defined by the applicable national policies, laws or regulations, including pesticides or chemicals, which when improperly dealt with in activities associated with them, may produce harmful effects to public health, property or the environment, and is banned or severely restricted by the applicable designated authority.

4. "Activities" associated with hazardous waste or hazardous substances means, as applicable, their handling, transportation, treatment, recycling, storage, application, distribution, reuse or other utilization.

5. "Country of export" means the Party from which the transboundary movement of hazardous waste or hazardous substances is to be initiated.

6. "Country of import" means the Party to which the hazardous waste or hazardous substances are to be sent. This does not include "transit", as meaning transport of hazardous waste or hazardous substances through the territory of a Party without being imported through its Customs under applicable laws and regulations.

7. "Consignee" means the facility in the country of import which will ultimately receive the hazardous waste or hazardous substances.

8. "Exporter" means the physical or juridical person, whether public or private, acting on his behalf or as a contractor or subcontractor expressly or implicitly defined as exporter under the national laws and regulations of the country of export which specifically govern hazardous waste or hazardous substances.

9. "Banned or severely restricted" means final regulatory action, as designated or defined by the applicable designated authority, pursuant to national policies, laws or regulations:

a) Prohibiting, cancelling or suspending all or virtually all registered uses of a pesticide for human health or environmental reasons.

b) Prohibiting or severely limiting the manufacture, processing, distribution or use of a chemical for human health or environmental reasons.

ARTICLE II

General Obligations

1. Transboundary shipments of hazardous waste and hazardous substances across the common border of the Parties shall be governed by the terms of this Annex and their domestic laws and regulations.

2. Each Party shall ensure, to the extent practicable, that its domestic laws and regulations are enforced with respect to transboundary shipments of hazardous waste and hazardous substances, and other substances as the Parties may mutually agree through appendices to this Annex, that pose dangers to public health, property and the environment.

3. Each Party shall cooperate in monitoring and spot-checking transboundary shipments across the common border of hazardous waste and hazardous substances to ensure, to the extent practicable, that such shipments conform to the requirements of this Annex and its national laws and regulations. To this effect, a program of cooperation in this area should be concluded through an Appendix to this Annex, including the exchange of information resulting from the monitoring and spot-checking of transboundary shipments which may be useful to the other Party.

HAZARDOUS WASTE

Article III

Notification to the Importing Country

1. The designated authority of the country of export shall notify the designated authority of the country of import of transboundary shipments of hazardous waste for which the consent of the country of import is required under the laws or regulations of the country of export, with a copy of the notification simultaneously sent through diplomatic channels.

2. The notification referred to in paragraph 1 of this Article shall be given at least 45 days in advance of the planned date of export and may cover an individual shipment or a series of shipments extending over a twelve-month or lesser period and shall contain the following information for each shipment:

a) The exporter's name, address, telephone number, identification number and other relevant data required in the country of export.

b) By consignee, for each hazardous waste type:

i) A description of the hazardous waste to be exported, as identified by the waste identification number(s) and the shipping description(s) required in the country of export.

ii) The estimated frequency or rate at which such waste is to be exported and the period time over which such waste is to be exported.

iii) The estimated total quantity of the hazardous waste in units as specified by the manifest or documents required in the country of export.

iv) The point of entry into the country of import.

v) The means of transportation, including the mode of transportation and the type of container involved.

vi) A description of the treatment or storage to which the waste will be subjected in the country of import.

vii) The name and site address of the consignee.

3. In order to facilitate compliance with the requirements of the importing country for the exporter to provide information and documents additional to those described in paragraph 2 of this Article, the designated authority of the exporting country will cooperate by making such requirements for information and documents known to the exporter. To that end, the country of import may list such additional required information and documents in appendices to this Annex.

4. The designated authority of the country of import shall have 45 days from the date of acknowledgement of receipt of the notification provided in paragraph 1 of this Article within which to respond to such notification, indicating its consent, with or without conditions, or its objection to the export.

5. The country of import shall have the right to amend the terms of the proposed shipment contained in the notification in order to give its consent.

6. The consent of the country of import provided pursuant to paragraphs 4 and 5 of this Article, may be withdrawn or modified at any time, pursuant to the national policies, laws or regulations of the country of import.

7. Whenever the designated authority of a country of export requires notification of or is otherwise aware of a transboundary shipment that will be transported through the territory of the other Party, it shall, in accordance with its national laws and regulations, notify that Party.

ARTICLE IV

Readmission of Exports

The country of export shall readmit any shipment of hazardous waste that may be returned for any reason by the country of import.

HAZARDOUS SUBSTANCES

Article V

Notification of Regulatory Actions

1. When a Party has banned or severely restricted a pesticide or chemical, its designated authority shall notify the designated authority of the other Party that such action has been taken either directly or through an appropriate intergovernmental organization.

2. The notice referred to in paragraph 1 of this Article shall contain the following information, if available:

(a) the name of the pesticide or chemical that is the object of the regulatory action;

(b) a concise summary of the regulatory action taken, including the timetable for any further actions that are planned. If the regulatory action bans or restricts certain uses but allows other uses, such information should be included;

(c) a concise summary of the reason for the regulatory action, including an indication of the potential risks to human health or the environment that are the grounds for the action;

(d) information concerning registered pesticides or substitute chemicals that could be used in lieu of the banned or severely restricted pesticide or chemical;

(e) the name and address of the contact point to which a request for further information should be addressed.

ARTICLE VI

Notification of Exports

1. If the country of export becomes aware that an export of a hazardous substance to the country of import is occurring, the designated authority of the country of export shall notify the designated authority of the country of import.

2. The purpose of such notice shall be to remind the country of import of the notification regarding regulatory action provided pursuant to Article 5 and to alert it to the fact that the export is occurring.

3. The notice referred to in paragraph 1 of this Article shall contain the following information, if available:

(a) the name of the exported hazardous substance;

(b) for banned or severely restricted chemicals, approximate date(s) of the export;

(c) a copy of, or reference to, the information provided at the time of the notification of the regulatory action;

(d) name and address of the contact point for further information.

ARTICLE VII

Timing of the Notifications

1. Notification of regulatory actions, required pursuant to Article 5, shall be transmitted as soon as practicable after the regulatory action has been taken, and in any event not later than 90 days following the taking of such action.

2. When a Party has banned or severely restricted chemicals or pesticides prior to the entry into force of this Annex, its designated authority shall provide an inventory of such prior regulatory actions to the designated authority of the other Party.

3. Notification of exports required pursuant to Article 6, shall be provided at the time the first export of a hazardous substance is occurring to the Country of import following the regulatory action and should recur at the time of the first export of the hazardous substance each subsequent year to that country.

4. When the hazardous substance being exported has been banned or severely restricted prior to the entry into force of this Annex, the first export following the regulatory action shall be considered to be the first export following the provision of the inventory referred to in paragraph 2 of this Article.

ARTICLE VIII

Compliance with Requirements in the Importing Country

In order to facilitate compliance with the requirements in the importing country for the import of hazardous substances, the designated authority of the country of export will cooperate by making such requirements, including expected information and documents, known to the exporter. To that end, the country of import may list such requirements, information and documents in appendices to this Annex.

ARTICLE IX

Readmission of Exports

The country of export shall readmit any shipment of hazardous substances that was not lawfully imported into the country of import.

GENERAL PROVISIONS

Article X

Additional Arrangements

1. The Parties shall consider and, as appropriate, establish additional arrangements to mitigate or avoid adverse effects on health, property and the environment from improper activities associated with hazardous waste and hazardous substances. Such arrangements may include the sharing of research data as well as the definition of criteria regarding imminent and substantial endangerment and emergency responses, and may be included in appendices to this Annex.

2. The Parties shall consult regarding experience with transboundary shipments of hazardous wastes and hazardous substances and, as problems are identified in the special circumstances of the United States-Mexico border relationship may include through appendices to this Annex, additional cooperation and mutual obligations aimed at achieving when necessary a more stringent control of transboundary shipments, such as provisions to bring uniformity in those relating to both hazardous wastes and hazardous substances regarding compulsory notification to and consent by the importing country for each transboundary shipment, as may become permitted by new national laws and regulations adopted by the Parties.

ARTICLE XI

Hazardous Waste Generated From Raw Materials Admitted In-Bond

Hazardous waste generated in the processes of economic production, manufacturing, processing or repair, for which raw materials were utilized and temporarily admitted, shall continue to be readmitted by the country of origin of the raw materials in accordance with applicable national policies, laws and regulations.

ARTICLE XII

Information Exchange and Assistance

1. The Parties shall, to the extent practicable, provide to each other mutual assistance designed to increase the capability of each Party to enforce its laws applicable to transboundary shipments of hazardous waste or hazardous substances and to take appropriate action with respect to violations of its laws.

(a) Such assistance may generally include:

(i) the exchange of information;

(ii) the provision of documents, records and reports;

(iii) the facilitating of on-site visits to treatment, storage, or disposal facilities;

(iv) assistance provided or required pursuant to any international agreements or treaties in force with respect to the Parties, or pursuant to any arrangement or practice that might otherwise be applicable;

(v) emergency notification of hazardous situations; and

(vi) other forms of assistance mutually agreed upon by the Parties.

(b) Save in exceptional circumstances, requests for assistance made pursuant to this Article shall be submitted in writing and translated into the language of the requested State.

(c) The requested State shall provide the requesting State with copies of publicly available records of government departments and agencies in the requested State.

(d) The requested State may provide any record or information in the possession of a government office or agency, but not publicly available, to the same extent and under the same conditions as it would be available to its own administrative, law enforcement, or judicial authorities.

2. The Parties may establish in an appendix to this Annex a cooperative program relating to the exchange of scientific, technical, and other information for purposes of the development of their own respective regulatory mechanisms controlling hazardous waste and hazardous substances.

ARTICLE XIII

Protection of Confidential Information

The Parties shall adopt procedures to protect the confidentiality of proprietary or sensitive information conveyed pursuant to this Annex, when such procedures do not already exist.

ARTICLE XIV

Damages

1. The country of import may require, as a condition of entry, that any transboundary shipment of hazardous waste or hazardous substances be covered by insurance, bond or other appropriate and effective guarantee.

2. Whenever a transboundary shipment of hazardous waste or hazardous substances is carried out in violation of this Annex, of the national laws and regulations of the Parties, or of the conditions to which the authorization for import was subject, or whenever the hazardous waste or hazardous substances produce damages to public health, property or the environment in the country of import, the competent authorities of the country of export shall take all practicable measures and initiate and carry out all pertinent legal actions that they are legally competent to undertake, so that when applicable in accordance with its national laws and regulations the physical or juridical persons involved:

a) return the hazardous waste or hazardous substances to the country of export;

b) return in as much as practicable the status quo ante of the affected ecosystem;

c) repair, through compensation, the damages caused to persons, property or the environment. The country of import shall also take, for the same purposes, all practicable measures and initiate and carry out all pertinent legal actions that its authorities are legally competent to undertake.

The country of export shall report to the country of import all measures and legal actions undertaken in the framework of this paragraph, and shall cooperate with the country of import, on the basis of this Annex or of other bilateral treaties and agreements in force between the Parties, and to the extent permitted by its national laws and regulations, to seek in its courts the satisfaction of those matters covered in subparagraphs a) to c) of this paragraph.

3. The provisions of this Annex shall not be deemed to abridge or prejudice the Parties' national laws concerning transboundary shipments, or liability or compensation for damages resulting from activities associated with hazardous waste and hazardous substances.

ARTICLE XV

Effect On Other Instruments

1. Nothing in this Annex shall be construed to prejudice other existing or future agreements concluded between the Parties, or affect the rights or obligations of the Parties under international agreements to which they are Party.

2. The provisions of this Annex shall, in particular, not be deemed to prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the 1944 Treaty on the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande.

ARTICLE XVI

Appendices

Any appendices to this Annex may be added through an exchange of diplomatic notes and shall form an integral part of this Annex.

ARTICLE XVII

Amendment

This Annex, and any appendices added hereto, may be amended by mutual agreement of the Parties through an exchange of diplomatic notes.

ARTICLE XVIII

Review

The Parties shall meet at least every two years from the date of entry into force of this Annex, at a time and place to be mutually agreed upon, in order to review the effectiveness of its implementation and to agree on whatever individual and joint measures are necessary to improve such effectiveness.

ARTICLE XIX

Entry into Force

This Annex shall enter into force upon an exchange of diplomatic notes between the Parties stating that each Party has completed its necessary internal procedures.

ARTICLE XX

Termination

This Annex shall remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its desire to terminate it, in which case the Annex shall terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any agreements made under this Annex.

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

DONE at Washington, in duplicate, this twelfth day of November, 1986 in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Lee M. Thomas

Richard J. Smith

FOR THE GOVERNMENT OF THE
UNITED MEXICAN STATES:

Comacho Solis

Jorge Espinosa de los Reyes

ANNEX IV TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING TRANSBOUNDARY AIR POLLUTION CAUSED BY COPPER SMELTERS ALONG THEIR COMMON BORDER

PREAMBLE

The Government of the United States of America ("the United States"), and the Government of the United Mexican States ("Mexico"), ("the Parties"),

Recognizing public concern for health and environmental damage resulting from air pollution caused by copper smelters along their common border;

Taking note that such public concern led to consultations between the Parties in the framework of their Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area of 1983 ("the 1983 Agreement");

Taking note also with satisfaction that such consultations led to the taking by each of the Parties, in their respective territories, of measures which will yield an improvement of the air quality in the border area;

Recognizing that the decision in the United States to close the Phelps Dodge copper smelter in Douglas, Arizona, by January 15, 1987, will constitute a significant contribution to the protection of the environment in the border area;

Recognizing also that the efforts already in progress in Mexico to establish a high efficiency plant for the processing of sulphur dioxide to sulphuric acid, in the Mexicana de Cobre La Caridad copper smelter in Nacozari, Sonora, by June 1, 1988, will constitute a significant contribution to the protection of the environment in the border area;

Considering the importance for the Parties to ensure the implementation of the above described measures, as well as the need to contemplate the adoption of other measures to further protect and improve air quality from activities by copper smelters in the border area;

Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Desirous to cooperate effectively to protect public health and welfare from the effects of air pollution caused by copper smelters in the border area; and

Recalling that Article 3 of the 1983 Agreement provides that the Parties may conclude specific arrangements for the solution of common problems in the border area as annexes to that Agreement;

Have agreed as follows:

ARTICLE I

Emissions Reduction Measures

1. The United States undertakes to ensure that in the event that the Phelps Dodge copper smelter in Douglas, Arizona, recommences smelting after January 15, 1987, or that any other copper smelter is established in its side of the border area in the future, such smelter will be subject upon commencement of smelting operations to the taking of effective measures necessary to ensure that sulphur dioxide emissions shall not exceed .065 percent by volume during any six-hour period.

2. In the United States other existing copper smelters in its side of the border area, whether currently operating or not, will continue to be subject to effective control measures necessary to protect the environment from sulphur dioxide emissions, as provided by applicable state and federal law.

3. Mexico undertakes to ensure that operations of the Mexicana de Cobre la Caridad copper smelter in Nacozari, Sonora, after 1 June 1988, or the establishment of any other copper smelter in its side of the border area in the future, will upon commencement of operations be subject to the taking of effective measures necessary to ensure that sulphur dioxide emissions shall not exceed .065 percent by volume during any six-hour period. Until that date, the Nacozari smelter will continue operating at a maximum average sulphur dioxide emissions limit that does not exceed any ambient concentration up to 0.13 parts per million during any twenty-four hour period.

4. Mexico undertakes to ensure that any future expansion of the smelting capacity of the Compania Minera de Cananea copper smelter in Cananea, Sonora, will be subject, at the time of commencement of such expanded operations, to the taking of effective measures to ensure that sulphur dioxide emissions shall not exceed .065 percent by volume during any six-hour period.

5. For the purpose of determining compliance with the .065 emissions limitation established in this Annex,

a) Six-hour average sulphur dioxide concentrations shall be calculated and recorded daily for the four consecutive six-hour periods of each operating day, beginning at 12 a.m.

b) Each six-hour period shall be contiguous one-hour average sulphur dioxide concentrations.

c) One-hour average emissions concentrations shall be computed from four or more data points equally spaced over each one-hour period.

6. The Parties shall endeavor to take, subject to the availability of resources, any other appropriate interim emissions reduction measures intended to protect public health and welfare from air pollution caused by copper smelters in the border area.

ARTICLE II

Emissions Monitoring, Recordkeeping and Reporting Systems

1. Any copper smelter that, in accordance with this Annex, will be required to comply with the emissions limitation of .065 percent by volume during any six-hour period, shall install, operate and maintain continuous emissions monitoring, recordkeeping and reporting systems, on the following bases:

a) For the purpose of monitoring emissions of sulphur dioxide, the monitoring system shall be installed, calibrated and maintained by the owner or operator of any copper smelter to which this Article applies, with zero and span checks to be performed daily and a quality assurance program.

b) For the purpose of recordkeeping, all records of emissions shall be kept for two years following the dates of such emissions, and:

i) Other information to be kept on file may include continuous monitoring system, monitoring device and performance testing measurements, all continuous monitoring system or monitoring device

calibration checks, adjustments or maintenance performed on these systems or devices, and all other information that the competent national authority may require be kept.

ii) The smelter owner or operator shall be required to keep a monthly record of the total smelter charge.

iii) The copper smelter owner or operator shall be required to submit to the competent national authority, on a quarterly basis, written reports of sulphur dioxide emissions that exceed .065 percent by volume during any six-hour period, as well as the following information:

- The magnitude of any emissions which exceed .065 percent by volume during any six-hour period, and the date and time of commencement and completion of each time period of these emissions.

- Specific identification of each six-hour period in which emissions exceed .065 percent by volume during start up, shutdown or malfunctions of the smelter, the nature and cause of any malfunction, if known, and the corrective actions taken.

- The date, time, and duration of each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments.

2. The emissions monitoring, recordkeeping and reporting systems referred to in paragraph 1 of this Article, are aimed at availing each Party with adequate information to enable it to undertake whatever practicable measures are regarded as appropriate, or to enable the Parties to cooperate to that end, and in no way shall such resulting information be interpreted so as to alter the commitments of the Parties specified in Article I of this Annex or in any of its other provisions.

3. The Parties shall consult in order to find effective means of cooperation, to ensure the most immediate means for the prompt and full implementation of the provisions in this Article.

ARTICLE III

Atmospheric Monitoring Facilities

The Parties shall continue to consult concerning their existing atmospheric monitoring facilities located in the border area, and will continue to cooperate to enhance effective monitoring.

ARTICLE IV

Working Group of Technical Experts

1. The Parties confirm the binational body established by the First Annual Meeting of National Coordinators, in the spirit of Article 11 of the 1983 Agreement, of technical experts known as the U.S.-Mexico Air Quality Working Group ("Working Group"). The Working Group shall be co-chaired by officials who shall be appointed by and report to the United States and Mexican Coordinators ("National Coordinators") as provided for under Article 8 of the 1983 Agreement. The Working Group shall meet on a regular basis and shall include participation, as appropriate or necessary, of state and local officials from both countries.

2. The Working Group shall meet at least once every six months to review progress in abating smelter pollution in the border area, as contemplated by this Annex and, if necessary, to make findings on additional corrective measures for recommendation to the National Coordinators. The Working Group shall submit all its recommendations and its evaluation of the Parties' compliance with the terms of this Annex in a bi-annual report to the National Coordinators. The National Coordinators shall, by mutual agreement, implement such recommendations as they deem appropriate.

3. The National Coordinators shall forward all Working Group reports to the respective Foreign Ministries in each country, namely, the Department of State, in the case of the United States, and the Secretariat of External

Relations, in the case of Mexico, and shall recommend, taking into account Working Group reports, such additional action as may be needed to further the purposes of this Annex.

4. The Parties shall, consistent with their respective domestic legislation and regulations, exchange information and data on copper smelters in their respective border states, and also ensure that the Working Group is provided with complete information, including atmospheric and emissions monitoring data in the border area and other information either existing or which may become available as a result of this Annex.

ARTICLE V

Legislative Authority

The Parties will promote legislative authority, as may be necessary, to provide for the abatement of transboundary air pollution caused by copper smelters. The Parties shall continue to consult with respect to these matters.

ARTICLE VI

Effect on Other Instruments

1. Nothing in this Annex shall be construed to prejudice other existing or future agreements concluded between the Parties, or affect the rights or obligations of the Parties under international agreements to which they are Party.

2. The provisions of this Annex shall, in particular, not be deemed to prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the 1944 Treaty on the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande.

ARTICLE VII

Appendices

Any appendices to this Annex may be added through an exchange of diplomatic notes and shall form an integral part of this Annex.

ARTICLE VIII

Amendment

This Annex, and any appendices added hereto, may be amended by mutual agreement of the Parties through an exchange of diplomatic notes.

ARTICLE IX

Review

The Parties shall meet at least every two years from the date of entry into force of this Annex, at a time and place to be mutually agreed upon, in order to review the effectiveness of its implementation and to agree on whatever individual and joint measures are necessary to improve such effectiveness.

ARTICLE X

Entry into Force

This Annex shall enter into force upon an exchange of diplomatic notes between the Parties stating that each Party has completed its necessary internal procedures.

ARTICLE XI

Termination

This Annex shall remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its desire to terminate it, in which case the Annex shall terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any agreements made under this Annex.

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

DONE at Washington, in duplicate, this twenty-ninth day of January, 1987, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

George P. Schultz

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

B. Sepulveda

ANNEX V TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

The Government of the United States of America ("the United States") and the Government of the United Mexican States ("Mexico") ("the Parties"),

Recognizing that health and environmental damage may result from emissions of air pollutants in urban areas;

Realizing that the transport of air pollutants occurs from border cities of the United States to border cities of Mexico and from border cities of Mexico to border cities of the United States;

Seeking to ascertain the magnitude of such air pollutant transport and the physical mechanisms facilitating this transport;

Realizing that certain adjacent areas in the United States and in Mexico fail to meet their countries' respective ambient air quality standards for various pollutants;

Seeking to ensure a reduction in air pollution concentrations for the benefit of their citizens living in urban areas along the United States-Mexico border;

Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction;

Recognizing that Article 3 of the Agreement between the Parties on Cooperation for the Protection and Improvement of the Environment in the Border Area of 1983 ("the 1983 Agreement") provides that the Parties may conclude specific arrangements for the solution of common problems in the border areas as annexes to that Agreement,

Have agreed as follows:

ARTICLE I
DEFINITIONS

1. "Study area" means each specific geographic area of urban air pollution concern which the Parties agree to subject to the requirements of this Annex, as listed in the appendices to this Annex.

2. "Selected pollutants" means those air contaminants chosen by the Parties for each "study area", as listed in the appendices to this Annex.

3. "Major stationary source" means any stationary source with emissions greater than 97 metric tons (100 tons) per year for which there is a specific air pollution control standard in force, any other source with emissions greater than 243 metric tons (250 tons) per year, and any other stationary source which the Parties mutually so designate for the purposes of this Annex.

4. "Air pollution control standards" means technologically-achievable limits for controls on air pollution emissions from stationary sources (e.g., New Source Performance Standards and Limites de Emision para Fuentes Nuevas).

5. "Ambient air quality standards" means critical ambient levels of air pollutants (e.g., the National Ambient Air Quality Standards and la Norma Mexicana de Calidad del Aire).

6. "Mobile sources" means automotive, bus or truck vehicles, off-road vehicles, waterborne vessels, and aircraft.

7. "Area sources" means all emitters of air contaminants other than major stationary sources and mobile sources.

8. "Industrial classification" means a system of classifying various industrial activities by organizing them into comparable types (e.g., the Standard Industrial Classification (SIC) Code and el Sistema Nacional de Informacion de Fuentes Fijas (SNIFF)).

9. "Emission point type" means the small-scale source of pollutant release, namely stack, fugitive, volume, or line.

ARTICLE II
GENERAL OBLIGATIONS

1. For each study area, the Parties shall detail in their respective territory the magnitude of emissions of selected pollutants and the name, type, and location of each source of pollution, if it is a major stationary source.

2. For each study area, the Parties shall identify in their respective territory the nature and magnitude of control requirements, if any, for each major stationary source needed to conform to the air pollution control standards applicable to that source type and shall identify relatively simple and quickly initiated controls and/or changes in management practice to reduce air pollution from each major stationary source not meeting applicable air pollution control standards.

3. For each study area, the Parties shall estimate in their respective territory the emissions of the selected pollutants due to the activities of all mobile and area sources.

4. The Parties shall issue a joint report incorporating their findings under (1), (2), and (3) above within six months of making such findings.

5. Each Party shall, in its territory, perform ambient monitoring of common selected pollutants and meteorological parameters in each study area in such a way as to ascertain the pollution concentrations arising from each separate urban area and those concentrations due to the interaction of pollutants originating from both urban areas.

6. Each Party shall issue reports at agreed-upon intervals of time, but not longer than yearly intervals, detailing the results of monitoring carried out under (5) above.

7. Each Party shall, in its territory, perform monitoring to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. The Parties shall perform the modeling analysis in order to assess accurately the effect of changes in emission levels from each source type within the study area on the ambient concentrations of the related pollutants within the study area.

8. Monitoring in each study area will continue for a period of two years from the commencement of each study, at which point the Parties will decide whether further monitoring is desired.

ARTICLE III
COMPILING AIR POLLUTION EMISSION INVENTORIES AND SOURCE INFORMATION AS OUTLINED IN ARTICLE II

1. For the purposes of Article II, each Party shall compile air pollution emission inventories and source information with respect to its territory.

2. The emission inventories shall be based upon emission factors that are mutually acceptable to both Parties.

3. Each Party shall list the emissions of each major stationary source in its territory in mutually agreed-upon conventional units of measure with the source's address and industrial classification; for each separate emission point in the major stationary source, each Party shall list the emissions, latitude and longitude, emission point type, stack diameter, stack height, stack gas exit velocity, stack gas exit temperature, width, length, and height, where applicable.

4. Utilizing the information obtained under (2) and (3) above, each Party shall identify those major stationary sources in its territory that do not meet applicable air pollution control standards for each selected pollutant. For all such sources, the Parties shall, based upon site visits and/or good engineering practice: (a) identify the type and extent of pollution control equipment which would be required to bring each such source into conformity with applicable air pollution control standards for each selected pollutant; and (b) identify relatively simple and quickly initiated controls and/or changes in management practice to reduce air pollution from each such source. The Parties shall also identify the approximate percentage of emissions reduction of each selected pollutant that would result from such controls and/or changes in management practice. Participants designated by one Party for agreed site visits in the territory of the other Party shall have the status of observers.

ARTICLE IV
PERFORMANCE OF MONITORING AND MODELING AS OUTLINED IN ARTICLE II

1. For the purposes of Article II, each Party shall perform the tasks related to monitoring and modeling with respect to its territory.

2. Each Party shall, in its territory, locate and operate monitors in each study area in numbers sufficient to fulfill the goals of this Annex to assess ambient concentrations of the selected pollutants.

3. Each Party shall, in its territory, locate and operate meteorological stations in numbers sufficient to fulfill the goals of this Annex; these stations shall monitor for the following parameters on a continuous basis: wind speed, wind direction, and temperature.

4. All details relating to the nature, number and placement of the monitoring devices used in (2) and (3) above shall be mutually agreed upon by the Parties.

5. Analysis associated with monitoring and quality assurance shall be conducted in a manner mutually agreed upon by the Parties.

6. The state-of-the-art mathematical modeling analysis shall be either a dispersion modeling analysis or a receptor modeling analysis or both, as mutually agreed upon by the Parties; supplementary analyses may be authorized by mutual consent of the Parties.

ARTICLE V
HARMONIZATION OF STANDARDS

In order to make more effective the implementation of this Annex, the Parties shall jointly explore ways to harmonize, as appropriate, their air pollution control standards and ambient air quality standards in accordance with their respective legal procedures.

ARTICLE VI
PROTECTION OF CONFIDENTIAL INFORMATION

The Parties shall adopt procedures to protect the confidentiality of proprietary or sensitive information conveyed pursuant to this Annex, when such procedures do not already exist.

ARTICLE VII
EFFECT ON OTHER INSTRUMENTS

Nothing in this Annex or its appendices shall be construed to prejudice other existing or future agreements concluded between the Parties, or affect the rights or obligations of the Parties under international agreements to which they are party.

ARTICLE VIII
IMPLEMENTATION

Implementation of this Annex is dependent upon the availability of sufficient funding.

ARTICLE IX
APPENDICES

Appendices to this Annex may be added through an exchange of diplomatic notes and shall form an integral part of this Annex.

ARTICLE X
AMENDMENT

This Annex, and any appendices added hereto, may be amended by mutual agreement of the Parties through an exchange of diplomatic notes.

ARTICLE XI
REVIEW

The National Coordinators under the 1983 Agreement or their designees shall meet at least every year from the date of entry into force of this Annex, at a time and place to be mutually agreed upon, in order to review the effectiveness of its implementation and to agree on whatever individual and joint measures are necessary to improve such effectiveness.

ARTICLE XII
ENTRY INTO FORCE

This Annex shall enter into force after signature when each Party has informed the other through diplomatic note that it has completed the internal procedures necessary for the Annex to enter into force.

ARTICLE XIII
TERMINATION

This Annex shall remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its desire to terminate it, in which case the Annex shall terminate six months after the date of such written notification.

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

Done at Washington, in duplicate, this third day of October, 1989 in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

James A. Baker III

William K. Reilly

FOR THE GOVERNMENT OF THE
UNITED MEXICAN STATES:

Fernando Solana Morales

Patricio Chirinos

APPENDIX

ANNEX V TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

For the purposes of Annex V, the Parties agree to define Study Area "A" as:

> El Paso County, Texas; that part of the State of New Mexico that is both south of latitude 32 degrees 00 minutes North and east of longitude 106 degrees 40 minutes West; and that part of the State of Chihuahua that is both north of latitude 31 degrees 20 minutes North and east of longitude 106 degrees 40 minutes West.

For Study Area "A", the Parties agree to define as selected pollutants the following: ozone, nitrogen oxides, non-methane hydrocarbons, carbon monoxide, sulfur dioxide, particulate matter, and lead.

Memorandum of Understanding Between the National Park Service of the Department of the Interior of the United States of America and the Secretariat of Urban Development and Ecology on Cooperation in Management and Protection of National Parks and Other Protected Natural and Cultural Heritage Sites, Mexico City and Washington, 1988–1989

Done at Mexico City and Washington
30 November 1988 and 24 January 1989

Entered into force 24 January 1989

Primary source citation: Copy of text provided by the U.S. Department of State

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MEMORANDUM OF UNDERSTANDING
between
NATIONAL PARK SERVICE OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES OF AMERICA
and
SECRETARIAT OF URBAN DEVELOPMENT AND ECOLOGY, UNITED MEXICAN STATES
on
Cooperation in Management and Protection of National Parks and Other Protected Natural and Cultural Heritage Sites

Memorandum of Understanding between the National Park Service of the Department of the Interior of the United States of America and the Directorate General for Ecological Conservation of the Natural Resources of the Secretariat of Urban Development and Ecology of the United Mexican States for collaboration in the conservation and management of protected natural areas and cultural heritage resources; the National Park Service of the Department of the Interior of the United States of America, hereinafter referred to as "USNPS", and the Directorate General for

Ecological Conservation of Natural Resources of the Secretariat of Urban Development and Ecology of the United Mexican States, hereinafter referred to as "D.G.C.E.R.N.":

Recognizing the advanced cooperation that exists between USNPS and D.G.C.E.R.N., hereinafter referred to as the "Parties", in the rational use and management of natural resources and the establishment and conservation of protected national areas that are their natural and cultural heritage;

Noting the mutual interest in the establishment and management of national parks and protected areas, that may be close or contiguous to the border, with the purpose of conserving ecosystems and promoting natural and cultural tourism;

Recognizing the advantages of facilitating, coordinating and amplifying efforts in conservation, management, development and research of natural and cultural resources in protected areas of mutual interest to both countries;

Recognizing the mutual interest in strengthening cooperation between the Parties in the exchange of information and informal education activities for the management and operation of parks;

Noting the mutual objectives and interests of the Parties declared in the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere of October 12, 1940; the Agreement on Scientific and Technical Cooperation Between the United States of America and the United States of Mexico of June 15, 1972; the Convention Concerning the Protection of World Cultural and Natural Heritage of November 16, 1972; the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region of March 24, 1983; and, the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area of August 14, 1983;

Recognizing that the conservation policy in force in Mexico contemplates working in coordination and consultation with rural communities to conserve and rationally use and sustain natural areas and their resources, in a fashion that guarantees the preservation of biological diversity and the equilibrium of ecosystems, while at the same time allowing for integrated rural development;

Recognizing that the park policy in force in the U.S. is to conserve the scenery and the natural and cultural resources and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations while, at the same time, expand the role and involvement of citizens and groups in achieving the mission of USNPS and ensuring relationships with those whose lives and traditional practices are affected are considered in planning and management;

Recognizing that the biological diversity found in the two countries and the demographic pressure on natural areas and resources requires the implementation of conservation strategies and techniques unique to each country, seek, nonetheless, the joint development of appropriate strategies that support the maintenance and restoration of biodiversity in both countries, including those regarding the reintroduction of shared indigenous species extirpated in the respective national parks of the United States and Mexico;

The Parties hereby agree to cooperate as set forth in this memorandum:

ARTICLE 1 – This memorandum has as its objective the creation of a framework for the cooperation between the Parties concerning: the conservation of protected natural areas and their biodiversity, the preservation of cultural heritage and natural resources, and when possible recognition of sustainable development alternatives for rural Mexican communities located in those areas, the exploration of strategies for related cooperation with rural communities, citizens groups and scientific and other organizations acceptable to both countries within the legal framework of each country.

ARTICLE 2

1. The Parties will establish a committee to formulate, orient and update cooperative activities to accomplish the objectives outlined in this memorandum. The committee will be chaired by the director of the National Park Service for the United States of America and the Director General for Ecological Conservation of Natural Resources of the United Mexican States.

2. The committee will meet normally on an annual basis and alternating between the two countries, to review proposed and ongoing projects. Documentation for projects to be reviewed, as well as a list of participants, will be

exchanged two months prior to each meeting. The chairmen will decide by mutual consent whether to approve proposed projects and to continue ongoing projects.

3. Administrative procedures for the organization and work of the committee are set forth in the annex to this memorandum and may be amended by the mutual consent of the chairmen.

4. U.S. and Mexican coordinators and co-leaders, established within the Annex, will meet as often as necessary.

ARTICLE 3

1. The forms of cooperative activities under this memorandum may consist of exchanges of information in natural and cultural heritage management and use; equal exchange of information regarding planning, management, and operations of parks and protected heritage sites and planning and conduct of courses, conferences, and symposia pertaining to the same; research in protected areas; personnel exchanges in fields of mutual interest within the scope of ongoing programs of both countries; and other forms of cooperative activities as mutually agreed upon.

2. The specific areas of mutually beneficial interest for cooperative activities may include, but are not limited to:

A. Establishment of natural and cultural heritage areas consistent with the policies and regulations of each country and their conservation, administration, development, and monitoring of protected natural and cultural areas, especially those contiguous to the international boundary.

B. Collaboration between specialized personnel from the Parties in the management, development and administration of protected natural areas; in the research and management of natural and cultural heritage; and, in the planning and design of visitor programs and facilities.

C. Specialized projects related to management of protected natural areas, including, but not limited to, arid and semi-arid environments and marine coastal zones.

D. Exchange of information regarding the goals of this memorandum and in other areas mutually identified and accepted by the Parties.

E. Development of educational and public information focusing on the environment and in understanding protected natural areas and cultural heritage.

F. Completion of studies that will support, among others, the definition and formulation of strategies for the rational and sustainable use of natural resources.

G. Technical cooperation to protect, conserve, and maintain the flora and fauna within shared ecosystems protected by one or both countries.

3. For involvement requested by D.G.C.E.R.N. that extends into subjects outside the scope of the USNPS, the USNPS may, with the consent of D.G.C.E.R.N., and to the extent compatible with existing laws, regulations and policies of the United States of America, endeavor to enlist the participation of other organizations or agencies of the United States of America in the development and implementation of activities within the scope of this memorandum. For involvement requested by USNPS that extends into subjects outside the scope of the D.G.C.E.R.N., the D.G.C.E.R.N. may, with the consent of USNPS, and to the extent compatible with existing laws, regulations and policies of the United Mexican States, endeavor to enlist the participation of other organizations or agencies of the United Mexican States, in the development and implementation of activities within the scope of this memorandum.

ARTICLE 4 – Cooperation under this memorandum will be subject to the availability of funds and personnel of each Party, and to the laws and regulations of each country. The nature and extent of funding of each project will be agreed upon by the Parties before its commencement.

ARTICLE 5 – Information transmitted by one Party to the other Party under this memorandum will be accurate to the best knowledge and belief of the transmitting Party. The transmitting Party does not warrant the suitability of the information transmitted for any particular use of or application by the receiving Party.

ARTICLE 6 – Nothing in this memorandum will be construed to prejudice other existing or future agreements concluded between the governments of the United States of America and the United Mexican States, nor will it affect the rights and obligations of the two governments under international agreements to which they are a party. In particular, nothing will affect the objectives of the Water Treaty of 1944 and other boundary and water treaties and agreements in force between the two governments, nor shall it be understood to prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission.

ARTICLE 7 – This memorandum will enter into force upon signature, and will remain in force for five years. It may be extended or amended by written agreement of the Parties.

This memorandum may be terminated at any time by either Party, upon written notification through diplomatic channels ninety days in advance of such termination. The termination of the memorandum will not affect the validity or duration of projects under this memorandum which are initiated prior to such termination.

Done at Mexico City, on this 30th. day of November, 1988 in duplicate in English and Spanish, both texts being equally authentic.

For the National Park Service
of the U.S. Dept. of Interior

Mr. William Penn Mott, Jr.
Director of U.S. National
Park Service

For the General Directorate
for Ecological Conservation
of Natural Resources of the
Secretariat of Urban
Development and Ecology

Dra. Graciela de la Garza
Director General

WITNESSES

Mr. Charles J. Pilliod, Jr.
Ambassador of the United States
of America to Mexico City

Fis. Sergio Reyes Lujan
Subsecretary of Urban
Development and Ecology

ANNEX

ANNEX TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE NATIONAL PARK SERVICE AND DIRECTORATE GENERAL FOR ECOLOGICAL CONSERVATION OF NATURAL RESOURCES

The National Park Service of the Department of the Interior of the United States of America and the Directorate General for Ecological Conservation of Natural Resources of the Secretariat of Urban Development and Ecology of the United Mexican States hereby agree to the administrative procedures for the organization and work of the Committee as set forth in this Annex.

ARTICLE 1 – The program of cooperative activities between the Parties will consist of projects and sub-projects. Documentation on all proposed and ongoing projects and sub-projects will be exchanged two months prior to each meeting and will be presented at the meetings of the committee for review and approval by mutual consent of the Chairmen. Documentation, in support of proposed projects, may be submitted by either Party and will be comprised of the following information:

- description of the project and sub-projects
- objectives
- methodology to be used in joint development
- calendar of events and date of conclusion

– equipment and personnel required

– estimated costs, itemized budget and methods of financing

All projects will consider and include, when possible, information workshops detailing the actions developed during the project for the personnel of both countries, as part of their structure.

ARTICLE 2 – Each Party will designate a coordinator to monitor the progress of ongoing projects and sub-projects between the meetings of the committee and to prepare for the meetings of the committee.

ARTICLE 3 – Each project and sub-project will be under the supervision of a U.S. and Mexican co-leader, who will be selected respectively by each of the Parties. The co-leaders will be responsible for jointly developing and submitting, to their respective coordinators, documentation in anticipation of upcoming committee meetings. Such documentation will comprise a final report or a report on the status, finances and objectives achieved within each ongoing project and sub-project.

ARTICLE 4 – All joint projects and sub-projects must be approved by the Chairmen of the committee before they can be financed or changed by the coordinators or co-leaders.

ARTICLE 5 – Those projects and sub-projects that, in the view of the Chairmen, require special or urgent consideration, can be reviewed and approved by them at any time by mutual consent.

ARTICLE 6 – Minutes of the meeting will be drafted in duplicate to be signed by the Chairmen. The minutes will contain the proposed program of activities, including the approved cooperative activities, to be carried out between the meetings of the committee, as well as any other matters that have been discussed.

ARTICLE 7 – The minutes of the committee will be transmitted to the mixed commission on scientific and technical cooperation between the United States of America and Mexico.

Agreement Between the Government of the United States of America and the Government of the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Metropolitan Area of Mexico City, Washington, 1989

Done at Washington 3 October 1989

Entered into force 22 August 1990

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE METROPOLITAN AREA OF MEXICO CITY

The Government of the United States of America and the Government of the United Mexican States,

RECOGNIZING the importance of a healthful environment to the long-term economic and social well-being of present and future generations;

NOTING the success of previous agreements and programs providing for environmental cooperation between the two countries;

BELIEVING that the exchange of experience in addressing similar environmental problems in each country constitutes a desirable form of cooperation;

REAFFIRMING their political will further to strengthen and demonstrate the importance attached by both governments to cooperation on environmental protection and in furtherance of the principle of good neighborliness;

ACKNOWLEDGING the health and environmental risks posed by pollution of the air, water and land in the Metropolitan Area of Mexico City;

DESIROUS of facilitating cooperation between the United States Environmental Protection Agency and the Secretariat of Urban Development and Ecology, the Department of the Federal District, and the Government of the State of Mexico of the United Mexican States,

Have agreed as follows:

ARTICLE 1

The Government of the United States of America and the Government of the United Mexican States, hereinafter "the Parties", agree to cooperate in the field of environmental protection in the Metropolitan Area of Mexico City, hereinafter "Metropolitan Area". The objective of this Agreement is to establish a framework for cooperation between the Parties for the protection, improvement and conservation of the environment in the Metropolitan Area.

ARTICLE 2

For the purpose of this Agreement, it shall be understood that the term "Metropolitan Area" refers to the area generally encompassed by Mexico City, which includes the Federal District and the corresponding municipalities of the State of Mexico.

ARTICLE 3

Pursuant to this Agreement, Annexes or other specific arrangements may be concluded for the solution of pollution problems in the Metropolitan Area. Such Annexes and other arrangements may particularly refer to sources of pollution which have a direct or indirect effect on the quality of the air environment in the Metropolitan Area.

ARTICLE 4

Forms of cooperation between the Parties under this Agreement may include: technology transfers; scientific and technical advice and assistance; educational exchanges; environmental monitoring and environmental impact assessments by the competent Mexican authorities; the holding of joint meetings and reviews; the exchange of relevant personnel and periodic exchanges of environmental information and data likely to be of interest to the Parties; coordination on national programs; and cooperation in developing appropriate environmental funding mechanisms.

ARTICLE 5

Each Party designates a National Coordinator to coordinate and monitor implementation of this Agreement. The National Coordinators shall also: a) designate officials to be responsible for cooperative activities identified under Article 4; b) review annually the activities carried out under this Agreement; and c) convene as necessary meetings of experts for the carrying out of activities under this Agreement.

In the case of the United States of America, the National Coordinator is the Environmental Protection Agency. In the case of the United Mexican States, the National Coordinator is the Secretariat for Urban Development and Ecology, which will coordinate regionally with the Government of the Federal District and the Government of the State of Mexico.

ARTICLE 6

Taking into account the subjects to be examined jointly, the National Coordinators may invite, as appropriate, representatives of federal, state and municipal governments to participate in the meetings provided for in this Agreement. By mutual agreement they may also invite representatives of international governmental or non-governmental organizations to contribute to carrying out this Agreement.

ARTICLE 7

Unless otherwise agreed, each Party shall bear the cost of its participation in the implementation of this Agreement, including the expenses of personnel who participate in any activity undertaken thereunder.

ARTICLE 8

Each Party shall facilitate the entry of equipment and personnel related to this Agreement into its territory, subject to its laws and regulations.

ARTICLE 9

All technical information obtained through the implementation of this Agreement will be available to both Parties. Such information may only be made available to third parties by the mutual agreement of the National Coordinators.

The United States National Coordinator shall inform the Mexican National Coordinator about the extent to which experience obtained through the implementation of this Agreement is used to address similar pollution problems in metropolitan areas in the United States.

ARTICLE 10

Nothing in this Agreement shall be construed to prejudice other existing or future agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements to which they are a Party.

ARTICLE 11

Activities under this Agreement shall be subject to the availability of funds and other resources to each Party and to the applicable laws and regulations in each country.

ARTICLE 12

This Agreement shall enter into force upon an exchange of Notes stating that each Party has completed its necessary internal procedures.

ARTICLE 13

This Agreement shall remain in force indefinitely unless one of the Parties notifies the other of its desire to terminate it, in which case the Agreement will terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any ongoing activities not fully completed at the time of termination.

ARTICLE 14

This Agreement may be amended by the written agreement of the Parties.

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

DONE at Washington, in duplicate, this third day of October, 1989 in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

James A. Baker III

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

Fernando Solana Morales

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DEPARTMENT OF STATE
WASHINGTON

August 22, 1990

His Excellency
Gustavo Petricioli,
Ambassador of Mexico.

Excellency:

I have the honor to refer to the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Metropolitan Area of the City of Mexico, signed October 3, 1989, and to acknowledge receipt of Your Excellency's note of August 22, 1990 stating that the Government of the United Mexican States has fulfilled all of the requirements set forth by its national legislation for entry into force of the agreement. I have the further honor to inform Your Excellency that the Government of the United States of America has also completed all of its necessary internal procedures for entry into force of the agreement. In accordance with Article 12, I confirm that the agreement shall enter into force on the date of this note.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Acting Secretary of State:

Richard J. Smith

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UNOFFICIAL TRANSLATION

Washington, D.C.

August 22, 1990

His Excellency
James A. Baker, III
Secretary of State
Washington, D.C.

Your Excellency:

I have the honor of referring to the Agreement between the Government of the United States of America and the Government of the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Metropolitan Area of Mexico City, signed in Washington, D.C. on October 3, 1989.

In this regard, I am pleased to inform Your Excellency that the Government of the United Mexican States has completed the internal procedures necessary for the Agreement to enter into force. In conformity with that which is disposed by Article 12, this Agreement will come into effect on the date in which a similar notification is received from the Government of the United States of America.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

Gustavo Petricioli
Ambassador

Memorandum of Understanding for the Exchange of Technical Information and for Cooperation in the Field of Air Quality Research Between the Department of Energy of the United States of America and the Mexican Petroleum Institute of the United Mexican States, Washington, 1990

Done at Washington 19 July 1990

Entered into force 19 July 1990

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING FOR THE EXCHANGE OF TECHNICAL INFORMATION AND FOR COOPERATION IN THE FIELD OF AIR QUALITY RESEARCH BETWEEN THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA AND THE MEXICAN PETROLEUM INSTITUTE OF THE UNITED MEXICAN STATES

Whereas, the Department of Energy (DOE) and the Mexican Petroleum Institute (IMP), hereinafter the "Parties", develop and disseminate information in the field of air quality research and associated environmental issues; and

Whereas, Petroleos Mexicanos (PEMEX) is prepared to sponsor work by the Mexican Petroleum Institute (IMP) under this Memorandum of Understanding (MOU); and

Whereas, DOE and IMP wish to manifest their interest in exchanging technical information and cooperating in an analysis of air quality and of alternative energy strategies for improving air quality in the Mexico City air basin by means of a cooperative relationship pursuant to the Agreement for Scientific and Technical Cooperation between the United States of America and the United Mexican States, signed June 15, 1972;

Now, therefore, the Parties agree as follows:

ARTICLE 1
OBJECTIVE

The objective of this MOU is to establish a framework for cooperation between the Parties in an analysis of air quality and of alternative energy strategies for improving air quality in the Mexico City air basin. The activities undertaken in accordance with this MOU are intended to result in substantial mutual benefit.

ARTICLE 2
FORMS OF COOPERATION

1. Cooperation under this MOU may include but is not limited to the following forms:

A. Exchange of scientific and technical information which the Parties have a right to disclose under applicable national laws;

B. Visits by expert teams or individuals, according to the rules and regulations of the host institution governing such visits;

C. Personnel assignments, according to the rules and regulations of each institution governing such assignments;

D. Exchange and provision of samples, materials, instruments, models and components for testing or use related to projects undertaken pursuant to this MOU;

E. Provision and exchange of scientific and technical personnel by means of fellowships or work periods in laboratories or through the organization of seminars or specific courses related to this project;

F. Use by one Party of the nonclassified facilities and equipment owned or operated by the other Party for activity related to this project;

G. Assistance in the purchase of items or laboratory equipment which are difficult to obtain through normal sources in a timely manner and which are needed for projects carried out under this MOU;

H. Sharing, as jointly agreed upon, of the work and costs associated with this project;

I. Executing joint studies, projects or experiments including their joint design, construction, and operation in accordance with Article 5; and

J. Such other specific forms of cooperation as may be added by mutual agreement of the Parties pursuant to Article 5.

2. Cooperation may take place between the Parties themselves or between entities acting on behalf of either Party.

ARTICLE 3
ASSIGNMENT OF PERSONNEL

1. Whenever an assignment of personnel is contemplated under this MOU, each Party shall ensure that qualified staff is selected for assignment to the other Party or its contractors.

2. Each such assignment shall be the subject of a separate written agreement between the Parties.

3. Each Party shall be responsible for the salaries, insurance and allowances to be paid to its staff.

4. Each Party shall pay for the travel and living expenses of its staff while on assignment to the host Party, unless otherwise agreed in writing.

5. The host institution shall do its best to arrange for comparable accommodations for the visiting staff and their families on a mutually agreeable, reciprocal basis.

6. Each Party shall provide all necessary assistance to the visiting staff (and their families) as regards administrative formalities, such as travel arrangements.

7. The visiting staff of each Party shall conform to the general and special rules of work and safety regulations in force at the host institution, or as agreed in a separate personnel assignment agreement.

ARTICLE 4
COORDINATION

To supervise the execution of this MOU, DOE and IMP shall each designate a Coordinator. It shall be a function of the Coordinators to evaluate the degree of progress of work being done, and to consider and act upon any new proposals for activities under this project.

ARTICLE 5
IMPLEMENTING TECHNICAL AGREEMENTS

The implementation of collaborative activities as set forth in Article 2 (I) and (J) shall be based on an implementing arrangement to be concluded between the Parties or their designees. Each such implementing arrangement shall include all detailed provisions for carrying out the specified forms of collaboration and shall cover such matters as scope, technical activity, management, levels of effort, and schedule. All Technical Agreements under this Memorandum of Understanding shall relate to joint efforts between the Parties to analyze the air quality of the Mexico City Air Basin and to develop alternative energy strategies for improving the air quality.

ARTICLE 6
FINANCIAL ARRANGEMENTS

1. The entities conducting the work under this MOU shall be responsible to their respective funders for the financial arrangements and reporting related to this project.

2. Except where otherwise agreed in writing, all costs resulting from cooperation under this MOU shall be borne by the Party that incurs them.

3. The obligations of the Parties under this MOU are subject to the availability of funds.

4. It is further understood that the U.S. contribution shall not exceed $4.5 million (in 1990 dollars) over the life of this MOU.

ARTICLE 7
GENERAL PROVISIONS

1. No warranty of any kind is made by either Party for materials, information, or services that may be furnished to the other Party under this MOU.

2. Compensation for damages incurred during the cooperative activities under this MOU shall be in accordance with applicable laws and regulations.

3. Cooperation under this MOU shall be in accordance with the applicable laws and regulations under which each Party operates. All questions related to this MOU arising during its term shall be settled by the Parties by mutual agreement.

ARTICLE 8
INFORMATION

Each Party shall make available to the other Party information that it has a right to disclose under applicable domestic laws and regulations. Unless otherwise agreed in writing, no proprietary information shall be exchanged. However, should proprietary information be exchanged, each Party shall protect such information in accordance with applicable laws, regulations, and administrative practices. Proprietary information shall mean information which contains trade secrets or commercial or financial information which is privileged or confidential, and may include only such information which has been held in confidence by its owner, has not been transmitted by the transmitting Party (including the receiving Party) except with an obligation that it be held in confidence, and is not otherwise available to the receiving Party from another source without restriction on its further dissemination. Both Parties agree that nonproprietary information exchanged under this MOU may be given wide distribution. The application or use of any information provided, exchanged, or developed by the Parties shall be the responsibility of the Party receiving it, and the transmitting Party does not warrant the suitability of such information for any use or application. It is expected that personnel of the Parties will submit potential publications to their institutions for peer review before publication.

ARTICLE 9
INTELLECTUAL PROPERTY

1. The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Agreement and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Article.

2. This Article is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.

3. For purposes of this Agreement, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

4. This Article addresses the allocation of rights, interests, and royalties between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with this Article, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Article does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party's laws and practices.

5. Disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

6. Termination or expiration of this Agreement shall not affect rights or obligations under this Article.

7. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

8. Rights to intellectual property arising from cooperation under this MOU shall be allocated as follows:

A. in Mexico, IMP will have first option to secure all rights and interests, subject to a royalty-free, non-exclusive, irrevocable license to DOE and the nationals of its country designated by it for the purpose of scientific research;

B. in the United States and third countries, DOE will have first option to secure all rights and interests, subject to a royalty-free, non-exclusive, irrevocable license to IMP and the nationals of its country designated by it, for the purpose of scientific research.

9. Each Party shall assume the responsibility to pay awards or compensation required to be paid to its own nationals according to its own laws. Each Party shall, without prejudice to any rights of inventors under its national laws, take all necessary steps to provide the cooperation from its inventors required to carry out the provisions of this MOU.

10. Notwithstanding the above, if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide.

ARTICLE 10
FINAL PROVISIONS

1. This MOU shall enter into force on the date of signature and shall continue in force subject to paragraph 3 of this Article for a period of four years. The MOU may be extended by written agreement of the Parties.

2. This MOU may be amended at any time by written agreement of the Parties.

3. Either Party may terminate this MOU upon 60 days written notification. Such termination shall be without prejudice to the rights which may have accrued under this MOU to either Party up to the date of such termination.

4. All joint efforts and experiments judged to be incomplete by both Parties at the termination of this MOU may be continued if mutually agreed until their completion under the terms of the MOU.

Done at Washington, this 19th day of July 1990, in duplicate.

FOR THE DEPARTMENT OF ENERGY OF THE UNITED STATES OF AMERICA:

James D. Watkins

FOR THE MEXICAN PETROLEUM INSTITUTE OF THE UNITED MEXICAN STATES:

Gustavo Petricioli

BILATERAL

MEXICO

FISHERIES

Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, Mexico City, 1949

Done at Mexico City 25 January 1949

*Entered into force 11 July 1950**

Primary source citation: 1 UST 513, TIAS 2094

CONVENTION FOR THE ESTABLISHMENT OF AN INTERNATIONAL COMMISSION FOR THE SCIENTIFIC INVESTIGATION OF TUNA.

PREAMBLE

The United States of America and the United Mexican States considering their respective interests in maintaining the populations of certain tuna and tuna-like fishes in the waters of the Pacific Ocean off the coasts of both countries, and desiring to cooperate in scientific investigation, and in the gathering and interpretation of factual information to facilitate maintaining the populations of these fishes at a level which will permit the maximum reasonable utilization without depletion year after year, have agreed to conclude a Convention for these purposes and to that end have named as their Plenipotentiaries:

The President of the United States of America:

Walter Thurston, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico;

The President of the United Mexican States:

Manuel Tello, acting Secretary of Foreign Relations; who having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

1. - The High Contracting Parties agree to establish and operate a joint commission, to be known as the International Commission for the Scientific Investigation of Tuna, hereinafter referred to as the Commission, which shall carry out the objectives of this Convention. The Commission shall be composed of two national sections, a United States section, consisting of four members, appointed by the Government of the United States of America, and a Mexican section consisting of four members, appointed by the Government of the United Mexican States.

* This Convention was terminated on 5 February 1965.

2. - The Commission shall submit annually to the respective Governments a report on its findings, with appropriate recommendations, and shall also inform them, whenever it is deemed advisable, on any matter relating to the objectives of this Convention.

3. - The expenses incurred by each national section for its own personnel, offices and operation, including emoluments, transportation and subsistence, shall be borne by its government. Joint expenses incurred by the Commission shall be paid by the High Contracting Parties in the form and proportion recommended by the Commission and approved by the High Contracting Parties.

4. - Both the general annual program of activities and the budget of joint expenses shall be recommended by the Commission and submitted for approval to the High Contracting Parties.

5. - The High Contracting Parties shall decide on the most convenient place for the establishment of the Commission's headquarters.

6. - The Commission shall meet at least twice each year and at such other times as may be requested by either national section. The date and place of the first meeting shall be determined by agreement between the High Contracting Parties.

7. - At its first meeting the Commission shall select a chairman from the members of one national section and a secretary from the members of the other national section. The chairman and secretary shall hold office for a period of one year. During succeeding years, selection of the chairman and secretary shall alternate between the respective national sections.

8. - Each national section shall have one vote. Decisions, resolutions, and recommendations of the Commission shall be made only by approval of both sections.

9. - The Commission shall be entitled to adopt and to amend subsequently, as occasion may require, by-laws or rules for the conduct of its meetings and for the performance of its functions and duties. Such by-laws, rules or amendments shall be referred by the Commission to the Governments and shall become effective thirty days from the date of receipt of notification unless disapproved by either of the two Governments within that period.

10. - The Commission shall be entitled to employ necessary personnel for the performance of its functions and duties. The appointments shall be distributed equitably between nationals of the United States and Mexico except in special instances in which the appointment of persons of other nationalities is desirable.

11. - Each section of the Commission may appoint its own advisors who may attend sessions of the Commission in their advisory capacity when the Commission so determines. Each section may meet separately with advisors from its own country when it deems such meetings desirable.

12. - Each section of the Commission may hold public hearings within the territory of its own country.

13. - The Commission shall designate simultaneously a Director and an Assistant Director of Investigations, who shall be technically competent and shall be responsible to the Commission. One of these functionaries shall be a national of the United States and the other a national of Mexico. Subject to the instruction of the Commission and with its approval, the Director shall have charge of:

a) the drafting of programs of investigation, and the preparation of budget estimates for the Commission;

b) authorizing the disbursment of the funds for the joint expenses of the Commission;

c) the accounting of the funds for the joint expenses of the Commission;

d) the appointment and immediate direction of technical and any other personnel required for the scientific functions of the Commission;

e) arrangements for the cooperation with other organizations or individuals in accordance with paragraph 18 of this Article;

f) the coordination of the work of the Commission with that of organizations and individuals whose cooperation has been arranged for;

g) the drafting of administrative, scientific and other reports for the Commission;

h) the performance of such other duties as the Commission may require.

14. - The Assistant Director shall assist the Director of Investigations in all his functions, and shall substitute for him during his temporary absences. Both the Director and the Assistant Director of Investigations may be freely removed by the Commission.

15. - The official languages of the Commission shall be English and Spanish, and members of the Commission may use either language during meetings. When necessary, translation shall be made to the other language. The minutes, official documents and publications of the Commission shall be in both languages, but official correspondence of the Commission may be written at the discretion of the secretary in either language.

16. - Representatives of both national sections shall be entitled to participate in all work carried out by the Commission or under its auspices.

17. - Each national section shall be entitled to obtain certified copies of any documents pertaining to the Commission except that the Commission will adopt and may amend subsequently rules to insure the confidential character of records of statistics of individual catches and individual company operations. These rules and amendments shall be referred to the Governments in accordance with the procedures of paragraph 9 of this Article.

18. - In the performance of its duties and functions the Commission may request the technical and scientific services of and information from official agencies of the High Contracting Parties and any international, public, or private institution or organization or any private individual.

ARTICLE II

The Commission shall perform the following functions and duties:

1. - Make investigations: (a) concerning the abundance, biology, biometry, and ecology of the yellowfin, bluefin, and albacore tunas, bonitos, yellowtails, and skipjacks (hereinafter referred to as tuna and tuna-like fishes) in the waters of the Pacific Ocean off the coasts of both countries and elsewhere as may be required, and of the kinds of fishes commonly used as bait in tuna fishing; and (b) concerning the effects of natural factors and human activities on the abundance of the populations of fishes to which the Convention refers.

2. - Collect and analyze information relating to the current and past conditions and trends of the populations of the tuna and tuna-like fishes and tuna-bait fishes of the waters of the Pacific Ocean off the coasts of both countries and elsewhere as may be required.

3. - Study and appraise information concerning methods and procedures for maintaining and increasing the populations of tuna and tuna-like fishes and tuna bait fishes in the waters of the Pacific Ocean off the coasts of both countries and elsewhere as may be required.

4. - Conduct such fishing and other activities, on the high seas and in the waters which are under the jurisdiction of either High Contracting Party, as may be necessary to attain the ends referred to in sub-paragraphs 1, 2 and 3 of this Article.

5. - Obtain statistics and all kinds of reports concerning catches, operations of fishing boats and other information concerning the fishing for tuna and tuna-like fishes and the tuna-bait fishes. The High Contracting parties shall, if necessary, enact legislation in order to make it obligatory for the boat captains or other persons who participate in these fishing activities to keep records of operations, including the volume of the catch by species and the area in which caught, all of these in the form and with such frequency as the Commission deems necessary.

6. - Publish or otherwise disseminate reports relative to the results of its findings and such other reports as fall within the scope of this Convention, as well as scientific, statistical, and other data relating to the fisheries

for tuna and tuna-like fishes and tuna-bait fishes in the waters of the Pacific Ocean off the coasts of both countries and elsewhere as may be required.

ARTICLE III

1. - The present Convention shall be ratified in accordance with the constitutional procedures of each country and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. - The present Convention shall enter into force on the date of exchange of ratifications. It shall remain in force for a period of four years and thereafter until one year from the day on which either of the High Contracting Parties shall give notice to the other High Contracting Party of its intention of terminating the Convention.

3. - In the event of termination of the Convention, property supplied to the Commission by the High Contracting Parties shall be returned to that High Contracting Party which originally provided it. Property otherwise acquired by the Commission, with the exception of the archives, shall be returned to the High Contracting Parties taking into account the proportion in which they shall have contributed to the expenses of the Commission.

4. - At the termination of this Convention the High Contracting Parties shall divide the archives of the Commission as follows: The United States of America shall receive the part in English and the United Mexican States, the part in Spanish. Either of the two countries shall be able to obtain certified copies of any document from the archives of the Commission which is in the possession of the other. These archives may be consulted at any time for this purpose by authorized representatives of the government not having in its possession the archives which it wishes to consult. This paragraph shall be subject to the provisions of Paragraph 17 of Article I of this Convention.

In witness whereof the respective Plenipotentiaries have signed the present Convention and have affixed their seals.

Done in duplicate, in the English and Spanish Languages, at Mexico City this twenty-fifth day of January, one thousand nine hundred and forty-nine.

WALTER THURSTON
[Seal]

MANUEL TELLO
[Seal]

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EMBASSY OF THE
UNITED STATES OF AMERICA

Mexico, D. F., January 26, 1949.

His Excellency
Señor MANUEL TELLO,
Acting Minister for Foreign Relations,
México, D. F.

No. 2835

EXCELLENCY:

I have the honor to refer to the recent negotiations which have culminated in the signing, on Tuesday, January 25, 1949, of the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna.

During the course of the negotiations which now have successfully been concluded, two understandings were reached with regard to the proper interpretation of Paragraphs 7 and 9 of Article I of the Convention. It was agreed that these understandings should be made of record through an exchange of notes.

With regard to Paragraph 7 of Article I, it is the understanding of my Government that the Commission shall be instructed to arrange for the selection of the Chairman in such a manner as to insure that the Director of Investigation will be of the other nationality during the first year.

Concerning Paragraph 9 of Article I it is the understanding of my Government that, with regard to the receipt of notifications from the Commission by the two governments, and in the event such notifications are received on different dates, the thirty day time limit shall count from the later date, thereby avoiding any confusion which might arise as to which date would be applicable.

Your Excellency's affirmative answer to this present note would constitute the desired exchange.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

WALTER THURSTON

Translation

MINISTRY OF FOREIGN RELATIONS
UNITED MEXICAN STATES
MEXICO

MEXICO, D.F., *January 31, 1949.*

His Excellency
WALTER THURSTON,
Ambassador Extraordinary and Plenipotentiary,
Embassy of the United States of America,
City.

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MR. AMBASSADOR:

I have the honor to acknowledge receipt of Your Excellency's note No. 2835 which you addressed to me on the 26th instant. In the aforementioned note Your Excellency referred to the negotiations which led to the Convention for the establishment of an International Commission for Scientific Research on Tuna, which was signed on January 25, 1948.

Two points regarding this Convention were left pending, to be settled by an exchange of notes between both Governments, for the purpose of defining the exact sense of sub-paragraphs 7 and 9 of article I.

With regard to the first of the aforementioned sub-paragraphs, I am pleased to inform Your Excellency that, in accordance with what was agreed, the Mexican Commissioners shall be instructed in due time so that in the first year the designation of Chairman of the Commission and of Director of Research will be effected simultaneously and in such a manner that the appointments will be given to persons of different nationality.

I am also pleased to inform Your Excellency, with regard to sub-paragraph 9 of the above-mentioned article I of the Convention, that my Government is in complete agreement with the interpretation of Your Excellency's Government, regarding the period for expressing disagreement, if any, with respect to the Statutes, Regulations and amendments thereto, which the Commission, under sub-paragraph 9, may submit to the Governments. The Mexican Government, like Your Excellency's, understands that in case such notifications are received by the Governments on different dates, the period of thirty days indicated in the aforementioned sub-paragraph will be computed beginning with the later of the above-mentioned dates, in order to avoid any confusion which might arise as to which would be the applicable date.

I assure Your Excellency of my highest and most distinguished consideration.

MANUEL TELLO.

BILATERAL

MEXICO

MARINE POLLUTION

Agreement of Cooperation Between the United States of America and the United Mexican States Regarding Pollution of the Marine Environment by Discharges of Hydrocarbons and Other Hazardous Substances, Mexico City, 1980

Done at Mexico City 24 July 1980

Entered into force provisionally 24 July 1980; definitively 30 March 1981

Primary source citation: 32 UST 5899, TIAS 10021

AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING POLLUTION OF THE MARINE ENVIRONMENT BY DISCHARGES OF HYDROCARBONS AND OTHER HAZARDOUS SUBSTANCES

The Government of the United States of America and the Government of the United Mexican States,

Aware of the importance of preserving the marine environment and conserving the living organisms which inhabit it,

Recognizing that the pollution of the marine environment by hydrocarbons or other hazardous substances causes or may cause damage to the ecological conditions of the sea by affecting the natural resources therein and may constitute a threat to the public health and welfare,

Have agreed to the following:

ARTICLE I

The Parties agree to establish a United States-Mexico joint contingency plan regarding pollution of the marine environment by discharges of hydrocarbons and other hazardous substances (hereafter, "the Plan"), with the object of developing measures to deal with such polluting incidents and ensuring an adequate response in each case that may affect in a significant manner the areas set forth in Article VII.

ARTICLE II

For the purpose of this Agreement:

(a) A polluting incident means a discharge or the threat of an imminent discharge of hydrocarbons or of any hazardous substance in the sea, of a magnitude or significance that requires an immediate response in order to contain, recover or destroy the substance for the purpose of eliminating the threat or of minimizing its effects on the marine flora and fauna and on the public health and welfare.

(b) Hydrocarbons means petroleum in all its forms, including crude oil, fuel oil, sludge, oil wastes, and refined products.

(c) Hazardous substances means elements and compounds which when discharged into the marine environment present an imminent and substantial danger to the public health or welfare, or which may affect natural resources, including, among others, fish, shellfish, wildlife, shorelines and beaches.

ARTICLE III

The Parties, consistent with their means, commit themselves to the development of nationally operative systems, applicable within their respective areas, as set forth in Article VII, that permit detection of the existence or the imminent possibility of the occurrence of polluting incidents, as well as providing adequate means within their power to eliminate the threat posed by such incidents and to minimize the adverse effects to the marine environment and the public health and welfare.

ARTICLE IV

The Parties will cooperate, in accordance with this Agreement, including its Annexes, to avoid and combat the adverse effects on the marine environment of polluting incidents, the Parties undertake to exchange up-to-date information and consult to guarantee adequate cooperation between the competent authorities of each Party, with regard to matters falling within the scope of this Agreement, including its Annexes.

ARTICLE V

The coordination of the plan, with respect to the United States of America, is the primary responsibility of the United States Coast Guard and the United States National Response Team; with respect to the United Mexican States, the Secretariat of the Navy and of another agency or agencies of the Mexican Government, depending upon the nature of the polluting incident. The agencies of both Governments that will, when concerned, assist the coordinating authorities in their duties are enumerated in an Annex to this Agreement.

ARTICLE VI

In the case of the occurrence of a polluting incident, only the coordinating authorities of the Party in whose area, as set forth in Article VII, the incident or its effects occurred will have executive power under the Plan within its area. The coordinating authorities will recommend to their respective Governments the measures necessary to control the polluting incident.

ARTICLE VII

This Agreement and its Annexes shall be applicable in accordance with its terms to polluting incidents which may affect the marine environment of one or both Parties. For purposes of this Agreement, the marine environment

of a Party is the area of the sea, including the adjoining shoreline, on its side of the maritime boundaries established with the other Party and other States and within 200 nautical miles of the baselines from which the breadth of its territorial sea is measured.

ARTICLE VIII

The joint response envisaged by this Agreement can only be applied when the Parties agree. The Parties will determine in the same manner the magnitude of the response action required by each polluting incident.

ARTICLE IX

None of the provisions of the present Agreement shall be interpreted as affecting the rights and obligations of the Parties under the treaties to which they are party and their respective positions with regard to the Law of the Sea.

ARTICLE X

By agreement of the Parties, technical Annexes that they consider necessary will be added to this Agreement and shall form an integral part thereof. Those Annexes, including those existing on the date of signature of this Agreement, will have as their purpose the development of cooperative mechanisms envisaged in this Agreement.

ARTICLE XI

(1) The present agreement will be applied provisionally from the date of signature. This Agreement shall enter into force upon exchange of notes informing each Party that the other Party has completed its necessary internal procedures. Amendments to this Agreement shall enter into force in the same manner.

(2) Amendments to the Annexes and adoption of new Annexes shall be effected by exchange of notes.

(3) This Agreement shall remain in force for five years and shall continue in force thereafter until one Party notifies the other, in writing, six months in advance, of its intention to terminate the Agreement.

Done in Mexico City on the 24th of July 1980, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the
United States of America

Julian Nava

For the
United Mexican States

Jorge Castañeda

ANNEX I

1. On-Scene Coordinator.

1.1. As soon as the Agreement enters into force the Parties will designate, without waiting for an incident to occur, federal officials responsible for exercising in their respective areas the authority to which Article VI of the Agreement refers. Said officials will have the title of "On-Scene Coordinator" (OSC). The Parties will also designate officials who will have advisory and liaison functions between the Parties, in the areas of the other Party; said officials will have the title of "On-Scene Advisory and Liaison Coordinator" (ALC).

1.2. The functions and responsibilities of the "On-Scene Coordinator" will be:

a) To coordinate and direct matters related to the detection and response operations to the incident.

b) To authorize the use of dispersants and other chemical products in accordance with respective national policy, provided that such use:

(i) prevents or substantially reduces the risk to human life and health or the risk of fire;

(ii) prevents or reduces a threat for an important segment of the population of a vulnerable species of aquatic bird, or

(iii) appears to be the most efficient method to reduce the overall adverse effects of a spill.

c) To determine the facts including: the nature, quantity and location of the pollutant, the direction and probable time of travel of same, the available resources and those required; and to obtain the necessary information to determine potential impacts on human health and welfare, and on natural resources including fish and wildlife and their habitats, and the areas which could be adversely affected;

d) To determine priorities and to decide when to initiate the phases described in Annex IV;

e) To permanently and in a detailed way inform the Joint Response Team (JRT) (see Annex II) about all aspects of the incident and of the response operation;

f) To recommend to the Chairman of the JRT of his country that he formally propose to the Chairman of the JRT of the other Party the initiation of the joint responses envisaged in Article VIII, for a specific pollution incident;

g) To decide on the termination of response action;

h) To prepare with the advice of the ALC a final report and recommendations for future incidents, in view of the experience obtained. Said report and recommendations shall be submitted to the JRT;

i) To coordinate, in consultation with the JRT, the official information to the information media.

1.3. If the response action is required in areas of the two Parties, the OSC's of both Parties will coordinate the measures to be adopted through the collaboration of both ALC's.

1.4. The OSC will notify by the most rapid means the two Chairmen of the JRT about every polluting incident which has occurred, or which is in imminent danger of occurring, which could have adverse effects in the marine environment of both Parties, or which is of such magnitude as in the judgment of the OSC would require the initiation of the joint response envisaged in Article VIII to the Agreement. This notification does not constitute a formal proposal for the initiation of the joint response. The authorities so notified will immediately acknowledge receipt and meet for the purpose of consultation.

1.5. The OSC will keep a journal of the events which occur during the application of the Plan to an incident; said journal will be placed at the disposal of the JRT.

1.6. The Parties will unilaterally divide their respective areas for purposes of the designation of an OSC and of a Joint Response Center (see Annex III) for each of those divisions.

1.7. In accordance with respective national legislation, upon initiation of a joint response special customs and immigration clearances will be sought by each Party for response resources including personnel and equipment. Prior arrangements will be sought by each Party to ensure that the clearance process can be accomplished in a timely manner and that it can be initiated by a communication between the ALC and the OSC as appropriate.

ANNEX II

2. Joint Response Team (JRT).

2.1. The Parties will designate, under the responsibility of the authorities mentioned in Article V of the Agreement, authorities and other persons who will constitute the JRT. That designation will be made as soon as the Agreement enters into force, without waiting for an incident to occur, and communicated to the other Party for the information of the authorities mentioned in Annex VI.

2.2. The United States authorities mentioned in Article V of the Agreement will designate the U.S. Chairman of the JRT. The Mexican authorities mentioned in Article V of the Agreement will designate the Mexican Chairman of the JRT.

2.3. When the JRT meets in the United States of America, the U.S. Chairman will preside. When the JRT meets in Mexico, the Mexican Chairman will preside.

2.4. Upon being informed of a specific polluting incident the two Chairmen of the JRT shall consult and may decide to formally propose to their Governments the initiation of the joint response envisaged in Article VIII. Agreement to initiate the joint response shall be communicated through diplomatic channels.

2.5. As soon as the U.S. and Mexican sections of the JRT are designated, the Chairmen will communicate and decide the place and date for the first meeting of the JRT to develop procedures to anticipate matters relative to a coordinated response to the eventual polluting incidents by all the competent agencies and persons. The JRT will meet as many times as necessary, both in periodic planning meetings and in emergency meetings, as decided by the Chairmen.

2.6. The functions and responsibilities of the JRT will be the following:

(a) Based on the report of the OSC, advise him about the response needs and inform him about available resources for each particular situation.

(b) Evaluate the measures taken by the OSC and make recommendations in this regard, once the agreement for the initiation of the joint response to a specific polluting incident is perfected.

(c) Consider the reports of the OSC and recommend improvements needed in the Plan through proposed amendments to existing Annexes or for new Annexes.

(d) Based on the reports of the OSC, to identify the possible impacts of a specific polluting incident and therefore to recommend the necessary actions to assess the adverse effects of such incident.

(e) Provide advice to the OSC. The JRT will have no control over the functions and responsibilities of the OSC.

(f) Take measures to coordinate and use to the maximum the resources which agencies or persons of the United States of America, of Mexico, or of a third country can contribute.

2.7. In order for the JRT to make decisions, the agreement of both Chairmen is required.

ANNEX III

3. Joint Response Centers.

3.1. As soon as the Agreement enters into force, and without waiting for an incident to occur, the Authorities mentioned in Article V will designate Joint Response Centers, preferably utilizing already existing installations, destined to serve as headquarters for the meetings of the JRT, unless the Chairman of the JRT decides to convoke the JRT in another place, in view of the circumstances.

ANNEX IV

4. Operational Phases.

Phase I. Discovery, notification and alarm.

Phase II. Evaluation of the incident, consultations and agreement on joint response.

Phase III. Containment and measures against the spread of the pollutant.

Phase IV. Cleanup and recovery.

PHASE I

Discovery, notification and alarm.

A pollution incident may be discovered and notification made; as a result of the regular surveillance activities of the national anti-pollution forces; by the local and regional authorities; by the general public; or as a result of reporting by the persons who caused the incident.

If there is an indication of a threat to the marine environment of the other Party, a speedy notification shall be given to the other Party in accordance with the procedures established in the Annexes.

PHASE II

Evaluation of the incident, consultations and agreement on joint response.

Evaluation of the incident, consultation and agreement on joint response will be made in conformity with the Agreement and its Annexes.

The level of anti-pollution response required will be determined by severity of the incident, the nature and quantity of the pollutant and the location of the specific polluting incident.

PHASE III

Containment and measures against the spread of the pollutant.

The containment is whatever physical or chemical measures are adopted to control or restrict the spread of a pollutant; the measures against the spread of the pollutant are those activities, different from containment, which are adopted to reduce the adverse impact of the pollutant.

PHASE IV

Cleanup and recovery.

The cleanup and recovery of pollutants are operations intended to reduce the effect of an incident to the minimum and include the elimination of the pollutant from the marine environment.

The pollutants which are recovered as a result of cleanup actions should be disposed of in conformity with the national procedures of the place where they are found.

ANNEX V

5. Response and Communication.

5.1. System of Rapid Notification

The existence of any polluting incident which is affecting or threatens the other Party will be communicated, without delay, to the appropriate OSC, and if deemed necessary to the Chairman of the JRT, of that Party. A prompt reaction is vital to achieve satisfactory results from an operation. Examples of various message formats are enumerated within this Annex. Each message should be identified with a Date-Time Group (DTG) in Greenwich Mean Time. The first two digits of the DTG represent the day of the month; the second two digits, hours; and the final two digits, minutes.

5.2. Even though some type of evaluation is necessary to make a decision with respect to whether or not to initiate a joint response, it is essential that a notification be given indicating that a joint response may be necessary. This notification by itself will not require a joint response. Nevertheless, it will permit the alerting of the Parties to the possibility of a joint response. The message of notification is specified in the following format.

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

INFORMATION (INFO)

MEXUS SPILL (OR POTENTIAL SPILL) (Identify the Incident)

1. Geographic situation

2. Any other details

3. Request for acknowledgement of receipt

Note: The message normally will come from a pre-designated On-Scene Coordinator (OSC). The addressees should acknowledge receipt as soon as possible.

5.3. Initiation of a Joint Response

A proposal for a joint response will only be made by a formal request. If both Chairmen of the JRT agree to propose to their Governments the initiation of a joint response the United States Chairman shall report the recommendation thus agreed to the United States Department of State and the Mexican Chairman shall report the same recommendation to the Mexican Secretariat of Foreign Relations. The message should be in the following format:

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

BOTH CHAIRMEN OF THE JRT PROPOSE INITIATION OF JOINT RESPONSE OSC

(Name of responsible person)

OSC CENTER ESTABLISHED AT (Location of Center) (Address and telephone numbers).

The message should also contain the information outlined in paragraph 5.2 of this Annex.

5.4. Situation Reports (SITREPS)

5.4.1 Up-to-date information on the situation of a polluting incident which has justified the joint response activity is essential for the efficient administration and the satisfactory outcome of an incident. This information should be sent by the On-Scene Coordinator in the format specified below. The situation reports (SITREPS) should be prepared with the frequency believed necessary with the objective of providing all interested authorities with a complete and up-to-date description of the problem and of informing them about what action has been taken, future plans, recommendations and requests for assistance.

5.4.2 The normal format of the message will be the following:

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

INFORMATION (INFO)

MEXUS SITREP (Number of SITREP)

POLLUTION INCIDENT (Identify the incident)

1. Situation
2. Action taken
3. Future plans
4. Recommendations
5. Status of case: (Pends, Closed or Participation Terminated)

5.4.3 SITUATION: The section on situation should provide complete details on the polluting incident including what happened, the type and quantity of pollutant involved, the participating agencies, the areas covered and/or threatened the success of the control efforts, the prognosis and any other pertinent data.

5.4.4 ACTION TAKEN: The action section should include a summary of all actions taken up to the present by the discharger, local forces, governmental and non-governmental agencies.

5.4.5 FUTURE PLANS: The section on future plans should include all actions projected for the immediate future.

5.4.6 RECOMMENDATIONS: Any recommendations made by the On-Scene Coordinator (OSC) relative to the response shall be included in the recommendations section. This would include requests for assistance if necessary.

5.4.7 STATUS OF THE CASE: The section on status should indicate "Case Closed", "Case Pends", or "Participation Terminated", according to which is pertinent.

5.5. TERMINATION

5.5.1 A recommendation to terminate the joint response to a particular incident will be made after consultations between the On-Scene Coordinator (OSC) and the On-Scene Advisory and Liaison Coordinator (ALC) and will then be forwarded to the Joint Response Team (JRT). Following consultations, the Chairmen of the JRT may by joint decision or unilaterally terminate the joint response and will so advise the OSC(s), the ALC(s), the JRT, the United States Department of State and the Mexican Secretariat of Foreign Relations. The notification shall include date and time (in GMT) of the termination.

5.5.2 Normal Format for the Termination Message:

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

INFORMATION (INFO)

JOINT MEXUS CONTINGENCY PLAN TERMINATED AT (GMT)

5.6. INCIDENT REPORTS

The reports of the OSC to the JRT, to which clauses (e) and (h) of paragraph 1.2 of Annex I refer will have the following format.

(a) Description of the cause and initial situation;

(b) Organization of response action and resources committed;

(c) Effectiveness of response and removal actions by:

- the discharger

- State and local forces

- Federal agencies and special teams.

(d) Unique problems encountered.

(e) - Means to prevent reoccurrence

- Improvement of response actions

- Changes to the joint plan.

ANNEX VI

6. Coordinating and auxiliary agencies to which Article V refers.

6.1. For the Government of the United States of America

Department of Transportation

United States Coast Guard (USCG)

Department of the Interior

Department of Commerce

Department of Defense

Environmental Protection Agency (EPA)

Department of Agriculture

Department of Health and Human Services

Department of Justice

Department of State

Department of Energy

Department of Labor

Federal Emergency Management Agency

6.2. For the Government of the United Mexican States

Coordinating Authority;

Secretariat of the Navy

Auxiliary Agencies;

(a) Secretariat of Government

(b) Secretariat of Foreign Relations

(c) Secretariat of Agriculture and Hydraulic Resources

(d) Secretariat of Programming and Budget

(e) Secretariat of Communications and Transport

(f) Secretariat of Human Settlements and Public Works

(g) Secretariat of Health and Assistance

(h) Secretariat of Patrimony and Industrial Development

(i) Department of Fisheries

(j) Petroleos Mexicanos (PEMEX)

BILATERAL

MEXICO

OTHER

Convention Between the United States of America and the United States of Mexico, Touching the Boundary-line Between the Two Countries Where It Follows the Bed of the Rio Grande and the Rio Colorado, Washington, 1884

Done at Washington 12 November 1884

*Entered into force 13 September 1886**

Primary source citation: 9 Bevans 865, TS 226

Convention Between the United States of America and the United States of Mexico, Touching the Boundary-line Between the Two Countries Where It Follows the Bed of the Rio Grande and the Rio Colorado

Whereas, in virtue of the 5th article of the Treaty of Guadalupe Hidalgo between the United States of America and the United States of Mexico, concluded February 2, 1848, and of the first article of that of December 30, 1853, certain parts of the dividing line between the two countries follow the middle of the channel of the Rio Grande and the Rio Colorado, to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces, the Government of the United States of America and the Government of the United States of Mexico have resolved to conclude a convention which shall lay down rules for the determination of such questions, and have appointed as their Plenipotentiaries:

The President of the United States of America, Frederick T. Frelinghuysen, Secretary of State of the United States; and the President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United Mexican States;

Who, after exhibiting their respective Full Powers, found in good and due form, have agreed upon the following articles:

Article I

The dividing line shall forever be that described in the aforesaid Treaty and follow the centre of the normal channel of the rivers named, notwithstanding any alterations in the banks or in the course of those rivers, provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one.

* This Convention was terminated on 18 April 1972.

ARTICLE II

Any other change, wrought by the force of the current, whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid Treaty, shall produce no change in the dividing line as fixed by the surveys of the International Boundary Commissions in 1852; but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or be obstructed by deposits.

ARTICLE III

No artificial change in the navigable course of the river, by building jetties, piers, or obstructions which may tend to deflect the current or produce deposits of alluvium, or by dredging to deepen another than the original channel under the Treaty when there is more than one channel, or by cutting waterways to shorten the navigable distance, shall be permitted to affect or alter the dividing line as determined by the aforesaid commissions in 1852 or as determined by Article I. hereof and under the reservation therein contained; but the protection of the banks on either side from erosion by revetments of stone or other material not unduly projecting into the current of the river shall not be deemed an artificial change.

ARTICLE IV

If any international bridge have been or shall be built across either of the rivers named, the point on such bridge exactly over the middle of the main channel as herein determined shall be marked by a suitable monument, which shall denote the dividing line for all the purposes of such bridge, notwithstanding any change in the channel which may thereafter supervene. But any rights other than in the bridge itself and in the ground on which it is built shall in event of any such subsequent change be determined in accordance with the general provisions of this convention.

ARTICLE V

Rights of property in respect of lands which may have become separated through the creation of new channels as defined in Article II. hereof, shall not be affected thereby, but such lands shall continue to be under the jurisdiction of the country to which they previously belonged.

In no case, however, shall this retained jurisdictional right affect or control the right of navigation common to the two countries under the stipulations of Article VII. of the aforesaid Treaty of Guadalupe Hidalgo; and such common right shall continue without prejudice throughout the actually navigable main channels of the said rivers, from the mouth of the Rio Grande to the point where the Rio Colorado ceases to be the international boundary, even though any part of the channel of said rivers, through the changes herein provided against, may be comprised within the territory of one of the two nations.

ARTICLE VI

This convention shall be ratified by both parties in accordance with their respective constitutional procedure, and the ratifications exchanged in the city of Washington as soon as possible.

In witness whereof the undersigned Plenipotentiaries have hereunto set their hands and seals.

Done at the city of Washington, in duplicate, in the English and Spanish languages, this twelfth day of November, A.D. 1884.

FREDK. T. FRELINGHUYSEN [SEAL]

M. ROMERO [SEAL]

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1889

Done at Washington 1 March 1889

Entered into force 24 December 1890

Primary source citation: 9 Bevans 877, TS 232

The United States of America and the United States of Mexico, desiring to facilitate the carrying out of the principles contained in the treaty of November 12, 1884, and to avoid the difficulties occasioned by reason of the changes which take place in the bed of the Rio Grande and that of the Colorado river, in that portion thereof where they serve as a boundary between the two Republics, have resolved to conclude a treaty for the attainment of these objects, and have appointed as their respective Plenipotentiaries:

The President of the United States of America, Thomas F. Bayard, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico, at Washington;

Who, after having exhibited their respective full powers, and having found the same to be in good and due form, have agreed upon the following articles:

Article I

All differences or questions that may arise on that portion of the frontier between the United States of America and the United States of Mexico where the Rio Grande and the Colorado rivers form the boundary line, whether such differences or questions grow out of alterations or changes in the bed of the aforesaid Rio Grande and that of the aforesaid Colorado River, or of works that may be constructed in said rivers, or of any other cause affecting the boundary line, shall be submitted for examination and decision to an International Boundary Commission, which shall have exclusive jurisdiction in the case of said differences or questions.

Article II

The International Boundary Commission shall be composed of a Commissioner appointed by the President of the United States of America, and of another appointed by the President of the United States of Mexico, in accordance with the constitutional provisions of each country, of a Consulting Engineer, appointed in the same manner by each Government, and of such Secretaries and Interpreters as either Government may see fit to add to its Commission. Each Government separately shall fix the salaries and emoluments of the members of its Commission.

ARTICLE III

The International Boundary Commission shall not transact any business unless both Commissioners are present. It shall sit on the frontier of the two contracting countries, and shall establish itself at such places as it may determine upon; it shall, however, repair to places at which any of the difficulties or questions mentioned in this convention may arise, as soon as it shall have been duly notified thereof.

ARTICLE IV

When, owing to natural causes, any change shall take place in the bed of the Rio Grande or in that of the Colorado River, in that portion thereof wherein those rivers form the boundary line between the two countries, which may affect the boundary line, notice of that fact shall be given by the proper local authorities on both sides to their respective Commissioners of the International Boundary Commission, on receiving which notice it shall be the duty of the said Commission to repair to the place where the change has taken place or the question has arisen, to make a personal examination of such change, to compare it with the bed of the river as it was before the change took place, as shown by the surveys, and to decide whether it has occurred through avulsion or erosion, for the effects of articles I and II of the convention of November 12, 1884; having done this, it shall make suitable annotations on the surveys of the boundary line.

ARTICLE V

Whenever the local authorities on any point of the frontier between the United States of America and the United States of Mexico, in that portion in which the Rio Grande and the Colorado River form the boundary between the two countries, shall think that works are being constructed, in either of those rivers, such as are prohibited by article III of the convention of November 12, 1884, or by article VII of the treaty of Guadalupe Hidalgo of February 2, 1848, they shall so notify their respective Commissioners, in order that the latter may at once submit the matter to the International Boundary Commission, and that said Commission may proceed, in accordance with the provisions of the foregoing article, to examine the case, and that it may decide whether the work is among the number of those which are permitted, or of those which are prohibited by the stipulations of those treaties.

The Commission may provisionally suspend the construction of the works in question pending the investigation of the matter, and if it shall fall to agree on this point, the works shall be suspended, at the instance of one of the two Governments.

ARTICLE VI

In either of these cases, the Commission shall make a personal examination of the matter which occasions the change, the question or the complaint, and shall give its decision in regard to the same, in doing which it shall comply with the requirements established by a body of regulations to be prepared by the said Commission and approved by both Governments.

ARTICLE VII

The International Boundary Commission shall have power to call for papers and information, and it shall be the duty of the authorities of each of the two countries to send it any papers that it may call for, relating to any boundary question in which it may have jurisdiction in pursuance of this convention.

The said Commission shall have power to summon any witnesses whose testimony it may think proper to take, and it shall be the duty of all persons thus summoned to appear before the same and to give their testimony, which shall be taken in accordance with such by-laws and regulations as may be adopted by the Commission and approved by both Governments. In case of the refusal of a witness to appear, he shall be compelled to do so, and to this end the

Commission may make use of the same means that are used by the courts of the respective countries to compel the attendance of witnesses, in conformity with their respective laws.

ARTICLE VIII

If both Commissioners shall agree to a decision, their judgment shall be considered binding upon both Governments, unless one of them shall disapprove it within one month reckoned from the day on which it shall have been pronounced. In the latter case, both Governments shall take cognizance of the matter, and shall decide it amicably, bearing constantly in mind the stipulation of Article XXI of the treaty of Guadalupe Hidalgo of February 2, 1848.

The same shall be the case when the Commissioners shall fail to agree concerning the point which occasions the question, the complaint or the change, in which case each Commissioner shall prepare a report, in writing, which he shall lay before his Government.

ARTICLE IX

This convention shall be ratified by both parties, in accordance with the provisions of their respective constitutions, and the ratifications thereof shall be exchanged at Washington as speedily as possible—and shall be in force from the date of the exchange of ratification for a period of five years.

In testimony whereof the undersigned Plenipotentiaries have signed and sealed it.

Done in duplicate, in the city of Washington, in the English and Spanish languages, on the 1st day of March one thousand eight hundred and eighty-nine.

T. F. BAYARD [SEAL]

M. ROMERO [SEAL]

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1895

Done at Washington 1 October 1895

*Entered into force 21 December 1895**

Primary source citation: 9 Bevans 887, TS 236

Whereas the United States of America and the United States of Mexico desire to comply fully with the provisions of the Convention concluded and signed at Washington, March 1, 1889, to facilitate the carrying out of the principles contained in the Convention of November 12, 1884, between the two High Contracting Parties, and to avoid the difficulties occasioned by reason of the changes which take place in the beds of the Rio Grande and Colorado River in that portion thereof where they serve as a boundary line between the two Republics;

And whereas the time fixed by Article IX of the Convention of March 1, 1889, will expire December 24, 1895;

And whereas the two High Contracting Parties deem it expedient to agree upon an extension of the time stipulated in Article IX aforesaid, to the end that the International Boundary Commission may conclude the examination and decision of the cases submitted to it, they have appointed for this purpose their respective plenipotentiaries, to wit:

The President of the United States of America, Richard Olney, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico at Washington,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

Article

The duration of the Convention of March 1, 1889, between the United States of America and the United States of Mexico, which, in virtue of the provisions of Article IX thereof, was to continue in force for a period of five years from the date of the exchange of its ratifications, and which will terminate December 24, 1895, is hereby extended for the period of one year from that date.

This Convention shall be ratified by the High Contracting Parties in conformity with their respective Constitutions, and its ratifications shall be exchanged at Washington as soon as possible.

In faith whereof, we, the undersigned, in virtue of our respective full powers, have signed this convention, in duplicate, in the English and Spanish languages, and have thereunto affixed our respective seals.

Done at the City of Washington, this first day of October in the year of our Lord one thousand eight hundred and ninety-five.

RICHARD OLNEY [SEAL]

M. ROMERO [SEAL]

* This Convention expired on 24 December 1896.

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1896

Done at Washington 6 November 1896

*Entered into force 23 December 1896**

Primary source citation: 9 Bevans 892, TS 238

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the Treaty signed by the two High Contracting Parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the Convention of March 1, 1889, extended by that of October 1, 1895, expires on the 24th of December, 1896;

And whereas the two High Contracting Parties deem it expedient to extend the period fixed by Article IX of the Convention of March 1, 1889, and by the sole Article of the Convention of October 1, 1895, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective plenipotentiaries, to wit:

The President of the United States of America, Richard Olney, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico in Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Article:

Article

The duration of the Convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which, according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the Convention of October 1, 1895, to December 24, 1896, is extended by the present Convention for the period of one year counting from this latter date.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this Convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington on the 6th day of November of the year one thousand eight hundred and ninety-six.

Richard Olney [SEAL]

M. Romero [SEAL]

* This Convention expired on 24 December 1897.

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1897

Done at Washington 29 October 1897

*Entered into force 21 December 1897**

Primary source citation: 9 Bevans 896, TS 240

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the Treaty signed by the two High Contracting Parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the Convention of March 1, 1889, extended by the conventions of October 1, 1895, and November 6, 1896, expires on the 24th of December, 1897;

And whereas the two High Contracting Parties deem it expedient to extend the period fixed by Article IX of the Convention of March 1, 1889, and by the sole Article of the Convention of October 1, 1895, and that of November 6, 1896, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective Plenipotentiaries, to wit:

The President of the United States of America, John Sherman, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico in Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Article:

Article

The duration of the Convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the Convention of October 1, 1895, to December 24, 1896, and by the Convention of November 6, 1896, to December 24, 1897, is extended by the present Convention for the period of one year counting from this last date.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this Convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington, on the 29th day of October, of the year one thousand eight hundred and ninety-seven.

John Sherman [SEAL]

M. Romero [SEAL]

* This Convention expired on 24 December 1898.

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1898

Done at Washington 2 December 1898

*Entered into force 2 February 1899**

Primary source citation: 9 Bevans 898, TS 241

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the Treaty signed by the two High Contracting Parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the Convention of March 1, 1889, extended by the Conventions of October 1, 1895, November 6, 1896 and October 29, 1897, expires on the 24th of December, 1898;

And whereas the two High Contracting Parties deem it expedient to extend the period fixed by Article IX of the Convention of March 1, 1889, and by the sole Article of the Convention of October 1, 1895, that of November 6, 1896 and that of October 29, 1897, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective Plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the United States of Mexico, José F. Godoy, chargé d'àffaires ad interim of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Article:

Article

The duration of the Convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the Convention of October 1, 1895, to December 24, 1896, by the Convention of November 6, 1896, to December 24, 1897, and by the Convention of October 29, 1897 to December 24, 1898, is extended by the present Convention for the period of one year counting from this last date.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this Convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington, on the second day of December one thousand eight hundred and ninety-eight.

JOHN HAY [SEAL]

JOSÉ F. GODOY [SEAL]

* This Convention expired on 24 December 1899.

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1899

Done at Washington 22 December 1899

*Entered into force 5 May 1900**

Primary source citation: 9 Bevans 908, TS 243

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the Treaty signed by the two High Contracting Parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the Convention of March 1, 1889, extended by the Conventions of October 1, 1895, November 6, 1896, October 29, 1897, and December 2, 1898, expires on the 24th of December, 1899.

And whereas the two High Contracting Parties deem it expedient to extend the period fixed by Article IX of the Convention of March 1, 1889, and by the sole Article of the Convention of October 1, 1895, that of November 6, 1896, that of October 29, 1897 and that of December 2, 1898, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective Plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State for the United States of America; and

The President of the United States of Mexico, Manuel de Azpíroz, Ambassador Extraordinary and Plenipotentiary of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Article:

Article

The duration of the Convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the Convention of October 1, 1895, to December 24, 1896, by the Convention of November 6, 1896, to December 24, 1897, by the Convention of October 29, 1897 to December 24, 1898, and by the Convention of December 2, 1898, to December 24, 1899, is extended by the present Convention for the period of one year counting from this last date.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington, on the twenty-second day of December one thousand eight hundred and ninety-nine.

JOHN HAY [SEAL]

M. DE AZPÍROZ [SEAL]

* This Convention expired on 24 December 1900.

Convention Between the United States of America and the United States of Mexico on Boundary Waters, Washington, 1900

Done at Washington 21 November 1900

*Entered into force 24 December 1900**

Primary source citation: 9 Bevans 910, TS 244

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the Treaty signed by the two High Contracting Parties on the 12th of November 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the Convention of March 1, 1889, extended by the Conventions of October 1, 1895, November 6, 1896, October 29, 1897, December 2, 1898, and December 22, 1899, expires on the 24th of December 1900;

And whereas the two High Contracting Parties deem it expedient to indefinitely continue the period fixed by Article IX of the Convention of March 1, 1889, and by the sole article of the Convention of October 1, 1895, that of November 6, 1896, that of October 29, 1897, that of December 2, 1898, and that of December 22, 1899, in order that the International Boundary Commission may be able to continue the examination and decision of the cases submitted to it, they have, for that purpose, appointed their respective Plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the United States of Mexico, Manuel de Azpíroz, Ambassador Extraordinary and Plenipotentiary of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Article:

Article

The said Convention of March 1, 1889, as extended on the several dates above mentioned, and the Commission established thereunder shall continue in force and effect indefinitely, subject, however, to the right of either contracting party to dissolve the said Commission by giving six months' notice to the other; but such dissolution of the Commission shall not prevent the two governments from thereafter agreeing to revive the said Commission, or to reconstitute the same, according to the terms of the said Convention; and the said convention of March 1, 1889, as hereby continued, may be terminated twelve months after notice of a desire for its termination shall have been given in due form by one of the two contracting parties to the other.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this Convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington on the 21st day of November, one thousand nine hundred.

JOHN HAY [SEAL]

M. DE AZPÍROZ [SEAL]

* This Convention was terminated on 8 November 1945.

Treaty Between the United States of America and the United Mexican States Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Washington, 1944

Done at Washington 3 February 1944

Entered into force 8 November 1945

Primary source citation: 9 Bevans 1166, TS 994

Treaty

The Government of the United States of America and the Government of the United Mexican States: animated by the sincere spirit of cordiality and friendly cooperation which happily governs the relations between them; taking into account the fact that Articles VI and VII of the Treaty of Peace, Friendship and Limits between the United States of America and the United Mexican States signed at Guadalupe Hidalgo on February 2, 1848, and Article IV of the boundary treaty between the two countries signed at the City of Mexico December 30, 1853 regulate the use of the waters of the Rio Grande (Rio Bravo) and the Colorado River for purposes of navigation only; considering that the utilization of these waters for other purposes is desirable in the interest of both countries, and desiring, moreover, to fix and delimit the rights of the two countries with respect to the waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, United States of America, to the Gulf of Mexico, in order to obtain the most complete and satisfactory utilization thereof, have resolved to conclude a treaty and for this purpose have named as their plenipotentiaries:

The President of the United States of America:

Cordell Hull, Secretary of State of the United States of America, George S. Messersmith, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and Lawrence M. Lawson, United States Commissioner, International Boundary Commission, United States and Mexico; and

The President of the United Mexican States:

Francisco Castillo Nájera, Ambassador Extraordinary and Plenipotentiary of the United Mexican States in Washington, and Rafael Fernández MacGregor, Mexican Commissioner, International Boundary Commission, United States and Mexico; who, having communicated to each other their respective Full Powers and having found them in good and due form, have agreed upon the following:

I. PRELIMINARY PROVISIONS

ARTICLE 1

For the purposes of this Treaty it shall be understood that:

(a) "The United States" means the United States of America.

(b) "Mexico" means the United Mexican States.

(c) "The Commission" means the International Boundary and Water Commission, United States and Mexico, as described in Article 2 of this Treaty.

(d) "To divert" means the deliberate act of taking water from any channel in order to convey it elsewhere for storage, or to utilize it for domestic, agricultural, stockraising or industrial purposeS whether this be done by means of dams across the channel, partition weirs, lateral intakes, pumps or any other methods.

(e) "Point of diversion" means the place where the act of diverting the water is effected.

(f) "Conservation capacity of storage reservoirs" means that part of their total capacity devoted to holding and conserving the water for disposal thereof as and when required, that is, capacity additional to that provided for silt retention and flood control.

(g) "Flood discharges and spills" means the voluntary or involuntary discharge of water for flood control as distinguished from releases for other purposes.

(h) "Return flow" means that portion of diverted water that eventually finds its way back to the source from which it was diverted.

(i) "Release" means the deliberate discharge of stored water for conveyance elsewhere or for direct utilization.

(j) "Consumptive use" means the use of water by evaporation, plant transpiration or other manner whereby the water is consumed and does not return to its source of supply. In general it is measured by the amount of water diverted less the part thereof which returns to the stream.

(k) "Lowest major international dam or reservoir" means the major international dam or reservoir situated farthest downstream.

(l) "Highest major international dam or reservoir" means the major international dam or reservoir situated farthest upstream.

ARTICLE 2

The International Boundary Commission established pursuant to the provisions of the Convention between the United States and Mexico signed in Washington March 1, 1889 to facilitate the carrying out of the principles contained in the Treaty of November 12, 1884 and to avoid difficulties occasioned by reason of the changes which take place in the beds of the Rio Grande (Rio Bravo) and the Colorado River shall hereafter be known as the International Boundary and Water Commission, United States and Mexico, which shall continue to function for the entire period during which the present Treaty shall continue in force. Accordingly, the term of the Convention of March 1, 1889 shall be considered to be indefinitely extended, and the Convention of November 21, 1900 between the United States and Mexico regarding that Convention shall be considered completely terminated.

The application of the present Treaty, the regulation and exercise of the rights and obligations which the two Governments assume thereunder, and the settlement of all disputes to which its observance and execution may give

rise are hereby entrusted to the International Boundary and Water Commission, which shall function in conformity with the powers and limitations set forth in this Treaty.

The Commission shall in all respects have the status of an international body, and shall consist of a United States Section and a Mexican Section. The head of each Section shall be an Engineer Commissioner. Wherever there are provisions in this Treaty for joint action or joint agreement by the two Governments, or for the furnishing of reports, studies or plans to the two Governments, or similar provisions, it shall be understood that the particular matter in question shall be handled by or through the Department of State of the United States and the Ministry of Foreign Relations of Mexico.

The Commission or either of its two Sections may employ such assistants and engineering and legal advisers as it may deem necessary. Each Government shall accord diplomatic status to the Commissioner, designated by the other Government. The Commissioner, two principal engineers, a legal adviser, and a secretary, designated by each Government as members of its Section of the Commission, shall be entitled in the territory of the other country to the privileges and immunities appertaining to diplomatic officers. The Commission and its personnel may freely carry out their observations, studies and field work in the territory of either country.

The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary, each Section of the Commission retaining jurisdiction over that part of the works located within the limits of its own country. Neither Section shall assume jurisdiction or control over works located within the limits of the country of the other without the express consent of the Government of the latter. The works constructed, acquired or used in fulfillment of the provisions of this Treaty and located wholly within the territorial limits of either country, although these works may be international in character, shall remain, except as herein otherwise specifically provided, under the exclusive jurisdiction and control of the Section of the Commission in whose country the works may be situated.

The duties and powers vested in the Commission by this Treaty shall be in addition to those vested in the International Boundary Commission by the Convention of March 1, 1889 and other pertinent treaties and agreements in force between the two countries except as the provisions of any of them may be modified by the present Treaty.

Each Government shall bear the expenses incurred in the maintenance of its Section of the Commission. The joint expenses, which may be incurred as agreed upon by the Commission, shall be borne equally by the two Governments.

ARTICLE 3

In matters in which the Commission may be called upon to make provision for the joint use of international waters, the following order of preferences shall serve as a guide:

1. Domestic and municipal uses.
2. Agriculture and stockraising.
3. Electric power.
4. Other industrial uses.
5. Navigation.
6. Fishing and hunting.
7. Any other beneficial uses which may be determined by the Commission.

All of the foregoing uses shall be subject to any sanitary measures or works which may be mutually agreed upon by the two Governments, which hereby agree to give preferential attention to the solution of all border sanitation problems.

II. RIO GRANDE (RIO BRAVO)

ARTICLE 4

The waters of the Rio Grande (Rio Bravo) between Fort Quitman, Texas and the Gulf of Mexico are hereby allotted to the two countries in the following manner:

A. To Mexico:

(a) All of the waters reaching the main channel of the Rio Grande (Rio Bravo) from the San Juan and Alamo Rivers, including the return flow from the lands irrigated from the latter two rivers.

(b) One-half of the flow in the main channel of the Rio Grande (Rio Bravo) below the lowest major international storage dam, so far as said flow is not specifically allotted under this Treaty to either of the two countries.

(c) Two-thirds of the flow reaching the main channel of the Rio Grande (Rio Bravo) from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, subject to the provisions of subparagraph (c) of paragraph B of this Article.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

B. To the United States:

(a) All of the waters reaching the main channel of the Rio Grande (Rio Bravo) from the Pecos and Devils Rivers, Goodenough Spring, and Alamito, Terlingua, San Felipe and Pinto Creeks.

(b) One-half of the flow in the main channel of the Rio Grande (Rio Bravo) below the lowest major international storage dam, so far as said flow is not specifically allotted under this Treaty to either of the two countries.

(c) One-third of the flow reaching the main channel of the Rio Grande (Rio Bravo) from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, provided that this third shall not be less, as an average amount in cycles of five consecutive years, than 350,000 acre-feet (431,721,000 cubic meters) annually. The United States shall not acquire any right by the use of the waters of the tributaries named in this subparagraph, in excess of the said 350,000 acre-feet (431,721,000 cubic meters) annually, except the right to use one-third of the flow reaching the Rio Grande (Rio Bravo) from said tributaries, although such one-third may be in excess of that amount.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

In the event of extraordinary drought or serious accident to the hydraulic systems on the measured Mexican tributaries, making it difficult for Mexico to make available the run-off of 350,000 acre-feet (431,721,000 cubic meters) annually, allotted in subparagraph (c) of paragraph B of this Article to the United States as the minimum contribution from the aforesaid Mexican tributaries, any deficiencies existing at the end of the aforesaid five-year cycle shall be made up in the following five-year cycle with water from the said measured tributaries.

Whenever the conservation capacities assigned to the United States in at least two of the major international reservoirs, including the highest major reservoir, are filled with waters belonging to the United States, a cycle of five years shall be considered as terminated and all debits fully paid, whereupon a new five-year cycle shall commence.

ARTICLE 5

The two Governments agree to construct jointly, through their respective Sections of the Commission, the following works in the main channel of the Rio Grande (Rio Bravo):

I. The dams required for the conservation, storage and regulation of the greatest quantity of the annual flow of the river in a way to ensure the continuance of existing uses and the development of the greatest number of feasible projects, within the limits imposed by the water allotments specified.

II. The dams and other joint works required for the diversion of the flow of the Rio Grande (Rio Bravo).

One of the storage dams shall be constructed in the section between Santa Helena Canyon and the mouth of the Pecos River; one in the section between Eagle Pass and Laredo, Texas (Piedras Negras and Nuevo Laredo in Mexico); and a third in the section between Laredo and Roma, Texas (Nuevo Laredo and San Pedro de Roma in Mexico). One or more of the stipulated dams may be omitted, and others than those enumerated may be built, in either case as may be determined by the Commission, subject to the approval of the two Governments.

In planning the construction of such dams the Commission shall determine:

(a) The most feasible sites;

(b) The maximum feasible reservoir capacity at each site;

(c) The conservation capacity required by each country at each site, taking into consideration the amount and regimen of its allotment of water and its contemplated uses;

(d) The capacity required for retention of silt;

(e) The capacity required for flood control.

The conservation and silt capacities of each reservoir shall be assigned to each country in the same proportion as the capacities required by each country in such reservoir for conservation purposes. Each country shall have an undivided interest in the flood control capacity of each reservoir.

The construction of the international storage dams shall start within two years following the approval of the respective plans by the two Governments. The works shall begin with the construction of the lowest major international storage dam, but works in the upper reaches of the river may be constructed simultaneously. The lowest major international storage dam shall be completed within a period of eight years from the date of the entry into force of this Treaty.

The construction of the dams and other joint works required for the diversion of the flows of the river shall be initiated on the dates recommended by the Commission and approved by the two Governments.

The cost of construction, operation and maintenance of each of the international storage dams shall be prorated between the two Governments in proportion to the capacity allotted to each country for conservation purposes in the reservoir at such dam.

The cost of construction, operation and maintenance of each of the dams and other joint works required for the diversion of the flows of the river shall be prorated between the two Governments in proportion to the benefits which the respective countries received therefrom, as determined by the Commission and approved by the two Governments.

ARTICLE 6

The Commission shall study, investigate, and prepare plans for flood control works, where and when necessary, other than those referred to in Article 5 of this Treaty, on the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. These works may include levees along the river, floodways and grade-control structures, and

works for the canalization, rectification and artificial channeling of reaches of the river. The Commission shall report to the two Governments the works which should be built, the estimated cost thereof, the part of the works to be constructed by each Government, and the part of the works to be operated and maintained by each Section of the Commission. Each Government agrees to construct, through its Section of the Commission, such works as may be recommended by the Commission and approved by the two Governments. Each Government shall pay the costs of the works constructed by it and the costs of operation and maintenance of the part of the works assigned to it for such purpose.

ARTICLE 7

The Commission shall study, investigate and prepare plans for plants for generating hydro-electric energy which it may be feasible to construct at the international storage dams on the Rio Grande (Rio Bravo). The Commission shall report to the two Governments in a Minute the works which should be built, the estimated cost thereof, and the part of the works to be constructed by each Government. Each Government agrees to construct, through its Section of the Commission, such works as may be recommended by the Commission and approved by the two Governments. Both Governments, through their respective Sections of the Commission, shall operate and maintain jointly such hydro-electric plants. Each Government shall pay half the cost of the construction, operation and maintenance of such plants, and the energy generated shall be assigned to each country in like proportion.

ARTICLE 8

The two Governments recognize that both countries have a common interest in the conservation and storage of waters in the international reservoirs and in the maximum use of these structures for the purpose of obtaining the most beneficial, regular and constant use of the waters belonging to them. Accordingly, within the year following the placing in operation of the first of the major international storage dams which is constructed, the Commission shall submit to each Government for its approval, regulations for the storage, conveyance and delivery of the waters of the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. Such regulations may be modified, amended or supplemented when necessary by the Commission, subject to the approval of the two Governments. The following general rules shall severally govern until modified or amended by agreement of the Commission, with the approval of the two Governments:

(a) Storage in all major international reservoirs above the lowest shall be maintained at the maximum possible water level, consistent with flood control, irrigation use and power requirements.

(b) Inflows to each reservoir shall be credited to each country in accordance with the ownership of such inflows.

(c) In any reservoir the ownership of water belonging to the country whose conservation capacity therein is filled, and in excess of that needed to keep it filled, shall pass to the other country to the extent that such country may have unfilled conservation capacity, except that one country may at its option temporarily use the conservation capacity of the other country not currently being used in any of the upper reservoirs; provided that in the event of flood discharge or spill occurring while one country is using the conservation capacity of the other, all of such flood discharge or spill shall be charged to the country using the other's capacity, and all inflow shall be credited to the other country until the flood discharge or spill ceases or until the capacity of the other country becomes filled with its own water.

(d) Reservoir losses shall be charged in proportion to the ownership of water in storage. Releases from any reservoir shall be charged to the country requesting them, except that releases for the generation of electrical energy, or other common purpose, shall be charged in proportion to the ownership of water in storage.

(e) Flood discharges and spills from the upper reservoirs shall be divided in the same proportion as the ownership of the inflows occurring at the time of such flood discharges and spills, except as provided in subparagraph (c) of this Article. Flood discharges and spills from the lowest reservoir shall be divided equally, except that one country, with the consent of the Commission, may use such part of the share of the other country as is not used by the latter country.

(f) Either of the two countries may avail itself, whenever it so desires, of any water belonging to it and stored in the international reservoirs, provided that the water so taken is for direct beneficial use or for storage in other reservoirs. For this purpose the Commissioner of the respective country shall give appropriate notice to the Commission, which shall prescribe the proper measures for the opportune furnishing of the water.

ARTICLE 9

(a) The channel of the Rio Grande (Rio Bravo) may be used by either of the two countries to convey water belonging to it.

(b) Either of the two countries may, at any point on the main channel of the river from Fort Quitman, Texas to the Gulf of Mexico, divert and use the water belonging to it and may for this purpose construct any necessary works. However, no such diversion or use, not existing on the date this Treaty enters into force, shall be permitted in either country, nor shall works be constructed for such purpose, until the Section of the Commission in whose country the diversion or use is proposed has made a finding that the water necessary for such diversion or use is available from the share of that country, unless the Commission has agreed to a greater diversion or use as provided by paragraph (d) of this Article. The proposed use and the plans for the diversion works to be constructed in connection therewith shall be previously made known to the Commission for its information.

(c) Consumptive uses from the main stream and from the unmeasured tributaries below Fort Quitman shall be charged against the share of the country making them.

(d) The Commission shall have the power to authorize either country to divert and use water not belonging entirely to such country, when the water belonging to the other country can be diverted and used without injury to the latter and can be replaced at some other point on the river.

(e) The Commission shall have the power to authorize temporary diversion and use by one country of water belonging to the other, when the latter does not need it or is unable to use it, provided that such authorization or the use of such water shall not establish any right to continue to divert it.

(f) In case of the occurrence of an extraordinary drought in one country with an abundant supply of water in the other country, water stored in the international storage reservoirs and belonging to the country enjoying such abundant water supply may be withdrawn, with the consent of the Commission, for the use of the country undergoing the drought.

(g) Each country shall have the right to divert from the main channel of the river any amount of water, including the water belonging to the other country, for the purpose of generating hydro-electric power, provided that such diversion causes no injury to the other country and does not interfere with the international generation of power and that the quantities not returning directly to the river are charged against the share of the country making the diversion. The feasibility of such diversions not existing on the date this Treaty enters into force shall be determined by the Commission, which shall also determine the amount of water consumed, such water to be charged against the country making the diversion.

(h) In case either of the two countries shall construct works for diverting into the main channel of the Rio Grande (Rio Bravo) or its tributaries waters that do not at the time this Treaty enters into force contribute to the flow of the Rio Grande (Rio Bravo) such water shall belong to the country making such diversion.

(i) Main stream channel losses shall be charged in proportion to the ownership of water being conveyed in the channel at the times and places of the losses.

(j) The Commission shall keep a record of the waters belonging to each country and of those that may be available at a given moment, taking into account the measurement of the allotments, the regulation of the waters in storage, the consumptive uses, the withdrawals, the diversions, and the losses. For this purpose the Commission shall construct, operate, and maintain on the main channel of the Rio Grande (Rio Bravo), and each Section shall construct, operate and maintain on the measured tributaries in its own country, all the gaging stations and mechanical apparatus necessary for the purpose of making computations and of obtaining the necessary data for such record. The information with respect to the diversions and consumptive uses on the unmeasured tributaries shall be furnished

to the Commission by the appropriate Section. The cost of construction of any new gaging stations located on the main channel of the Rio Grande (Rio Bravo) shall be borne equally by the two Governments. The operation and maintenance of all gaging stations or the cost of such operation and maintenance shall be apportioned between the two Sections in accordance with determinations to be made by the Commission.

III. COLORADO RIVER

ARTICLE 10

Of the waters of the Colorado River, from any and all sources, there are allotted to Mexico:

(a) A guaranteed annual quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) to be delivered in accordance with the provisions of Article 15 of this Treaty.

(b) Any other quantities arriving at the Mexican points of diversion, with the understanding that in any year in which, as determined by the United States Section, there exists a surplus of waters of the Colorado River in excess of the amount necessary to supply uses in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually to Mexico, the United States undertakes to deliver to Mexico, in the manner set out in Article 15 of this Treaty, additional waters of the Colorado River system to provide a total quantity not to exceed 1,700,000 acre-feet (2,096,931,000 cubic meters) a year. Mexico shall acquire no right beyond that provided by this subparagraph by the use of waters of the Colorado River system, for any purpose whatsoever, in excess of 1,500,000 acre-feet (1,850,230,000 cubic meters) annually.

In the event of extraordinary drought or serious accident to the irrigation system in the United States, thereby making it difficult for the United States to deliver the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) a year, the water allotted to Mexico under subparagraph (a) of this Article will be reduced in the same proportion as consumptive uses in the United States are reduced.

ARTICLE 11

(a) The United States shall deliver all waters allotted to Mexico wherever these waters may arrive in the bed of the limitrophe section of the Colorado River, with the exceptions hereinafter provided. Such waters shall be made up of the waters of the said river, whatever their origin, subject to the provisions of the following paragraphs of this Article.

(b) Of the waters of the Colorado River allotted to Mexico by subparagraph (a) of Article 10 of this Treaty, the United States shall deliver, wherever such waters may arrive in the limitrophe section of the river, 1,000,000 acre-feet (1,233,489,000 cubic meters) annually from the time the Davis dam and reservoir are placed in operation until January 1, 1980 and thereafter 1,125,000 acre-feet (1,387,675,000 cubic meters) annually, except that, should the main diversion structure referred to in subparagraph (a) of Article 12 of this Treaty be located entirely in Mexico and should Mexico so request, the United States shall deliver a quantity of water not exceeding 25,000 acre-feet (30,837,000 cubic meters) annually, unless a larger quantity may be mutually agreed upon, at a point, to be likewise mutually agreed upon, on the international land boundary near San Luis, Sonora, in which event the quantities of 1,000,000 acre-feet (1,233,489,000 cubic meters) and 1,125,000 acre-feet (1,387,675,000 cubic meters) provided hereinabove as deliverable in the limitrophe section of the river shall be reduced by the quantities to be delivered in the year concerned near San Luis, Sonora.

(c) During the period from the time the Davis dam and reservoir are placed in operation until January 1, 1980, the United States shall also deliver to Mexico annually, of the water allotted to it, 500,000 acre-feet (616,745,000 cubic meters), and thereafter the United States shall deliver annually 375,000 acre-feet (462,558,000 cubic meters), at the international boundary line, by means of the All-American Canal and a canal connecting the lower end of the Pilot Knob Wasteway with the Alamo Canal or with any other Mexican canal which may be substituted for the Alamo Canal. In either event the deliveries shall be made at an operating water surface elevation not higher than that of the Alamo Canal at the point where it crossed the international boundary line in the year 1943.

(d) All the deliveries of water specified above shall be made subject to the provisions of Article 15 of this Treaty.

ARTICLE 12

The two Governments agree to construct the following works:

(a) Mexico shall construct at its expense, within a period of five years from the date of the entry into force of this Treaty, a main diversion structure below the point where the northernmost part of the international land boundary line intersects the Colorado River. If such diversion structure is located in the limitrophe section of the river, its location, design and construction shall be subject to the approval of the Commission. The Commission shall thereafter maintain and operate the structure at the expense of Mexico. Regardless of where such diversion structure is located, there shall simultaneously be constructed such levees, interior drainage facilities and other works, or improvements to existing works, as in the opinion of the Commission shall be necessary to protect lands within the United States against damage from such floods and seepage as might result from the construction, operation and maintenance of this diversion structure. These protective works shall be constructed, operated and maintained at the expense of Mexico by the respective Sections of the Commission, or under their supervision, each within the territory of its own country.

(b) The United States, within a period of five years from the date of the entry into force of this Treaty, shall construct in its own territory and at its expense, and thereafter operate and maintain at its expense, the Davis storage dam and reservoir, a part of the capacity of which shall be used to make possible the regulation at the boundary of the waters to be delivered to Mexico in accordance with the provisions of Article 15 of this Treaty.

(c) The United States shall construct or acquire in its own territory the works that may be necessary to convey a part of the waters of the Colorado River allotted to Mexico to the Mexican diversion points on the international land boundary line referred to in this Treaty. Among these works shall be included: the canal and other works necessary to convey water from the lower end of the Pilot Knob Wasteway to the international boundary, and, should Mexico request it, a canal to connect the main diversion structure referred to in subparagraph (a) of this Article, if this diversion structure should be built in the limitrophe section of the river, with the Mexican system of canals at a point to be agreed upon by the Commission on the international land boundary near San Luis, Sonora. Such works shall be constructed or acquired and operated and maintained by the United States Section at the expense of Mexico. Mexico shall also pay the costs of any sites or rights of way required for such works.

(d) The Commission shall construct, operate and maintain in the limitrophe section of the Colorado River, and each Section shall construct, operate and maintain in the territory of its own country on the Colorado River below Imperial Dam and on all other carrying facilities used for the delivery of water to Mexico, all necessary gaging stations and other measuring devices for the purpose of keeping a complete record of the waters delivered to Mexico and of the flows of the river. All data obtained as to such deliveries and flows shall be periodically compiled and exchanged between the two Sections.

ARTICLE 13

The Commission shall study, investigate and prepare plans for flood control on the Lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, and shall, in a Minute, report to the two Governments the works which should be built, the estimated cost thereof, and the part of the works to be constructed by each Government. The two Governments agree to construct, through their respective Sections of the Commission, such works as may be recommended by the Commission and approved by the two Governments, each Government to pay the costs of the works constructed by it. The Commission shall likewise recommend the parts of the works to be operated and maintained jointly by the Commission and the parts to be operated and maintained by each Section. The two Governments agree to pay in equal shares the cost of joint operation and maintenance, and each Government agrees to pay the cost of operation and maintenance of the works assigned to it for such purpose.

ARTICLE 14

In consideration of the use of the All-American Canal for the delivery to Mexico, in the manner provided in Articles 11 and 15 of this Treaty, of a part of its allotment of the waters of the Colorado River, Mexico shall pay to the United States:

(a) A proportion of the costs actually incurred in the construction of Imperial Dam and the Imperial Dam-Pilot Knob section of the All-American Canal, this proportion and the method and terms of repayment to be determined by the two Governments, which, for this purpose, shall take into consideration the proportionate uses of these facilities by the two countries, these determinations to be made as soon as Davis dam and reservoir are placed in operation.

(b) Annually, a proportionate part of the total costs of maintenance and operation of such facilities, these costs to be prorated between the two countries in proportion to the amount of water delivered annually through such facilities for use in each of the two countries.

In the event that revenue from the sale of hydro-electric power which may be generated at Pilot Knob become available for the amortization of part or all of the costs of the facilities named in subparagraph (a) of this Article, the part that Mexico should pay of the cost of said facilities shall be reduced or repaid in the same proportion as the balance of the total costs are reduced or repaid. It is understood that any such revenue shall not become available until the cost of any works which may be constructed for the generation of hydro-electric power at said location has been fully amortized from the revenues derived therefrom.

ARTICLE 15

A. The water allotted in subparagraph (a) of Article 10 of this Treaty shall be delivered to Mexico at the points of delivery specified in Article 11, in accordance with the following two annual schedules of deliveries by months, which the Mexican Section shall formulate and present to the Commission before the beginning of each calendar year:

SCHEDULE I

Schedule I shall cover the delivery, in the limitrophe section of the Colorado River, of 1,000,000 acre-feet (1,233,489,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 1,125,000 acre-feet (1,387,675,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 1,000,000 acre-foot (1,233,489,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 600 cubic feet (17.0 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,000 cubic feet (28.3 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

With reference to the 1,125,000 acre-foot (1,387,675,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 675 cubic feet (19.1 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,125 cubic feet (31.9 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

Should deliveries of water be made at a point on the land boundary near San Luis, Sonora, as provided for in Article 11, such deliveries shall be made under a sub-schedule to be formulated and furnished by the Mexican Section. The quantities and monthly rates of deliveries under such sub-schedule shall be in proportion to those specified for Schedule I, unless otherwise agreed upon by the Commission.

SCHEDULE II

Schedule II shall cover the delivery at the boundary line by means of the All-American Canal of 500,000 acre-feet (616,745,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 375,000 acre-feet (462,558,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 500,000 acre-foot (616,745,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 300 cubic feet (8.5 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 500 cubic feet (14.2 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

With reference to the 375,000 acre-foot (462,558,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 225 cubic feet (6.4 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 375 cubic feet (10.6 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

B. The United States shall be under no obligation to deliver, through the All-American Canal, more than 500,000 acre-feet (616,745,000 cubic meters) annually from the date Davis dam and reservoir are placed in operation until January 1, 1980 or more than 375,000 acre-feet (462,558,000 cubic meters) annually thereafter. If, by mutual agreement, any part of the quantities of water specified in this paragraph are delivered to Mexico at points on the land boundary otherwise than through the All-American Canal, the above quantities of water and the rates of deliveries set out under Schedule II of this Article shall be correspondingly diminished.

C. The United States shall have the option of delivering, at the point on the land boundary mentioned in subparagraph (c) of Article 11, any part or all of the water to be delivered at that point under Schedule II of this Article during the months of January, February, October, November and December of each year, from any source whatsoever, with the understanding that the total specified annual quantities to be delivered through the All-American Canal shall not be reduced because of the exercise of this option, unless such reduction be requested by the Mexican Section, provided that the exercise of this option shall not have the effect of increasing the total amount of scheduled water to be delivered to Mexico.

D. In any year in which there shall exist in the river water in excess of that necessary to satisfy the requirements in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) allotted to Mexico, the United States hereby declares its intention to cooperate with Mexico in attempting to supply additional quantities of water through the All-American Canal as such additional quantities are desired by Mexico, if such use of the Canal and facilities will not be detrimental to the United States, provided that the delivery of any additional quantities through the All-American Canal shall not have the effect of increasing the total scheduled deliveries to Mexico. Mexico hereby declares its intention to cooperate with the United States by attempting to curtail deliveries of water through the All-American Canal in years of limited supply, if such curtailment can be accomplished without detriment to Mexico and is necessary to allow full use of all available water supplies, provided that such curtailment shall not have the effect of reducing the total scheduled deliveries of water to Mexico.

E. In any year in which there shall exist in the river water in excess of that necessary to satisfy the requirements in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) allotted to Mexico, the United States Section shall so inform the Mexican Section in order that the latter may schedule such surplus water to complete a quantity up to a maximum of 1,700,000 acre-feet (2,096,931,000 cubic meters). In this circumstance the total quantities to be delivered under Schedules I and II shall be increased in proportion to their respective total quantities and the two schedules thus increased shall be subject to the same limitations as those established for each under paragraph A of this Article.

F. Subject to the limitations as to the rates of deliveries and total quantities set out in Schedules I and II, Mexico shall have the right, upon thirty days notice in advance to the United States Section, to increase or decrease each monthly quantity prescribed by those schedules by not more than 20% of the monthly quantity.

G. The total quantity of water to be delivered under Schedule I of paragraph A of this Article may be increased in any year if the amount to be delivered under Schedule II is correspondingly reduced and if the limitations as to rates of delivery under each schedule are correspondingly increased and reduced.

IV. TIJUANA RIVER

ARTICLE 16

In order to improve existing uses and to assure any feasible further development, the Commission shall study and investigate, and shall submit to the two Governments for their approval:

(1) Recommendations for the equitable distribution between the two countries of the waters of the Tijuana River system;

(2) Plans for storage and flood control to promote and develop domestic, irrigation and other feasible uses of the waters of this system;

(3) An estimate of the cost of the proposed works and the manner in which the construction of such works or the cost thereof should be divided between the two Governments;

(4) Recommendations regarding the parts of the works to be operated and maintained by the Commission and the parts to be operated and maintained by each Section.

The two Governments through their respective Sections of the Commission shall construct such of the proposed works as are approved by both Governments, shall divide the work to be done or the cost thereof, and shall distribute between the two countries the waters of the Tijuana River system in the proportions approved by the two Governments. The two Governments agree to pay in equal shares the costs of joint operation and maintenance of the works involved, and each Government agrees to pay the cost of operation and maintenance of the works assigned to it for such purpose.

V. GENERAL PROVISIONS

ARTICLE 17

The use of the channels of the international rivers for the discharge of flood or other excess waters shall be free and not subject to limitation by either country, and neither country shall have any claim against the other in respect of any damage caused by such use. Each Government agrees to furnish the other Government, as far in advance as practicable, any information it may have in regard to such extraordinary discharges of water from reservoirs and flood flows on its own territory as may produce floods on the territory of the other.

Each Government declares its intention to operate its storage dams in such manner, consistent with the normal operations of its hydraulic systems, as to avoid, as far as feasible, material damage in the territory of the other.

ARTICLE 18

Public use of the water surface of lakes formed by international dams shall, when not harmful to the services rendered by such dams be free and common to both countries, subject to the police regulations of each country in its territory, to such general regulations as may appropriately be prescribed and enforced by the Commission with the approval of the two Governments for the purpose of the application of the provisions of this Treaty, and to such regulations as may appropriately be prescribed and enforced for the same purpose by each Section of the Commission with respect to the areas and borders of such parts of those lakes as lie within its territory. Neither Government shall use for military purposes such water surface situated within the territory of the other country except by express agreement between the two Governments.

ARTICLE 19

The two Governments shall conclude such special agreements as may be necessary to regulate the generation, development and disposition of electric power at international plants, including the necessary provisions for the export of electric current.

ARTICLE 20

The two Governments shall, through their respective Sections of the Commission, carry out the construction of works allotted to them. For this purpose the respective Sections of the Commission may make use of any competent public or private agencies in accordance with the laws of the respective countries. With respect to such works as either Section of the Commission may have to execute on the territory of the other, it shall, in the execution of such works, observe the laws of the place where such works are located or carried out, with the exceptions hereinafter stated.

All materials, implements, equipment and repair parts intended for the construction, operation and maintenance of such works shall be exempt from import and export customs duties. The whole of the personnel employed either directly or indirectly on the construction, operation or maintenance of the works may pass freely from one country to the other for the purpose of going to and from the place of location of the works, without any immigration restrictions, passports or labor requirements. Each Government shall furnish, through its own Section of the Commission, convenient means of identification to the personnel employed by it on the aforesaid works and verification certificates covering all materials, implements, equipment and repair parts intended for the works.

Each Government shall assume responsibility for and shall adjust exclusively in accordance with its own laws all claims arising within its territory in connection with the construction, operation or maintenance of the whole or of any part of the works herein agreed upon, or of any works which may, in the execution of this Treaty, be agreed upon in the future.

ARTICLE 21

The construction of the international dams and the formation of artificial lakes shall produce no change in the fluvial international boundary, which shall continue to be governed by existing treaties and conventions in force between the two countries.

The Commission shall, with the approval of the two Governments, establish in the artificial lakes, by buoys or by other suitable markers, a practicable and convenient line to provide for the exercise of the jurisdiction and control vested by this Treaty in the Commission and its respective Sections. Such line shall also mark the boundary for the application of the customs and police regulations of each country.

ARTICLE 22

The provisions of the Convention between the United States and Mexico for the rectification of the Rio Grande (Rio Bravo) in the El Paso-Juárez Valley signed on February 1, 1933, shall govern, so far as delimitation of the boundary, distribution of jurisdiction and sovereignty, and relations with private owners are concerned, in any places where works for the artificial channeling, canalization or rectification of the Rio Grande (Rio Bravo) and the Colorado River are carried out.

ARTICLE 23

The two Governments recognize the public interest attached to the works required for the execution and performance of this Treaty and agree to acquire, in accordance with their respective domestic laws, any private property that may be required for the construction of the said works, including the main structures and their appurtenances and the construction materials therefor, and for the operation and maintenance thereof, at the cost of the country within which the property is situated, except as may be otherwise specifically provided in this Treaty.

Each Section of the Commission shall determine the extent and location of any private property to be acquired within its own country and shall make the necessary requests upon its Government for the acquisition of such property.

The Commission shall determine the cases in which it shall become necessary to locate works for the conveyance of water or electrical energy and for the servicing of any such works, for the benefit of either of the two countries, in the territory of the other country, in order that such works can be built pursuant to agreement between the two Governments. Such works shall be subject to the jurisdiction and supervision of the Section of the Commission within whose country they are located.

Construction of the works built in pursuance of the provisions of this Treaty shall not confer upon either of the two countries any rights either of property or of jurisdiction over any part whatsoever of the territory of the other. These works shall be part of the territory and be the property of the country wherein they are situated. However, in the case of any incidents occurring on works constructed across the limitrophe part of a river and with supports on both banks, the jurisdiction of each country shall be limited by the center line of such works, which shall be marked by the Commission, without thereby changing the international boundary.

Each Government shall retain, through its own Section of the Commission and within the limits and to the extent necessary to effectuate the provisions of this Treaty, direct ownership, control and jurisdiction within its own territory and in accordance with its own laws, over all real property—including that within the channel of any river—rights of way and rights *in rem*, that it may be necessary to enter upon and occupy for the construction, operation or maintenance of all the works constructed, acquired or used pursuant to this Treaty. Furthermore, each Government shall similarly acquire and retain in its own possession the titles, control and jurisdiction over such works.

ARTICLE 24

The International Boundary and Water Commission shall have, in addition to the powers and duties otherwise specifically provided in this Treaty, the following powers and duties:

(a) To initiate and carry on investigations and develop plans for the works which are to be constructed or established in accordance with the provisions of this and other treaties or agreements in force between the two Governments dealing with boundaries and international waters; to determine, as to such works, their location, size, kind and characteristic specifications; to estimate the cost of such works; and to recommend the division of such costs between the two Governments, the arrangements for the furnishing of the necessary funds, and the dates for the

beginning of the works, to the extent that the matters mentioned in this subparagraph are not otherwise covered by specific provisions of this or any other Treaty.

(b) To construct the works agreed upon or to supervise their construction and to operate and maintain such works or to supervise their operation and maintenance, in accordance with the respective domestic laws of each country. Each Section shall have, to the extent necessary to give effect to the provisions of this Treaty, jurisdiction over the works constructed exclusively in the territory of its country whenever such works shall be connected with or shall directly affect the execution of the provisions of this Treaty.

(c) In general to exercise and discharge the specific powers and duties entrusted to the Commission by this and other treaties and agreements in force between the two countries, and to carry into execution and prevent the violation of the provisions of those treaties and agreements. The authorities of each country shall aid and support the exercise and discharge of these powers and duties, and each Commissioner shall invoke when necessary the jurisdiction of the courts or other appropriate agencies of his country to aid in the execution and enforcement of these powers and duties.

(d) To settle all differences that may arise between the two Governments with respect to the interpretation or application of this Treaty, subject to the approval of the two Governments. In any case in which the Commissioners do not reach an agreement, they shall so inform their respective governments reporting their respective opinions and the grounds therefor and the points upon which they differ, for discussion and adjustment of the difference through diplomatic channels and for application where proper of the general or special agreements which the two Governments have concluded for the settlement of controversies.

(e) To furnish the information requested of the Commissioners jointly by the two Governments on matters within their jurisdiction. In the event that the request is made by one Government alone, the Commissioner of the other Government must have the express authorization of his Government in order to comply with such request.

(f) The Commission shall construct, operate and maintain upon the limitrophe parts of the international streams, and each Section shall severally construct, operate and maintain upon the parts of the international streams and their tributaries within the boundaries of its own country, such stream gaging stations as may be needed to provide the hydrographic data necessary or convenient for the proper functioning of this Treaty. The data so obtained shall be compiled and periodically exchanged between the two Sections.

(g) The Commission shall submit annually a joint report to the two Governments on the matters in its charge. The Commission shall also submit to the two Governments joint reports on general or any particular matters at such other times as it may deem necessary or as may be requested by the two Governments.

ARTICLE 25

Except as otherwise specifically provided in this Treaty, Articles III and VII of the Convention of March 1, 1889 shall govern the proceedings of the Commission in carrying out the provisions of this Treaty. Supplementary thereto the Commission shall establish a body of rules and regulations to govern its procedure, consistent with the provisions of this Treaty and of Articles III and VII of the Convention of March 1, 1889 and subject to the approval of both Governments.

Decisions of the Commission shall be recorded in the form of Minutes done in duplicate in the English and Spanish languages, signed by each Commissioner and attested by the Secretaries, and copies thereof forwarded to each Government within three days after being signed. Except where the specific approval of the two Governments is required by any provision of this Treaty, if one of the Governments fails to communicate to the Commission its approval or disapproval of a decision of the Commission within thirty days reckoned from the date of the Minute in which it shall have been pronounced, the Minute in question and the decisions which it contains shall be considered to be approved by that Government. The Commissioners, within the limits of their respective jurisdictions, shall execute the decisions of the Commission that are approved by both Governments.

If either Government disapproves a decision of the Commission the two Governments shall take cognizance of the matter, and if an agreement regarding such matter is reached between the two Governments, the agreement shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

VI. TRANSITORY PROVISIONS

ARTICLE 26

During a period of eight years from the date of the entry into force of this Treaty, or until the beginning of operation of the lowest major international reservoir on the Rio Grande (Rio Bravo), should it be placed in operation prior to the expiration of said period, Mexico will cooperate with the United States to relieve, in times of drought, any lack of water needed to irrigate the lands now under irrigation in the Lower Rio Grande Valley in the United States, and for this purpose Mexico will release water from El Azúcar reservoir on the San Juan River and allow that water to run through its system of canals back into the San Juan River in order that the United States may divert such water from the Rio Grande (Rio Bravo). Such releases shall be made on condition that they do not affect the Mexican irrigation system, provided that Mexico shall, in any event, except in cases of extraordinary drought or serious accident to its hydraulic works, release and make available to the United States for its use the quantities requested, under the following conditions: that during the said eight years there shall be made available a total of 160,000 acre-feet (197,358,000 cubic meters) and up to 40,000 acre-feet (49,340,000 cubic meters) in any one year; that the water shall be made available as requested at rates not exceeding 750 cubic feet (21.2 cubic meters) per second; that when the rates of flow requested and made available have been more than 500 cubic feet (14.2 cubic meters) per second the period of release shall not extend beyond fifteen consecutive days; and that at least thirty days must elapse between any two periods of release during which rates of flow in excess of 500 cubic feet (14.2 cubic meters) per second have been requested and made available. In addition to the guaranteed flow, Mexico shall release from El Azúcar reservoir and conduct through its canal system and the San Juan River, for use in the United States during periods of drought and after satisfying the needs of Mexican users, any excess water that does not in the opinion of the Mexican Section have to be stored and that may be needed for the irrigation of lands which were under irrigation during the year 1943 in the Lower Rio Grande Valley in the United States.

ARTICLE 27

The provisions of Articles 10, 11, and 15 of this Treaty shall not be applied during a period of five years from the date of the entry into force of this Treaty, or until the Davis dam and the major Mexican diversion structure on the Colorado River are placed in operation, should these works be placed in operation prior to the expiration of said period. In the meantime Mexico may construct and operate at its expense a temporary diversion structure in the bed of the Colorado River in territory of the United States for the purpose of diverting water into the Alamo Canal, provided that the plans for such structure and the construction and operation thereof shall be subject to the approval of the United States Section. During this period of time the United States will make available in the river at such diversion structure river flow not currently required in the United States, and the United States will cooperate with Mexico to the end that the latter may satisfy its irrigation requirements within the limits of those requirements for lands irrigated in Mexico from the Colorado River during the year 1943.

VII. FINAL PROVISIONS

ARTICLE 28

This Treaty shall be ratified and the ratifications thereof shall be exchanged in Washington. It shall enter into force on the day of the exchange of ratifications and shall continue in force until terminated by another Treaty concluded for that purpose between the two Governments.

In witness whereof the respective Plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in the English and Spanish languages, in Washington on this third day of February, 1944.

For the Government of the United States of America:
CORDELL HULL [SEAL]

GEORGE S. MESSERSMITH [SEAL]

LAWRENCE M. LAWSON [SEAL]

For the Government of the United Mexican States:
F. CASTILLO NÁJERA [SEAL]

RAFAEL FERNÁNDEZ MACGREGOR [SEAL]

Protocol to the Treaty Between the United States of America and the United Mexican States Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Washington, 1944

Done at Washington 14 November 1944

Entered into force 8 November 1945

Primary source citation: 9 Bevans 1191, TS 994

PROTOCOL

The Government of the United States of America and the Government of the United Mexican States agree and understand that:

Wherever, by virtue of the provisions of the Treaty between the United States of America and the United Mexican States, signed in Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico, specific functions are imposed on, or exclusive jurisdiction is vested in, either of the Sections of the International Boundary and Water Commission, which involve the construction or use of works for storage or conveyance of water, flood control, stream gaging, or for any other purpose, which are situated wholly within the territory of the country of that Section, and which are to be used only partly for the performance of treaty provisions, such jurisdiction shall be exercised, and such functions, including the construction, operation and maintenance of the said works, shall be performed and carried out by the Federal agencies of that country which now or hereafter may be authorized by domestic law to construct, or to operate and maintain, such works. Such functions or jurisdictions shall be exercised in conformity with the provisions of the Treaty and in cooperation with the respective Section of the Commission, to the end that all international obligations and functions may be coordinated and fulfilled.

The works to be constructed or used on or along the boundary, and those to be constructed or used exclusively for the discharge of treaty stipulations, shall be under the jurisdiction of the Commission or of the respective Section, in accordance with the provisions of the Treaty. In carrying out the construction of such works the Sections of the Commission may utilize the services of public or private organizations in accordance with the laws of their respective countries.

This Protocol, which shall be regarded as an integral part of the aforementioned Treaty signed in Washington on February 3, 1944, shall be ratified and the ratifications thereof shall be exchanged in Washington. This Protocol shall be effective beginning with the day of the entry into force of the Treaty and shall continue effective so long as the Treaty remains in force.

In witness whereof the respective Plenipotentiaries have signed this Protocol and have hereunto affixed their seals.

Done in duplicate, in the English and Spanish languages, in Washington, this fourteenth day of November, 1944.

For the Government of the United States of America:

E. R. STETTINIUS, Jr. [SEAL]
Acting Secretary of State
of the United States of America

For the Government of the United Mexican States:

F. CASTILLO NÁJERA [SEAL]
Ambassador Extraordinary and
Plenipotentiary of the United
Mexican States in Washington

Agreement Between the United States of America and the United Mexican States on Boundary Waters, Tlatelolco and Mexico City, 1976

Done at Tlatelolco and Mexico City 24 November 1976

Entered into force 24 November 1976

Primary source citation: 29 UST 196, TIAS 8805

Translation

UNITED MEXICAN STATES
MINISTRY OF FOREIGN RELATIONS
MEXICO

TLATELOLCO, D.F., *November 24, 1976*

His Excellency
JOSEPH JOHN JOVA,
Ambassador Extraordinary and Plenipotentiary
of the United States of America,
Mexico City

No. 513118

MR. AMBASSADOR:

I have the honor to refer to the Decree adding to Article 27 of the Political Constitution of the United Mexican States to establish an Exclusive Economic Zone of Mexico outside the Territorial Sea, and to the Fishery Conservation and Management Act of 1976 establishing a Fishery Conservation Zone off the coast of the United States of America.

I also have the honor to refer to the conversations which have taken place between representatives of the Government of Mexico and the Government of the United States of America, in which it was understood that the creation of the above-mentioned Zones will require the establishment of maritime boundaries between the two countries.

With regard to the foregoing, I take the liberty of pointing out that our two countries have not yet delimited their respective continental shelves beyond 12 nautical miles seaward from the respective coasts, and that the present arrangement with respect to maritime boundaries, based on the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary, concluded in 1970, only extends the maritime boundary to 12 nautical miles.

Inasmuch as the Mexican Government has established, by means of the Decree of June 7, 1976, the outer limits of the Exclusive Economic Zone of Mexico, and taking into account the fact that those limits include three segments

contiguous to the Fishery Conservation Zone of the United States of America, which will become effective on March 1, 1977, the Mexican authorities deem it desirable to establish at this time the maritime boundaries between the two countries in the Pacific Ocean and the Gulf of Mexico out to 200 nautical miles seaward counting from the baselines used to measure the breadth of the territorial sea.

Taking into account the fact that all the necessary technical work entailed in such definitive delimitation could not be completed before the entry into force of the Fishery Conservation and Management Act of the United States of America, I take the liberty of proposing that, pending final determination by treaty of the maritime boundaries between the two countries off both coasts, the following lines be provisionally recognized as such boundaries:

In the Pacific Ocean:

(a) A geodesic line from 32°35′22.11″ north latitude, 117°27′49.42″ west longitude to 32°37′37.00″ north latitude, 117°49′31.00″ west longitude;

(b) A geodesic line from 32°37′37.00″ north latitude, 117°49′31.00″ west longitude to 31°07′58.00″ north longitude, 118°36′18.00″ west longitude;

(c) A geodesic line from 31°07′58.00″ north latitude, 118°36′18.00″ west longitude to 30°32′31.20″ north latitude, 121°51′58.37″ west longitude.

In the Western Gulf of Mexico:

(a) A geodesic line from 25°58′30.57″ north latitude, 96°55′27.37″ west longitude to 26°00′31.00″ north latitude, 96°49′29.00″ west longitude;

(b) A geodesic line from 26°00′31.00″ north latitude, 96°48′29.00″ west longitude to 26°00′30.00″ north latitude, 95°39′26.00″ west longitude;

(c) A geodesic line from 26°00′30.00″ north latitude, 95°39′26.00″ west longitude to 25°59′48.28″ north latitude, 93°26′42.19″ west longitude.

In the Eastern Gulf of Mexico:

(a) A geodesic line from 25°42′13.05″ north latitude, 91°05′24.89″ west longitude to 25°46′52.00″ north latitude, 90°29′41.00″ west longitude.

(b) A geodesic line from 25°46′52.00″ north latitude, 90°29′41.00″ west longitude to 25°41′56.52″ north latitude, 88°23′05.54″ west longitude.

The above coordinates have been determined using baselines referred to the North American Datum of 1927.

It would be understood between the two Governments that on the north side of such lines Mexico will not, and on the south side of such lines the United States will not, for any purpose, claim or exercise sovereign rights or jurisdiction over the waters or seabed and subsoil. It would be further understood that such lines will not affect or prejudge in any manner the positions of either Government with respect to the extent of internal waters, of the territorial sea, of the high seas, or of sovereign rights or jurisdiction for any other purpose.

On the basis of the foregoing, I have the honor to propose to Your Excellency that if the terms stipulated herein are acceptable to the Government of the United States of America, this note and Your Excellency's reply shall constitute an agreement between the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

A GARCÍA ROBLES

MEXICO, D. F., *November 24, 1976*

His Excellency
DR. ALFONSO GARCÍA ROBLES,
Secretary of Foreign Relations,
Mexico, D. F.

No. 2165

EXCELLENCY:

I have the honor to refer to your Note No. 513118 of November 24, 1976, concerning certain maritime boundaries between the United States and Mexico, which reads in English as follows:

"His Excellency, Joseph John Jova, Ambassador Extraordinary and Plenipotentiary of the United States of America, Mexico City, Mr. Ambassador: I have the honor to refer to the Decree adding to Article 27 of the Political Constitution of the United Mexican States to establish an Exclusive Economic Zone of Mexico outside the Territorial Sea, and to the Fishery Conservation and Management Act of 1976 establishing a Fishery Conservation Zone off the coast of the United States of America.

I also have the honor to refer to the conversations which have taken place between representatives of the Government of Mexico and the Government of the United States of America, in which it was understood that the creation of the above-mentioned Zones will require the establishment of Maritime Boundaries between the two countries.

In view of the foregoing, I take the liberty of pointing out that our two countries have not yet delimited their respective Continental Shelves beyond 12 nautical miles seaward from the respective coasts, and that the present arrangement with respect to Maritime Boundaries, based on the Treaty to resolve pending boundary differences and maintain the Río Grande and Colorado Rivers as the International Boundary, concluded in 1970, only extends the Maritime Boundary 12 nautical miles.

Inasmuch as the Mexican Government has established, by means of the Decree of June 7, 1976, the outer limits of the Exclusive Economic Zone of Mexico, and taking into account the fact that those limits include three segments contiguous to the Fishery Conservation Zone of the United States of America, which will become effective on March 1, 1977, the Mexican authorities deem it desirable to establish at this time the Maritime Boundaries between the two countries in the Pacific Ocean and the Gulf of Mexico out to 200 nautical miles seaward counting from the baselines used to measure the breadth of the Territorial Sea.

Taking into account the fact that all the necessary technical work entailed in such definitive delimitation could not be completed before the entry into force of the Fishery Conservation Zone of the United States of America, I take the liberty of proposing that, pending final determination by treaty of the Maritime Boundaries between the two countries off both coasts, the following lines be provisionally recognized as such boundaries:

In the Pacific Ocean:

(a) A geodesic line from 32°35′22.11″ north latitude, 117°27′49.42″ west longitude, to 32°37′37.00″ north latitude, 117°49′31.00″ west longitude;

(b) A geodesic line from 32°37′37.00″ north latitude, 117°49′31.00″ west longitude; to 31°07′58.00″ north latitude, 118°36′18.00″ west longitude;

(c) A geodesic line from 31°07′58.00″ north latitude, 118°36′18.00″ west longitude; to 30°32′31.20″ north latitude, 121°51′58.37″ west longitude;

In the Western Gulf of Mexico:

(a) A geodesic line from 25°58′30.57″ north latitude, 96°55′27.37″ west longitude; to 26°00′31.00″ north latitude, 96°48′29.00″ west longitude;

(b) A geodesic line from 26°00′31.00″ north latitude, 96°48′29.00″ west longitude; to 26°00′30.00″ north latitude, 95°39′26.00″ west longitude.

(c) A geodesic line from 26°00′30.00″ north latitude; 95°39′26.00″ west longitude; to 25°59′48.28″ north latitude, 93°26′42.19″ west longitude.

In the Eastern Gulf of Mexico:

(a) A geodesic line from 25°42′13.05″ north latitude; 91°05′24.89″ west longitude; to 25°46′52.00″ north latitude; 90°29′41.00″ west longitude.

(b) A geodesic line from 25°46′52.00″ north latitude; 90°29′41.00″ west longitude; to 25°41′56.52″ north latitude, 88°23′05.54″ west longitude.

The above coordinates have been determined using baselines referred to the North American Datum of 1927.

It would be understood between the two Governments that on the north side of such lines Mexico would not, and on the south side of such lines the United States would not, for any purpose, claim or exercise sovereign rights or jurisdiction over the waters or seabed and subsoil. It would be further understood that such lines would not affect or prejudice in any manner the positions of either government with respect to the extent of internal waters, of the Territorial Sea, of the High Seas or of sovereign rights or jurisdiction for any other purpose.

On the basis of the foregoing, I have the honor to propose to Your Excellency that if the terms stipulated herein are acceptable to the Government of the United States of America, this Note and Your Excellency's reply shall constitute an Agreement between the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration."

In reply, it is my honor to inform you that, the proposal set forth in your Note is acceptable to the Government of the United States of America. Accordingly, I agree that your Note and this reply shall constitute an Agreement between our two Governments, which shall enter into force on the date of this reply.

Accept, Excellency, the renewed assurances of my highest consideration.

JOSEPH JOHN JOVA

BILATERAL

THE NETHERLANDS

ENVIRONMENT AND NATURAL RESOURCES

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Ministry of Housing, Physical Planning, and Environment of The Netherlands, Paris, 1985

Done at Paris 17 June 1985

Entered into force 17 June 1985

Primary source citation: TIAS 11161

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF HOUSING, PHYSICAL PLANNING, AND ENVIRONMENT OF THE NETHERLANDS

The Environmental Protection Agency (EPA) of the United States of America and the Ministry of Housing, Physical Planning, and Environment (the Ministry) of the Netherlands, recognizing that strong national environmental programs contribute not only to the protection of national environments but to that of the global environment as well, that cooperation between national environmental authorities is of mutual benefit at both the national and global level, that sound economic and social policies require the development and application of anticipatory environmental controls, and that harmonious policies, regulations, and practices contribute to the social and economic well-being of states and groups of states;

Have agreed as follows:

ARTICLE I

EPA and the Ministry will maintain and enhance bilateral cooperation in the field of environmental affairs on the basis of equality, reciprocity, and mutual benefit.

ARTICLE II

EPA and the Ministry will provide each other with information on environmental issues and on significant common policy, research, and economic and regulatory elements of their respective programs. A list of such common interests will be developed, and will be modified in line with future program and priority changes. Unless otherwise agreed, information on toxic substances and radioactive waste will be transferred through the OECD and other multilateral organizations.

ARTICLE III

Information on toxicity of substances, premanufacturing testing, legislative aspects of toxic substance control, and other specific topics related to the control of toxic substances which may be agreed upon in the future, may be exchanged on a bilateral basis in accordance with the laws and regulations of the country providing the information.

ARTICLE IV

In addition to exchanges of information, other forms of cooperation may be undertaken appropriate to the nature of the topic. The terms of such activities shall be established through exchange of letters between appropriate officials of EPA and of the Ministry. At the outset, the following subjects have been identified as having mutually high priority and are being pursued at appropriate levels of effort:

(A) environmental management issues such as environmental impact assessment, risk assessment and management benefit-cost analysis, and integrated environmental planning and modeling, drawing particularly on the results of the US-Netherlands Seminar which was held in Washington in April, 1984, including consideration of incorporation of environmental considerations in physical planning and economic development;

(B) regulatory reforms, including trading approaches in air and water pollution control, pesticides reforms, and environmental auditing;

(C) hazardous waste management, including health and environmental hazards arising from waste sites;

(D) emergency preparedness, response mechanisms, and contingency planning for management of hazardous waste sites and spills;

(E) legal and enforcement issues and problems arising from implementation of environmental management and control programs, initially focused on hazardous waste sites;

(F) research on acid deposition resulting from air pollution, including photochemical oxidants;

(G) groundwater protection;

(H) environmental and regulatory aspects of biotechnology and bioengineering;

(I) air quality standards for criteria pollutants and hazardous air pollutants, including identification, scientific data bases, priority setting methodology, and regulation;

(J) research on global CO_2 buildup, the greenhouse effect, and possible associated sealevel rise;

(K) research on indoor air pollution;

(L) health and environmental effects of chemicals, especially substitute chemicals for known toxic chemicals;

(M) economic assessment of chemical regulation, including trade impacts of regulatory actions;

(N) use of structure-activity relationships as predictive methods for estimating health and environmental hazard and exposure;

(O) development of techniques to measure low-level chemical exposure to tissues;

(P) contaminants, health aspects, and quality control for drinking water;

(Q) radiation protection standards for non-ionizing radiation and low-level waste, and related emergency preparedness activities; and

(R) evaluation and development of environmental technology in areas such as control of hazardous waste sites and air pollution from stationary sources.

Work in these areas may include exchanges of personnel and joint projects on research and development of environmental techniques and technologies.

ARTICLE V

Unless otherwise agreed, there shall be no exchange of funds, each side providing resources adequate to carry out its responsibilities. It is expressly understood that the ability of each side to carry out long-term activities is subject to the availability of appropriated funds, and that both sides will seek to ensure long-term funding for projects and activities which are of necessity of a long-term nature. No financial commitment can be made without concurrence of appropriate authorities on each side.

ARTICLE VI

The heads of the international offices of EPA and the Directorate-General for Environment of the Ministry shall be responsible for the management of this cooperative program. They shall make an annual review of cooperation, addressing in addition future policy directions and research plans. They shall also be responsible for furthering the appropriate participation of other US and Dutch organizations (governmental, business, and academic) in the activities conducted under this Memorandum.

ARTICLE VII

This Memorandum shall enter into force upon signature and shall remain in force for five years, and be automatically renewed for further five year periods unless either party notifies the other three months prior to the expiration of one of those five year periods of its desire that the Memorandum be terminated. The termination of this Memorandum shall not affect the validity of any arrangements initiated under its provisions, but not yet completed at the time of termination.

ARTICLE VIII

This Memorandum may be amended at any time by mutual agreement of EPA and the Ministry in writing.

ARTICLE IX

The Memorandum of Understanding between the Environmental Protection Agency of the United States of America and the Ministry of Health and Environmental Protection of the Netherlands, done at Leidschendam on November 25, 1980, is hereby terminated.

DONE at Paris, in duplicate, in the English and Dutch languages, both texts being equally authentic, this seventeenth day of June, 1985.

FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY:

Lee M. Thomas
ADMINISTRATOR

FOR THE NETHERLANDS MINISTRY
OF HOUSING, PHYSICAL PLANNING,
AND ENVIRONMENT:

Peter Winsemius
MINISTER

BILATERAL

NEW ZEALAND

ANTARCTICA

Agreement Between the Government of the United States of America and the Government of New Zealand Relating to Cooperation in Scientific and Logistical Operations in Antarctica, Wellington, 1958

Done at Wellington 24 December 1958

Entered into force 24 December 1958

Primary source citation: 9 UST 1502, TIAS 4151

OFFICE OF THE MINISTER OF EXTERNAL AFFAIRS
WELLINGTON

24 December 1958

His Excellency Mr FRANCIS H. RUSSELL,
Ambassador of the United States of America,
Wellington.

EXCELLENCY,

I have the honour to refer to discussions which have taken place between the New Zealand and the United States authorities regarding the future provision of facilities in New Zealand for United States personnel, ships and aircraft engaged in operations in Antarctica. As you know, the New Zealand Government wishes to provide whatever assistance it can to the United States Government in connection with such operations, and a number of understandings regarding the provision of appropriate facilities in New Zealand have been reached during the discussions.

These understandings, which include a statement of the assistance which the United States Government has offered in respect of New Zealand operations in Antarctica, are set out in the attached memorandum.

It is suggested that these arrangements should enure for the full period during which United States personnel, ships and aircraft may be in New Zealand in connection with United States operations in Antarctica during the present International Geophysical Year and for the period ending on 31 December 1959, and that the provision of any necessary facilities which may thereafter be required in New Zealand be discussed in correspondence between us at the appropriate time.

If the proposals contained in the present note, and the understandings set out in the attached memorandum are acceptable to the Government of the United States of America, I have the honour to suggest that this note and your reply thereto, should constitute an agreement between our Governments, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

W. NASH
Minister of External Affairs

Enclosure:
Memorandum.

MEMORANDUM OF UNDERSTANDINGS

1(a) The New Zealand Government will provide as far as possible facilities in New Zealand requested by the United States authorities in connection with United States operations in Antarctica. It agrees to the establishment of operational headquarters in New Zealand and to the transit of United States personnel, ships and aircraft through New Zealand. United States personnel may be accommodated in New Zealand and United States aircraft may be based at agreed airports within New Zealand.

(b) The New Zealand Government agrees to the establishment and operation of a military and affiliate radio station in New Zealand by the United States authorities, under arrangements to be made with the Royal New Zealand Air Force.

(c) In each case where facilities are provided by the New Zealand Government, the financial basis on which they are made available, and the conditions on which they shall be returned, will be decided by agreement between the New Zealand and the United States authorities.

2. As appropriate, the normal requirements in connection with the arrival and departure of ships and aircraft in New Zealand, as well as passport, visa and other immigration laws and regulations will be waived in respect of United States personnel, and ships and aircraft of the United States Navy and Air Force engaged upon operations in Antarctica.

3(a) Subject to such procedures as may be arranged, the Government of New Zealand will exempt from payment of taxes and customs duties, goods imported into or exported out of New Zealand by the United States authorities or United States personnel in connection with United States operations in Antarctica.

(b) The presence of United States personnel in New Zealand solely in connection with United States operations in Antarctica shall not subject them to taxation on their salary and emoluments received from the United States Government or on any tangible movable property the presence of which in New Zealand is due solely to their temporary presence there, nor constitute residence nor domicile for New Zealand tax purposes.

4(a) If United States personnel are alleged to have committed acts which are offences against New Zealand law, the following provisions shall apply:

(i) The New Zealand authorities, recognizing the problems arising from the concurrent jurisdiction in criminal matters over such personnel in New Zealand territory, will consider alleged offences affecting only United States personnel or property, or committed in the performance of official duty, as a matter for the United States authorities.

(ii) Moreover, the New Zealand authorities will not ordinarily be concerned to institute proceedings in the New Zealand courts in respect of alleged minor offences which do not fall within the categories referred to in (i) above.

(b) For their part, the United States authorities will take measures to ensure respect for the laws of New Zealand by United States personnel and will take whatever steps are necessary to punish personnel who have committed acts which are offences against those laws.

(c) United States personnel who have been arrested or apprehended, whether by the New Zealand authorities or by the United States authorities, will be retained in custody by the United States authorities, who shall produce the personnel concerned, upon request by the New Zealand authorities, for investigation, identification or trial.

(d) It is understood that the principle of not trying an accused twice for the same offence will be followed, except that the United States authorities shall remain free to punish for violation of rules of military discipline.

5(a) It is the understanding of the New Zealand Government that United States law makes provision for the settlement of meritorious claims for loss or damage caused by the acts or omissions (whether committed on or off duty) of United States personnel, and acts or omissions arising out of the performance of official duty by employees of the United States forces who are nationals of or ordinarily resident in New Zealand. In this connection, it is understood that the United States compensation authorities will pay, in accordance with and to the fullest extent possible under United States claims rules and procedures, just and reasonable compensation, when accepted by claimants in full satisfaction and in final settlement, for meritorious claims for injury or death or damage to property arising out of such acts or omissions. It is understood that United States claims legislation requires that such claims be presented to United States authorities within one year after the occurrence of the accident or incident out of which the claim arises.

(b) It is further understood by the two Governments that the satisfactory procedures which have been arranged with the Office of the Solicitor-General of New Zealand for the settlement of such claims will be maintained, and accordingly that the United States compensation authorities will, in determining liability and compensation, continue to give due regard to the Solicitor-General's assessment and to the amount which he may recommend for settlement in particular cases.

6. The Government of the United States of America for its part will provide as far as possible logistic support requested by the New Zealand authorities in connection with New Zealand operations in Antarctica.

7. The Governments of New Zealand and the United States of America will cooperate in making appropriate administrative arrangements to give effect to the understandings set out in this memorandum and to resolve any other practical issues which may from time to time arise from the presence in New Zealand of personnel, ships and aircraft of United States Antarctic expeditions.

8. The term "United States personnel" includes uniformed members of the United States forces and civilian employees of the forces except those employees who are nationals of, or ordinarily resident in, New Zealand.

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AMERICAN EMBASSY
Wellington

December 24, 1958.

His Excellency,
WALTER NASH,
Minister of External Affairs,
Wellington.

No. 28

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of today's date, together with the memorandum of understandings attached thereto, the texts of which read as follows:

> "I have the honour to refer to discussions which have taken place between the New Zealand and the United States authorities regarding the future provision of facilities in New Zealand for United States personnel, ships and aircraft engaged in operations in Antarctica. As you know, the New Zealand Government wishes to provide whatever assistance it can to the United States Government in connection with such operations, and a number of understandings regarding the provision of appropriate facilities in New Zealand have been reached during the discussions.

"These understandings, which include a statement of the assistance which the United States Government has offered in respect of New Zealand operations in Antarctica, are set out in the attached memorandum.

"It is suggested that these arrangements should enure for the full period during which United States personnel, ships and aircraft may be in New Zealand in connection with United States operations in Antarctica during the present International Geophysical Year and for the period ending on 31 December 1959, and that the provision of any necessary facilities which may thereafter be required in New Zealand be discussed in correspondence between us at the appropriate time.

"If the proposals contained in the present note, and the understandings set out in the attached memorandum are acceptable to the Government of the United States of America, I have the honour to suggest that this note and your reply thereto, should constitute an agreement between our Governments, the agreement to enter into force on the date of your note in reply.

"Accept, Excellency, the renewed assurances of my highest consideration.

"MEMORANDUM OF UNDERSTANDINGS

"1(a) The New Zealand Government will provide as far as possible facilities in New Zealand requested by the United States authorities in connection with United States operations in Antarctica. It agrees to the establishment of operational headquarters in New Zealand and to the transit of United States personnel, ships and aircraft through New Zealand. United States personnel may be accommodated in New Zealand and United States aircraft may be based at agreed airports within New Zealand.

"(b) The New Zealand Government agrees to the establishment and operation of a military and affiliate radio station in New Zealand by the United States authorities, under arrangements to be made with the Royal New Zealand Air Force.

"(c) In each case where facilities are provided by the New Zealand Government, the financial basis on which they are made available, and the conditions on which they shall be returned, will be decided by agreement between the New Zealand and the United States authorities.

"2. As appropriate, the normal requirements in connection with the arrival and departure of ships and aircraft in New Zealand, as well as passport, visa and other immigration laws and regulations will be waived in respect of United States personnel, and ships and aircraft of the United States Navy and Air Force engaged upon operations in Antarctica.

"3(a) Subject to such procedures as may be arranged, the Government of New Zealand will exempt from payment of taxes and customs duties, goods imported into or exported out of New Zealand by the United States authorities or United States personnel in connection with United States operations in Antarctica.

"(b) The presence of United States personnel in New Zealand solely in connection with United States operations in Antarctica shall not subject them to taxation on their salary and emoluments received from the United States Government or on any tangible movable property the presence of which in New Zealand is due solely to their temporary presence there, nor constitute residence nor domicile for New Zealand tax purposes.

"4(a) If United States personnel are alleged to have committed acts which are offences against New Zealand law, the following provisions shall apply:

"(i) The New Zealand authorities, recognizing the problems arising from the concurrent jurisdiction in criminal matters over such personnel in New Zealand territory, will consider alleged offences affecting only United States personnel or property, or committed in the performance of official duty, as a matter for the United States authorities.

"(ii) Moreover, the New Zealand authorities will not ordinarily be concerned to institute proceedings in the New Zealand courts in respect of alleged minor offences which do not fall within the categories referred to in (i) above.

"(b) For their part, the United States authorities will take measures to ensure respect for the laws of New Zealand by United States personnel and will take whatever steps are necessary to punish personnel who have committed acts which are offences against those laws.

"(c) United States personnel who have been arrested or apprehended, whether by the New Zealand authorities or by the United States authorities, will be retained in custody by the United States authorities, who shall produce the personnel concerned, upon request by the New Zealand authorities, for investigation, identification or trial.

"(d) It is understood that the principle of not trying an accused twice for the same offence will be followed, except that the United States authorities shall remain free to punish for violation of rules of military discipline.

"5(a) It is the understanding of the New Zealand Government that United States law makes provision for the settlement of meritorious claims for loss or damage caused by the acts or omissions (whether committed on or off duty) of United States personnel, and acts or omissions arising out of the performance of official duty by employees of the United States forces who are nationals of or ordinarily resident in New Zealand. In this connection, it is understood that the United States compensation authorities will pay, in accordance with and to the fullest extent possible under United States claims rules and procedures, just and reasonable compensation, when accepted by claimants in full satisfaction and in final settlement, for meritorious claims for injury or death or damage to property arising out of such acts or omissions. It is understood that United States claims legislation requires that such claims be presented to United States authorities within one year after the occurrence of the accident or incident out of which the claim arises.

"(b) It is further understood by the two Governments that the satisfactory procedures which have been arranged with the Office of the Solicitor-General of New Zealand for the settlement of such claims will be maintained, and accordingly that the United States compensation authorities will, in determining liability and compensation, continue to give due regard to the Solicitor-General's assessment and to the amount which he may recommend for settlement in particular cases.

"6. The Government of the United States of America for its part will provide as far as possible logistic support requested by the New Zealand authorities in connection with New Zealand operations in Antarctica.

"7. The Governments of New Zealand and the United States of America will cooperate in making appropriate administrative arrangements to give effect to the understandings set out in this memorandum and to resolve any other practical issues which may from time to time arise from the presence in New Zealand of personnel, ships and aircraft of United States Antarctic expeditions.

"8. The term "United States personnel" includes uniformed members of the United States forces and civilian employees of the forces except those employees who are nationals of, or ordinarily resident in, New Zealand."

I have the honor to inform you that the Government of the United States of America accepts the proposals contained in your note, together with the understandings set out in the memorandum attached thereto, and regards your note and my present reply as constituting an agreement between our two Governments, the agreement to enter into force on this day.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANCIS H. RUSSELL

Extension to the Agreement Between the Government of the United States of America and the Government of New Zealand Relating to Cooperation in Scientific and Logistical Operations in Antarctica, Wellington, 1960

Done at Wellington 18 October 1960

Entered into force 18 October 1960, effective 1 January 1960

Primary source citation: 11 UST 2205, TIAS 4591

OFFICE OF THE MINISTER OF EXTERNAL AFFAIRS
WELLINGTON

18 October 1960

His Excellency Mr FRANCIS H. RUSSELL,
Ambassador of the
United States of America,
Wellington.

EXCELLENCY,

I have the honour to refer to the Exchange of Notes constituting an Agreement between the Government of New Zealand and the Government of the United States of America regarding the Provision of Facilities in New Zealand for United States Antarctic Expeditions, which was concluded at Wellington on 24 December 1958. As you know, the Agreement constituted by this Exchange terminated, in accordance with its terms, on 30 December 1959, but discussions have been held between the United States and New Zealand authorities regarding its prolongation.

Cooperation between the governments of New Zealand and the United States of America during and since the International Geophysical Year period made possible the fulfilment of wide programmes of scientific exploration in the Antarctic. The recently concluded Antarctic Treaty provides scope for the extension of this relationship. Accordingly the New Zealand Government wishes to provide whatever assistance it can in connection with the continuing United States operations in Antarctica. I therefore have the honour to propose an agreement between our two Governments in the following terms:

1. The Agreement constituted by the Exchange of Notes of 24 December 1958 shall, subject to the provisions of the present agreement, be regarded as remaining in force for the full period during which United States personnel, ships and aircraft continue in future to be based in New Zealand in connection with United States operations in Antarctica.

2. Each Government will arrange for the earliest possible notification to be given to the other Government, prior to the beginning of each Antarctic season, of the nature and scope of the operations which it is planning for that season.

3. The two Governments agree to consult together at any time, at the request of either, regarding the operation, application or amendment of the present agreement.

4. Either Government may at any time give to the other government notice of intention to terminate the present agreement. In such case the present agreement shall terminate after the expiration of ninety days from the date on which the notice is received.

If the proposals contained in this note are acceptable to the Government of the United States of America, I have the honour to suggest that this note and your reply thereto, should constitute an agreement between our two Governments, with effect from 1 January 1960.

Accept, Excellency, the renewed assurances of my highest consideration.

W. NASH
Minister of External Affairs.

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EMBASSY OF THE
UNITED STATES OF AMERICA

Wellington, October 18, 1960.

His Excellency
The Right Honorable
WALTER NASH, C.H.,
Minister of External Affairs,
Wellington.

No. 26

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of today's date, the text of which reads as follows:

"I have the honour to refer to the Exchange of Notes constituting an Agreement between the Government of New Zealand and the Government of the United States of America regarding the Provision of Facilities in New Zealand for United States Antarctic Expeditions, which was concluded at Wellington on 24 December 1958. As you know, the Agreement constituted by this Exchange terminated, in accordance with its terms, on 31 December 1959, but discussions have been held between the United States and New Zealand authorities regarding its prolongation.

"Cooperation between the Governments of New Zealand and the United States of America during and since the International Geophysical Year period made possible the fulfilment of wide programmes of scientific exploration in the Antarctic. The recently concluded Antarctic Treaty provides scope for the extension of this relationship. Accordingly the New Zealand Government wishes to provide whatever assistance it can in connection with the continuing United States operations in Antarctica. I therefore have the honour to propose an agreement between our two Governments in the following terms:

"1. The Agreement constituted by the Exchange of Notes of 24 December 1958 shall, subject to the provisions of the present agreement, be regarded as remaining in force for the full period during which United States personnel, ships and aircraft continue in future to be based in New Zealand in connection with United States operations in Antarctica.

"2. Each Government will arrange for the earliest possible notification to be given to the other Government, prior to the beginning of each Antarctic season, of the nature and scope of the operations which it is planning for that season.

"3. The two Governments agree to consult together at any time, at the request of either, regarding the operation, application or amendment of the present agreement.

"4. Either Government may at any time give to the other Government notice of intention to terminate the present agreement. In such case the present agreement shall terminate after the expiration of ninety days from the date on which the notice is received.

"If the proposals contained in this note are acceptable to the Government of the United States of America, I have the honour to suggest that this note and your reply thereto, should constitute an agreement between our two Governments, with effect from 1 January 1960."

I have the honor to inform you that the Government of the United States of America accepts the proposals contained in your note, and regards your note and my present reply as constituting an agreement between our two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANCIS H. RUSSELL

BILATERAL

PANAMA

ENVIRONMENT AND NATURAL RESOURCES

Agreement Pursuant to Article VI of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, Washington, 1977

Done at Washington 7 September 1977

Entered into force 1 October 1979

Primary source citation: 33 UST 446, TIAS 10035

AGREEMENT PURSUANT TO ARTICLE VI OF THE CONVENTION ON NATURE PROTECTION AND WILDLIFE PRESERVATION IN THE WESTERN HEMISPHERE

The Governments of the United States of America and the Republic of Panama,

Recalling that both are parties to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere of October 12, 1940;

Desiring to promote and advance the purposes of that Convention;

Noting that Article VI of the Convention provides that the Parties may, when circumstances warrant, enter into agreements with one another in order to increase the effectiveness of their collaboration to this end;

Aware of the unique importance to the international scientific community of the biological reserve located at Barro Colorado Island in Gatun Lake in the Republic of Panama; and

Considering that the Panama Canal Treaty and related agreements signed this date between them make desirable a further agreement between them to ensure preservation of this biological reserve;

Have agreed upon the following:

ARTICLE I

1. The area known as Barro Colorado Island in Gatun Lake in the Republic of Panama is declared to be a Nature Monument as defined in Article I of the Convention, to be known as the Barro Colorado Nature Monument. Upon the termination of the Panama Canal Treaty signed this date, this Nature Monument shall also include the adjacent areas known as Orchid and Point Salud Islands; Bohio, Buena Vista, and Frijoles Points; and the smaller islets adjacent to them. The aforementioned adjacent areas shall be made available during the life of the Panama Canal Treaty for the purposes of this Agreement, through the issuance of land use licenses, as provided for in Article IV of the Agreement in Implementation of Article III of the Panama Canal Treaty. The Republic of Panama shall issue an appropriate land use license or make other arrangements to afford similar use of the peninsula immediately south

of Maiz Island, which, upon termination of the Panama Canal Treaty, shall also become a part of the aforementioned Nature Monument.

2. As used hereafter in this Agreement, the term "Nature Monument" shall refer to the Nature Monument defined in paragraph 1 of this Article.

ARTICLE II

The Governments pledge themselves to seek, in accordance with their respective national legislative processes, such legislation by each of them as may be necessary to ensure the preservation and protection of said Nature Monument as envisioned in the Convention and to take no action which would derogate in any way from its protected status, except as hereinafter provided.

ARTICLE III

The Governments agree to collaborate in use of this Nature Monument for the purposes of scientific research and investigation, and to assist each other's scientists and scientific institutions in carrying out such activities in the Nature Monument. The Governments shall agree from time to time on such arrangements as may be mutually convenient and desirable to facilitate such collaboration.

ARTICLE IV

The Governments agree that, consistent with the purposes of Article VI of the Convention, they shall make available to all the American Republics equally through publication or otherwise the scientific knowledge resulting from their cooperative efforts to establish and maintain the Nature Monument.

ARTICLE V

The Governments, mindful of their mutual interest in the efficient operation of the Panama Canal, agree that, in executing their responsibilities under the Panama Canal Treaty, they shall take account of this Agreement. It is understood that use of areas included in the Nature Monument for the purpose of maintaining existing facilities relating to the operation of the Panama Canal shall not be considered to derogate from the protected status of the Nature Monument. In the event either Government at any time considers that the efficient operation of the Panama Canal necessitates any other action materially affecting any part of the Nature Monument, the Governments agree to consult promptly and to agree to measures necessary for the protection of the overall integrity of the Nature Monument and furtherance of the purpose of this Agreement.

ARTICLE VI

The Governments agree that they shall jointly transmit copies of this Agreement to the Inter-American Economic and Social Council of the Organization of American States, and shall request that the Organization notify the Contracting Parties to the Convention of this Agreement.

ARTICLE VII

This Agreement shall enter into force simultaneously with the entry into force of the Panama Canal Treaty, and shall remain in force for ten years and, thereafter, for as long as both Governments are parties to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

Ellsworth Bunker

Sol M. Linowitz

FOR THE REPUBLIC OF PANAMA:

Rómulo Escobar Bethancourt

Aristides Royo

BILATERAL

PAPUA NEW GUINEA

FISHERIES

Agreement Between the Government of the United States of America and the Government of Papua New Guinea Concerning Fishing by United States Vessels in Papua New Guinea's Archipelagic Waters Pursuant to the Treaty on Fisheries Between the United States and Certain Pacific Island States, Waigani and Port Moresby, 1987

Done at Waigani and Port Moresby
4 and 5 March 1987 and 25 March 1987

Entered into force 25 March 1987

Primary source citation: TIAS 11290

WAIGANI

4th March, 1987.

Note No. 120/87

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to fishing within Papua New Guinea's archipelagic waters pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Island States and of the United States of America.

The Department wishes to confirm the Government of Papua New Guinea's intention to apply the following principles on a bilateral basis to fishing by US vessels inside Papua New Guinea's archipelagic waters, so long as both Papua New Guinea and the United States are parties to the aforementioned agreement:

1. All fishing conducted in the archipelagic waters shall be subject to an international fisheries agreement.

2. Appropriate embassies in Port Moresby or other points of contact as approved by the government shall be the points of contact for purposes of fishing within the archipelagic waters.

3. All fees are to be paid to the Government of Papua New Guinea. In the case of US vessels all matters relating to fees should be handled through procedures set forth in the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the United States of America.

4. United States fishing vessels will give 24 hours advance notice of all entries and exits into and from the archipelagic waters. No fishing is permitted within the territorial waters when a fishing vessel is in transit.

5. All entries and exits to and from the archipelagic waters shall be conducted through the normal channels of navigation unless in pursuit of fish or for reasons of distress, etcetra.

6. Entry into all internal waters is prohibited unless prior approval is given by the Government of Papua New Guinea or as a result of an emergency or distress, etcetra.

7. All US fishing vessels are to stay clear from and not to interfere with other vessels and installations within the archipelagic waters.

8. All forms of scientific research unless approved in writing by the Government of Papua New Guinea are strictly prohibited.

9. US fishing vessel operators shall be responsible for any damage resulting from operations of their fishing vessels.

10. Shore-based facilities should be established in Papua New Guinea to the extent this is practical and economically feasible.

11. Refuelling and victuals should be obtained from Papua New Guinea as far as practical and economically feasible.

12. Marine mammals are not to be hunted but if caught all details of their catch must be reported.

The Department of Foreign Affairs has the honour to propose that if the foregoing is acceptable to the Government of the United States of America, this Note and the Embassy's reply to this effect shall together constitute an agreement on the principles to be applied to fishing vessels of the United States of America in Papua New Guinea's archipelagic waters, which shall enter into force on the date of the Embassy's Note.

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

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WAIGANI

5 March 1987.

Note No. 124/87

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to its Note No. 120/ 87 of 4th March 1987 regarding fishing within Papua New Guinea's archipelagic waters pursuant to the Treaty on Fisheries between the Government of certain Pacific Island States and of the United States of America.

The Department wishes to advise the Embassy of the United States that an omission has been made inadvertently in paragraph relating to principle number four (4) in its earlier Note which reads:

> "United States fishing vessels will give 24 hours advance notice of all entries and exits into and from the archipelagic waters. No fishing is permitted within the territorial waters when a fishing vessel is in transit".

The Department therefore wishes to further advise and also confirm that this principle should correctly read as follows:

"United States fishing vessels will give 24 hours advance notice of all entries and exits into and from the territorial waters in transit to and from the archipelagic waters. No fishing is permitted within the territorial waters when a fishing vessel is in transit".

The Department of Foreign Affairs has the honour to propose that if the foregoing revision is acceptable to the Government of the United States of America its earlier Note and this Note together with the Embassy's reply to this effect shall together constitute an Agreement on the principles to be applied to fishing vessels of the United States of America in Papua New Guinea's archipelagic waters which shall enter into force on the date of the Embassy's Note.

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

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Embassy of the United States of America
Port Moresby

March 25, 1987.

No. 35

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs of the Independent State of Papua New Guinea and has the honor to refer to Department Note No. 120/87 dated March 4, 1987, and Department Note No. 124/87 dated March 5, 1987, which read as follows:

[For text of Papua New Guinea's notes, see pages 3401–3402.]

The Government of the United States agrees that the principles set forth in Department Note No. 120/87 and Department Note No. 124/87 should together apply to fishing by United States vessels in Papua New Guinea's archipelagic waters pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Island States and of the United States of America.

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

BILATERAL

POLAND

FISHERIES

Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Concerning Fisheries off the Coasts of the United States, Washington, 1985

Done at Washington 1 August 1985

Entered into force 1 January 1986

Primary source citation: House Document 99-107, 99th Congress, 1st Session, U.S. Government Printing Office, Washington, 1985

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the Polish People's Republic

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Considering the past experience of fishery vessels of the Government of the Polish People's Republic in waters off the coasts of the United States, the cooperation between the two Parties under the Agreement between the Government of the United States of America and the Government of the Polish People's Republic Concerning Fisheries Off the Coasts of the United States signed August 2, 1976, and in anticipation of continued and improved cooperation in the field of fisheries;

Recognizing that the United States has established by Presidential Proclamation of March 10, 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

Taking into account international law relating to oceans and fisheries;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Polish People's Republic for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means all fish within the exclusive economic zone of the United States (except highly migratory species of tuna), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "fishery" means

   a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

   b. any fishing for such stocks;

4. "exclusive economic zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

   a. the catching, taking or harvesting of fish;

   b. the attempted catching, taking or harvesting of fish;

   c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

   d. any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

   a. fishing; or

   b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for foreign fishing vessels including fishing vessels of the Polish People's Republic to harvest in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to foreign fishing vessels in accordance with United States law.

2. The Government of the United States shall determine each year, subject to such adjustments as may be appropriate and in accordance with United States law;

a. the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d. the allocation of such portion that may be made available to qualifying fishing vessels of the Polish People's Republic.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include: inter alia:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed; and

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Government of the Polish People's Republic of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to vessels of each country, including the Polish People's Republic, the Government of the United States will decide on the basis of the factors identified in United States law including:

1. whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of both United States fish and fishery products particularly fish and fishery products for which the foreign nation has requested an allocation;

2. whether, and to what extent such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

3. whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nations require the fish harvested from the exclusive economic zone for their domestic consumption;

5. whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

7. whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

8. such other matters as the United States deems appropriate.

ARTICLE V

The Government of the Polish People's Republic shall cooperate with and assist the United States accordingly in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as reducing or removing impediments to the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the Polish People's Republic, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

The Government of the Polish People's Republic shall take all necessary measures to ensure:

1. that nationals and vessels of the Polish People's Republic refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VII

The Government of the Polish People's Republic may submit application to the Government of the United States for a permit for each fishing vessel of the Polish People's Republic that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with Annex I, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of fees for such permits and for fishing in the United States exclusive economic zone. The Government of the Polish People's Republic undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

ARTICLE VIII

The Government of the Polish People's Republic shall ensure that nationals and vessels of the Polish People's Republic refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE IX

The Government of the Polish People's Republic shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of the Polish People's Republic is prominently displayed in the wheelhouse of such vessel;

2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of the Polish People's Republic for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5. all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of the Polish People's Republic as determined by applicable United States procedures.

ARTICLE X

The Government of the Polish People's Republic shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of the Polish People's Republic that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of the Polish People's Republic or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of the Polish People's Republic by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of the Polish People's Republic of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The Governments of the United States and the Polish People's Republic shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Governments shall cooperate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of the Polish People's Republic in the United States exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. The Government of the Polish People's Republic shall cooperate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States.

ARTICLE XIII

The Government of the United States and the Government of the Polish People's Republic shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including cooperation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE XIV

The Government of the United States of America undertakes to authorize fisheries research vessels and fishing vessels of the Polish People's Republic allowed to fish pursuant to this Agreement to enter designated ports in accordance with United States laws and regulations referred to in Annex II, which constitutes an integral part of this Agreement.

ARTICLE XV

Should the Government of the United States indicate to the Government of the Polish People's Republic that nationals and vessels of the United States wish to engage in fishing in the fishery conservation zone of the Polish People's Republic, or its equivalent, the Government of the Polish People's Republic will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XVI

In order to facilitate the prompt and adequate compensation of the citizens of one country for any loss of, or damage to, their fishing vessels, fishing gear or catch which is caused by any fishing vessel of the other country, both Governments agree to the establishment of the American-Polish Fisheries Board set forth in Annex III to this Agreement, which constitutes an integral part hereof.

ARTICLE XVII

Nothing contained in the present Agreement shall prejudice the views of either Government with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

ARTICLE XVIII

1. This Agreement shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Governments, and remain in force until July 1, 1991, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party twelve months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Governments two years after its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, August 1, 1985, in the English and Polish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

E.E. Wolfe

FOR THE GOVERNMENT OF THE
POLISH PEOPLE'S REPUBLIC:

Ireneusz Wrzesniewski

ANNEX I

Application and Permit Procedures

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the Polish People's Republic to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. The Government of the Polish People's Republic may submit an application to the competent authorities of the United States for each fishing vessel of the Polish People's Republic that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify

a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

c. a specification of each fishery in which each vessel wishes to fish;

d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

e. the ocean area in which, and the season of period during which, such fishing would be conducted; and

f. such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what terms and conditions may be needed, and what fee will be required, and shall inform the Government of the Polish People's Republic of such determinations. The Government of the United States reserves the right not to approve applications.

4. The Government of the Polish People's Republic shall thereupon notify the Government of the United States of its acceptance or rejection of such terms and conditions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the terms and conditions by the Government of the Polish People's Republic and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each Polish fishing vessel, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Government of the Polish People's Republic notifies the Government of the United States of its objections to specific terms and conditions, the two sides may consult with respect thereto and the Government of the Polish People's Republic may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

ANNEX II

Procedures Relating to United States Port Calls

Article XIV of the Agreement provides for the entry of certain vessels of the Polish People's Republic into designated ports of the United States in accordance with United States law for certain purposes. This Annex designates the ports and purposes authorized and describes procedures which govern such port entries.

1. The following types of vessels may enter the ports specified following a notice received at least four days in advance of the entry:

Fisheries research vessels, fishing vessels participating in joint ventures involving over-the-side purchases of fish from U.S. fishing vessels, and other fishing vessels (including support vessels) of the Polish People's Republic which have been issued permits pursuant to the Agreement are authorized to enter the ports of New York, New York; Baltimore, Maryland; Camden, New Jersey; Philadelphia, Pennsylvania; Boston, Massachusetts; San Francisco, California; Coos Bay, Oregon; Astoria, Oregon; Seward, Alaska and Dutch Harbor, Alaska.

2. Vessels referred to in paragraph 1 above may enter the ports referred to for a period not exceeding seven calendar days for the purposes of scientific planning and discussion, to exchange scientific data, equipment, and personnel, and to replenish ships' stores or fresh water, obtain bunkers, provide rest for or to make changes in the vessels' personnel, obtain repairs, or obtain other services normally provided in such ports, and, as necessary, to receive permits; provided, however, that in exceptional cases involving force majeure vessels may remain in port for longer periods required to effect repairs necessary for seaworthiness and operational reliability without which the voyage could not be continued. All such entries into port shall be in accordance with applicable rules and regulations of the United States and of state and local authorities in the areas wherein they have jurisdiction.

3. The notice referred to in paragraph 1 shall be made by an agent for the vessel to the United States Coast Guard (GWPE) in accordance with standard procedures using telex (892427), teletype communication "TWX" (710-822-1959), or Western Union. With respect to vessels desiring to enter U.S. ports under this Agreement, the United States reserves the right to require such vessels to submit to inspection by authorized personnel of the United States Coast Guard or other appropriate Federal agencies.

4. The Government of the United States of America at the consular sections of its diplomatic missions will accept crew lists in application for visas to be issued in accordance with existing visa regulations and reciprocity agreements. Such a crew list shall be submitted prior to the entry of a vessel into a port of the United States in accordance with existing visa regulations and reciprocity agreements.

5. In cases where a seaman of the Polish People's Republic is evacuated from his vessel to the United States for the purpose of emergency medical treatment, authorities of the Polish People's Republic shall ensure that the seaman departs from the United States within 14 days after his release from the hospital. During the period that the seaman is in the United States, representatives of the Polish People's Republic will be responsible for him.

6. The exchange of crews of vessels of the Polish People's Republic in the specified ports shall be permitted subject to submission of the consular section of U.S. diplomatic missions of applications for individual transit visas and crewman visas for replacement crewmen. Applications shall be submitted in advance of the date of the arrival of the crewmen in the United States in accordance with existing visa regulations and reciprocity agreements, and shall indicate the names, dates and places of birth, the purpose of the visit, the vessel to which assigned, and the modes and dates of arrival of all replacement crewmen. Individual passports or seamen's documents shall accompany each application. Subject to United States laws and regulations, the United States mission will affix transit and crewmen visas to each passport or seaman's document before it is returned. In addition to the requirements above, the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen who shall be admitted to the United States under the responsibility of the Polish People's Republic representatives for repatriation to the Polish People's Republic and the dates and manner of their departure from the United States shall be submitted to the appropriate United States government agencies in accordance with existing visa regulations and reciprocity agreements.

7. In addition, special provisions shall be made as necessary regarding the entry into other ports of the United States of fisheries research vessels of the Polish People's Republic which are engaged in a mutually agreed research program in accordance with the terms of Article XII of the Agreement. Requests for such entry of fisheries research vessels should be forwarded to the United States Department of State, Washington, D.C. through diplomatic channels.

8. The provisions of Annex II may be amended by agreement through an exchange of notes between the two Governments.

ANNEX III

American-Polish Fisheries Board

Section I
Establishment of the Board

1. There is hereby established an American-Polish Fisheries Board (hereinafter called the Board).

2. The Board shall consist of four members, two appointed by the Government of the United States of America and two appointed by the Government of the Polish People's Republic. At least one of the two members appointed by each Government shall have knowledge of the general principles of international law, particularly those relating to fisheries matters. Each Government-appointed member shall serve as an instructed representative of the appointing Government. It is the responsibility of each Government to maintain its full complement of members.

3. Each Government may appoint one non-voting technical advisor to the Board for each matter heard.

4. All decisions of the Board shall be undertaken unanimously by those members present and voting, so long as at least one member appointed by each Government is present.

5. The Board shall normally sit in Washington D.C. Insofar as is necessary considering the location of the parties and the availability of evidence, the Board may sit elsewhere.

6. English and Polish shall be the official working languages of the Board. The Governments shall assist the Board in arranging for necessary translations and interpretations.

7. As used in this Annex, the term "national" refers to any vessel or person, natural or juridical, including but not limited to a governmental entity.

Section II
Conciliation Functions

1. The Board shall consider claims advanced by a national of either State against a national of the other State regarding financial loss resulting from damage to or loss of the national's fishing vessel or fishing gear.

2. No claim may be brought more than one year after the occurrence of the relevant incident, unless the Board decides unanimously to make an exception for a specific incident occurring during the six weeks prior to the entry into force of the Agreement.

Section III
Conciliation Procedures

1. The Board shall establish its procedures in accordance with this Annex.

2. A claim, as referred to in Section II above, shall be brought before the Board by a written request. The request shall be in the form of a sworn statement which shall include, inter alia, a detailed account of the incident from which the claim arises, the identity of all persons and vessels involved, the remedy sought (damages claimed), and a list of potential witnesses knowledgeable about the incident. All appropriate documentary evidence supporting the claim shall be forwarded with the claim to the Board.

3. Upon receipt of a claim, the Board shall, as soon as practicable, commence an inquiry into the incident, and inform both Governments. Each Government shall immediately notify any of its nationals against whom a claim is made. Its nationals may in turn file with the Board a sworn statement responding to the claim. The response may contain a counterclaim insofar as the counterclaim arises from the same incident upon which the claim is based. A counterclaim shall be in the same form and contain the same information as a claim. The Board may join claims that arise from the same incident, without prejudice to the right of each party to present evidence with or without counsel.

4. The Board may request further information and documents from the parties to the dispute or from appropriate Governmental agencies. All statements, reports, or other documents presented to the Board shall be duly sworn and attested as to their authenticity, insofar as reasonably possible. Official Government reports and documents need not be so authenticated.

5. If either the claimant or the respondent requests a hearing, or if the Board deems it desirable to hold a hearing, the Board shall convene a hearing regarding the incident. The claimant and respondent may appear at the hearing, personally or through a representative, with or without counsel, and may present witnesses. The Board may invite as a witness any person, organization, corporation or other entity which has a direct interest in or knowledge

of the matter. The claimant and respondent shall be permitted to question all persons testifying at the hearing, provided that no person shall be required to respond to any question.

6. The Governments will facilitate the work of the Board.

Section IV
Conciliation Report

1. The Board shall prepare a report containing its findings as to:

   a. the facts giving rise to the claim;

   b. the extent of damage or loss;

   c. the degree of respondent's or claimant's responsibility, if any; and

   d. the amount, if any, which should be paid by respondent or claimant as compensation for losses arising from the incident.

2. If the Board does not unanimously adopt the findings, this shall be stated in the report, and the report shall contain separate statements of each Board member's opinion.

3. The Board shall transmit its report to the claimant, to the respondent, and to each of the two Governments no later than sixty days after the completion of the procedures under Section III.

4. Within thirty days after receipt of the Board's report, either the claimant or the respondent may request in writing that the Board reconsider its report. The request shall set forth the reasons for the request and material substantiating the request. The Board may decide to reconsider its report and, if it deems appropriate, receive new evidence or convene a rehearing, or both. Section III procedures will be applicable to the reconsideration.

5. The two Governments undertake to encourage settlement of claims in accordance with the findings of the Board.

6. Within sixty days of receipt of the Board's report each Government shall report to the Board in writing the actions taken by its nationals pursuant to the Board's findings.

7. If one of the parties to a conciliation proceeding refuses to settle in accordance with the findings of the Board, the Board shall encourage the parties to submit their dispute to binding arbitration.

8. The Board's report and the report of each Government shall be published in the form agreed by the Board.

Section V
Use of the Board

The two Governments shall encourage their nationals to use in the first instance the Board to settle claims resulting from damage to or loss of fishing gear and vessels. The Governments shall give information about the Board to interested persons.

Section VI
Applicable Law

In all proceedings under this Annex the Board shall apply:

1. international conventions, whether general or particular, establishing rules expressly recognized by the two Governments, including bilateral and multilateral agreements between the two Governments dealing with fisheries and maritime matters generally;

2. international custom, as evidence of a general practice accepted as law;

3. the general principles of law recognized by nations;

4. judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

Section VII
Other Remedies

1. Nothing in this Annex shall preempt, prejudice, or in any other way affect judicial proceedings, or the right to institute such proceedings, or in any way prejudice or affect the substantive or procedural rights of any person, whether or not such person appears before or participates in the proceedings of the Board.

2. No claim shall be brought the substance of which has been or is being adjudicated or arbitrated between the parties. The Board may refuse to consider a claim on the grounds that it should be joined to an existing judicial proceeding involving substantially the same issues and in which the law applicable to such judicial proceeding appears to permit such joinder.

3. The Board shall immediately suspend conciliation proceedings regarding a claim in respect to which judicial proceedings are instituted, unless the court before which the proceedings are pending determines, in the exercise of its lawful authority, that the parties may continue to proceed before the Board.

4. The Board shall immediately terminate conciliation proceedings regarding a claim in respect to which there is a binding agreement to arbitrate.

Section VIII
Funding

Each Government shall pay all expenses, including compensation, of the members it appoints to the Board and of any technical advisors it appoints. The two Governments will share equally all the administrative and operational costs of the Board. Such costs do not include expenses related to the presentation or production of evidence or the appearance of witnesses.

Section IX
Review

At the request of either Government, representatives of the two Governments shall meet to review the operation of this Annex and to consider proposals for its revision. This Annex may be amended through an exchange of notes between the two Governments.

Section X
Termination

At any time either Government may give written notice to the other Government of its intention to denounce this Annex, in which case the Annex shall terminate ninety days from the date of the notification, provided that the effect of the Annex shall in any event continue until the conclusion of conciliation proceedings and arbitrations instituted prior to its termination, unless otherwise agreed to by the two Governments.

AGREED MINUTES

1. The representatives of the Government of the United States took note of a declaration by the representative of the Polish People's Republic that matters referred to in Article IV, paragraph 8, of the Agreement should be confined strictly to the fisheries sector, and that in case of any other matters being taken into account by the United States authorities, the Government of the Polish People's Republic reserves itself the right to undertake steps which it deems appropriate.

2. With respect to Article IV, the representative of the Polish People's Republic emphasized the importance of the Polish fishing industry to the Polish economy, and urged that the Government of the United States give due consideration to the need for continuation for mutual benefit of stable fishing operations by fishing vessels of the Polish People's Republic in the exclusive economic zone of the United States.

   The representative of the Government of the United States taking note of the statement by the representative of the Polish People's Republic, emphasized the importance of rapid and full development of the United States fishing industry to the United States economy and pointed to the importance which his Government attached to Polish cooperation in that regard.

E.E.W. I.W.

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(TRANSLATION)

118496
LS NO. CyM
Polish

Warsaw, December 12, 1985

Embassy of the United States of America in Warsaw

DPT 360-6-84

The Ministry of Foreign Affairs of the Polish Peoples' Republic presents its compliments to the Embassy of the United States of America and has the honor to inform it that the Government of the Polish Peoples' Republic has ratified the Agreement between the Government of the Polish Peoples' Republic and the Government of the United States of America concerning fisheries along the shores of the United States of America, signed at Washington on August 1, 1985.

With reference to the above, the Ministry of Foreign Affairs, in accordance with Article XVIII of the above Agreement, expresses its consent with the proposal presented in Note No. 51, dated November 20, 1985, of the Embassy of the United States of America, that the Agreement shall enter into force on the first day of January, 1986.

The Ministry of Foreign Affairs of the Polish Peoples' Republic avails itself of the opportunity to renew to the Embassy of the United States of America its expressions of highest regard. [initials]

[Seal]

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Embassy of the United States of America
Warsaw

November 20, 1985.

No. 51

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Polish People's Republic and has the honor to refer to the agreement between the Government of the United States of America and the Government of the Polish People's Republic concerning fisheries off the coasts of the United States signed at Washington on August 1, 1985.

Article XVIII of the agreement provides that the agreement shall enter into force on a date to be mutually agreed upon by exchange of notes, following the completion of internal procedures of both Governments.

The Embassy wishes to inform the Ministry that the Government of the United States has completed the internal procedures necessary to allow the agreement to be brought into force for the United States.

The Embassy proposes that the agreement between the two Governments concerning fisheries off the coasts of the United States enter into force on January 1, 1986 provided that on or before that date the Government of the Polish People's Republic notifies the Government of the United States of the completion of the internal procedures necessary to allow the agreement to be brought into force for the Polish People's Republic.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

[Initials]
[Seal]

Amendment to the Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Concerning Fisheries off the Coasts of the United States, Washington, 1991

Done at Washington 24 January 1991 and 12 June 1991

Entered into force 21 November 1991, effective 1 July 1991

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

January 24, 1991

His Excellency
Kazimierz Dziewanowski,
Ambassador of the Republic of Poland.

Excellency:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Poland Concerning Fisheries off the Coasts of the United States signed at Washington on August 1, 1985 (hereinafter referred to as "the Agreement"). Noting the desire by the United States to address cooperatively with the Republic of Poland the recommendations outlined in United Nations Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the further honor to propose that, in accordance with the provisions of Article XVIII, the Agreement be extended until December 31, 1993, and that it be amended as follows:

1. In Article II, delete "(except highly migratory species of tuna)" in paragraph 1, and revise paragraph 2, deleting the phrase "and highly migratory species," and concluding with the phrase "marine mammals and birds;"

2. In Article II, at the end of subparagraph 6. b., add the word "and", delete paragraph 7, and renumber the present paragraph 8 as paragraph 7.

3. In Article IV, paragraph 7, delete "; and" and replace with ";".

4. In Article IV, add a new paragraph 8 as follows:

"8. whether, and to what extent, such nations are cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of

December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

5. In Article IV, renumber the present paragraph 8 as paragraph 9.

6. In Article XII, add a new paragraph 5 as follows:

"5. The Government of the Republic of Poland shall cooperate with the Government of the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

7. Delete the existing text of Article XIV and replace it with: "The Government of the United States undertakes to authorize fisheries research vessels of the Republic of Poland to enter designated ports in accordance with United States laws and regulations referred to in Annex II, which constitutes an integral part of this Agreement."

8. In Annex II, paragraph 1, delete ", fishing vessels participating in joint ventures involving over-the-side purchases of fish from U.S. fishing vessels (including support vessels)" and "which have been issued permits pursuant to the Agreement" from existing paragraph 1.

I have the further honor to propose that if these proposals are acceptable to the Government of the Republic of Poland, this Note and the Embassy's Note in reply to that effect shall constitute an Agreement between the Government of the United States of America and the Government of the Republic of Poland, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

D.C.

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EMBASSY OF THE REPUBLIC OF POLAND
Washington

June 12th, 1991

The Honorable James A. Baker III
Secretary of State

Dear Mr. Secretary,

I have the honor to acknowledge receipt of the Note of the Department of State dated January 24, 1991, which reads as follows:

"I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Poland Concerning Fisheries off the Coasts of the United States of America, signed at Washington on August 1, 1985 (hereinafter referred to as "the Agreement"). Noting the desire by the United States to address cooperatively with the Republic of Poland the recommendations outlined in United Nations Resolution 44/225 of December 1989 on Large-Scale Pelagic Driftnet Fishing, as well as concerns about the burgeoning fishery for pollock in the central Bering Sea area, I have the further honor to propose that, in accordance with the provisions of Article XVIII, the Agreement be extended until December 31, 1993, and that it be amended as follows:

1. In Article II, delete "(except highly migratory species of tuna)" in paragraph 1, and revise paragraph 2, deleting the phrase "and highly migratory species," and concluding with the phrase "marine mammals and birds;"

2. In Article II, at the end of subparagraph 6. b., add the word "and", delete paragraph 7, and renumber the present paragraph 8 as paragraph 7.

3. In Article IV, paragraph 7, delete "; and" and replace with ";".

4. In Article IV, add a new paragraph 8 as follows:

"8. whether, and to what extent, such nations are cooperating with the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea; and"

5. In Article IV renumber the present paragraph 8 as paragraph 9.

6. In Article XII, add a new paragraph 5 as follows:

"5. The Government of the Republic of Poland shall cooperate with the Government of the United States in matters pertaining to the fulfillment of the recommendations outlined in United Nations General Assembly Resolution 44/225 of December 1989 on Large-scale Pelagic Driftnet Fishing and in the conservation of the pollock resource in the central Bering Sea."

7. Delete the existing text of Article XIV and replace it with:

"The Government of the United States undertakes to authorize fisheries research vessels of the Republic of Poland to enter designated ports in accordance with United States laws and regulations referred to in Annex II, which constitutes an integral part of this Agreement."

8. In Annex II, paragraph 1, delete ", fishing vessels participating in joint ventures involving over-the-side purchases of fish from U.S. fishing vessels (including support vessels)" and "which have been issued permits pursuant to the Agreement "from existing paragraph 1."

" I have the further honor to propose that if these proposals are acceptable to the Government of the Republic of Poland, this Note and the Embassy's Note in reply to that effect shall constitute an Agreement between the Government of the United States of America and the Government of the Republic of Poland, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completions of necessary internal procedures.

" Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform you that the Government of the Republic of Poland agrees that the Agreement between the Government of the Republic of Poland and the Government of the United States of America be extended until December 31, 1993 and be amended as proposed in the above cited Note of the Department of State with an understanding that the phrase "the Polish Peoples' Republic" be replaced throughout the text with the phrase "the Republic of Poland".

I have the further honor to inform you that the Government of the Republic of Poland further acknowledges with great satisfaction the announcement by the President of the United States made on May 8, this year of the revision in United States port access policy which provides access for Polish fishing, fishing support and other vessels to all United States ports on the basis of 24-hours notice of entry into the port.

The Government of the Republic of Poland also agrees that the above cited Note of the Department of State dated January 24,1991 and the present Embassy's reply thereto shall constitute an agreement between the two

Governments which shall enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments following the completion of necessary internal procedures.

I avail myself of this opportunity to renew to you, Mr Secretary, the assurances of my highest consideration.

Kazimierz Dziewanowski
Ambassador of the Republic of Poland

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Department of State
Washington

November 21, 1991

The Department of State refers to the Agreement amending and extending the Agreement of August 1, 1985 Between the Government of the United States of America and the Government of the Republic of Poland Concerning Fisheries off the Coasts of the United States, as amended and extended, effected by exchange of notes at Washington, dated January 24 and June 12, 1991. The Department of State wishes to acknowledge receipt of the Government of the Republic of Poland's note dated July 22, 1991 informing the Government of the United States of America that the internal procedures of the Government of the Republic of Poland have been completed. The Department further wishes to inform the Government of the Republic of Poland that the Government of the United States has completed its necessary internal procedures and confirms that the Agreement shall enter into force on the date of this note, effective from July 1, 1991.

D.A.C.

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EMBASSY OF THE REPUBLIC OF POLAND
Washington

July 22nd, 1991

The Honorable James A. Baker III
Secretary of State

Dear Mr. Secretary,

I have the honor to refer to the Note of the Department of State dated January 24, 1991 and to the Embassy's Note in reply of June 12, 1991, which together constitute an agreement to amend and to extend until December 31, 1993, the Agreement between the Government of the Republic of Poland Concerning Fisheries off the Coasts of the United States, signed at Washington on August 1, 1985. Under the terms of those Notes, the agreement to amend and extend the Fisheries Agreement shall enter into force following written notification of completion of internal procedures of both Governments.

I hereby confirm that the necessary Republic of Poland internal procedures have been completed. Consequently the agreement to amend and extend the Fisheries Agreement shall enter into force on the date of written notification of the completion of internal procedures of the United States.

I have the further honor to propose that pending entry into force of the said agreement the fishing vessels of the Republic of Poland were allowed to engage in fishing activities in the exclusive economic zone of the United States of America under provisionally applied terms and conditions of the Fisheries Agreement as amended.

I avail myself of this opportunity to renew to you, Mr. Secretary, the assurances of my highest consideration.

Kazimierz Dziewanowski
Ambassador of the Republic of Poland

BILATERAL

RUSSIA
(see UNION OF SOVIET SOCIALIST REPUBLICS)

BILATERAL

TAIWAN

FISHERIES

Agreement Between the American Institute in Taiwan and the Coordination Council for North American Affairs Regarding High Seas Driftnet Fishing in the North Pacific Ocean, Arlington and Washington, 1989

Done at Arlington and Washington 13 July 1989 and 24 August 1989

*Entered into force 24 August 1989**

Primary source citation: Copy of text provided by the U.S. Department of State

AMERICAN INSTITUTE IN TAIWAN
1700 N. Moore Street
Suite 1705
Arlington, Virginia 22209
Tel: (703) 525-8474
Fax: (703) 841-1385

July 13, 1989

Mr. Ding Mou-shih
Representative
Coordination Council for
North American Affairs
4201 Wisconsin Ave., NW
Washington, D. C. 20016-2137

Dear Mr. Ding:

I have the honor to propose an agreement between the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA) for cooperative programs regarding the monitoring, enforcement and regulation of the North Pacific driftnet fishing operations. The details of these cooperative programs are set forth in the attached Annex. If the terms set forth in the attached Annex are acceptable to CCNAA, this letter and the Annex, together with your reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply and continue until December 31, 1990.

We place great reliance upon the commitment by CCNAA that the party it represents will expand and implement the observer and enforcement programs for 1990. We also take very seriously the agreement by CCNAA that the party it represents will take steps to limit the size of its driftnet fleet, and the success of these efforts will

* This Agreement expired on 31 December 1990.

be taken into consideration by the party represented by AIT as it reviews and evaluates the success of implementation of this agreement.

AIT reaffirms its position that the party it represents has jurisdiction over anadromous species that spawn in the rivers and coastal waters of the territory represented by AIT, and reserves its rights and privileges under international law and practice. This agreement should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by the vessels from the territory represented by CCNAA.

Sincerely,

David N. Laux
Chairman of the Board
and Managing Director

Enclosure:

As stated.

ANNEX
TO EXCHANGE OF LETTERS
BETWEEN
THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS (CCNAA)
AND
THE AMERICAN INSTITUTE IN TAIWAN (AIT)
REGARDING
THE HIGH SEAS DRIFTNET FISHING IN THE NORTH PACIFIC OCEAN

ARTICLE I. – FISHING GROUNDS.

The party represented by CCNAA shall ensure that all driftnet vessels of the territory represented by CCNAA are to adhere to the following fishing grounds while operating in the North Pacific Ocean beyond national 200 nautical mile Exclusive Economic Zones. Each driftnet vessel is required to confine fishing operations and all other vessel activities and movements to the area west of 145 degrees W longitude and south of the following monthly northernmost latitudinal lines of the fishery:

(a) For the area west of 370 degrees E longitude – –

January through April	Latitude 36 degrees N
May	Latitude 38 degrees N
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

(b) For the area between 170 degrees E to 145 degrees W longitude – –

January through April	Latitude 20 degrees N
May	Latitude 34 degrees N for large mesh only
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

ARTICLE II. – TRANSMITTERS.

(a) The party represented by CCNAA will install real-time automatic satellite position fixing devices identified here as transmitters, on ten percent of its North Pacific driftnet fishing vessels for an experimental test during the 1989 fishing season. Unless CCNAA and AIT agree after consultations that the transmitters are ineffective for monitoring vessel locations, after January 1, 1990, no driftnet fishing vessel will be permitted to fish in the North Pacific without a transmitter that will allow automatic, real time monitoring of the location and identity of the vessel by the parties represented by AIT and CCNAA.

(b) The party represented by CCNAA will be responsible for the cost of purchasing and operating the transmitters, and data transmission. The party represented by AIT will ensure that the party represented by CCNAA receives the benefit of any cost savings which would be available to the parties represented by AIT. The party represented by AIT will assist the party represented by CCNAA in procuring the transmitters.

(c) Each driftnet vessel is required to validate the time and location of catch and fishing effort, including the use of location records from an automatic navigation system, and will report such data to the appropriate officials of the party represented by CCNAA.

(d) The party represented by AIT understands that such installation efforts made by the party represented by CCNAA need multi-agency coordination among the Ministry of National Defense, the Ministry of Communications, and the Council of Agriculture of the party represented by the CCNAA. The party represented by AIT will take into consideration practical or legal difficulties in implementing this provision.

ARTICLE III. – OPERATING PROCEDURES.

(a) No driftnet vessel may harvest anadromous species of fish.

(b) Any anadromous species of fish incidentally taken in the driftnet fishery is to be immediately returned to the water and included in catch records outlined below in Article III (i).

(c) Each driftnet vessel seeking to operate in the North Pacific Ocean will have a license issued by the appropriate officials of the party represented by CCNAA.

(d) All marine resources harvested by driftnet vessels of the territory represented by CCNAA must be landed or, in the case of tuna shipments to Thailand, thoroughly inspected, in ports of the territory represented by CCNAA, with the exception of tuna shipped to American Samoa and Puerto Rico. For the sake of effective enforcement, the party represented by CCNAA will, upon signing of the agreement, promptly take the following measures:

(1) All tuna and squid transport ships operating in the North Pacific shall be equipped with a transmitter that will allow automatic, real-time monitoring of the location and identity of the vessel by the parties represented by AIT and CCNAA;

(2) The party represented by AIT will assist the party represented by CCNAA in procuring transmitters immediately. Once the transmitters are available, no transport vessel of the territory represented by CCNAA will be permitted to leave port for the North Pacific without an operating transmitter;

(3) CCNAA will provide AIT with a list of transport vessels;

(4) Squid transport ships shall only sail between North Pacific fishing grounds and ports in the territory represented by CCNAA;

(5) All squid caught from the North Pacific fishing grounds may only be transshipped to transport vessels of the territory represented by CCNAA and must be landed at ports in the territory represented by CCNAA;

(6) When a tuna or squid transport ship leaves port to carry on transshipment at sea, prior permission must be obtained from the competent agency of the party represented by CCNAA. CCNAA will forward this information promptly to designated AIT official;

(7) Detailed records shall be kept by all squid transport ships in connection with the transshipment they carry on, including the name of the fishing vessel from which the transshipped squid is received and the quantity of the squid. Upon return of the transport ship to the port in the territory represented by CCNAA it shall immediately report to the competent agency of the party represented by CCNAA for inspection.

The appropriate authorities of the party represented by CCNAA will establish a port inspection program to monitor landings of all driftnet vessels at all pertinent ports in the territory represented by CCNAA.

If the above measures should fail to bring about the desired result in six months, the authorities of the party represented by CCNAA will immediately introduce a bill to its Legislature for the prohibition of any and all transshipment of squid in the North Pacific.

(e) Authorities of the party represented by CCNAA shall take steps to introduce a bill as soon as possible to its Legislature to prohibit vessels from carrying both large-mesh gear (mesh size of 18 centimeters or greater) and small-mesh gear (less than 18 centimeters).

(f) Each driftnet vessel will be assigned an international radio call sign (IRCS) which is to be displayed amidships on both the port and starboard sides of the deckhouse or hull, and on a weather deck, in a color in contrast to the background and permanently affixed to the vessel in block roman alphabet letters and arabic numerals at least one meter in height.

(g) Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every 50 meter interval of net with the name of the vessel and its corresponding IRCS. Each vessel is also required to refrain from discarding used or damaged driftnets and related gear while at sea. Such fishing equipment is to be stowed on the vessel and returned to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the appropriate authorities of the party represented by CCNAA.

(h) CCNAA shall provide AIT with a list of licensed driftnet vessels, including name, corresponding IRCS numbers, the CT number and size by tonnage.

(i) CCNAA will provide AIT total catch and fishing effort of the driftnet fleet, stratified by month and delineated by five degree latitude by five degree longitude areas for the 1989 fishing season and one degree latitude by one degree longitude areas for the 1990 fishing season. Catch data is to include records of harvests of target species, incidental takes of anadromous species, marine mammals, seabirds, and other living marine resources. This information will be provided to AIT not later than June 30th of the following year.

ARTICLE IV. – ENFORCEMENT.

(a) The authorities of the party represented by CCNAA shall ensure that enforcement boardings of driftnet fishing vessels are conducted by personnel of the party represented by CCNAA, both dockside and at sea within and beyond the fishing area authorized by the party represented by CCNAA.

(b) The parties represented by AIT and CCNAA may exchange enforcement observers to facilitate driftnet fishery enforcement activities. These exchanges may include:

(1) participation by enforcement observers of the party represented by AIT on enforcement cruises conducted by the party represented by CCNAA;

(2) participation by enforcement observers of the party represented by CCNAA on enforcement patrols conducted by the party represented by AIT.

(c) CCNAA shall ensure that authorities of the party represented by CCNAA prosecuting administrative or judicial cases involving fishing violations shall treat the evidence supplied by or through AIT in the same manner as the evidence supplied by enforcement authorities of the party represented by CCNAA. The party represented by AIT understands that, under the judicial system of the party represented by CCNAA, acceptance of evidence supplied by or through AIT, as well as evidence supplied by enforcement authorities of the party represented by CCNAA, would not necessarily have binding force should any alleged violations become a court case.

ARTICLE V. – VISIT AND VERIFICATION.

Enforcement authorities of the party represented by AIT may visit flag vessels of the territory represented by CCNAA for the purpose of verifying fishing violations as follows:

(a) Outside the Fishing Area Authorized by the Party Represented by CCNAA. Personnel from the party represented by AIT may visit driftnet vessels of the territory represented by CCNAA wherever found if detected outside the authorized fishing area upon transmission of prior notification to CCNAA.

(b) Inside the Fishing Area Authorized by the Party Represented by CCNAA. Personnel from the party represented by AIT may visit driftnet vessels of the territory represented by CCNAA inside the authorized fishing area upon the occurrence of any of the following events and upon transmission of prior notification to CCNAA:

(1) Prohibited species are observed on board;

(2) Transfer of catch is observed in progress where there is reason to believe that catch being transferred is of anadromous species;

(3) Identification of the vessel is obscured in any way;

(4) Transmitter is not operating;

(5) Vessel is not on the list provided by CCNAA of registered driftnet vessels; or

(6) Vessel is evading detection or fleeing.

(c) Personnel from the party represented by AIT may visit transport vessels of the territory represented by CCNAA upon transmission of prior notification to CCNAA.

(d) Upon discovery of a fishing violation, AIT and CCNAA will consult regarding further steps in the handling of the vessel.

(e) Enforcement authorities of the party represented by AIT will take all reasonable measures to ensure a minimum interference to legitimate fishing operations of fishing vessels of the territory represented by CCNAA. Enforcement authorities of the party represented by AIT will conduct their operations in accordance with applicable rules of international law and practice and show the necessary courtesy to the master and crew of fishing vessels of the territory represented by CCNAA.

The foregoing is based upon the universally recognized principle of reciprocity.

ARTICLE VI. – DEPLOYMENT OF PATROL VESSELS.

(a) The party represented by AIT fully understands that the party represented by CCNAA currently has a rather limited number of vessels which can be deployed for patrolling the North Pacific. Nevertheless, the party represented by CCNAA will dispatch two dedicated patrol vessels for 200 vessel-days in the North Pacific during the balance of the 1989 fishing season to ensure a continuous enforcement presence throughout the season in the vicinity of the fishing grounds.

(b) For the 1990 fishing season, the number of dedicated patrol vessels will be increased to a minimum of three so that the total vessel-days will be 310 to ensure a continuous enforcement presence throughout the season in the vicinity of the fishing ground.

(c) CCNAA shall provide AIT with planned enforcement activities before the fishing season begins and annual reports on the patrols conducted, boardings made, violations detected, and penalties assessed by enforcement officials of the party represented by CCNAA at the conclusion of each fishing season.

ARTICLE VII. – MONITORING PROGRAM.

The party represented by CCNAA will implement with the party represented by AIT a cooperative monitoring program involving the deployment of scientific observers of the parties represented by AIT and CCNAA aboard driftnet vessels of the territory represented by CCNAA in the North Pacific Ocean. Each side will be responsible for bearing the personnel cost of its scientific observers.

CCNAA will provide to AIT the names of a sufficient number of vessels which are fully seaworthy and equipped to maintain the health and safety of scientific observers who will participate in 1989 and 1990 monitoring programs.

(a) Monitoring during the 1989 Fishing Season: The party represented by CCNAA will accept a scientific observer of the party represented by AIT aboard a driftnet vessel. The observer shall have the opportunity to observe approximately 30 driftnet retrievals.

(b) Monitoring during the 1990 Fishing Season: The party represented by CCNAA agrees to implement with the party represented by AIT a cooperative monitoring program in 1990, and later years as agreed, with the objective of obtaining statistically reliable data on the catch of target and non-target species by all driftnet fisheries of the territory represented by CCNAA in the North Pacific Ocean. Such a program will include:

(1) deploying observers of the parties represented by both CCNAA and AIT aboard commercial driftnet vessels of the territory represented by CCNAA for at least 30 days to observe 30 or more driftnet retrievals on each vessel; and

(2) arranging for observers of the parties represented by both CCNAA and AIT to be placed on a vessel of the territory represented by CCNAA that would move among the driftnet fleet during 3 summer months of the fishing season so that the observers could be deployed from this platform on a series of driftnet fishing vessels to observe a few driftnet retrievals on each vessel.

The representatives of CCNAA will meet with the representatives of AIT prior to 1990 to formulate the cooperative observer program for the 1990 fishing season and to finalize the details of the program by February 18, 1990.

ARTICLE VIII. – MANAGEMENT OF THE DRIFTNET FISHING FLEET.

The party represented by CCNAA will take steps to limit the size of its driftnet fleet during the term of this agreement and will consult further with the party represented by AIT on this matter. The authorities of the party represented by CCNAA will introduce at the earliest possible date the necessary laws and regulations for the management and control of driftnet fisheries. In doing so, they will take into account the relevant biological and socio-economic factors. CCNAA will inform AIT of the results of such efforts.

ARTICLE IX. – OPERATION OF THE AGREEMENT.

The parties to this Agreement shall consult periodically in order to review the operation and application of this agreement so as to assure that, with the passage of time and changes in circumstances, the objectives of this Agreement may be effectively maintained. The parties shall consult on enforcement and monitoring agreements for subsequent years.

Notwithstanding the undertakings by CCNAA under the agreement and the reply to AIT letter, the party represented by CCNAA reaffirms its rights and privileges under international law and practice.

❧ ❧ ❧ ❧ ❧ ❧ ❧

Coordination Council for North American Affairs
Office in U.S.A.
4201 Wisconsin Avenue, Washington, D.C. 20016

August 24, 1989

Mr. David N. Laux
Chairman of the Board
and Managing Director
American Institute in Taiwan
1700 N. Moore Street
Arlington, Va. 22209

Dear Mr. Laux:

I have the honor to refer to your letter of July 13, 1989, which provides:

"Dear Mr. Ding:

I have the honor to propose an agreement between the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA) for cooperative programs regarding the monitoring, enforcement and regulation of the North Pacific driftnet fishing operations. The details of these cooperative programs are set forth in the attached Annex. If the terms set forth in the attached Annex are acceptable to CCNAA, this letter and the Annex, together with your reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply and continue until December 31, 1990.

We place great reliance upon the commitment by CCNAA that the party it represents will expand and implement the observer and enforcement programs for 1990. We also take very seriously the agreement by CCNAA that the party it represents will take steps to limit the size of its driftnet fleet, and the success of these efforts will be taken into consideration by the party represented by AIT as it reviews and evaluates the success of implementation of this agreement.

AIT reaffirms its position that the party it represents has jurisdiction over anadromous species that spawn in the rivers and coastal waters of the territory represented by AIT, and reserves its rights and privilege under international law and practice. This agreement should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by the vessels from the territory represented by CCNAA.

Sincerely,

David N. Laux
Chairman of the Board"

The agreement proposed in your letter is acceptable to CCNAA, except that with regard to the last paragraph, the party represented by CCNAA takes the position that the fishing and other rights of nationals and vessels of the territory represented by CCNAA on the high seas shall be governed by the applicable rules of international law and practice. The primary objective of CCNAA and AIT in reaching the agreement is to conserve and utilize fishery resources.

I would further like to notify you that should the authorities of the territory represented by AIT impose trade restrictions on aquatic or other products from the territory represented by CCNAA pursuant to the 1987 Driftnet Act, this agreement shall be null and void immediately.

Notwithstanding the undertakings by CCNAA under this agreement, the party represented by CCNAA reaffirms its rights and privileges under international law and practice.

Sincerely,

Mou-Shih Ding
Representative

Enclosure

Agreement Between the American Institute in Taiwan and the Coordination Council for North American Affairs Regarding High Seas Driftnet Fishing in the North Pacific Ocean, Arlington and Washington, 1991

Done at Arlington and Washington 1 April 1991 and 16 April 1991

*Entered into force 16 April 1991**

Primary source citation: Copy of text provided by the U.S. Department of State

AMERICAN INSTITUTE IN TAIWAN
1700 N. Moore Street
Suite 1700
Arlington, Virginia 22209
Tel: (703) 525-8474
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April 1, 1991

Mr. Ding Mou-shih
Representative
Coordination Council for North American Affairs
4201 Wisconsin Avenue, N.W.
Washington, DC 20016-2137

Dear Mr. Ding:

I have the honor to refer to the consultations between the representatives of the American Institute in Taiwan (AIT) and Coordination Council for North American Affairs (CCNAA) held in Hawaii during the week of March 18, 1991 regarding high seas driftnet fisheries in the North Pacific Ocean. I would also refer to the proposed agreement reached as a result of said consultations, including the Regulatory Program (Annex I), the Monitoring Program (Annex II), and the Record of Discussions.

Recalling the concern expressed in the United Nations General Assembly Resolution 44/225, regarding large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas, my authorities place great reliance on the commitment of your authorities to implement the attached proposed agreement. Specifically, the authorities represented by CCNAA are committed (1) to implement fully the regulatory and monitoring programs contained in Annexes I and II; (2) to accept eleven AIT scientific observers on board eleven

* This Agreement expired on 30 June 1992.

driftnet vessels from the territory represented by CCNAA, in accordance with the provisions and arrangements specified in Annex II; and (3) to accept the arrangement reflected in the Record of Discussions.

As you know, scientists representing AIT and CCNAA at meetings held in Seattle, Washington during the week of March 25, 1991, jointly developed an agreed plan for deploying both AIT and CCNAA scientific observers aboard commercial driftnet vessels from your territory. I understand that AIT and CCNAA scientific observers will be deployed on vessels in proportion to the fishing effort of the various vessel size categories and fishery types. I further understand that the list of commercial driftnet vessels that will host AIT scientific observers will be provided to the National Marine Fisheries Service by April 15, 1991 [pursuant to Annex II, Section I(B) (1)] and will include vessels distributed among size categories and fishery types in accordance with the mutually developed scientific plan.

If the enclosed agreement is acceptable to your authorities, this letter and its enclosures, together with your reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply and continue, as specified, until June 30, 1992.

Finally, the authorities represented by AIT reaffirm the position that they have jurisdiction over anadromous species that spawn in the rivers and coastal waters of the territory represented by AIT, and reserve their rights and privileges under international law and practice. This agreement should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by the vessels from the territory represented by CCNAA.

Sincerely,

Natale H. Bellocchi
Chairman of the Board
and Managing Director

Enclosures:
As stated.

RECORD OF DISCUSSIONS

Representatives of the parties represented by CCNAA and AIT met March 18-21, 1991 to discuss matters pertaining to high seas driftnet fishing activities in the North Pacific Ocean. Both sides recognized that driftnet vessel operations in the North Pacific Ocean may result in the take of U.S.-origin anadromous species. Both sides agreed to the following temporary arrangements:

a) Enforcement personnel of one party, upon encountering a driftnet vessel of the other party that they intend to visit to verify compliance with driftnet fishing regulations, shall transmit to the appropriate enforcement personnel of the other party a request to conduct a cooperative visit.

b) If the enforcement personnel of the other party find that they are unable to join in the cooperative visit and verification, they will cooperate and assist the enforcement personnel of the requesting party to conduct the visit and verification. In those cases where the on-scene enforcement personnel of the requesting party find that enforcement personnel of the other party are not immediately present to join in the visit and verification, the enforcement personnel of the requesting party will initiate the visit and verification.

c) The visiting enforcement personnel may verify compliance with driftnet fishing regulations, remove any anadromous species on board, document incidental catches of marine mammals, seabirds, and anadromous species, and take representative samples of those resources.

d) Enforcement personnel of the party conducting the visit and verification shall take all reasonable measures to ensure a minimum interference to legitimate fishing operations of the driftnet vessel. The enforcement personnel will conduct their operations in accordance with applicable rules of international law and practice.

e) Upon arrival of enforcement personnel of the other party, the enforcement personnel of the two parties shall jointly continue the visit and verification.

f) If the enforcement personnel of the other party do not arrive before the enforcement personnel of the requesting party complete the visit and verification, the authorities of the requesting party will notify promptly the authorities of the other party of the results of the visit and verification and will consult with the authorities of the other party regarding the disposition of the violations detected.

g) When no violation is detected as a result of the verification activities, the visiting enforcement personnel shall immediately withdraw from the vessel.

h) Both authorities will ensure that the visit and verification procedure for driftnet vessels will also apply to all transport vessels.

i) The two parties agree that the present arrangements will be effective through June 1992.

For the Delegation of CCNAA

For the Delegation of AIT

ANNEX I

REGULATORY PROGRAM OF THE AUTHORITIES REPRESENTED BY THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS (CCNAA) FOR THE HIGH SEAS DRIFTNET FISHING IN THE NORTH PACIFIC BY VESSELS OF THE TERRITORY REPRESENTED BY CCNAA FOR THE 1991 FISHING SEASON AND THE PERIOD THROUGH JUNE 1992

A. Regulatory Measures for Driftnet Vessels in the North Pacific

I. - FISHING GROUNDS.

All driftnet vessels of the territory represented by CCNAA are to adhere to the following fishing grounds while operating in the North Pacific Ocean beyond national 200-mile zones. Each driftnet vessel is required to confine fishing operations and all other vessel activities and movements to the area west of 145 Degrees W longitude and south of the following monthly northernmost latitudinal lines of the fishery:

(a) For the area west of 170 degrees E longitude—

January through April	Latitude 36 degrees N
May	Latitude 38 degrees N
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

(b) For the area between 170 degrees E to 145 degrees W longitude—

January through April	Latitude 20 degrees N
May	Latitude 34 degrees N for large mesh only
June	Latitude 40 degrees N
July	Latitude 42 degrees N
August	Latitude 44 degrees N
September	Latitude 46 degrees N
October	Latitude 44 degrees N
November	Latitude 42 degrees N
December	Latitude 40 degrees N

The northern and eastern boundaries have been specifically established to minimize incidental takes of anadromous species of fish of United States origin.

II. - TRANSMITTERS.

(a) After January 1, 1991, no driftnet fishing or transport vessel of the territory represented by CCNAA will be permitted to fish in the North Pacific without a real-time automatic satellite position fixing device, identified here as a transmitter, that will allow automatic, real-time monitoring of the location and identity of the vessel.

(b) Each driftnet vessel is required to validate the time and location of catch and fishing effort, including the use of location records from an automatic navigation system, and will report such data to the appropriate authorities represented by CCNAA.

III. - OPERATING PROCEDURES.

(a) No driftnet vessel may harvest anadromous species of fish.

(b) Any anadromous species of fish incidentally taken in the driftnet fishery is to be immediately returned to the water and included in catch records.

(c) Each driftnet vessel seeking to operate in the North Pacific Ocean will have a license issued by the appropriate authorities represented by CCNAA.

(d) Vessels shall be prohibited from carrying both large-mesh gear (mesh size of 18 centimeters or greater) and small-mesh gear (less than 18 centimeters).

(e) Each driftnet vessel will be assigned an international radio call sign (IRCS) which is to be displayed amidships on both the port and starboard sides of the deckhouse or hull, and on a weather deck, in a color in contrast to the background and permanently affixed to the vessel in block roman alphabet letters and arabic numerals at least one meter in height.

(f) Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every 50 meter interval of net with the name of the vessel and its corresponding IRCS. Each vessel is also required to refrain from discarding used or damaged driftnets and related gear while at sea. Such fishing equipment is to be stowed on the vessel and returned to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the appropriate authorities represented by CCNAA.

(g) All marine resources harvested by driftnet vessels of the territory represented by CCNAA must be landed or, in the case of tuna shipments to Thailand, thoroughly inspected, in ports of the territory represented by CCNAA, with the exception of tuna shipped to American Samoa and Puerto Rico. The following conditions apply:

(1) Before any tuna or squid transport ship leaves port to operate in the North Pacific, the vessel shall be equipped with a transmitter that will allow automatic, real-time monitoring of the location and identity of the vessel;

(2) Squid transport ships shall only sail between North Pacific fishing grounds and ports in the territory represented by CCNAA;

(3) All squid caught from the North Pacific fishing grounds may only be transshipped to transport vessels of the territory represented by CCNAA and must be landed at ports in the territory represented by CCNAA;

(4) When a tuna or squid transport ship leaves port to carry on transshipment at sea, prior permission must be obtained from the competent authority represented by CCNAA;

(5) Detailed records shall be kept by all squid transport ships in connection with the transshipment they carry on, including the name of the fishing vessel from which the transshipped squid is received and the quantity of the squid. Upon return of the transport ship to the port in the territory represented by CCNAA, it shall immediately report to the competent authority represented by CCNAA for inspection;

(6) A port inspection program will be maintained to monitor landings of all driftnet vessels at all pertinent ports in the territory represented by CCNAA.

B. Cooperative Program between Authorities Represented by CCNAA and the American Institute in Taiwan (AIT)

I. - TRANSMITTERS.

(a) The authorities represented by CCNAA and AIT shall have access to transmitter data, to allow automatic, real-time monitoring of the location and identity of each vessel.

(b) The authorities represented by CCNAA understand that the raw transmitter data shall be kept confidential within the authorities represented by AIT.

(c) The authorities represented by CCNAA will be responsible for the cost of purchasing and operating the transmitters, and of data transmission. The authorities represented by AIT will ensure that the authorities represented by CCNAA receive the benefit of any cost savings which would be available to the authorities represented by AIT. The authorities represented by AIT will assist the authorities represented by CCNAA in procuring the transmitters.

II. - PROVISION OF INFORMATION.

(a) CCNAA will provide AIT with a list of licensed driftnet vessels, including name, corresponding IRCS numbers, transmitter ID number, the CT number and size by tonnage.

(b) CCNAA will provide AIT with a list of transport vessels.

(c) CCNAA will promptly forward information to a designated AIT representative concerning prior permission for the voyage of a tuna or squid transport vessel to carry on transshipment at sea.

III. - DRIFTNET MATERIALS.

The authorities represented by CCNAA will promote the concept that all driftnets used in the driftnet fisheries will, to the maximum extent practicable, be constructed with biodegradable materials which can break into segments that do not represent a threat to living marine resources. AIT will provide any information available to AIT regarding technological advances in biodegradable materials for driftnets.

IV. - ENFORCEMENT.

(a) Enforcement boardings of driftnet fishing vessels shall be conducted by personnel of the authorities represented by CCNAA, both dockside and at sea within and beyond the fishing area authorized by the authorities represented by CCNAA.

(b) The authorities represented by AIT and CCNAA may exchange enforcement observers to facilitate driftnet fishery enforcement activities. These exchanges may include:

(1) participation by enforcement observers of the authorities represented by AIT on enforcement cruises conducted by the authorities represented by CCNAA;

(2) participation by enforcement observers of the authorities represented by CCNAA on enforcement patrols conducted by the authorities represented by AIT.

(c) The authorities represented by CCNAA intend to continue to utilize, to the maximum extent, the information supplied by AIT indicating alleged violations by driftnet fishing and transport vessels of the territory represented by CCNAA in the investigation and identification of the violator. In order to facilitate the investigation of the authorities represented by CCNAA, photographs supplied by AIT are expected to be as clear as possible, and/or with reliable information of sighting positions.

V. - DEPLOYMENT OF PATROL VESSELS.

(a) For the 1991 fishing season, the number of dedicated patrol vessels of the territory represented by CCNAA will be maintained at three so that the total vessel-days will be 310 to ensure a continuous enforcement presence throughout the season in the vicinity of the fishing grounds. During January-June 1992, an enforcement presence at sea will be maintained comparable to that during the same period of 1991 unless violations indicate otherwise.

(b) CCNAA shall provide AIT with planned enforcement activities before the fishing season begins and annual reports on the patrols conducted, boardings made, violations detected, and penalties assessed by enforcement personnel of the authorities represented by CCNAA at the conclusion of each fishing season.

VI. - MANAGEMENT OF THE DRIFTNET FISHING FLEET.

The authorities represented by CCNAA will take steps to limit the size of its driftnet fleet and will consult further with the authorities represented by AIT on this matter. The authorities represented by CCNAA will review their regulatory measures regarding the reflagging of driftnet vessels from the territory represented by CCNAA. The authorities represented by CCNAA will also review existing penalties applicable to reflagging to ensure they are adequate to prohibit such reflagging. AIT will provide any information regarding reflagging of any driftnet vessels from the territory represented by CCNAA.

VII. - CONSULTATION.

CCNAA and AIT shall consult periodically to review the operation of the cooperative program, so as to assure that its objectives may be effectively maintained.

ANNEX II

SCIENTIFIC OBSERVER PROGRAM FOR THE 1991 NORTH PACIFIC HIGH SEAS DRIFTNET FISHERY OF THE TERRITORY REPRESENTED BY THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS (CCNAA)

To facilitate achieving the objective of obtaining statistically reliable data on the catch of target and non-target species in 1991 by all driftnet fisheries of the territory represented by CCNAA in the North Pacific Ocean, CCNAA has initiated and will follow the procedures set forth in the Annex for collecting, processing, and reporting driftnet fishery data by scientific observers. CCNAA has invited, and the American Institute in Taiwan (AIT) has accepted, participation by AIT in the 1991 Scientific Observer Program for the North Pacific high seas driftnet fishery in accordance with the provisions of this Annex.

The scientific observers shall not interfere with the fishing operations of the host vessels.

The responsible authorities for carrying out the scientific observer program shall be the National Marine Fisheries Service (hereinafter referred to as "NMFS") for the authorities represented by AIT and the Department of Fisheries, Council of Agriculture (hereinafter referred to as the "DOF") for the authorities represented by CCNAA. The NMFS on behalf of AIT and DOF on behalf of CCNAA shall exchange the names of their coordinators and the contact procedures for implementing this program by April 1, 1991.

I. Observer Deployment

A. Number of Observers to be Deployed

During 1991, 11 AIT scientific observers will be deployed aboard 11 commercial driftnet vessels of the territory represented by CCNAA throughout the driftnet fishing area and observe 45 set and retrieval operations on each vessel, and 9 CCNAA scientific observers will be deployed on 9 commercial driftnet vessels of the territory represented by CCNAA and observe 60 set and retrieval operations on each vessel. The deployment of such observers on vessels using large mesh and small mesh driftnet gear will generally be in proportion to the fishing effort of each type of fishery. Allocation of the observer effort will follow the plan in Table 1.

Table 1. Deployment of Scientific Observers during any one month and estimated number of observed operations during 1991.

	Month						
Authorities	**May**	**June**	**July**	**Aug**	**Sept**	**Oct**	**Total**
AIT	2	2	3	2	2	0	11
CCNAA	2	2	2	2	1	0	9
Estimated Number of Observed Operations*	95	212	245	245	190	48	1035

* These numbers exclude transit time to and from the fishing grounds.

B. Host Vessels and Embarkation and Debarkation of Observers

1. Vessels: The DOF on behalf of CCNAA shall provide to the NMFS a final list by April 15, 1991, of the commercial driftnet vessels that will host AIT scientific observers in 1991. This list shall include the vessel name, size, large or small mesh, type of radio communication gear aboard, observer room private or shared, name and contact information of vessel agent in port of embarkation, expected area of fishing, and expected dates and places of embarkation and debarkation of observers consistent with the allocation of observer effort specified in Table 1. The DOF on behalf of CCNAA shall notify the NMFS of the itineraries of each host vessel as soon as possible and at least 15 days prior to embarkation.

When the list of the commercial driftnet vessels that will host AIT scientific observers is provided by April 15, 1991, to the NMFS, the DOF on behalf of CCNAA shall include (1) plans for transporting the AIT observers to the host driftnet vessels; (2) copies of official records of current inspections by authorities represented by CCNAA of each host driftnet and transport vessel demonstrating their safety and seaworthiness; and (3) schedules of the dates and locations for the authorities represented by CCNAA and AIT to conduct pre-cruise meetings aboard host driftnet vessels in the territory represented by CCNAA, as specified in section II(B), Observer Needs and Assistance.

In principle, embarkation and debarkation of AIT scientific observers shall be from a U.S. or Asian port. Should such arrangements be impractical, the embarkation and/or debarkation of AIT observers to and from host driftnet vessels may be made via transport or other vessels. The DOF on behalf of CCNAA shall arrange for such transportation in consultation with the NMFS. If an observer must be transported to a host vessel at sea, all reasonable efforts will be made to ensure that the observer will be transferred to the host vessel within 2 weeks (14 days) of leaving port. Arrangements on host vessel/transport vessel at sea rendezvous for observer transfer will be the responsibility of the DOF.

2. Travel to Port: The NMFS on behalf of AIT shall provide travel arrangements (including costs) for the AIT scientific observers from the United States to ports of embarkation and from ports of debarkation to the United States and the cost of stay on land. The AIT scientific observers shall arrive at port at least two working days prior to the scheduled embarkation date of their corresponding host vessel, providing appropriate notice of vessel schedule was received by driftnet program coordinators. Except in the case of force majeure, should an AIT observer not be available to embark on a host vessel for which adequate notice of the vessel's itinerary has been provided as specified in paragraph I(B) (1), the DOF on behalf of CCNAA will not be responsible for finding a substitute vessel.

3. At-sea Transfer: For extended cruises, the DOF on behalf of CCNAA shall assist in arranging debarkation via ships of opportunity after the AIT observer has observed 45 operations on the host commercial fishing vessel. All reasonable efforts will be made to ensure that observers transferring to a transport vessel after completion of their 45 observed operations will be returned to port by the most direct means, within 14 days after debarking the host vessel.

4. Redeployment of Observers: In the event that a host vessel with an AIT observer must cease operation and return to port due to such incidents as accident or mechanical trouble, the DOF on behalf of CCNAA shall find a substitute vessel and transfer the AIT observer so that the observer can complete the remaining observations. However, if such transfer opportunity is unavailable, the AIT observer shall return to port aboard the host fishing vessel.

If there are 10 or more operations remaining of the required observations when the observer is returned to port, the DOF on behalf of CCNAA in consultation with the NMFS on behalf of AIT shall continue to make

arrangements for the observer to board a substitute driftnet vessel of the territory represented by the CCNAA to complete the required 45 driftnet observations.

II. Observer Arrangements at Sea

A. Safety and Rules

The scientific observers shall comply with the customs and rules of the host vessel (i.e., meal hours, use of water, bathing time, etc.) and instructions of the captain so as to secure safety for the crew members as well as the observers. The captain of a host vessel shall pay due attention to ensure the safety of the observers, especially during transfer of the observers between vessels at sea. The observers will not bring any toxic substances aboard the vessels.

Transfers at sea shall be conducted only during daylight hours, in wind speeds of less than 16 knots. An adequate transport craft shall be provided that is rated by the manufacturer to carry a minimum capacity of 400 Kg, and the observer is to be accompanied by a vessel crew-member. Observers are to wear U.S. Coast Guard approved personal flotation devices during transfer.

Scientific observers will have specific guidelines on safety during at-sea transfers and under which conditions to refuse transfer. If conditions are unsafe for transfer, vessels will arrange a rendezvous at the next available opportunity.

Host and transport vessels shall be seaworthy and outfitted with all relevant safety equipment to ensure the safety of the vessel personnel and observers at sea.

B. Observer Needs and Assistance

The DOF on behalf of CCNAA shall arrange for the host vessel to provide food and lodging, observation and storage spaces, and assistance for the scientific observers. The observation space shall allow for safe direct viewing of driftnet retrieval operations. Storage and freezer spaces shall also be provided by the host vessel for a maximum of 5 five-gallon containers to keep specimens. The DOF on behalf of CCNAA shall assist AIT scientific observers in the procurement of standard biological supplies as may be required for specimen collection. Without interfering with fishing operations, specimens shall be retained and assistance shall be given by the captain in instructing and ordering the crew when requested by the observer temporarily to retain specimens of any catch and incidental catch, including any birds, mammals, fish, and turtles for sampling by the observer.

The AIT observer shall have access to the navigational equipment to determine vessel position during set and retrieval operations and at other times as required to accomplish assigned data collection.

Observers will be allowed to discuss their duties and requirements with any and all vessel personnel.

For each host vessel, a pre-cruise visit and meeting shall be arranged by the DOF on behalf of CCNAA aboard the host vessel in the territory represented by CCNAA, attended by AIT and CCNAA authorities, the host vessel owner and master, and, whenever possible, the observer and an interpreter. A translated checklist of observer duties will be presented and explained. The master will sign the document attesting to his understanding and agreement of the observer's duties on his vessel. AIT observers will not be embarked on host vessels that have not conducted a pre-cruise visit and meeting.

AIT observers will be afforded treatment equivalent to that of a ship's officer while on board.

The NMFS on behalf of AIT shall prepare for each host vessel a poster explaining scientific observer functions and a letter of introduction for each observer in Chinese. The DOF on behalf of CCNAA shall educate the driftnet industry about the scientific observer program and distribute the literature prepared by the NMFS on behalf of AIT to the host vessels. The AIT observers shall also be allowed to post the letter of introduction and poster of observer functions on the host vessel in a place designated by the captain. The NMFS will provide a copy of the letter and poster to DOF for review.

C. At-sea Communications

At-sea communications by the AIT scientific observers shall be permitted with the consent of the host vessel captain on each alternate calendar day and at such other times as special circumstances may require. An officer aboard the host vessel will assist the observer in all radio communications. The AIT observers will be trained in the

use of marine HF-SSB radio use. The host vessel must allow prompt communication in case of an emergency. Communications shall be through the host vessel's captain or designated representative to the NMFS observer program coordinator. Communications shall be conducted according to the following procedures:

Communications from AIT observers aboard CCNAA vessels authorized to communicate with U.S. stations shall be transmitted from the host vessel to the NMFS Alaska Fisheries Science Center (AFSC) Observer Program in Seattle, Washington, directly or via commercial shore stations. Communications from AIT observers aboard vessels from the territory represented by CCNAA that cannot transmit directly to U.S. stations shall be transmitted from the host vessel to AIT/Kaohsiung or to the DOF on behalf of CCNAA. The DOF on behalf of CCNAA shall promptly relay the observer messages by facsimile or other rapid form of transmission to the NMFS in Seattle.

HF-SSB equipment on board transport vessels shall have frequencies compatible with commercial shore-based stations.

AIT observers shall be allowed to communicate with other scientific observers on other driftnet fishing vessels. These communications shall be arranged with consent of the captain of the host vessel at a time that will not interfere with vessel fishing operations.

The NMFS on behalf of AIT shall reimburse the cost of transmitting AIT observer messages from DOF to NMFS not to exceed U.S. $150.00 per observer cruise. The NMFS on behalf of AIT shall also reimburse the DOF for the cost, if any, of at-sea radio communications.

D. Food and Lodging

The NMFS on behalf of AIT shall reimburse the DOF on behalf of CCNAA for food and lodging on each of the observed host driftnet vessels at U.S. $10 per observer per day. The observers will provide their own bedding and personal articles. The authorities represented by CCNAA will make every effort to ensure that AIT scientific observers will be given officer's lodgings. The quality of food for AIT observers will be the same as that of ship's officers. The NMFS on behalf of AIT shall reimburse the DOF on behalf of CCNAA for food and lodging on commercial transport vessels at U.S. $25 per observer per day, up to a maximum of U.S. $500 per observer per trip.

E. Insurance

The NMFS on behalf of AIT shall ensure that there is adequate insurance to cover potential liability for accidents and/or illness that may occur during the entire period the AIT scientific observer is at sea. The NMFS on behalf of AIT and DOF on behalf of CCNAA shall cooperate with respect to any claim under such insurance.

F. Reimbursement of Costs

Reimbursements from the NMFS on behalf of AIT to the DOF are identified in paragraph II(C) for communications and in paragraph II(D) for food and lodging.

Itemized invoices for reimbursement shall be sent for payment on a quarterly basis to NMFS via AIT. All invoices for 1991 shall be submitted to the NMFS by February 1, 1992, and shall be paid by April 1, 1992.

G. Emergency

In the event of medical or other emergency circumstances relating to an AIT scientific observer, evacuation shall be accomplished according to established international practice. The DOF on behalf of CCNAA shall immediately inform the U.S. Coast Guard and/or the NMFS observer program coordinator on behalf of AIT of any such emergency.

III. Data Collection

A. Data to be Collected

For each operation, observers will collect the following data according to standardized procedures and format as jointly developed and assigned:

1. Information on fishing methods including net mesh sizes, method of net deployment (i.e., whether the vessel fished individually or in conjunction with other vessels), depth of the top of the net from the water surface, total net depth from corkline to lead line, true compass direction of the set, length (m) of a unit of net (as measured by the observer), number of units per net section, number and arrangement of net sections deployed per net set, and units of net lost or discarded, description of net materials, number of driftnet vessels fishing in an array and number of such arrays in the area (as determined from the radio officer's daily "array chart" and/or RADAR).

2. Environmental conditions at the beginning and again at the ending of each net deployment, including: surface water temperatures, weather conditions (air temperature, wind speed and direction, visibility, cloud cover), and sea conditions (sea state, swell direction and height).

3. Date and location of net at time of the beginning and end of the set and retrieval to nearest minute of latitude and longitude as recorded by the scientific observer directly from the navigation equipment.

4. Catch, take, and drop-out rates of all species, including target species and incidental species, recorded by each net section observed.

5. The vertical distribution of seabirds and seabird prey species (such as squid, saury, and pomfret) in the net webbing will be recorded by net section.

6. Observers will record biological information from any salmonid incidentally caught. For the 1991 observer program, this information will include the taking of scale samples, species and sex determination, weight and fork length measurement and the collection of snouts from all salmonids missing the adipose fin. After sampling the salmonids will be returned to the water in compliance with regulations of the authorities represented by CCNAA. All salmonid information will be exchanged by the authorities by February 1, 1992.

7. Observers will record biological information from any sea turtles caught prior to the animal being processed or returned to the water in compliance with regulations of the authorities represented by CCNAA. Carapace measurements will be taken whenever feasible. Whenever conditions permit, turtles taken alive will be freed from net and net fragments, tagged by the observer, and released. Turtles taken aboard dead may be dissected for examination of stomach contents and collection of organs or tissue samples. All biological data from sea turtles will be exchanged by the authorities by April 1, 1992.

8. Observers will record biological information, including length measurements from flying squid, albacore and other tunas, billfishes, sharks, and other non-salmonid fishes. Whole specimens or tissue samples from discarded albacore or finfish may be collected and frozen by the observer. All biological data from squid and non-salmonid finfishes will be exchanged by the authorities by April 1, 1992.

9. Observers will record biological information and collect biological samples from marine mammals incidentally caught. The data will include species, sex, body length, lactation, pregnancy, fetal length and sex. The samples will include stomachs, tissues, skulls, teeth and reproductive organs. All biological data on marine mammals will be exchanged by the authorities by April 1, 1992.

10. Observers will record biological information and collect biological samples from marine birds incidentally caught. The data will include species, color phase, age, brood patch, culmen length, wing length, molt, stomach contents, sex, weight, and collection of and information on, all recovered tags and bands. One whole specimen of each species may be retained and frozen as a voucher specimen by each observer. All marine bird data will be exchanged with the appropriate authorities by April 1, 1992.

11. Observers will record data on sightings of marine mammals and seabirds when the vessel is in transit to a new fishing location. The data will include standard sighting information such as location, environmental conditions, species sighted, number of animals sighted, distance from the vessel, etc. Such sighting activity is not to alter the course or interrupt in any way the normal operations of the vessel. Access to information on the vessel's position and environmental conditions will be ensured.

12. The scientific observer, with the assistance of an appropriate crew member, shall place the specimens in the assigned storage or freezer space for storage on the host vessel. The host vessel shall maintain the specimens and return them to Kaohsiung at the end of the cruise. CCNAA shall notify AIT Kaohsiung when the specimens will be available at the dock. Observers will also be allowed to transfer specimens and return them to port on the transport

vessels. Vessels used to transport observers will make all reasonable efforts to provide freezer space necessary to accommodate observer specimen materials.

13. On a daily basis, the vessel captain will provide to the observer information on the quantities of albacore, other species of tuna, swordfish, marlin, and sharks retained by the host vessel and the quantities discarded. Information on the quantities retained by the vessel will be provided with respect to each processed form, including whole fish, fillets, loins, fins, and belly portions. In a manner not to interfere with the operation of the host vessel, observers may collect data to determine the size composition of albacore or other species discarded by the vessel, the size composition of those retained by the vessel, and the relative weights of whole fish and the various processed forms. Guidelines for size composition sampling are described in the official field manual.

14. The DOF shall assist in making arrangements for the export permits required to ship samples to the United States. Observers will contact NMFS, Seattle, or AIT/Kaohsiung and relay their specimen list during transit back to Taiwan so that permits are ready when observers disembark.

B. Coordination, Standardization, and Observer Training

1. AIT and CCNAA will cooperate to achieve the collection and recording of data by their respective scientific observers in a standardized format. The NMFS on behalf of AIT shall assist the DOF on behalf of the CCNAA in developing the CCNAA observer program by providing training opportunities for CCNAA observer trainers at the NMFS Seattle office and by preparing and providing observer manuals to the DOF. Scientists from the CCNAA observer program will travel to the AFSC early in 1991 to observe driftnet observer training procedures and techniques. The NMFS on behalf of AIT shall make every effort to send an observer training team to the territory represented by the CCNAA in early 1991 for a week to assist the CCNAA observer program. All expenses of the travel described in this paragraph shall be borne by the sending side. The observer training and field data collection manuals will be provided to the DOF by the NMFS on behalf of AIT by April 15, 1991.

2. The duties of AIT and CCNAA scientific observers, as described in the observer manual, shall be standardized according to training procedures developed by the NMFS on behalf of AIT, in consultation with the DOF on behalf of CCNAA. The data collection procedures and data forms used by AIT and CCNAA scientific observers shall be standardized by the NMFS, in consultation with the DOT, and translated into Chinese by the DOF on behalf of CCNAA. The CCNAA shall thoroughly train their observers and provide these translated data forms before the CCNAA observers are deployed.

3. Data identified in paragraph III(A) for collection by observers will be recorded daily onto the data forms described in paragraph 2 above. These completed forms will be duplicated and provided to appropriate authorities within 30 days after the CCNAA or AIT scientific observer returns to port.

IV. Data Exchange and Reporting

A. Data Exchange

Total fishing effort and the total catch in numbers of animals and in metric tons of the squid and large-mesh driftnet fleets will be compiled by 10 day period and month and 1 degree x 1 degree statistical areas, for the following species: flying squid, salmonids, albacore, skipjack tuna, other tuna, swordfish, marlin, yellowtail, pomfret, sharks, and other fishes. Such data are to be provided by the DOF on behalf of CCNAA to the NMFS by April 1, 1992. The number of vessels by type that actually fished are also to be provided by the DOF on behalf of CCNAA to the NMFS by April 1, 1992. Three measures of effort are to be reported by statistical area for each fishery: the cumulative number of standardized tans (50m standard tan length), number of vessels fishing and vessel days of operations.

B. Reporting

1. Data reporting will be made by the representatives of CCNAA and AIT according to the following schedules:

(a) For the driftnet observer programs, appropriate authorities will jointly compile by April 1, 1992 a preliminary data set of average catch rates collected by CCNAA and AIT scientific observers of the species of cephalopods, finfish, marine mammals, seabirds and sea turtles identified in section III(A) by 1 degree x 1 degree statistical areas by 10 day period and month. To facilitate the compilation of the preliminary data sets CCNAA and AIT scientists will meet early in 1992.

(b) A final report reviewing data identified in section III(A) collected by CCNAA and AIT scientific observers during 1991 will be jointly produced by the appropriate representatives by May 1, 1992. The preliminary data sets and the final report will include data collected on the catch and bycatch of all species. If there are disagreements between the cooperating authorities pertaining to the data sets or reports, the differences will be described therein.

2. All observed field data per set shall not be opened to the public. The final reports of the observations made by CCNAA and AIT scientific observers shall not be opened to the public until their completion as specified in Section IV(B) (1) (b).

V. Research Coordination

1. Recognizing that the authorities represented by AIT and CCNAA are conducting research programs relevant to the interpretation of driftnet fisheries observer data, the range and scope of potential cooperation in these programs should be thoroughly considered prior to implementation of the 1991 driftnet fisheries observer program. Scientists of CCNAA and AIT familiar with these programs will exchange views on potential collaboration and specify actions to be taken in the following areas by April 1, 1991:

(a) Current and anticipated research on the biology and population dynamics of species taken in the North Pacific driftnet fisheries;

(b) Current and anticipated research on the physical and biological oceanography of the high seas driftnet fishing area;

(c) Current and anticipated research plans and development of fisheries technologies relevant to driftnet fisheries and avoidance of non-target species; and

(d) Research vessel and chartered fishing vessel activities for the North Pacific high seas region in 1991.

2. A report on results of the 1991 research cruises in the driftnet fishing areas will be exchanged within 90 days after the completion of the cruises by the DOF on behalf of CCNAA and the NMFS on behalf of AIT.

3. Reports of results of other research related to the high seas driftnet programs will be exchanged by the DOF on behalf of CCNAA and the NMFS on behalf of AIT upon completion.

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Coordination Council for North American Affairs
Office in U.S.A.
4201 Wisconsin Avenue, Washington, D.C. 20016

ED-80-014

April 16, 1991

Ambassador Natale H. Bellocchi
Chairman of the Board and Managing Director
American Institute in Taiwan
1700 North Moore St., #1700
Arlington, VA 22209

Dear Ambassador Bellocchi:

I have the honor to refer to your letter of April 1, 1991, which provides:

"Dear Mr. Ding:

I have the honor to refer to the consultations between the representatives of the American Institute in Taiwan (AIT) and Coordination Council for North American Affairs (CCNAA) held in Hawaii during the week of March 18,

1991 regarding high seas driftnet fisheries in the North Pacific Ocean. I would also refer to the proposed agreement reached as a result of said consultations, including the Regulatory Program (Annex I), the Monitoring Program (Annex II), and the Record of Discussions.

Recalling the concern expressed in the United Nations General Assembly Resolution 44/225, regarding large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas, my authorities place great reliance on the commitment of your authorities to implement the attached proposed agreement. Specifically, the authorities represented by CCNAA are committed (1) to implement fully the regulatory and monitoring programs contained in Annexes I and II; (2) to accept eleven AIT scientific observers on board eleven driftnet vessels from the territory represented by CCNAA, in accordance with the provisions and arrangements specified in Annex II; and (3) to accept the arrangement reflected in the Record of Discussions.

As you know, scientists representing AIT and CCNAA at meetings held in Seattle, Washington during the week of March 25, 1991, jointly developed an agreed plan for deploying both AIT and CCNAA scientific observers aboard commercial driftnet vessels from your territory. I understand that AIT and CCNAA scientific observers will be deployed on vessels in proportion to the fishing effort of the various vessel size categories and fishery types. I further understand that the list of commercial driftnet vessels that will host AIT scientific observers will be provided to the National Marine Fisheries Service by April 15, 1991 [pursuant to Annex II, Section I (B) (1)] and will include vessels distributed among size categories and fishery types in accordance with the mutually developed scientific plan.

If the enclosed agreement is acceptable to your authorities, this letter and its enclosures, together with your reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply and continue, as specified, until June 30, 1992.

Finally, the authorities represented by AIT reaffirm the position that they have jurisdiction over anadromous species that spawn in the rivers and coastal waters of the territory represented by AIT, and reserve their rights and privileges under international law and practice. This agreement should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by the vessels from the territory represented by CCNAA.

Sincerely,

Natale H. Bellocchi
Chairman of the Board and
Managing Director"

The contents of the documents enclosed in your letter are acceptable to the authorities represented by CCNAA, subject to the understanding that these documents constitute legally enforceable documents to be enforced by appropriate authorities, and that the authorities represented by CCNAA take the position that high seas fisheries shall be conducted and managed under the responsibility and initiative of the flag state. The primary objectives of the authorities represented by CCNAA and AIT in reaching the agreement are to minimize the incidental taking of U.S. origin anadromous species by the driftnet vessels and to help conserve and utilize marine resources.

I would like to further emphasize that the temporary arrangements, as stated in the Record of Discussions, regarding "Visit and Verification" are based on the universally recognized principle of reciprocity, and that the participators shall respect the exclusive jurisdiction of the authorities represented by CCNAA and AIT over their own vessels.

Finally, the authorities represented by CCNAA reaffirm the international principle of the freedom of fishing on the high seas and their rights and privileges under international law and practice.

Sincerely,

Mou-shih Ding
Representative
Coordination Council for
North American Affairs

BILATERAL

TAIWAN

MARINE POLLUTION

Agreement Between the American Institute in Taiwan and the Coordination Council for North American Affairs Regarding Compliance with the 1978 Protocol to the 1973 International Convention for the Prevention of Pollution from Ships, Arlington and Bethesda, 1985

Done at Arlington and Bethesda 22 January 1985 and 31 January 1985

Entered into force 31 January 1985

Primary source citation: Copy of text provided by the U.S. Department of State

AMERICAN INSTITUTE IN TAIWAN
1700 N. Moore St.
17th Floor
Arlington, Virginia 22209
(703) 525-8474

January 22, 1985

Dr. Fredrick F. Chien
Representative
Coordination Council for North American Affairs
5161 River Road
Bethesda, Maryland 20816

Dear Dr. Chien:

Given our mutual desire to ensure the continuation of uninterrupted maritime trade and the prevention of pollution from ships, I propose that assurances be provided to the American Institute in Taiwan (the "Institute") that all ships under the registry of the party represented by the Coordination Council for North American Affairs (the "Council") which are used in bilateral trade are designed, equipped and operated in accordance with the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 and its Annexes I and II (MARPOL 73/78), a copy of which is enclosed. Compliance with MARPOL 73/78 requirements shall be indicated in part by the carriage aboard ships of valid certificates and record books etc... such as those called for in MARPOL 73/78. Such documentation shall be in the same form as called for in MARPOL 73/78. Their carriage shall enable such ships to trade at the ports of the party represented by the Institute in the same manner and under the same conditions as ships of contracting governments to MARPOL 73/78, as provided for in Article 5 (4) of that treaty.

Reciprocally, assurances should be provided that, inasmuch as the party represented by the Institute is a contracting government to MARPOL 73/78, compliance with those provisions by merchant ships flying its flag shall enable them to trade at ports of the party represented by the Council in the same manner and under the same conditions as ships under the registry of the party represented by the Institute trade at ports of contracting governments to MARPOL 73/78.

If these arrangements meet with your approval, I propose that this letter and your written reply serve as a basis to establish the procedures described.

Sincerely,

David Dean
Chairman of the Board
and Managing Director

Enclosure:
(1) MARPOL 73/78

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Coordination Council for North American Affairs
Office in U.S.A.
5161 River Road, Bethesda, MD 20816

January 31, 1985

Mr. David Dean
Chairman of the Board and Managing Director
American Institute in Taiwan
1700 N. Moore Street
Arlington, VA 22209

Dear Mr. Dean:

This is to acknowledge receipt of your letter of January 22, 1985, in which you wrote:

"Given our mutual desire to ensure the continuation of uninterrupted maritime trade and the prevention of pollution from ships, I propose that assurances be provided to the American Institute in Taiwan (the "Institute") that all ships under the registry of the party represented by the Coordination Council for North American Affairs (the "Council") which are used in bilateral trade are designed, equipped and operated in accordance with the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 and its Annexes I and II (MARPOL 73/78), a copy of which is enclosed. Compliance with MARPOL 73/78 requirements shall be indicated in part by the carriage aboard ships of valid certificates and record books etc... such as those called for in MARPOL 73/78. Their carriage shall enable such ships to trade at the ports of the party represented by the Institute in the same manner and under the same conditions as ships of contracting governments to MARPOL 73/78, as provided for in Article 5 (4) of that treaty.

Reciprocally, assurances should be provided that, inasmuch as the party represented by the Institute is a contracting government to MARPOL 73/78, compliance with those provisions by merchant ships flying its flag shall enable them to trade at ports of the party represented by the Council in the same manner and under the same conditions as ships under the registry of the party represented by the Institute trade at ports of contracting governments to MARPOL 73/78.

If these arrangements meet with your approval, I propose that this letter and your written reply serve as a basis to establish the procedures described."

In reply, I wish to express, on behalf of the Coordination Council for North American Affairs, our willingness to provide the American Institute in Taiwan reciprocally with the assurances as specified in your letter, and our concurrence with your suggestion that this correspondence of ours will serve as a basis to establish the procedures described.

Sincerely,

Fredrick F. Chien
Representative

BILATERAL

TUNISIA

MARINE SCIENCE AND EXPLORATION

Agreement Between the Government of the United States of America and the Government of the Republic of Tunisia Relating to the Establishment and Operation of a Mediterranean Marine Sorting Center in Tunisia, Tunis, 1966

Done at Tunis 26 September 1966

Entered into force 26 September 1966

Primary source citation: 17 UST 1412, TIAS 6101

EMBASSY OF THE
UNITED STATES OF AMERICA

September 26, 1966

His Excellency
HABIB BOURGUIBA, Jr.,
Minister of Foreign Affairs,
Tunis.

No. 581

EXCELLENCY:

I have the honor to refer to discussion between representatives of the Government of the United States and the Government of the Republic of Tunisia in which it appeared that both governments share an interest in the establishment and operation of a Mediterranean Marine Sorting Center and that both governments recognize the great scientific importance that such a Center can have for basic oceanographic research and for man's intelligent use of the products of the sea.

In the light of these discussions the United States Government proposes an agreement with the Government of the Republic of Tunisia for cooperative establishment and operation of a Mediterranean Marine Sorting Center, as follows:

1. The Government of the United States through the Smithsonian Institution will furnish as may be required for the project, United States and other non-Tunisian personnel, equipment and supplies, international transportation of such personnel, equipment, and supplies and support of such personnel while in Tunisia as well as Tunisian personnel all in an amount not to exceed $175,000, in dollars and Tunisian dinars, for the first year. Subsequent years' support will be determined on the basis of the first year's operation;

2. The Government of the United States proposes that the Director of the Sorting Center be an American, the first to be David Damkaer, Oceanographer of the Smithsonian Institution, who will receive general guidance from an international Advisory Board, the first Chairman of which would be Dr. Zakaria Ben Mustapha, Director of the *Institut National Scientifique et Technique d'Oceanographie et de Peche;*

3. The Government of the Republic of Tunisia will facilitate the establishment and operation of the Sorting Center including but not necessarily limited to equipment and supplies, transportation, laboratory, and living accommodations, and will assist in the recruitment of Tunisian personnel including two or more assistant supervisors;

4. The Government of the Republic of Tunisia will permit and facilitate shipments free of custom duties and all other taxes on all specimens to and from the Sorting Center. Given the fragile and special nature of the specimens, the Government of Tunisia will permit their immediate clearance through customs;

5. The Government of the Republic of Tunisia shall exempt from all custom duties and all other taxes shipments into and out of Tunisia of all supplies and equipment intended for use at the Sorting Center; and

6. The Government of the Republic of Tunisia shall accord the American Director and his non-Tunisian associates:

a) Free entry into and out of Tunisia for all personal property introduced into Tunisia for their own use within a period of six months from the date of their assignment to the Sorting Center;

b) Temporary free entry of one automobile per family during the period of their assignment to the Sorting Center;

c) Exemption from the payment of Tunisian income taxes and other direct taxes on income derived from activities related to the Sorting Center.

If your Government agrees with the above proposal, I propose that this note and your affirmative reply to that effect constitute an agreement effective on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANCIS H. RUSSELL

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RÉPUBLIQUE TUNISIENNE
SECRÉTARIAT D'ÉTAT
AUX AFFAIRES ÉTRANGÈRES

TUNIS, *September 26, 1966*

His Excellency
THE AMBASSADOR OF THE
UNITED STATES OF AMERICA,
Tunis.

EXCELLENCY:

I have the honor to refer to your note of September 26, 1966, the terms of which are as follows:

"I have the honor to refer to discussion between representatives of the Government of the United States and the Government of the Republic of Tunisia in which it appeared that both governments share an interest in the establishment and operation of a Mediterranean Marine Sorting Center and that both governments recognize the great scientific importance that such a Center can have for basic oceanographic research and for man's intelligent use of the products of the sea.

In the light of these discussions the United States Government proposes an agreement with the Government of the Republic of Tunisia for cooperative establishment and operation of a Mediterranean Marine Sorting Center, as follows:

1. The Government of the United States through the Smithsonian Institution will furnish as may be required for the project, United States and other non-Tunisian personnel, equipment and supplies, international transportation of such personnel, equipment, and supplies and support of such personnel while in Tunisia as well as Tunisian personnel all in an amount not to exceed $175,000, in dollars and Tunisian dinars, for the first year's operation;

2. The Government of the United States proposes that the Director of the Sorting Center be an American, the first to be David Damkaer, Oceanographer of the Smithsonian Institution, who will receive general guidance from an international Advisory Board, the first Chairman of which would be Dr. Zakaria Ben Mustapha, Director of the *Institut National Scientifique et Technique d'Oceanographie et de Peche;*

3. The Government of the Republic of Tunisia will facilitate the establishment and operation of the Sorting Center including but not necessarily limited to equipment and supplies, transportation, laboratory, and living accommodations, and will assist in the recruitment of Tunisian personnel including two or more assistant supervisors;

4. The Government of the Republic of Tunisia will permit and facilitate shipments free of custom duties and all other taxes on all specimens to and from the Sorting Center. Given the fragile and special nature of the specimens, the Government of Tunisia will permit their immediate clearance through customs;

5. The Government of the Republic of Tunisia shall exempt from all custom duties and all other taxes shipments into and out of Tunisia of all supplies and equipment intended for use at the Sorting Center;

6. The Government of the Republic of Tunisia shall accord the American Director and his non-Tunisian associates:

a) Free entry into and out of Tunisia for all personal property introduced into Tunisia for their own use within a period of six months from the date of their assignment to the Sorting Center;

b) Temporary free entry of one automobile per family during the period of their assignment to the Sorting Center;

c) Exemption from the payment of Tunisian income taxes and other direct taxes on income derived from activities related to the Sorting Center.

If your Government agrees with the above proposal, I propose that this note and your affirmative reply to that effect constitute an agreement effective on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to confirm the agreement of the Government of Tunisia to the above understanding.

Accept, Excellency, the renewed assurances of my highest consideration.

Pr Le Directeur de la Coopération Internationale

HAMED AMMAR

[Seal]

BILATERAL

TURKEY

ENVIRONMENT AND NATURAL RESOURCES

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Ministry of Environment of the Republic of Turkey Concerning Technical Cooperation in the Field of Environmental Protection, Ankara, 1991

Done at Ankara 10 December 1991

Entered into force 10 December 1991

Primary source citation: Copy of text provided by the U.S. Department of State

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF ENVIRONMENT OF THE REPUBLIC OF TURKEY CONCERNING TECHNICAL COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION

ARTICLE I (BACKGROUND)

The Environmental Protection Agency of the United States of America ("EPA") and the Ministry of Environment of the Republic of Turkey (the "Ministry"), hereafter referred to as "the parties," hereby agree to establish a program of technical cooperation for the protection of the environment. The purpose of this Memorandum of Understanding (the "Memorandum") is to establish a framework to encourage and increase technical cooperative activities between EPA and the Ministry.

ARTICLE II (SCOPE OF WORK)

Technical cooperative activities by the parties under this Memorandum shall consist of training projects designed to help strengthen environmental management systems and institutions, assistance in developing management systems, and related technical cooperative projects in the Republic of Turkey. These activities may include: training of personnel of the Ministry in the areas of policy, enforcement, pollution prevention and environmental impact assessment; assistance to the Ministry in such areas as information management, solid and hazardous waste

management, and improvement in administrative systems; exchange visits of technical personnel; and other such technical cooperative activities as are agreed upon.

The parties may use, where appropriate and mutually acceptable, the services of other government agencies, universities, organizations and institutions of both countries to develop and conduct activities under this Memorandum. Technical experts from international organizations may also be invited to participate, upon the prior written agreement of the parties.

ARTICLE III (FUNDING)

Activities under this Memorandum shall be subject to the availability of appropriated funds and personnel of each party, or the approval of other sources of funding. Funding for and resource allocation to each significant activity undertaken pursuant to this Memorandum shall be arranged in accordance with the written agreement of the parties, as described in Article IV.

ARTICLE IV (MANAGEMENT)

Each party shall designate a coordinator to be responsible for the management of activities under this Memorandum. The parties may designate a replacement coordinator at any time upon written notice to the other party. The coordinators shall meet at least annually and at the request of either party, to discuss activities under the Memorandum or to review other matters concerning the Memorandum, such as future policy and programmatic direction.

The coordinators shall agree in writing on each significant activity to be undertaken pursuant to the Memorandum through an exchange of letters describing the activity, which shall be incorporated in an implementation document to this Memorandum. Each such significant activity should be described to include: the scope of work; the deliverables and delivery dates (if any); the products and outcomes; the period of performance; the level of funding and resources to be provided for each such activity by each party; and any other aspect of the activity that the coordinators may consider appropriate.

The coordinators shall seek to resolve any dispute concerning the Memorandum through good faith discussions.

ARTICLE V (APPLICABILITY OF NATIONAL LAWS)

All activities undertaken under this Memorandum shall be subject to the applicable laws and regulations of the parties.

ARTICLE VI (RELATIONSHIP TO OTHER AGREEMENTS)

Nothing in this Memorandum shall be construed either to prejudice other existing or future agreements concluded between the Governments of the United States of America and the Republic of Turkey.

ARTICLE VII (ENTRY AND EXIT)

To the extent feasible and permitted by their national laws, the parties shall facilitate the granting of visas and other clearances necessary for personnel and equipment to enter into and exit from their respective countries for purposes of undertaking activities agreed upon pursuant to this Memorandum.

ARTICLE VIII (AMENDMENT, ENTRY INTO FORCE AND TERMINATION)

This Memorandum shall enter into force upon signature and shall remain in force for five years. It may be extended or amended by written agreement of the parties at any time. The Memorandum may be terminated by either party upon three months' written notice to the other party. The termination of the Memorandum shall not affect the validity or duration of activities agreed upon pursuant to this Memorandum and initiated prior to such termination.

Done in duplicate at Ankara, Turkey in the English and Turkish languages, both texts being equally authentic. This tenth day of December, 1991.

For the Ministry of
Environment of the
Republic of Turkey

[Signature]
Minister

For the United
States Environmental
Protection Agency

William K. Reilly
Administrator

BILATERAL

UKRAINE

ENVIRONMENT AND NATURAL RESOURCES

Agreement Between the Government of the United States of America and the Government of Ukraine on Cooperation in the Field of Environmental Protection, Washington, 1992

Done at Washington 7 May 1992

Entered into force 7 May 1992

Primary source citation: Copy of text provided by the U.S. Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF UKRAINE ON COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION

The Government of the United States of America and the Government of Ukraine, hereinafter the "Parties,"

Attaching great significance to the problem of environmental protection and to the prevention of the degradation of nature,

Recognizing the wholeness and integrity of the environment and the global nature of many environmental problems,

Conscious of their responsibilities for the environmental safety of their nations,

Deeply convinced that environmental protection is an essential aspect of a nation's development,

Noting that cooperation in the field of environmental protection is an important and necessary element in strengthening bilateral relations for the benefit of the peoples of both nations;

Have agreed as follows:

Article I

The Parties shall develop and carry out mutually beneficial and long-term cooperative activities in the field of environmental protection and the efficient use of natural resources.

Article II

The Parties, through their respective agencies, may enter into implementing arrangements, as appropriate, for cooperation in the field of environmental protection in the following areas:

a. Control of air, soil, and water pollution due to waste, toxic substances, pesticides, or other contaminants;

b. Observation and monitoring of environmental quality;

c. Environmental emergencies;

d. Analysis of human health risks arising from environmental influences;

e. Radiation exposure and monitoring;

f. Economic, and administrative aspects of environmental protection work;

g. Environmental education; and

h. Other areas as agreed by the Parties.

Article III

Cooperation of the Parties under such implementing arrangements may include the following:

a. Joint projects and programs;

b. Exchange of information and documentation;

c. Organization of conferences, consultations, seminars, and meetings of experts;

d. Training and instruction of personnel;

e. Exchange of experts, specialists, and trainees; and

f. Creation of a center for environmental education and information in Kiev.

Article IV

The Parties shall encourage, wherever it is appropriate and feasible, the general development of direct contacts and cooperation in the field of environmental protection between state, civic and private organizations, institutions, companies, foundations, and individual citizens of the two Parties.

Article V

This Agreement shall not affect the rights and obligations of either Party under other agreements arising from previously concluded international agreements in force between them.

Article VI

The Parties shall consult, at the request of either Party, on any matter within the scope of this Agreement. If after such consultations a dispute exists between the Parties over the interpretation or implementation of this Agreement, the Parties shall seek to resolve such dispute by negotiations between them.

Article VII

All activities under this Agreement shall be subject to the applicable laws and regulations of the Parties. The obligations of the Parties under this Agreement shall be subject to the availability of funds and personnel of each Party.

Article VIII

This Agreement shall enter into force upon signature and remain in force for five years, after which it shall be automatically extended for successive five year periods. This Agreement may be terminated by either Party on six months written notice through diplomatic channels. Termination shall not affect the validity or duration of activities commenced under this Agreement.

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

DONE at Washington, in duplicate, this seventh day of May, 1992, in the English and Ukrainian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

William K. Reilly

FOR THE GOVERNMENT
OF UKRAINE:

Yuriy Shcherbak

BILATERAL

UNION OF SOVIET SOCIALIST REPUBLICS

ENVIRONMENT AND NATURAL RESOURCES

Agreement on Cooperation in the Field of Environmental Protection Between the United States of America and the Union of Soviet Socialist Republics, Moscow, 1972

Done at Moscow 23 May 1972

Entered into force 23 May 1972

Primary source citation: 23 UST 845, TIAS 7345

AGREEMENT ON COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS

The United States of America and the Union of Soviet Socialist Republics;

Attaching great importance to the problems of environmental protection;

Proceeding on the assumption that the proper utilization of contemporary scientific, technical and managerial achievements can, with appropriate control of their undesirable consequences, make possible the improvement of the interrelationship between man and nature;

Considering that the development of mutual cooperation in the field of environmental protection, taking into account the experience of countries with different social and economic systems, will be beneficial to the United States of America and the Union of Soviet Socialist Republics, as well as to other countries;

Considering that economic and social development for the benefit of future generations requires the protection and enhancement of the human environment today;

Desiring to facilitate the establishment of closer and long-term cooperation between interested organizations of the two countries in this field;

In accordance with the Agreement between the United States of America and the Union of Soviet Socialist Republics on Exchanges and Cooperation in Scientific, Technical, Educational, Cultural, and Other Fields in 1972-1973, signed April 11, 1972, and developing further the principles of mutually beneficial cooperation between the two countries;

Have agreed as follows:

ARTICLE 1

The Parties will develop cooperation in the field of environmental protection on the basis of equality, reciprocity, and mutual benefit.

ARTICLE 2

This cooperation will be aimed at solving the most important aspects of the problems of the environment and will be devoted to working out measures to prevent pollution, to study pollution and its effect on the environment, and to develop the basis for controlling the impact of human activities on nature.

It will be implemented, in particular, in the following areas:

- air pollution;
- water pollution;
- environmental pollution associated with agricultural production;
- enhancement of the urban environment;
- preservation of nature and the organization of preserves;
- Marine pollution;
- biological and genetic consequences of environmental pollution;
- influence of environmental changes on climate;
- earthquake prediction;
- arctic and subarctic ecological systems;
- legal and administrative measures for protecting environmental quality.

In the course of this cooperation the Parties will devote special attention to joint efforts improving existing technologies and developing new technologies which do not pollute the environment, to the introduction of these new technologies into everyday use, and to the study of their economic aspects.

The Parties declare that, upon mutual agreement, they will share the results of such cooperation with other countries.

ARTICLE 3

The Parties will conduct cooperative activities in the field of environmental protection by the following means:

- exchange of scientists, experts and research scholars;
- organization of bilateral conferences, symposia and meetings of experts;
- exchange of scientific and technical information and documentation, and the results of research on environment;
- joint development and implementation of programs and projects in the field of basic and applied sciences;

– other forms of cooperation which may be agreed upon in the course of the implementation of this Agreement.

ARTICLE 4

Proceeding from the aims of this Agreement the Parties will encourage and facilitate, as appropriate, the establishment and development of direct contacts and cooperation between institutions and organizations, governmental, public and private, of the two countries, and the conclusion, where appropriate, of separate agreements and contents.

ARTICLE 5

For the implementation of this Agreement a US-USSR Joint Committee on Cooperation in the Field of Environmental Protection shall be established. As a rule this Joint Committee shall meet once a year in Washington and Moscow, alternately. The Joint Committee shall approve concrete measures and programs of cooperation, designate the participating organizations responsible for the realization of these programs and make recommendations, as appropriate, to the two Governments.

Each Party shall designate a coordinator. These coordinators, between sessions of the Joint Committee, shall maintain contact between the United States and Soviet parts, supervise the implementation of the pertinent cooperative programs, specify the individual sections of these programs, and coordinate the activities of organizations participating in environmental cooperation in accordance with this Agreement.

ARTICLE 6

Nothing in this Agreement shall be construed to prejudice other agreements concluded between the two Parties.

ARTICLE 7

This Agreement shall enter into force upon signature and shall remain in force for five years after which it will be extended for successive five year periods unless one Party notifies the other of the termination thereof not less than six months prior to its expiration.

The termination of this Agreement shall not affect the validity of agreements and contracts between interested institutions and organizations of the two countries concluded on the basis of this Agreement.

DONE on May 23, 1972 at Moscow in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE UNITED STATES
OF AMERICA:

Richard Nixon

President of the
United States
of America

FOR THE UNION OF SOVIET
SOCIALIST REPUBLICS:

N.V. Podgorny

Chairman of the Presidium
of the Supreme Soviet
of the USSR

Convention Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment, Moscow, 1976

Done at Moscow 19 November 1976

Entered into force 13 October 1978

Primary source citation: 29 UST 4647, TIAS 9073

CONVENTION
Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that migratory birds are a natural resource of great scientific, economic, aesthetic, cultural, educational, recreational and ecological value and that this value can be increased under proper management;

Recognizing that many species of birds migrate between the United States and the Soviet Union or that species of birds which occur in the United States and the Soviet Union have common flyways, breeding, wintering, feeding or moulting areas which should be protected;

Considering that effective protection of migratory birds and their environment requires substantial national effort, but recognizing that international cooperation in this area can provide significant assistance;

Recognizing that certain species of birds in both countries are endangered and in need of particular protective measures;

Desiring to cooperate in implementing measures for the conservation of migratory birds and their environment and other birds of mutual interest;

Have agreed as follows:

ARTICLE I.

1. In this Convention, the term "migratory birds" means:

(a) The species or subspecies of birds for which there is evidence of migration between the Soviet Union and the United States derived as a result of banding, marking or other reliable scientific evidence; or

(b) The species or subspecies of birds, populations of which occur in the Soviet Union and the United States and have common flyways or common breeding, wintering, feeding, or moulting areas, and for these reasons there exists or could exist an exchange of individuals between such populations. The identification of such species or subspecies will be based upon data acquired by banding, marking, or other reliable scientific evidence.

2. In this Convention, the term "competent authority" means a national scientific or management agency authorized by the Contracting Party to implement the activities under this Convention. At the time of entering into force of this Convention, the Contracting Parties shall notify each other of their competent authorities for migratory birds pursuant to this Convention.

3. (a) A list of species and subspecies of birds by families, determined to be migratory in accordance with Paragraph 1 of this Article, is set forth in an Appendix to this Convention entitled "Migratory Birds";

(b) The competent authority of each Contracting Party shall be authorized by its government to review the "Migratory Birds" Appendix, and, if necessary, make recommendations for amendments thereto. The Appendix shall be considered amended upon the date when such recommendations are accepted by the competent authority of the other Contracting Party.

4. This Convention shall apply:

(a) For the United States of America: To all areas under the jurisdiction of the United States of America.

(b) For the Union of Soviet Socialist Republics: To all territories under the jurisdiction of the Union of Soviet Socialist Republics.

ARTICLE II.

1. Each Contracting Party shall prohibit the taking of migratory birds, the collection of their nests and eggs and the disturbance of nesting colonies. Also, any sale, purchase or exchange of these birds, whether dead or alive, or their nests or eggs, and any sale, purchase or exchange of their products or parts, shall be prohibited. The importation and exportation of migratory birds and their nests, eggs, parts, and products shall also be prohibited. Exception to these prohibitions may be made on the basis of laws, decrees or regulations of the respective Contracting Parties in the following cases:

(a) For scientific, educational, propagative, or other specific purposes not inconsistent with the principles of this Convention;

(b) For the establishment of hunting seasons in accordance with Paragraph 2 of this Article;

(c) For the taking of migratory birds and the collection of their eggs by the indigenous inhabitants of the Chukchi and Koryaksk national regions, the Commander Islands and the State of Alaska for their own nutritional and other essential needs (as determined by the competent authority of the relevant Contracting Party) during seasons established in accordance with Paragraph 2 of this Article; and

(d) For the purpose of protecting against injury to persons or property.

2. The hunting seasons for migratory birds provided for in Paragraph 1 (b) of this Article, and the seasons during which the indigenous inhabitants mentioned in Paragraph 1 (c) of this Article may take such birds and collect their eggs for their own nutritional and other essential needs (as determined by the competent authority of the relevant Contracting Party), shall be determined by the competent authority of each Contracting party respectively. These seasons shall be set so as to provide for the preservation and maintenance of stocks of migratory birds.

3. With regard to a particular species of migratory bird, if the need arises, the competent authorities of the Contracting Parties may conclude special agreements on the conservation of these species and on the regulation of their taking. Such agreements shall not be inconsistent with the principles of this Convention.

ARTICLE III.

Each Contracting Party agrees to take, as soon as possible, the measures necessary to insure the execution of this Convention and its purposes.

ARTICLE IV.

1. To the extent possible, the Contracting Parties shall undertake measures necessary to protect and enhance the environment of migratory birds and to prevent and abate the pollution or detrimental alteration of that environment.

2. Among other things, each Contracting Party shall:

(a) Provide for the immediate warning of the competent authority of the other Contracting Party in case of substantial anticipated or existing damage to significant numbers of migratory birds or the pollution or destruction of their environment. The competent authorities of the Contracting Parties will establish necessary procedures for such warnings and will cooperate to the maximum possible degree in preventing, reducing or eliminating such damage to migratory birds and their environment and in providing for the rehabilitation of their habitat.

(b) Undertake measures necessary for the control of the import, export and establishment in the wild of live animals and plants that may be harmful to migratory birds or their environment.

(c) Identify areas of breeding, wintering, feeding, and moulting which are of special importance to the conservation of migratory birds within the areas under its jurisdiction. Such identification may include areas which require special protection because of their ecological diversity or scientific value. These special areas will be included in list number I on the Appendix to this Convention entitled "Migratory Bird Habitat." The initial identification of areas shall be prepared within one year from the date of this Convention's entry into force. This list may be augmented or revised by the competent authority of each Contracting Party in relation to the areas under its jurisdiction. Such amendment enters into force upon notification of the competent authority of the other Contracting Party. Each Contracting Party shall, to the maximum extent possible, undertake measures necessary to protect the ecosystems in those special areas described on list number I against pollution, detrimental alteration and other environmental degradation.

3. The competent authorities of the Contracting Parties may by mutual agreement designate areas of special importance to the conservation of migratory birds outside the areas under their jurisdiction. These areas of special importance shall be included on list number II on the "Migratory Bird Habitat" Appendix to this Convention. This list number II may be amended by mutual agreement of the competent authorities of the Contracting Parties. Each Contracting Party shall, to the maximum extent possible, undertake measures necessary to ensure that any citizen or person subject to its jurisdiction will act in accordance with the principles of this Convention in relation to such areas. The Contracting Parties will take measures to disseminate information about the significance of these areas to the conservation of migratory birds.

ARTICLE V.

1. The Contracting Parties agree that, for the conservation of those species and subspecies of migratory birds which are in danger of extinction, special protective measures are necessary and should be taken.

2. If one Contracting Party has decided that a species, subspecies or distinct segment of a population of migratory bird is in danger of extinction, and has established special measures for its protection, the competent authority of that Contracting Party shall inform the competent authority of the other Contracting Party of that decision and of any subsequent modification of such decision.

3. Upon notification, the other Contracting Party will take into account such protective measures in the development of its management plans for the conservation of migratory birds.

ARTICLE VI.

1. The Contracting Parties shall promote research related to the conservation of migratory birds and their environment, and agree to coordinate their national bird banding programs. In cases where it is desirable, such research may be conducted under agreed upon programs coordinated by the competent authorities of the Contracting Parties.

2. The competent authorities of the Contracting Parties shall exchange scientific information and publications related to the conservation of migratory birds and their environment.

ARTICLE VII.

Each Contracting Party shall to the maximum extent possible, undertake measures necessary to establish preserves, refuges, protected areas, and also facilities intended for the conservation of migratory birds and their environment, and to manage such areas so as to preserve and restore the natural ecosystems.

ARTICLE VIII.

In addition to those species and subspecies of birds named on the "Migratory Birds" Appendix, each Contracting Party may implement within the areas under its jurisdiction or with regard to any citizen or person subject to its jurisdiction, as it deems appropriate and necessary, any or all of the protective measures under this Convention for any species or subspecies of birds not listed in the "Migratory Birds" Appendix but belonging to the same family as a species or subspecies listed in the "Migratory Birds" Appendix.

ARTICLE IX.

This Convention shall in no way affect the right of the Contracting Parties to adopt stricter domestic measures which are deemed to be necessary to conserve migratory birds and their environment.

ARTICLE X.

The competent authorities of the Contracting Parties shall consult regarding the implementation of this Convention upon the request of the competent authority of either of the Contracting Parties.

ARTICLE XI.

If necessary to improve the conservation of migratory birds or their environment, this Convention may be amended by the agreement of the Contracting Parties.

ARTICLE XII.

1. This Convention shall be subject to ratification or confirmation pursuant to the domestic laws of each Contracting Party and shall enter into force on the day that instruments of ratification or confirmation are exchanged in agreement with international procedures.

2. This Convention shall remain in force for a period of 15 years from the date of its entry into force. Thereafter, it shall be renewed automatically on an annual basis, provided that any Contracting Party may terminate its rights and obligations under this Convention. Such termination shall take effect on the next expiration date of this

Convention and may be accomplished by transmitting written notification of termination to the other Contracting Party at least six months prior to that expiration date.

Done in Moscow this 19th day of November, 1976, in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

E. U. Curtis Bohlen

Russell E. Train

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

Boris Runov

APPENDIX TO THE CONVENTION

MIGRATORY BIRDS

Family GAVIIDAE	
Yellow-billed Loon	Gavia adamsii
Arctic Loon	G. arctica
Pacific Loon	G. pacifica
Red-throated Loon	G. stellata
Family COLYMBIDAE	
Red-necked Grebe	Podiceps grisegena
Horned Grebe	P. auritus
Family DIOMEDEIDAE	
Short-tailed Albatross	Diomedea albatrus
Black-footed Albatross	D. nigripes
Laysan Albatross	D. immutabilis
Family PROCELLARIIDAE	
Fulmar	Fulmarus glacialis
Flesh-footed Shearwater	Puffinus carneipes
New Zealand Shearwater	P. bulleri
Sooty Shearwater	P. griseus
Slender-billed Shearwater	P. tenuirostris
Bonin Island Petrel	Pterodroma leucoptera (=hypoleuca)
Scaled Petrel	P. inexpectata
Family HYDROBATIDAE	
Fork-tailed Storm Petrel	Oceanodroma furcata
Leach's Storm Petrel	O. leucorhoa
Harcourt's Storm Petrel	O. castro
Family PHALACROCORACIDAE	
Pelagic Cormorant	Phalacrocorax pelagicus
Red-faced Cormorant	P. urile
Family ARDEIDAE	
Plumed Egret	Egretta intermedia
Chinese Egret	E. eulophotes
Chinese Least Bittern	Ixobrychus sinensis
Shrenck's Least Bittern	I. eurhythmus

Family ANATIDAE

Whooper Swan	Cygnus cygnus
Bewick's Swan	C. bewickii
Whistling Swan	C. columbianus
Canada Goose	Branta canadensis
Black Brant	B. nigricans
Emperor Goose	Philacte canagica
White-fronted Goose	Anser albifrons
Bean Goose	A. fabilis
Snow Goose	Chen caerulescens
Mallard	Anas platyrhynchos
Spot-billed Duck	A. poecilorhyncha
Pintail	A. acuta
Garganey	A. querquedula
Falcated Teal	A. falcata
Green-winged Teal	A. crecca
Baikal Teal	A. formosa
European Wigeon	A. penelope
American Wigeon	A. americana
Shoveler	A. clypeata
Common Pochard	Aythya ferina
Greater Scaup	A. marila
Tufted Duck	Aythya fuligula
Common Goldeneye	Bucephala clangula
Bufflehead	B. albeola
Oldsquaw	Clangula hyemalis
Harlequin Duck	Histrionicus histrionicus
Steller's Eider	Polysticta stelleri
Common Eider	Somateria mollissima
King Eider	S. spectabilis
Spectacled Eider	S. fischeri
White-winged Scoter	Melanitta deglandi
Surf Scoter	M. perspicillata
Black Scoter	M. nigra
Red-breasted Merganser	Mergus serrator
Common Merganser	M. merganser
Smew	M. albellus

Family ACCIPITRIDAE

Black Kite	Milvus korschun (=migrans)
Asiatic Sparrow Hawk	Accipiter virgatus (=gularis)
Rough-legged Hawk	Buteo lagopus
Golden Eagle	Aquila chrysaetos
White-tailed Eagle	Haliaeetus albicilla
Bald Eagle	H. leucocephalus
Steller's Sea Eagle	H. pelagicus
Northern Harrier	Circus cyaneus

Family PANDIONIDAE

Osprey	Pandion Haliaetus

Family FALCONIDAE

Gyrfalcon	Falco rusticolus
Peregrine Falcon	Falco peregrinus
Merlin	F. columbarius

Family GRUIDAE	
Common Crane	Grus grus
Sandhill Crane	G. canadensis
Family RALLIDAE	
European Coot	Fulica atra
Family CHARADRIIDAE	
Semipalmated Plover	Charadrius semipalmatus
Little Ringed Plover	C. dubius
Mongolian Plover	C. mongolus
American Golden Plover	Pluvialis dominica
Black-bellied Plover	P. squatarola
Dotterel	Eudromias morinellus
Family SCOLOPACIDAE	
Ruddy Turnstone	Arenaria interpres
Common Snipe	Capella (=Gallinago) gallinago
Pintail Snipe	C. (=Gallinago) stenura
Marsh Snipe	C. (=Gallinago) megala
European Jacksnipe	Lymnocryptes minimus
Whimbrel	Numenius phaeopus
Far Eastern Curlew	N. madagascariensis
Terek Sandpiper	Xenus cinereus
Common Sandpiper	Tringa (=Actitis) hypoleucos
Wood Sandpiper	Tringa glareola
Spotted Redshank	T. erythropus
Marsh Sandpiper	T. stagnatilis
Greenshank	T. nebularia
Wandering Tattler	Heteroscelus incanus
Polynesian Tattler	Heteroscelus brevipes
Red Knot	Calidris canutus
Great Knot	C. tenuirostris
Rock Sandpiper	C. ptilocnemis
Sharp-tailed Sandpiper	C. acuminata
Pectoral Sandpiper	C. melanotos
Baird's Sandpiper	C. bairdii
Temminck's Stint	C. temminckii
Long-toed Stint	C. subminuta
Rufous-necked Sandpiper	C. ruficollis
Curlew Sandpiper	C. ferruginea
Dunlin	C. alpina
Western Sandpiper	C. mauri
Sanderling	C. alba
Long-billed Dowitcher	Limnodromus scolopaceus
Buff-breasted Sandpiper	Tryngites subruficollis
Bar-tailed Godwit	Limosa lapponica
Black-tailed Godwit	L. limosa
Ruff	Philomachus pugnax
Spoon-bill Sandpiper	Eurynorhynchus pygmeus
Broad-billed Sandpiper	Limicola falcinellus
Family PHALAROPODIDAE	
Wilson's Phalarope	Phalaropus tricolor
Red Phalarope	P. fulicarius
Northern Phalarope	P. lobatus

Family STERCORARIIDAE

Pomarine Jaeger	Stercorarius pomarinus
Parasitic Jaeger	Stercorarius parasiticus
Long-tailed Jaeger	S. longicaudus

Family LARIDAE

Glaucous Gull	Larus hyperboreus
Glaucous-winged Gull	L. glaucescens
Slaty-backed Gull	L. schistisagus
Herring Gull	L. argentatus
Mew Gull	L. canus
Black-headed Gull	L. ridibundus
Ivory Gull	Pagophila eburnea
Black-legged Kittiwake	Rissa tridactyla
Red-legged Kittiwake	R. brevirostris
Ross' Gull	Rhodostethia rosea
Sabine's Gull	Xema sabini
White-winged Black Tern	Chlidonias leucoptera
Common Tern	Sterna hirundo
Arctic Tern	S. paradisaea
Aleutian Tern	S. aleutica
Little Tern	S. albifrons

Family ALCIDAE

Common Murre	Uria aalge
Thick-billed Murre	U. lomvia
Black Guillemot	Cepphus grylle
Pigeon Guillemot	C. columba
Marbled Murrelet	Brachyramphus marmoratus
Kittlitz's Murrelet	B. brevirostris
Ancient Murrelet	Synthliboramphus antiquus
Parakeet Auklet	Cyclorrhynchus psittacula
Crested Auklet	Aethia cristatella
Least Auklet	A. pusilla
Whiskered Auklet	A. pygmaea
Horned Puffin	Fratercula corniculata
Tufted Puffin	Fratercula (=Lunda) cirrhata

Family CUCULIDAE

Fugitive Hawk Cuckoo	Cuculus fugax
Common Cuckoo	C. canorus
Oriental Cuckoo	C. saturatus

Family STRIGIDAE

Snowy Owl	Nyctea scandiaca
Hawk Owl	Surnia ulula
Short-eared Owl	Asio flammeus
Boreal Owl	Aegolius funereus

Family APODIDAE

White-rumped Swift	Apus pacificus
Common Swift	A. apus
Needle-tailed Swift	Hirundapus caudacutus

Family UPUPIDAE

Hoopoe	Upupa epops

Family PICIDAE	
Wryneck	Jynx torquilla
Family ALAUDIDAE	
Skylark	Alauda arvensis
Horned Lark	Eremophila alpestris
Family HIRUNDINIDAE	
Tree Swallow	Iridoprocne bicolor
Bank Swallow	Riparia riparia
House Martin	Celichon urbica
Barn Swallow	Hirundo rustica
Cliff Swallow	Petrochelidon pyrrhonota
Family CORVIDAE	
Common Raven	Corvus corax
Family TURDIDAE	
Fieldfare	Turdus pilaris
Dusky Thrush	T. pallidus (=obscurus)
Blue Rock Thrush	Monticola solitarius (=solitaria)
Swainson's Thrush	Catharus ustulatus
Gray-cheeked Thrush	C. minimus
Wheatear	Oenathe oenathe
Bluethroat	Luscinia svecia
Siberian Rubythroat	L. calliope
Family SYLVIIDAE	
Willow Warbler	Phylloscopus trochilus
Arctic Warbler	P. borealis
Middendorff's Grasshopper Warbler	Locustella ochotensis
Family MUSCICAPIDAE	
Gray-spotted Flycatcher	Muscicapa griseisticta
Family PRUNELLIDAE	
Mountain Accentor	Prunella montanella
Family MOTACILLIDAE	
Gray Wagtail	Motacilla cinerea
White Wagtail	M. alba
Yellow Wagtail	M. flava
Water Pipit	Anthus spinoletta
Indian Tree Pipit	A. hodgsoni
Pechora Pipit	Anthus gustavi
Red-throated Pipit	A. cervinus
Family LANIIDAE	
Northern Shrike	Lanius excubitor
Family PARULIDAE	
Yellow-rumped Warbler	Dendroica coronata
Northern Waterthrush	Seiurus noveboracensis

Family FRINGILLIDAE

Brambling	Fringilla montifringilla
Hawfinch	Coccothraustes coccothraustes
Eurasian Bullfinch	Pyrrhula pyrrhula
Common Rosefinch	Carpodacus erythrinus
Hoary Redpoll	Acanthis hornemanni
Common Redpoll	A. flammea

Family EMBERIZIDAE

Savannah Sparrow	Passerculus sandwichensis
Slate-colored Junco	Junco hyemalis
Fox Sparrow	Passerella iliaca
Lapland Longspur	Calcarius lapponicus
Snow Bunting	Plectrophenax nivalis
Rustic Bunting	Emberiza rustica
Pallas' Reed Bunting	E. pallasi

JOINT DECLARATION

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that the migratory birds covered by the Convention on the Conservation of Migratory Birds and Their Environment are an international resource of great ecological value and that they migrate between other countries as well as the United States of America and the Union of Soviet Socialist Republics;

Recognizing that the protection of these migratory birds and their environment requires expanded international cooperation and that it would be highly desirable to have other countries accede to this Convention;

Have agreed to consider the expansion of the Convention to include additional Contracting Parties and have agreed to initiate the necessary procedures to accomplish this goal.

Done in Moscow this 19th day of November, 1976, in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

E. U. Curtis Bohlen

Russell E. Train

FOR THE GOVERNMENT OF THE
UNION OF SOVIET SOCIALIST REPUBLICS:

Boris Runov

BILATERAL

UNION OF SOVIET SOCIALIST REPUBLICS

FISHERIES

Convention Regarding Navigation, Fishing, and Trading on the Pacific Ocean and Along the Northwest Coast of America, St. Petersburg, 1824

Done at St. Petersburg 17 April 1824

*Entered into force 11 January 1825**

Primary source citation: 11 Bevans 1205, TS 298

Convention Regarding Navigation, Fishing, and Trading on the Pacific Ocean and Along the Northwest Coast of America

[TRANSLATION]

In the Name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty the Emperor of all the Russias, wishing to cement the bonds of amity which unite them and to secure between them the invariable maintenance of a perfect concord, by means of the present Convention, have named as their Plenipotentiaries to this effect, to wit: The President of the United States of America Henry Middleton a Citizen of said States, and their Envoy Extraordinary and Minister Plenipotentiary near His Imperial Majesty: and His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert Count of Nesselrode, actual Privy Counsellor, member of the Council of State, Secretary of State directing the administration of foreign Affairs, actual Chamberlain, Knight of the order of St. Alexander Nevsky, Grand Cross of the order of St. Wladimir of the first Class, Knight of that of the white Eagle of Poland, Grand Cross of the order of St. Stephen of Hungary, Knight of the orders of the Holy Ghost and of St. Michael, and Grand Cross of the Legion of Honour of France, Knight Grand Cross of the orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III of Spain, of St. Ferdinand and Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Wirtemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma, and Pierre de Poletica, actual Counsellor of State, Knight of the order of St. Anne of the first Class, and Grand Cross of the order of St. Wladimir of the second; who, after having exchanged their full powers, found in good and due form, have agreed upon and signed the following stipulations.

Article First

It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean, or South-Sea, the respective Citizens or Subjects of the high contracting Powers shall be neither disturbed nor restrained either in navigation, or fishing, or in the power of resorting to the coasts upon points which may not already have been occupied, for the purpose of trading with the Natives, saving always the restrictions and conditions determined by the following articles.

* The third article was made obsolete by the convention of 30 March 1867 (see *Treaty Series* 301); the second article expired 17 April 1834.

ARTICLE SECOND

With a view of preventing the rights of navigation and fishing, exercised upon the Great Ocean by the Citizens and Subjects of the high contracting Powers from becoming the pretext for an illicit trade, it is agreed, that the Citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the Governor or Commander; and that, reciprocally, the Subjects of Russia shall not resort, without permission, to any establishment of the United States upon the North West Coast.

ARTICLE THIRD

It is moreover agreed, that hereafter there shall not be formed by the Citizens of the United-States, or under the authority of the said States, any establishment upon the North West Coast of America, nor in any of the Islands adjacent, *to the north* of fifty four degrees and forty minutes of north latitude; and that in the same manner there shall be none formed by Russian Subjects or under the authority of Russia *south* of the same parallel.

ARTICLE FOURTH

It is nevertheless understood that during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their Citizens or Subjects respectively, may reciprocally frequent without any hindrance whatever, the interior seas, gulfs, harbours and creeks upon the Coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country.

ARTICLE FIFTH

All spirituous liquors, fire-arms, other arms, powder and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding Article, and the two Powers engage, reciprocally, neither to sell nor suffer them to be sold to the Natives by their respective Citizens and Subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandize, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce: the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishment, in case of the contravention of this Article by their respective Citizens or Subjects.

ARTICLE SIXTH

When this Convention shall have been duly ratified by the President of the United-States, with the advice and consent of the Senate on the one part, and on the other by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible, In faith whereof the respective Plenipotentiaries have signed this Convention, and thereto affixed the Seals of their Arms.

Done at St. Petersburg the $\frac{17}{5}$ April, of the year of Grace one thousand eight hundred and twenty four.

HENRY MIDDLETON [SEAL]

LE COMTE CHARLES DE NESSELRODE [SEAL]

PIERRE DE POLLETICA [SEAL]

Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, Moscow, 1973

Done at Moscow 21 February 1973

Entered into force 21 February 1973

Primary source citation: 24 UST 669, TIAS 7575

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS RELATING TO THE CONSIDERATION OF CLAIMS RESULTING FROM DAMAGE TO FISHING VESSELS OR GEAR AND MEASURES TO PREVENT FISHING CONFLICTS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics, wishing to facilitate the settlement of claims advanced by a national of one country against a national of the other country as a result of financial loss arising from damage to fishing vessels or fishing gear and to prevent fishing conflicts between fishing vessels of both countries carrying out fishing operations in the same areas,

Have agreed on the following:

ARTICLE I

1. There are established two American-Soviet Fisheries Claims Boards, one in Washington and one in Moscow.

2. Each Board shall consist of four members, two appointed by the Government of the United States of America and two appointed by the Government of the Union of Soviet Socialist Republics. Each Government shall inform the other of the names of the persons it appoints to each Board.

3. Each Government may appoint one non-voting technical expert to a Board for each matter heard, and may also designate advisers to the members of a Board whom it has appointed.

4. All decisions of a Board shall require a unanimous vote or its members present and voting, so long as one member appointed by each Government is present.

5. Insofar as is necessary, considering the location of the parties and the availability of evidence, a Board may decide to meet in a place other than its permanent site.

6. English and Russian shall be the official and working languages of the Boards. The appropriate authorities of the two Governments shall assist the Boards in arranging for translation and interpretation.

7. For purposes of this Agreement, the term "national" refers to any person, natural or juridical.

ARTICLE II

1. A Board shall consider claims advanced by a national of one country against a national of the other country regarding financial loss resulting from damage to or loss of the national's fishing vessel or fishing gear.

2. No claim may be brought more than one year after the occurrence of the relevant incident except that, in the case of incidents occurring during the two years immediately preceding the entry into force of this Agreement, claims may be brought within two years of the incident, or within one year of the entry into force of this Agreement, whichever is longer.

ARTICLE III

1. A Board shall establish its procedures for conciliation in accordance with this Agreement.

2. A claimant shall determine at his own discretion in which Board his case is to be examined.

3. A claim, as referred to in Article II of this Agreement, shall be brought before the Board by a written request. The request shall include, insofar as is known by the claimant, inter alia, a detailed account of the incident from which the claim arises, the identity of all persons and vessels involved, the compensation sought, and a list of those who are knowledgeable about the incident. All appropriate evidence supporting the claim shall be forwarded with the claim to the Board.

4. Upon receipt of a claim, the Board shall, as soon as practicable, commence an inquiry into the incident. The Board shall immediately notify any national against whom a claim is made. The respondent may in turn file with the Board a written statement responding to the claim and any other evidence he deems advisable. The respondent's statement may contain a counterclaim, insofar as the counterclaim arises from the same incident upon which the claim is based. A counterclaim shall be in the same form as a claim. The Board may simultaneously consider claims that arise from the same incident, without prejudice to the right of each party to present evidence.

5. A Board may request further information and documents from the parties to the dispute or from the appropriate authorities of the two countries.

6. If either the claimant or the respondent so requests or if the Board deems it desirable, the Board shall convene a hearing regarding the incident. The claimant and respondent may appear at the hearing, personally or through a representative, with or without counsel, may testify, and may present others to testify. The Board may invite to testify any person, organization, corporation, or other entity, as it deems desirable. The claimant and respondent shall be permitted to question all persons testifying at the hearing, provided that no person shall be required to respond to any question.

7. The Board shall act as an intermediary between the claimant and the respondent and, at any stage of its considerations of a claim, may approach the claimant and the respondent to try to bring about a conciliation.

8. The appropriate authorities of the two Governments shall facilitate the work of the Board.

ARTICLE IV

1. On the basis of the evidence submitted and heard and of its discussions thereof, the Board shall prepare a report containing its findings as to:

(a) the facts giving rise to the claim;

(b) the extent of damage and loss;

(c) the degree of respondent's and claimant's responsibility, if any; and

(d) the amount, if any, which should be paid by respondent or claimant as compensation for damage and loss arising from the incident.

2. If the Board has not unanimously adopted the findings, this shall be stated in the report, along with a detailed account of each Board member's opinion.

3. The Board shall reach a decision on the claim within sixty days after it has collected all the evidence it deems necessary and then shall without delay transmit its report to the claimant, the respondent, and the appropriate authorities of the two Governments. If the Board is of the opinion that one of the parties should pay compensation, the Board shall address a recommendation to that effect to the party concerned.

4. Within thirty days after receipt of the Board's report, either the claimant or the respondent may request in writing that the Board reconsider its report. The request shall set forth the reasons for the request and material substantiating the request. The Board may decide to reconsider its report and, if it deems appropriate, receive new evidence or convene a rehearing, or both. Article III procedures will be applicable to the reconsideration.

5. The appropriate authorities of the two Governments undertake to encourage settlement of claims and to facilitate payments thereof in accordance with the findings of the Board and with the applicable domestic laws.

6. Within sixty days of receipt of the Board's report, the appropriate authorities of each Government shall inform the Board of the actions taken by the claimant or the respondent pursuant to the Board's findings.

7. If the Board has not arrived at a unanimous finding, if one of the parties to the conciliation proceeding refuses to settle in accordance with the findings of the Board, or if conciliation is not possible, the Board shall encourage the parties to submit the dispute to arbitration.

ARTICLE V

1. At the request of both parties to a dispute, a Board may arbitrate instead of conciliate a claim advanced by a national of one country against a national of the other country regarding financial loss resulting from damage to or loss of the national's fishing vessel or fishing gear, pursuant to a signed written agreement between such nationals to submit such claim to the Board for arbitration.

2. The following Articles or Paragraphs of this Agreement shall not apply to arbitration proceedings unless the arbitration agreement provides otherwise: Article I (3), Article I (4), Article II, Article III, Article IV, Article VI, Article VIII, Article IX, Article X (2), Article X (3), and Article XII.

ARTICLE VI

Each Board shall, as soon as possible after the end of a calendar year, send to the two Governments a short report concerning the claims it has handled and of the results which have been obtained.

ARTICLE VII

The appropriate authorities of the two Governments will encourage their nationals to use, in the first instance, the Board to settle claims resulting from damage to fishing vessels and fishing gear.

ARTICLE VIII

1. In considering those claims which arise subsequent to the entry into force of this Agreement, the Board shall be guided by the provisions of the rules set forth in the Annex or Annexes hereof. The Annex or Annexes form an integral part of this Agreement.

2. The two Governments shall encourage their fishermen to follow, insofar as practicable, the rules set forth in the Annex or Annexes.

3. The competent authorities or one Government may notify the competent authorities of the other Government of concentrations or probable concentrations known to them of fishing vessels or fishing gear. A competent authority receiving such notification shall take such steps as are practicable to inform vessels flying the flag or its country of such concentrations.

4. Within areas in which one of the Governments has jurisdiction over fisheries, it may make special rules and exemptions from rules dealing with identification and marking of fishing vessels and gear, with signals to be used by fishing vessels, with the marking of nets, lines and other gear, and with rules governing the operation of vessels or gear which by reason of their size or type operate or are set only in coastal waters, provided that there shall be no discrimination in form or in fact against vessels of the other country. Before making rules and exemptions hereunder in respect to areas in which vessels of the other country operate, the Government shall inform the other Government of its intentions and consult if the other Government so wishes.

5. At the request of either Government, representatives of the two Governments shall meet to review the operation of an Annex or of any provision of an Annex and to consider proposals for revision. The provisions of an Annex may be modified at any time by mutual consent.

ARTICLE IX

In considering claims under this Agreement, the Board shall also apply:

(a) international conventions, whether general or particular, establishing rules expressly recognized by the two States, including bilateral and multilateral agreements between the two Governments dealing with fisheries and maritime matters; and

(b) international custom, as evidence of a general practice accepted as law.

ARTICLE X

1. Without prejudice to an agreement for binding arbitration under Article V and subject to Article VII, nothing in this Agreement shall preempt, prejudice, or in any other way affect judicial proceedings, or the right to institute such proceedings, or in any way prejudice or affect the substantive or procedural rights of any person, whether or not such person appears before or participates in the proceedings of the Board.

2. No claim shall be brought between the parties the substance of which has been or is being adjudicated or arbitrated, nor shall the Board continue conciliation proceedings regarding a claim in respect to which judicial proceedings are instituted. The Board may also refuse to consider a claim for other reasons.

3. The Board shall immediately terminate conciliation proceedings regarding a claim in respect to which there is a binding agreement to arbitrate.

ARTICLE XI

Each Government shall pay all the expenses, including compensation, of the members it appoints to the Board and of any technical experts it appoints, and advisers it designates. The two Governments will share equally all the administrative and operational costs of the Board. Such costs do not include expenses related to the presentation or production of evidence or the appearance of witnesses.

ARTICLE XII

At the request of either Government, representatives of the two Governments shall meet to review the operation of this Agreement and to consider proposals for revision.

ARTICLE XIII

This Agreement shall enter into force upon signature. It shall remain in force for two years, and thereafter until the sixtieth day following the day on which one Government gives the other Government notice of termination, provided that the effect of this Agreement shall in any event continue until the conclusion of conciliation proceedings and arbitrations instituted prior to its termination, unless otherwise agreed by the two Governments.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE, in duplicate, in the English and Russian languages, both equally authentic, at Moscow this 21st day February 1973.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Donald L. McKernan

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

V. M. Kamentsev

ANNEX

MEASURES TO PREVENT FISHING CONFLICT IN THE NORTHEASTERN PART OF THE PACIFIC OCEAN INCLUDING THE EASTERN BERING SEA OFF THE COAST OF THE UNITED STATES OF AMERICA

1. a. This Annex applies to the waters of the northeastern part of the Pacific Ocean including the eastern Bering Sea off the coast of the United States of America.

b. For purposes of this Annex,

"fishing vessel" means any vessel engaged in the business of catching fish;

"vessel" means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

2. a. Fishing Vessels shall be registered and marked in order to ensure their proper identification at sea in accordance with the regulations of each Government. The competent authorities of each Government shall inform the competent authorities of the other Government of the system of registration and marking used.

b. Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm or association to which it belongs.

c. Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

d. The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

3. In addition to complying with the rules relating to signals as prescribed in the International Rules for Preventing Collisions at Sea, the fishing vessels of each Government shall comply with the rules set out below in this paragraph. No other additional light signals than those provided herein shall be used. The Rules herein concerning lights shall apply in all weathers from sunset to sunrise when fishing vessels are engaged in fishing as a fleet and during such times no other lights shall be exhibited, except the lights prescribed in the International Regulations for Preventing Collisions at Sea and such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out. These lights may also be exhibited from sunrise to sunset in restricted visibility and in all other circumstances when it is deemed necessary. The lights mentioned herein shall be placed where they can best be seen. They should be at least 3 feet (0.92 m.) apart but at a lower level than the lights prescribed in Rule 9(c) (i) and (d) of the International Regulations for Preventing Collisions at Sea 1960. They shall be visible at a distance of at least 1 mile, all round the horizon as nearly as possible and their visibility shall be less than the visibility of lights exhibited in accordance with Rule 9 (b) of the above Regulations.

a. (1) Fishing vessels, when engaged in trawling, whether using demersal or pelagic gear shall exhibit:

(i) when shooting their nets:
two white lights in a vertical line one over the other;

(ii) when hauling their nets:
one white light over one red light in a vertical line one over the other;

(iii) when the net has come fast upon an obstruction:
two red lights in a vertical line one over the other.

(2) Fishing vessels engaged in drift netting may exhibit the lights prescribed in (1) above.

(3) Each fishing vessel engaged in pair trawling shall exhibit:

(i) by day: the "T" flag - "Keep clear of me. I am engaged in pair trawling", hoisted at the foremast;

(ii) by night: a searchlight shone forward and in the direction of the other fishing vessel of the pair;

(iii) when shooting or hauling the net or when the net has come fast upon an obstruction: the lights prescribed in (1) above.

(4) The rules of this subparagraph need not be applied to fishing vessels of less than 65 feet (19.80 m.) in length. Any such exception and the areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Government likely to be concerned.

b. (1) Fishing vessels engaged in fishing with purse seines shall show two amber colored lights, in a vertical line one over the other. These lights shall be flashing intermittently about once a second in such a way that when the lower is out the upper is on and vice versa. These lights shall only be shown when the vessel's free movement is hampered by its fishing gear, warning other vessels to keep clear of it.

(2) The rule of this subparagraph need not be applied to fishing vessels of less than 85 feet (25.90 m.) in length. Any such exception and areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Government likely to be concerned.

c. No sound signals shall be used other than those prescribed by the International Regulations for Preventing Collisions at Sea and the International Code of Signals.

4. With respect to the nets, lines and other gear anchored in the sea, the fishing vessels of each Government shall comply with the rules set out below in this paragraph.

a. The ends of halibut longlines and black cod longlines, whether hooks or pots are attached to the ground line shall be fitted with a flag and a white light. The flagpole of each buoy shall have a height of at least 2 meters above the buoy.

b. Each king or tanner crab pot shall be marked by at least two brightly colored buoys approximately 50 inches (1.25 m.) in diameter, each buoy having painted on it the registration number assigned by the appropriate authorities.

5. a. Subject to compliance with the International Regulations for Prevention of Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels, or fishing gear.

b. Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

c. No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

d. Except in cases of force majeure no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

e. No vessel shall use or have on board explosives intended for the catching of fish.

f. In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

g. (1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases in which the two preceding subparagraphs relate, nets, lines or other gear shall not under any pretext whatever, be cut, hooked, held on to or lifted up except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

Protocol to the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, Moscow, 1973

Done at Moscow 21 February 1973

Entered into force 21 February 1973

Primary source citation: 24 UST 669, TIAS 7575

PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS RELATING TO THE CONSIDERATION OF CLAIMS RESULTING FROM DAMAGE TO FISHING VESSELS OR GEAR AND MEASURES TO PREVENT FISHING CONFLICTS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that a common understanding is desirable on the application of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, hereinafter referred to as the Agreement,

Noting the discussion of this matter during the meeting of the representatives of the two Governments in Moscow in January-February, 1973,

Have agreed to the following:

1. The Government of the United States of America and the Government of the Union Soviet Socialist Republics agree that the two American-Soviet Fisheries Claims Boards established under the Agreement shall consider only claims arising in the northeastern Pacific Ocean.

2. The application of the Agreement may be extended to other areas at any time by mutual agreement of the two Governments.

3. The two Governments understand that the Annex attached to the Agreement contains interim rules which are subject to modification by mutual agreement. It is further understood that representatives of the two Governments shall consider more specific rules for fixed gear within six months following the signing of this Protocol.

4. The above provisions shall form an integral part of the Agreement.

5. This Protocol shall enter into force on signature, and shall remain in force during the period of validity of the Agreement, subject to the provisions of Articles XII and XIII thereof.

IN WITNESS WHEREOF the undersigned, being duly authorized for this purpose, have signed this Protocol.

DONE in Moscow, February 21, 1973, in duplicate, in English and Russian, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Donald L. McKernan

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

V.M. Kamenstev

Protocol to the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, Copenhagen, 1973

Done at Copenhagen 21 June 1973

Entered into force 21 June 1973

Primary source citation: 24 UST 1588, TIAS 7663

PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS RELATING TO THE CONSIDERATION OF CLAIMS RESULTING FROM DAMAGE TO FISHING VESSELS OR GEAR AND MEASURES TO PREVENT FISHING CONFLICTS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that a common understanding is desirable on the application of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, done at Moscow on February 21, 1973, hereinafter referred to as the Agreement,

Noting the discussion or this matter during meetings of the representatives of the two Governments in Moscow in January-February, 1973 and in Copenhagen in June, 1973,

Have agreed to the following:

1. The Government of the United States of America and the Government of the Union of Soviet Socialist Republics agree that the two American-Soviet Fisheries Claims Boards established under the Agreement shall

consider claims arising in the Western areas of the Atlantic Ocean in addition to their consideration of claims arising in the northeastern Pacific Ocean.

2. The two Governments agree that the Annex attached to this Protocol shall constitute Annex II to the Agreement Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, and shall form an integral part of that Agreement.

3. The two Governments understand that the Claims Boards mentioned in paragraph 1 above shall be guided by the criteria set forth in Annex II in their consideration of those claims which arise in the Western areas of the Atlantic Ocean subsequent to the entry into force of this Protocol. The two Governments shall encourage their fishermen to follow, insofar as practicable, the rules set out in this Annex.

4. The two Governments understand that the Annex attached to this Protocol contains interim rules which are subject to modification or termination by mutual agreement at any time. It is further understood that representatives of the two Governments shall consider more specific rules for fixed gear within six months following the signing of this Protocol.

5. The above provisions shall form an integral part of the Agreement.

6. This Protocol shall enter into force on signature, and shall remain in force during the period of validity of the Agreement, subject to the provisions of Articles XII and XIII thereof.

IN WITNESS WHEREOF the undersigned, being duly authorized for this purpose, have signed this Protocol.

DONE in Copenhagen, June 21, 1973, in duplicate, in English and Russian, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

Donald L. McKernan

FOR THE GOVERNMENT OF THE UNION
OF SOVIET SOCIALIST REPUBLICS:

Vladimir M. Kamentsev

ANNEX II

MEASURES TO PREVENT FISHING CONFLICT IN THE WESTERN AREAS OF THE ATLANTIC OCEAN OFF THE COAST OF NORTH AMERICA

1. a. This Annex applies to the waters of the Atlantic Ocean off the coast of North America.

b. For purposes of this Annex,

"fishing vessel" means any vessel engaged in the business of catching fish;

"vessel" means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

2. a. Fishing vessels shall be registered and marked in order to ensure their proper identification at sea in accordance with the regulations of each Government. The competent authorities of each Government shall inform the competent authorities of the other Government of the system of registration and marking used.

b. Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm or association to which it belongs.

c. Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

d. The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

3. a. Subject to compliance with the International Regulations for Prevention of Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels, or fishing gear.

b. Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

c. No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

d. Except in cases of force majeure no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

e. No vessel shall use or have on board explosives intended for the catching of fish.

f. In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

g. (1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels fishing with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases to which the two preceding subparagraphs relate, nets, lines or other gear shall not under any pretext whatever, be cut, hooked, held on to or lifted up except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

4. With respect to nets, lines and other gear anchored in the sea, fishing vessels shall comply with the rules set out below in this paragraph.

a. Gear shall be marked sufficiently to indicate its position and extent. The ends of lines to which lobster pots are attached should be marked with buoys. The westernmost (meaning the half compass circle from south through west to and including north) end buoy should be fitted with two flags one above the other or one flag and a radar reflector, and the easternmost (meaning the half compass circle from north through east to and including south) end buoy should be fitted with one flag or a radar reflector. The westernmost end buoy may be fitted with one or two white lights, and the easternmost end buoy may be fitted with one white light. On lobster gear extending more than 1 1/2 miles additional buoys should be placed at distances of not more than 1 mile so that no part of the gear extending 1 mile or more is left unmarked. Each additional buoy should be fitted with a flag or a radar reflector and may be fitted with one white light. The flagpole of each buoy should have a height of at least 2 meters above the buoy. Each buoy should be marked so that ownership may be determined.

b. Fishing vessels operating gear anchored in the sea shall, when they are present, notify approaching vessels of the position and extent of gear.

c. Fishing vessels using mobile gear shall:

(1) Maintain a continuous visual and radar watch for markers indicating the position and extent of gear anchored in the sea.

(2) Avoid areas where gear is known to be anchored in the sea during periods of reduced visibility and hours of darkness.

5. The Government of the United States of America and the Government of the Union of Soviet Socialist Republics will take steps to minimize the possibility of conflict between gear anchored in the sea and mobile fishing gear. This will include:

a. For the American side, with respect to lobster gear,

(1) Development and use of improved marking, deployment, and notification practices,

(2) Timely notice to the Soviet fishing fleet of known locations of gear, and

(3) Notice to the Soviet fishing fleet of markings in use.

b. For both sides, development and use of improved radio communications between individual vessels of both countries.

c. For the Soviet side, notice to American authorities of areas of concentration of the Soviet fishing fleet.

Amendment to the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, Washington, 1975

Done at Washington 26 February 1975

Entered into force 1 April 1975

Primary source citation: 26 UST 167, TIAS 8022

FEBRUARY 26, 1975

His Excellency
VLADIMIR M. KAMENTSEV,
Chairman of the Delegation of the
Union of Soviet Socialist Republics.

EXCELLENCY:

I have the honor to refer to the Agreement between our two Governments relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, signed at Moscow on February 21, 1973, and to propose that Annex II as enclosed with this note be substituted for Annex II of that Agreement as originally set forth in the Protocol of June 21, 1973.

If the foregoing proposal is acceptable to Your Excellency, it is proposed that this note together with your reply shall constitute an Agreement between our two Governments which shall enter into force on April 1, 1975.

Accept, Excellency, the renewed assurances of my highest consideration.

William L. Sullivan, Jr.
Acting Chairman of the Delegation
of the United States of America

Enclosure:
Annex II.

ANNEX II

MEASURES TO PREVENT FISHING CONFLICT IN THE WESTERN AREAS OF THE ATLANTIC OCEAN OFF THE COAST OF NORTH AMERICA

1. a. This Annex applies to the waters of the Atlantic Ocean off the coast of North America.

b. For purposes of this Annex,

"fishing vessel" means any vessel engaged in the business of catching fish;

"vessel" means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

2. a. Fishing vessels shall be registered and marked in order to ensure their proper identification at sea in accordance with the regulations of each Government. The competent authorities of each Government shall inform the competent authorities of the other Government of the system of registration and marking used.

b. Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm of association to which it belongs.

c. Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

d. The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

3. a. Subject to compliance with the International Regulations for Prevention of Collision at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels, or fishing gear.

b. Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

c. No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

d. Except in cases of force majeure no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

e. No vessel shall use or have on board explosives intended for the catching of fish.

f. In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

g. (1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels fishing with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any line which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases to which the two preceding subparagraphs relate, nets, lines or other gear shall not, under any pretext whatever, be cut, hooked, held on to, or lifted up, except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

4. With respect to nets, lines and other gear anchored in the sea, fishing vessels shall comply with the rules set out below in this paragraph.

a. Gear shall be marked sufficiently to indicate its position and extent. The ends of lines to which fishing gear anchored in the sea is attached should be marked with buoys. The westernmost (meaning the half compass circle from the south through the west to and including north) end buoy should be fitted with two flags one above the other or one flag and a radar reflector, and the easternmost (meaning the half compass circle from the north through east to and including south) end buoy should be fitted with one flag or radar reflector. The westernmost end buoy may be fitted with one or two white lights, and the easternmost end buoy may be fitted with one white light. On gear extending more than 1½ miles additional buoys should be placed at distances of not more than 1 mile so that no part of the gear extending 1 mile or more is left unmarked. Each additional buoy should be fitted with a flag or radar reflector and may be fitted with one white light. The flagpole of each buoy should have a height of at least 2 meters above the buoy. Each buoy should be marked so that ownership may be determined.

b. Fishing vessels operating gear anchored in the sea shall, when they are present, notify approaching vessels of the position and extent of gear.

c. Fishing vessels using mobile gear shall:

(1) Maintain a continuous visual and radar watch for markers indicating the position and extent of gear anchored in the sea.

(2) Avoid areas where gear is known to be anchored in the sea during periods of reduced visibility and hours of darkness.

5. The American side will inform the Soviet fishing fleet, through the Chief of the joint expeditions of the Main Fishery Administration "ZAPRYBA", of the known locations of fixed fishing gear on a timely basis by transmitting daily messages by radio in the following manner:

a. The message transmitted on the first day of each month shall be a summary report containing a complete description of the fixed fishing gear located along the entire coast as of date, without referring to earlier messages, and shall be numbered as follows:

01 01 75 (for 1st January 1975)
01 02 75 (for 1st February 1975) etc.

b. Subsequent daily messages concerning changes occuring in the locations of the fixed gear described in the first message for the current month shall be numbered in the order in which they are transmitted during that month; thus for January 1975:

01 01 75
02 01 75
— — —
31 01 75;

where the first two figures indicate the sequence number of a message during that month. The summary and daily messages shall indicate both the type and location of the fixed fishing gear.

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TRANSLATION

Washington, D.C., February 26, 1975

His Excellency
W. L. Sullivan, Jr.,
Acting Chairman of the Delegation
of the United States of America.

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's note of today's date, which states as follows:

[For the English language text, see p. 3504.]

I have the further honor to confirm the aforesaid understanding in the name of the Government of the Union of Soviet Socialist Republics and to agree that Your Excellency's note together with this reply shall constitute an Agreement between our two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

V.M. Kamentsev
Chairman of the Delegation of
the Union of Soviet Socialist
Republics

Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, Moscow, 1988

Done at Moscow 31 May 1988

Entered into force 28 October 1988

Primary source citation: TIAS 11442

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON MUTUAL FISHERIES RELATIONS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics, hereinafter referred to as the Parties;

Considering their common concern for the conservation, rational management and optimal utilization of fish resources off their respective coasts;

Bearing in mind that, in conformity with international law, the United States of America and the Union of Soviet Socialist Republics have sovereign rights for the purpose of exploration, exploitation, conservation and management of the living marine resources within zones they have established, extending 200 nautical miles from their coasts, called the U.S. exclusive economic zone and the U.S.S.R. economic zone (hereinafter referred to as "zones"); have sovereign rights for the purpose of exploring for and exploiting the living resources of the continental shelf; and have authority for management of anadromous species of their respective origin beyond their respective zones, except when found in the equivalent zone or territorial sea of another State;

Recognizing that many important stocks of living marine resources of the Bering Sea ecological complex range within and beyond the respective zones of both Parties and are being exploited by fishermen of the two countries, and desiring to coordinate their efforts to conserve and manage these resources;

Emphasizing the importance of scientific research for the conservation and rational management of the living marine resources, and desirous of coordinating their activities in such research;

Taking into account the positive experience of cooperation between the United States of America and the Union of Soviet Socialist Republics in the field of fisheries, as reflected in the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Concerning Fisheries off

the Coasts of the United States of November 26, 1976, as amended, and the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Concerning Fisheries off the Coasts of the Union of Soviet Socialist Republics of February 21, 1988; and

Intending to establish mutually beneficial relations and cooperation in the field of fisheries;

Have agreed as follows:

ARTICLE I

The Parties shall endeavor to cooperate and work towards a mutually beneficial and equitable relationship in the field of fisheries. The purpose of the Agreement is to establish a common understanding of the principles and procedures to provide for cooperation between the Parties in areas of mutual interest concerning fisheries.

ARTICLE II

1. Each Party shall, consistent with its national law, in order to provide for optimum utilization of fishery stocks in its zone, determine:

a) the total allowable catch in its zone for each stock, taking into account the best available scientific evidence, and relevant social, economic, and other factors;

b) the harvesting capacity of its own fishing vessels with respect to each stock; and

c) the portion of the total allowable catch for a specific stock that is surplus.

2. Each Party, consistent with its national law, may allocate a portion of such surplus to the other Party.

3. Each Party will allow nationals and vessels of the other Party access to conduct permitted fishery operations in its zone on a reciprocal basis.

ARTICLE III

1. Each Party agrees that its nationals and vessels shall be subject to the relevant laws and regulations of the other Party when engaged in fishing in the zone of the other Party. Each Party further agrees that its nationals and vessels shall be subject to the relevant laws and regulations of the other Party pertaining to fisheries resource management when engaged in fishing outside the respective zones of either Party for living resources of the continental shelf appertaining to the other Party or for anadromous resources that originate in the waters of the other Party.

2. Each Party shall notify the other Party of the national laws and regulations referred to in paragraph 1 of this Article and any changes thereto.

ARTICLE IV

Each Party, consistent with its national law, shall take appropriate measures to ensure that its nationals and vessels:

a) conduct fishery operations within the zone of the other Party consistent with the national laws and regulations of the other Party;

b) refrain from fishing beyond its zone for fish resources over which the other Party, consistent with international law, has sovereign rights or management authority, except as authorized pursuant to this Agreement; and

c) comply with the provisions of permits issued pursuant to this Agreement and the applicable laws of the other Party.

ARTICLE V

Permits for fishing in the zone of each Party shall be issued pursuant to Annex I, which constitutes an integral part of this Agreement.

ARTICLE VI

Each Party shall, consistent with its national law, take appropriate measures to ensure that its nationals and vessels refrain from harassing, hunting, capturing or killing any marine mammal within the zone of the other Party, or attempting such actions, except as may be provided for by an international agreement which is in force for both Parties, or in accordance with specific authorization and controls established by the Party in whose zone such actions occur.

ARTICLE VII

1. In the interest of conservation and rational management of anadromous species, both Parties recognize the principle that fishing for anadromous species should not be exercised in areas beyond any exclusive economic zone or its equivalent.

2. Both Parties shall cooperate, consistent with their existing international obligations, to exchange information and to take action, where appropriate, to address the harvesting of anadromous species originating in the waters of either Party by nationals and vessels of non-parties in areas beyond any exclusive economic zone or its equivalent, and otherwise to advance the conservation of such anadromous species.

ARTICLE VIII

1. Each Party consents to and, to the extent allowable under its own law, will assist and facilitate boardings and inspections of its vessels by duly authorized officers of the other Party for compliance with laws and regulations referred to in Article III. If, upon boarding and inspection of a vessel by a Party's duly authorized officer, such law or regulation is found to have been violated, each Party agrees that it will not object to appropriate enforcement action undertaken pursuant to the laws of that other Party, including seizure and arrest of the vessel and the individuals on board.

2. Each Party shall impose appropriate penalties, in accordance with its laws, for violations of the laws or regulations referred to in Article III. In the case of arrest and seizure of a vessel of a Party by the authorities of the other Party, notification shall be given promptly through diplomatic channels informing the flag state party of the facts and actions taken.

3. Each Party shall release vessels of the other Party and their crews promptly, subject to the posting of reasonable bond or other security.

4. The penalty for violation of a limitation or restriction on the fishing operations of a Party shall be limited to appropriate fines, forfeitures or revocation or suspension of fishing privileges.

ARTICLE IX

1. The Parties shall cooperate in the conduct of scientific research required for the purpose of the conservation and optimum utilization of the fishery resources in their zones. Such cooperation may include research on fishery resources of mutual interest in areas beyond the zones of the Parties and beyond the zone of any third party.

2. The Parties shall cooperate in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with agreed upon procedures.

ARTICLE X

The Parties shall, consistent with their respective national law, encourage contacts and facilitate cooperation on the basis of equity and mutual benefit between their respective enterprises, inter alia, in the establishment in their zones of joint ventures for fishing, reproduction, processing, and marketing of fish resources. In addition, the Parties shall encourage the introduction of new scientific and technological developments for these enterprises.

ARTICLE XI

1. The Parties shall cooperate and consult directly or through appropriate international organizations to ensure proper conservation and management of living marine resources in the areas beyond the zones of the Parties and beyond the zone of any third party. The Parties may consult on questions of mutual interest which may be considered by such organizations.

2. The Parties shall cooperate in the exercise of their rights and duties under international law in order to coordinate conservation, exploitation and management of the living marine resources of the Bering Sea and the North Pacific Ocean. In particular, the Parties shall consult on actions to address the effects of unregulated fishing in the areas of the Bering Sea and North Pacific Ocean beyond the zones of the Parties.

ARTICLE XII

Each Party shall take appropriate steps to authorize fishing vessels of the other Party allowed to fish in its zone pursuant to this Agreement to enter specified ports pursuant to Annex II, which constitutes an integral part of this Agreement, for the purpose of purchasing bait, supplies, outfits, or effecting repairs, changing crews, or for such other purposes as may be authorized.

ARTICLE XIII

Each Party shall take appropriate steps to ensure that observers of the other Party are permitted to board, upon request, vessels operating in the zone of that Party pursuant to this Agreement, and further that that Party shall be reimbursed for the costs incurred in the utilization of its observers consistent with the laws and regulations of each Party and on the basis of reciprocity. Such observers shall be accorded the courtesies and accommodations provided to ship's officers while on board such vessels, and the owners, operators, and crews of such vessels shall cooperate with observers in the conduct of their official duties.

ARTICLE XIV

1. In order to achieve the objectives of this Agreement the Parties shall establish an Intergovernmental Consultative Committee, hereinafter referred to as the "Committee".

2. The Committee shall consist of a representative and an alternate designated by each Party.

3. The Committee shall meet, unless otherwise agreed, at least once a year, alternately in the territory of each country.

4. The Committee shall review all matters pertaining to the implementation of this Agreement.

5. Recommendations of the Committee shall be set forth in the minutes of its meetings.

ARTICLE XV

For the purpose of facilitating the implementation of this Agreement, each Party shall designate a fisheries attache and appropriate staff within the respective embassies in Washington and Moscow.

ARTICLE XVI

Nothing contained in the present Agreement shall be deemed to prejudice:

a) the positions or views of either Party with respect to the existing territorial or other jurisdiction of the coastal state for all purposes other than the conservation and management of fisheries;

b) the rights or obligations of either Party under international law, including but not limited to, treaties and other international agreements to which they are a party; or

c) any arrangements between the Parties concerning fisheries enforcement in the Bering Sea or the position of either Party in the ongoing discussions concerning the extent of their respective maritime jurisdictions.

ARTICLE XVII

1. This Agreement shall enter into force on the date of the exchange of notes notifying the completion of internal procedures of both Parties, and remain in force for five years, unless extended by an exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party twelve months in advance.

2. Upon its entry into force, this Agreement shall supersede the Agreement Between the Government of the United States and the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the United States of November 26, 1976, as Amended, and the Agreement Between the Government of the United States and the Government of the Union of Soviet Socialist Republics Concerning Fisheries off the Coasts of the Union of Soviet Socialist Republics of February 21, 1988.

DONE at Moscow, in duplicate, the thirty-first day of May, 1988, in the English and Russian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

George P. Shultz

FOR THE GOVERNMENT OF THE
UNION OF SOVIET SOCIALIST
REPUBLICS:

Nikolay Isaakovich Kotlyar

ANNEX I
APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of one Party to engage in fishing for living resources over which the other Party exercises fishery management authority.

1. The competent authorities of one Party may submit an application to the competent authorities of the other Party for each fishing vessel of the Party that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Party in whose zone the above fishing would occur.

2. The competent authorities of the Party in whose zone the fishing would occur shall review each application, shall determine whether to issue a permit, what conditions and restrictions related to fishery management and conservation may be needed, and what fee will be required. The competent authorities of the Party in whose zone the fishing would occur shall inform the competent authorities of the other Party of such determinations.

3. The competent authorities of the Party that has submitted the application shall thereupon notify the competent authorities of the other Party of their acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of their objections thereto.

4. Upon acceptance of the conditions and restrictions by the competent authorities of the Party that has submitted the application and the payment of all fees, the competent authorities of the other Party shall approve the application and issue a permit for each fishing vessel of the Party that has submitted the application, which shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

5. In the event the competent authorities of the Party that has submitted the application notify the competent authorities of the other Party of their objections to a decision not to issue a permit, or to specific conditions and restrictions, the two Parties may consult with respect thereto and the competent authorities of the Party that has submitted the application may thereupon submit a revised application.

6. The provisions of this Annex may be amended by agreement through an exchange of notes between the two Parties.

ANNEX II
PROCEDURES RELATING TO PORT CALLS

1. Fishing vessels which have been issued permits pursuant to this Agreement are authorized to enter the ports of Boston, Portland (Oregon), Astoria and Dutch Harbor in the United States of America and Murmansk, Korf, Oktyabrski, and Provideniya in the Union of Soviet Socialist Republics, respectively, on the basis of reciprocity.

2. Fishing vessels of the Parties may enter the ports specified above to purchase bait, replenish ship's stores of fresh water, obtain bunkers, provide rest for or make changes in their crews, to obtain repairs and other services normally provided in these ports, and, as necessary, to receive permits. Authorized vessels enroute to one of the designated ports to receive a permit will be treated as non-fishing vessels, so long as such vessels observe the provisions of the Agreement. All such entries are subject to the applicable laws and regulations of the Parties.

3. Entry for Soviet fishing vessels to U.S. ports designated above shall be permitted subject to notice to the United States Coast Guard, forwarded so as to be received four days in advance of the port entry using Telex, teletype, or telegram. Information concerning communciation procedures may be obtained from the United States Embassy in Moscow.

4. Entry for American fishing vessels to Soviet ports designated above shall be permitted subject to notice to INFLOT, forwarded so as to be received four days in advance of the port entry using Telex, teletype, or telegram. Information concerning communciation procedures may be obtained from the Embassy of the Soviet Union in Washington, D.C.

5. A Party in whose zone fishing is permitted will, at its Embassy in the other Party's capital, accept a crew list in application for visas valid for a period of six months for multiple entry into the specified ports. Such a crew list shall be submitted at least fourteen days prior to the first entry of a vessel into a port of the Party in whose zone fishing is permitted. Submission of an amended (supplemental) crew list subsequent to departure of a vessel from a port of the Party whose vessels desire to make port calls pursuant to this Annex will also be subject to the provisions of this paragraph, provided that visas thereunder shall only be valid for six months from the date of issuance of the original crew list visa. Notification of entry shall specify if shoreleave is requested under such multiple entry visa.

6. In cases where a seaman of the Party whose vessels have been issued permits is evacuated from his vessel to the country whose Government issued such permits for the purpose of emergency medical treatment, authorities of the Party whose vessels have been issued the permits will ensure that the seaman departs from the country whose Government issued those permits within fourteen days after his release from the hospital. During the period that the seaman is in the country whose Government issued those permits, representatives of the Party whose vessels have been issued those permits will be responsible for expenses incurred in evacuation, treatment and repatriation.

7. The exchange of crews of vessels of one Party in the specified ports shall be permitted subject to submission to the Embassy of the other party, in Washington or Moscow respectively, of applications for individual transit visas and crewman visas for replacement crewmen. Applications shall be submitted fourteen days in advance of the date of the arrival of the crewmen at a port of the other Party and shall indicate the names, dates and places of birth, the purpose of the visit, the vessel to which assigned, and the modes and dates of arrival of all replacement crewmen. Individual passports or seamen's documents shall accompany each application. Subject to its national laws and regulations, the Embassy will affix transit and crewman visas to each passport or seaman's document before it is returned. In addition to the requirements above, the authorities of the other Party shall receive, fourteen days in advance of arrival, the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen who shall be admitted to a port of the other Party, and the dates and manner of their departure from the port of the other Party.

8. Special provisions shall be made as necessary regarding the entry of research vessels of the respective Parties which are engaged in a mutually agreed research program in accordance with Article IX of the Agreement. Requests for entries of such research vessels should be forwarded to the competent authorities of the relevant Party through diplomatic channels.

9. The provisions of the Annex may be amended by agreement through an exchange of notes between the two Parties.

BILATERAL

UNION OF SOVIET SOCIALIST REPUBLICS

MARINE POLLUTION

Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Concerning Cooperation in Combatting Pollution in the Bering and Chukchi Seas in Emergency Situations, with Joint Contingency Plan Against Pollution in the Bering and Chukchi Seas, Moscow and London, 1989

Agreement done at Moscow 11 May 1989;
plan done at London 17 October 1989

Agreement entered into force 17 August 1989

Primary source citation: TIAS 11446

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING COOPERATION IN COMBATTING POLLUTION IN THE BERING AND CHUKCHI SEAS IN EMERGENCY SITUATIONS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics, hereinafter referred to as the "Parties",

Conscious that exploration, exploitation, and production of natural resources, as well as belated marine transport, pose a threat of significant pollution by oil or other hazardous substances in the Bering and Chukchi Seas,

Recognizing that, in the event of a pollution incident or the threat thereof, prompt and effective action should be taken, to organize and coordinate prevention and pollution combatting activities,

Taking into account the Agreement on Cooperation in the Field of Environmental Protection Between the United States of America and the Union of Soviet Socialist Republics, signed May 23, 1972, and desiring to develop further the principles of mutually beneficial cooperation, and

Desiring to avert, through the adoption of measures to prevent and combat pollution resulting from oil and other hazardous substance spills, damage to the marine environment of the Bering and Chukchi Seas, including coastal areas,

Have agreed as follows:

ARTICLE I

The Parties undertake to render assistance to each other in combatting pollution incidents which may affect the areas of responsibility of the Parties, regardless of where such incidents may occur. Such assistance shall be rendered consistent with the provisions of this Agreement. To such end the competent authorities of the Parties shall develop the Joint Contingency Plan Against Pollution in the Bering and Chukchi Seas, hereinafter referred to as the "Plan", which shall enter into force upon their written agreement.

ARTICLE II

For the purposes of this Agreement:

"Pollution Incident" means a discharge or an imminent threat of discharge of oil or other hazardous substance from any source of such a magnitude or significance as to require an immediate response to prevent such a discharge or to contain, clean-up or dispose of the substance to eliminate the threat to or to minimize its harmful effects on living resources and marine life, public health or welfare.

"Oil" means oil of any form, including crude oil, fuel oil, sludge and oil wastes, and refined products.

"Hazardous substances" means elements and compounds which when discharged into the marine environment could present an imminent and substantial danger to the public health or welfare, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea.

"Competent Authority" means with respect to the United States of America, the United States Coast Guard and with respect to the Union of Soviet Socialist Republics, the Marine Pollution Control and Salvage Administration attached to the USSR Ministry of Merchant Marine.

"Area of responsibility of a Party" means the water within the Bering and Chukchi Seas which are the respective Party's internal waters or territorial sea, and the sea area beyond the territorial sea in which that Party exercises its sovereign rights and jurisdiction in accordance with international law. Areas of responsibility of the Parties where they are adjacent will be separated by the maritime boundary between the two countries.

"Response resources" means the personnel, vessels, equipment and other means for combatting pollution.

ARTICLE III

The Parties, consistent with their means, commit themselves to the development of national systems that permit detection and prompt notification of the existence or the imminent possibility of the occurrence of pollution incidents, as well as providing adequate means within their power to eliminate the threat posed by such incidents and to minimize the adverse effects to the marine environment and the public health and welfare.

ARTICLE IV

The Parties shall routinely exchange up-to-date information and consult to guarantee adequate cooperation between their competent authorities, with regard to activities pertaining to this Agreement and the Plan.

ARTICLE V

The implementation of the Plan shall be the primary responsibility of the competent authorities of the respective Parties, and of other authorities of the Parties to the extent of such other authorities' competence under applicable law. The Plan may be amended from time to time, consistent with this Agreement and the procedures set forth in the Plan, by the competent authorities.

ARTICLE VI

The competent authority of the Party in whose area of responsibility a pollution incident occurs, or whose area of responsibility is affected by such an incident, shall direct response operations within that area.

ARTICLE VII

The Plan may be invoked whenever a pollution incident occurs that affects or threatens to affect the areas of responsibility of both Parties or, although only directly affecting the area of responsibility of one Party, is of such a magnitude as to justify a request for the other Party's assistance.

ARTICLE VIII

The joint response provided for under the Plan can only be undertaken when the competent authorities of the Parties agree. The competent authorities of the Parties will determine the appropriate response action required for each pollution incident.

ARTICLE IX

Requests for assistance will be communicated between the competent authorities of both Parties. Requests for assistance by telephone shall be confirmed by telex, telegraph or facsimile.

A Party shall endeavor to promptly provide requested assistance as soon as possible to the extent that the Party determines the resources are available. The availability of response resources for a specific pollution incident is understood to be dependent upon funding and the requirements of other missions.

The requesting Party shall provide all possible support to the response resources of the assisting Party.

ARTICLE X

The assisting Party may fully or partly terminate its assistance if that Party determines that it is necessary to do so. Notice of the termination shall be communicated to the competent authority of the requesting Party. The requesting Party shall release the response resources made available as soon as possible after the termination.

The requesting Party shall promptly inform the assisting Party when the need for assistance no longer exists, and release as soon as possible the response resources made available by the assisting Party.

ARTICLE XI

The Parties will periodically conduct joint pollution response exercises and meetings in accordance with the provisions of the Plan. The competent authorities of the Parties shall alternate in the supervision of the exercises.

ARTICLE XII

The requesting Party shall, to the greatest extent possible, facilitate the arrival and departure of response resources made available by the assisting Party for response activities pertaining to this Agreement. The Parties shall cooperate in implementing the provisions of this Article.

ARTICLE XIII

The requesting Party shall reimburse the assisting Party for expenses associated with response resources. The amount to be reimbursed will be determined by the rates of the assisting Party.

In all other cases and circumstances unless otherwise agreed, each Party will bear the expense of its own activities pertaining to this Agreement.

The expenses involved in conducting joint exercises shall be borne by each Party respectively.

ARTICLE XIV

Nothing in this Agreement shall affect in any way the rights and obligations of either Party resulting from other bilateral and multilateral international agreements.

The Parties will implement this Agreement in accordance with rules and principles of general international law and their respective laws and regulations.

ARTICLE XV

This Agreement shall enter into force upon the date the Parties notify each other in writing that necessary internal procedures have been completed, and shall remain in force unless terminated by either Party upon six months advance written notice to the other Party of its intention to terminate this Agreement.

Termination of this Agreement shall not affect response operations which have been taken hereunder and are not yet completed at the time of termination unless otherwise agreed by the Parties.

This Agreement may be amended by written agreement between the Parties.

DONE at Moscow, in duplicate, this eleventh day of May, 1989, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

James A. Baker III

FOR THE GOVERNMENT OF THE UNION
OF SOVIET SOCIALIST REPUBLICS:

Edward A. Shevardnadze

Joint Contingency Plan Against Pollution in the Bering and Chukchi Seas

1. INTRODUCTION

1.1 Purpose

This Plan, including the operational appendix, is established under the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Concerning Cooperation in Combatting Pollution in the Bering and Chukchi Seas in Emergency Situations, hereinafter referred to as "the Agreement", and provides for coordinated and combined responses to pollution incidents in the Bering and Chukchi Seas.

This Plan shall be implemented subject to the provisions of the Agreement. Nothing in this Plan shall affect in any way the rights and obligations of either Party resulting from other bilateral and multilateral international agreements.

This Plan primarily addresses international matters and as such is meant to augment pertinent national, state, republic, regional, and sub regional (local) plans of the Parties.

1.2 Objectives

The objectives of the Plan are:

a. To develop appropriate preparedness measures and systems for discovering and reporting the existence of a pollution incident within the areas of responsibility of each Party.

b. To provide the means to institute prompt measures to restrict the further spread of oil and other hazardous substances.

c. To provide the mechanism by which adequate resources may be employed to respond to a pollution incident.

1.3 Responsibility

The implementation of the Plan is the joint responsibility of the U.S. Coast Guard (Department of Transportation) and the USSR Marine Pollution Control and Salvage Administration, attached to the USSR Ministry of Merchant Marine. The two aforementioned agencies are the competent authorities and shall be assisted by other national agencies as appropriate and when required.

1.4 Definitions

National Response Team (NRT) - The US national planning, policy and coordinating body consisting of fourteen federal agencies with interests and expertise in various aspects of emergency response.

Joint Response Team (JRT) - A joint US-USSR planning, policy and coordinating body that provides guidance to the OSC prior to an incident and assistance as requested by the OSC during a pollution incident.

On-Scene Commander/Coordinator (OSC) - The predesignated official that coordinates containment, removal and disposal efforts and resources during a pollution incident.

Deputy On-Scene Commander/Coordinator (DOSC) - The designated official of the Party which is not providing the OSC who acts as the OSC's direct liaison with agencies of the Party which the DOSC represents.

Joint Response Center (JRC) - The designated site of each Party where facilities are available to provide requirements to the provisions of the Plan.

Situation Report (SITREP) - A report of the most current information relating to a pollution incident, including actions taken and progress made during the response.

Pollutant - Oil or other hazardous substance.

2. PRINCIPLES AND PROCEDURES

2.1 The joint policy pursuant to the Plan is based on three fundamental aspects: planning, coordination of joint response and communications.

2.2 The competent authorities of the U.S. and USSR will cooperate as fully as possible to respond expeditiously to a pollution incident that affects or threatens to affect both Parties. Actions taken pursuant to the Plan shall be consistent with the legal authorities, operational requirements and other obligations of each of the Parties.

2.3 Any pollution incident that presents a potential threat to a Party will be reported promptly to the appropriate agency of that Party in accordance with the provisions of this Plan.

2.4 In a response situation which falls within the scope of this Plan, the NRT member agencies in the U.S. and responsible agencies in the USSR will make available any resources they may have which could be used for joint response operations, subject to the availability of those resources.

2.5 Dispersants and other Chemicals

The existing national decision making process of each Party will be followed to determine whether dispersants or other chemicals will be used to respond to a pollution incident. The use of dispersants or other chemicals in situations which can affect the interests of both Parties shall only be undertaken upon agreement between the Parties.

2.6 Mechanism for Invoking the Plan

2.6.1 The Plan may be invoked by agreement of the U.S. and USSR JRT Co-Chairmen in the event of a pollution incident which originated within the area of responsibility of one Party and which is accompanied by a threat of a pollutant spreading into the area of responsibility of the other Party, or where such spreading has already occurred.

2.6.2 The Plan may also be invoked by agreement of the US and USSR JRT Co-Chairmen in the event of a pollution incident where no pollutants have spread or threaten to spread into both areas of responsibility but where the magnitude of the incident, or other factors, makes a joint response desirable.

2.6.3 The Plan may also be invoked by agreement of the US and USSR JRT Co-Chairmen in the event of a pollution incident originating outside the areas of responsibility of both Parties, resulting in a threat of the spread of a pollutant into the area of responsibility of one or both Parties.

3. PLANNING AND RESPONSE ORGANIZATION

3.1 Joint Response Team

3.1.1 The Joint Response Team consists of representatives of responsible agencies of the U.S. and USSR. The JRT functions as an advisory team and will be activated by agreement in the event of a pollution incident occurring within the areas encompassed by this Plan.

3.1.2 The United States Coast Guard member to the JRT will be designated by the Commander Seventeenth Coast Guard District as U.S. Co-Chairman and will chair the JRT when a pollution incident occurs in the U.S. area of responsibility. The USSR member to the JRT will be designated by the President of the Far Eastern Shipping Company as USSR Co-Chairman and will chair the JRT when a pollution incident occurs in the USSR area of responsibility. When the Plan is invoked under section 2.6.3, the JRT Co-Chairman will determine by agreement which of them will chair the JRT.

3.1.3 U.S. members of the JRT shall consist of predesignated representatives of National Response Team agencies, state environmental response agencies and other agencies as stipulated by appropriate national and regional oil spill contingency plans. USSR members of the JRT shall consist of representatives of appropriate agencies in the USSR.

3.1.4 The JRT Co-Chairmen will compile a directory to be updated on 1 March and 1 September of each year, which will include data on names, positions, 24 hour telephone numbers, office addresses and when applicable, telex, TWX and facsimile numbers of all JRT members, OSCs and DOSCs. The directory shall be made part of the operational appendix and shall be distributed in timely fashion to all concerned.

3.1.5 The general functions of the JRT include planning and preparedness before a response action is taken and coordination and advice during joint response operations, as outlined below:

a. Provide advice and assistance to the OSC during pollution incidents (the JRT does not exercise operational control over the OSC).

b. Promote a coordinated response by all agencies to pollution incidents. This includes promotion of measures to implement agreements of the Parties relating to legal, financial, customs, and immigration matters.

c. Review post-incident reports from the OSC on the handling of pollution incidents for the purpose of analyzing response actions and recommending needed improvements in the contingency plans.

d. Forward to appropriate federal, state and regional authorities relevant reports and recommendations including OSC post-incident reports, JRT debriefing reports and recommendations concerning amendments to the Plan.

3.1.6 Some measure of response functions will be performed each time the Plan is invoked. The degree of response will be determined by the demands of each particular situation. The specific advisory and support functions of the JRT will include:

a. Monitoring incoming reports, evaluating the possible impact of reported pollution incidents and being at all times fully aware of the actions and plans of the OSC;

b. Coordinating the actions of the various agencies in supplying the necessary resources and assistance to the OSC;

c. Recruiting other agencies, industrial or scientific groups to participate as appropriate in support actions by acting through the JRT or OSC;

d. Determining a shift of OSC from one Party to the other as indicated by the circumstances of the spill;

e. Coordinating all reporting on the status of the pollution incident to the respective national authorities;

f. Ensuring that the OSC has adequate public information support;

g. Providing letter reports on JRT activities to the appropriate national authorities.

3.1.7 The JRT is responsible for scheduling periodic meetings and conducting and evaluating joint response exercises relating to the Plan. It is recognized that the continued viability of this Plan is primarily dependent on the development of working relationships through such periodic meetings and exercises. The expected frequency of these meetings and exercises is as follows:

a. JRT meetings - one meeting at least once every 18 months, alternating in each country.

b. JRT exercise - one exercise every two years, alternating in each country.

3.2 On-Scene Commander/Coordinator (OSC)

3.2.1 The coordination and direction of the joint pollution control efforts at the scene of a pollution incident shall be achieved through an official appointed as the OSC. The OSC is designated in the operational appendix to the Plan by the Commander Seventeenth Coast Guard District for the U.S. area of responsibility and by the President of the Far Eastern Shipping Company for the USSR area of responsibility. His or her responsibility will continue until a shift in OSCs between the Parties is agreed upon by the JRT or until a shift in OSCs within the jurisdiction of one Party is directed by his or her appropriate national authority. In the event of a

pollution incident, the first official from an agency with responsibility under this Plan arriving at the site will assume coordination of activities under the Plan until the designated OSC becomes available to take charge of the operation.

3.2.2 The OSC will determine the pertinent facts concerning particular pollution incident, including the nature, amount, the location of pollutant spilled, probable direction and time of travel of the pollutant resources available and needed, and the areas which may be affected. He or she will establish the priorities for protection.

3.2.3 The OSC will initiate and direct, as required, Phase II, Phase III and Phase IV operations as hereinafter described.

3.2.4 The OSC will obtain proper authorization, in accordance with applicable laws, to call upon and direct the deployment of available resources to initiate and continue containment, countermeasures, cleanup and disposal functions.

3.2.5 In carrying out this Plan the OSC will maintain an up-to-date and accurate information flow including submission of situation reports (SITREPS) to the JRT as significant developments occur to ensure the maximum effectiveness of the joint effort in protecting the natural resources and environment from pollution damage. The necessary direct liaison between personnel at all levels in the agencies of both countries is essential to both planning and operations.

3.2.6 At the conclusion of each joint response to a pollution incident the OSC will submit to the JRT a complete report on the response operations, actions taken, problems encountered and recommendations on new procedures and policy.

3.3 Deputy On-Scene Commander/Coordinator (DOSC)

The DOSC will be designated by the Party which is not providing the OSC. He or she will act as the OSC's direct liaison with the agencies of the Party which the DOSC represents. He or she will assist the OSC and will control his or her own Party's response resources to comply with the planned tactics of the OSC.

4. RESPONSE OPERATIONS

4.1 Response Actions

The actions which are taken to respond to a pollution incident separate into four relatively distinct phases. However, elements of a phase or an entire phase may take place concurrently with one or more other phases.

Phase I	Discovery and Alarm
Phase II	Evaluation and Plan Invocation
Phase III	Containment, Countermeasures, Cleanup and Disposal
Phase IV	Documentation and Cost Recovery

4.2 Phase I - Discovery and Alarm

4.2.1 The discovery of a pollution incident may be made through the normal planned surveillance activities, through the observations of agencies of the various levels of government, by those who caused the incident, or by the alertness and concern of the general public.

4.2.2 The severity of the incident which in itself is conditioned by the nature and the quantity of the pollutant and the locality, will determine the level of response required and whether or not there is a need to invoke the Plan.

4.2.3 The first agency, having a responsibility under the Plan, to be made aware of a pollution incident shall notify the appropriate designated OSC immediately. If the pollution incident threatens to affect the area of

responsibility of the other Party, an immediate warning is to be given in accordance with the procedures established in Section 5.

4.3 Phase II - Evaluation and Plan Invocation

4.3.1 If it is the evaluation of the OSC receiving the first warning that the pollution incident will possibly affect the other Party, he or she will:

a. Notify the designated OSC of the other Party;

b. Make a recommendation to his or her own nation's JRT Co-Chairman on whether to invoke the Plan;

c. Formulate plans to deal with the incident; and

d. Initiate Phase III and IV actions as appropriate.

4.3.2 The Co-Chairmen may invoke the plan as provided in Section 2.6. The specific methods for warning the other Party and invoking the Plan are contained in Section 5.

4.4 Phase III - Containment, Countermeasures, Cleanup and Disposal

4.4.1 Containment is any measure, whether physical or chemical, which is taken to control or to restrict the spread of a pollutant.

4.4.2 Countermeasures embrace those activities, other than containment, which are implemented to reduce the impact and the effect of a pollutant on the public health, welfare, or environment.

4.4.3 Cleanup operations are directed towards reducing the impact of a pollution incident to the extent possible. It will include the removal of the pollutant from the water and shoreline using available technology.

4.4.4 Disposal of pollutants which are recovered as a result of cleanup actions will be in accordance with national procedures so as to preclude the possibility of further or continuing environmental damage.

4.5 Phase IV - Documentation and Cost Recovery

This phase is directed at the collection and maintenance of documentation to prove the source and circumstances of the incident, the responsible party or parties, the impact and potential impacts to the public health and welfare and the environment and recovery costs for response activities.

5. REPORTS AND COMMUNICATIONS

Joint Response Centers

Joint Response Centers are designated sites where facilities are available to provide the necessary requirements to the provisions of the Plan. The locations of the designated Joint Response Centers are contained in the operational Appendix. During an incident, the Joint Response Center (JRC) will be established in the designated facilities of the Party providing the OSC and will ordinarily be shifted to the facilities of the other Party if the OSC is shifted to that Party. Alternate sites closer to the scene of the incident may be specified, in lieu of the predesignated sites, at the discretion of the appropriate chairman of the JRT.

5.1 Rapid Alerting System

Any potential pollution threat to a Party will be reported to that Party without delay. The reporting points are:

U.S.	USSR
Seventeenth Coast Guard District Operations Center, Juneau, Alaska	Far Eastern Shipping Company Radio Center, Vladivostok

5.2 Warning Message

While it may take some assessment to decide whether or not to invoke the Plan, a warning that the Plan may be invoked should be given. This warning will not activate the Plan. It will, however, permit immediate preparation for the possibility of its invocation. The warning message shall be in the following format:

DTG

FM (sender)

TO (action addressee)

INFO (information addressees)

BT

UNCLAS

US/USSR POLLUTION INCIDENT (OR POTENTIAL POLLUTION INCIDENT) (identify the incident)

1. GEOGRAPHICAL POSITION

2. ANY OTHER DETAILS

3. ACKNOWLEDGE

BT

Such a message will normally be originated by the appropriate JRT Co-Chairman and will always be acknowledged by the action addressee.

5.3 Invocation

The Plan shall be activated only by formal invocation. This will normally be done by message from the appropriate JRT Co-Chairman. Telephonic invocation will be followed by an invocation message. This message should contain at least the following information:

DTG

FM (sender)

TO (action addressee)

INFO (information addressees)

BT

UNCLAS

US/USSR CONTINGENCY PLAN INVOKED AT (time GMT)

OSC (name)

JRT Co-Chairman (name)

JRC ESTABLISHED AT (location and telephone no.)

ACKNOWLEDGE

BT

If a warning message was not issued, the information that would have been contained in that message should be added to the invocation message. In the acknowledgment message to the above, the receiving party will report the name of the JRT Co-Chairman, the name of the DOSC and the DOSCs ETA at the locality of the headquarters established by the original message of invocation.

5.4 Situation Report Requirements (US/USSR SITREP)

5.4.1 Up-to-date information on a spill which has justified joint response activity is essential to the effective management and outcome of an incident. This information should be submitted by the designated OSC to the JRT in the format shown below. US/USSR SITREPS should be made as frequently as necessary to ensure that those who need to know have a full and timely appreciation of the incident and of actions taken and progress made during the response.

5.4.2 Standard Message Format

DTG

FM (sender)

TO (action addressee)

INFO (information addressees)

BT

UNCLAS

US/USSR SITREP (report number)

POLLUTION INCIDENT (identify the case)

1. SITUATION:

2. ACTION TAKEN:

3. FUTURE PLANS/FURTHER ASSISTANCE REQUIRED:

4. CASE STATUS: (pends/closed)

BT

SITUATION: The situation section should provide the full details on the pollution incident including what happened, type and quantity of material, agencies involved, areas covered and threatened, success of control efforts, prognosis and any other pertinent data.

ACTION TAKEN: The action section should include a summary of all actions taken so far by the responsible party, local forces, government agencies and others.

FUTURE PLANS: The plans section should include all future action planned.

FURTHER ASSISTANCE REQUIRED: Any additional assistance required from the JRT by the OSC pertaining to the response will be included in this section.

CASE STATUS: The status section should indicate "case closed", "case pends", or "participation terminated", as appropriate.

5.5 Revocation

5.5.1 A recommendation to revoke the joint response to a particular incident shall be made by agreement of the OSC and DOSC. The JRT Chairman from the Party which originally invoked the joint response shall

revoke it by message after consultation with the Chairman from the other Party. This message will clearly establish the date and time, in GMT, of the cessation of the joint response. The requirement to consult in no way diminishes the invoking Chairman's prerogative to decide upon revocation.

5.5.2 Standard Message Format for Revocation.

DTG

FM (sender)

TO (action addressee)

INFO (information addressees)

BT

UNCLAS

US/USSR CONTINGENCY PLAN REVOKED AT (date, time - in GMT at which joint operation will cease)

BT

5.6 Post-Incident Reports

The JRT may request the OSC and DOSC involved to submit reports and to prepare operational debriefings for the JRT, on the incident, the action taken and any observations or recommendations which need to be made.

6. ADMINISTRATION

6.1 Competent Authorities

The competent authorities for this Plan and any amendments thereto are: for the USA, Commandant, United States Coast Guard; and for the USSR, the Head of the Marine Pollution Control and Salvage Administration, attached to the USSR Ministry of Merchant Marine.

6.2 Operational Appendix

The JRT Co-Chairmen will maintain the operational appendix to this Plan covering such regional topics as communications, reporting systems, designated and/or potential JRT members, useful points of contact and abbreviations.

6.3 Amendments

The Plan may be amended upon agreement between competent authorities by exchange of letters. The operational appendix may be amended upon agreement between the JRT Co-Chairmen. The JRT Co-Chairmen will notify their appropriate national authorities of all such amendments by letter.

The Plan shall become effective on the date of signature. It shall remain in force as long as the Agreement is in force.

DONE at London, in duplicate, this 17th day of October, 1989, in the English and Russian languages, both texts being equally authentic.

For the United States
Coast Guard

REAR ADMIRAL J. D. SIPES

For the Marine Pollution Control
and Salvage Administration
attached to the Ministry of
Merchant Marine

OLEG N. KHALIMONOV

BILATERAL

UNION OF SOVIET SOCIALIST REPUBLICS

MARINE SCIENCE AND EXPLORATION

Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Cooperation in Ocean Studies, Washington, 1990

Agreement done at Washington 1 June 1990

Agreement entered into force 1 June 1990

Primary source citation: TIAS 11452

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON COOPERATION IN OCEAN STUDIES

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics (hereinafter referred to as "the Parties");

Recognizing the importance of comprehensive studies of the oceans of the world for peaceful purposes and for the well-being of mankind;

Striving for more complete knowledge and rational utilization of the oceans of the world by all nations through broad international cooperation in oceanographic investigations and research;

Aware of the capabilities and resources of both countries for studies of the oceans of the world and the extensive history and successful results of previous cooperation between them;

Desiring to combine their efforts in the further investigation of the oceans of the world and to use the results for the benefit of the peoples of both countries and of all mankind;

Noting the General Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Contacts, Exchanges and Cooperation in Scientific, Technical, Educational, Cultural and Other Fields, signed November 21, 1985; the Agreement on Cooperation in the Field of Environmental Protection, signed May 23, 1972; and the Agreement on Cooperation in the Field of Basic Scientific Research, signed January 8, 1989; and

Desiring to continue the cooperation carried out under the Agreement on Cooperation in Studies of the World Ocean, signed June 19, 1973;

Have agreed as follows:

ARTICLE 1

1. The Parties will develop and carry out cooperation in ocean studies on the basis of equality, overall reciprocity and mutual benefit.

2. All cooperation under this Agreement will be subject to approval of the Parties and to the national laws, regulations, and international obligations of each country, as well as the availability of appropriated funds and personnel.

ARTICLE 2

1. In their ocean studies, the Parties will direct cooperative efforts to the investigation of important and mutually agreed scientific topics.

2. Cooperative efforts may we considered in the areas of: (a) physical oceanography; (b) chemical and biological oceanography; (c) geological, geophysical and geochemical investigations of oceans; (d) biological productivity and the functioning of oceanic biological communities; and (e) marine meteorology.

3. Projects of initial cooperation are set forth in Annex I, which constitutes an integral part of the Agreement. Other projects may be added by mutual agreement of the Parties.

ARTICLE 3

1. Cooperation provided for in the preceding articles may take the following forms:

   a. Cooperative scientific research projects,including field studies; the exchange of participating scientists, specialists, and researchers; and the exchange and joint publication of their results;

   b. Joint scientific conferences, symposia, and workshops;

   c. Exchange of scientific information and documentation;

   d. Appropriate participation by both countries in multilateral cooperative activities sponsored by international scientific organizations;

   e. Facilitation by both Parties of use of appropriate port facilities of the two countries for ships' services and supplies, including provision for rest and changes of ships' personnel, in connection with carrying out cooperative activities.

2. Other forms of cooperation may be added by mutual agreement of the Parties.

ARTICLE 4

1. Cooperation in ocean studies under this Agreement will be within the framework of jointly approved projects and programs and in accordance with written arrangements for their implementation.

2. The Parties will ensure, in accordance with agreed cooperative activity, that access to institutes, scientists and other specialists participating in joint cooperative activity under this Agreement, and to scientific data, will be made available on an equal, reciprocal and mutually beneficial basis.

ARTICLE 5

1. The implementation of this Agreement will be carried out by a US-USSR Joint Committee on Cooperation in Ocean Studies. This Joint Committee shall meet, as a rule, once a year, alternatively in the United States and the Soviet Union, unless otherwise mutually agreed.

2. The Joint Committee shall take such action as is necessary for effective implementation of this Agreement, including, but not limited to, approval of specific projects and programs of cooperation; designation of agencies and organizations to be responsible for carrying out cooperative activities; and making recommendations, as appropriate, to the Parties.

3. Each Party shall have an Executive Agent to assist the Joint Committee. The Executive Agent of the United States of America will be the National Oceanic and Atmospheric Administration (NOAA), a constituent agency of the U.S. Department of Commerce. The Executive Agent of the Union of Soviet Socialist Republics will be the USSR State Committee for Science and Technology (GKNT).

4. The Executive Agents of the Parties will be responsible for carrying out this Agreement during the period between meetings of the Joint Committee. The Executive Agents will maintain contact with each other; keep each other informed of activities and progress in implementing this Agreement; and coordinate and supervise the development and implementation of cooperative activities conducted under this Agreement.

ARTICLE 6

Nothing in this Agreement will be interpreted to prejudice other agreements between the Parties or commitments of either Party to other international oceanographic programs.

ARTICLE 7

Each Party, with the consent of the other Party, may invite third countries to participate in cooperative activities engaged in under this Agreement. Such participation will be consistent with the provisions of this Agreement.

ARTICLE 8

Protection of intellectual property and rights thereto shall be as set forth in Annex II, which constitutes an integral part of this Agreement.

ARTICLE 9

1. This Agreement will enter into force upon signature by both Parties and will remain in force for five years. It may be modified or extended by written agreement of the Parties.

2. Cooperative activities being conducted when the effective period of this Agreement ends will, unless terminated by either Party, be continued to their conclusion in accordance with the terms of this Agreement.

3. Either Party has the right to terminate this Agreement on six months' written notice to the other Party.

4. Upon entry into force, this Agreement shall supersede the 1973 US-USSR Agreement on Cooperation in Studies of the World Ocean, as amended and extended.

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

DONE at Washington, this First day of June 1990, in duplicate in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

James A. Baker III

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

Edward A. Shevardnadze

ANNEX I
TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON COOPERATION IN OCEAN STUDIES

Cooperation under this Agreement will initially be implemented in the following projects:

a. Southern Ocean Dynamics

b. Mid-Atlantic Ridge Crest Processes

c. Geochemistry of Marine Sediments

d. Arctic Erosional Processes with Special Attention to Gas Hydrates

ANNEX II
TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON COOPERATION IN OCEAN STUDIES

Pursuant to Article 8 of this Agreement:

I. GENERAL

A. For purposes of this Agreement, "intellectual property" is understood to have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm July 14, 1967.

B. The Parties shall ensure adequate and effective protection for intellectual property created or furnished under this Agreement.

II. COPYRIGHTS

The Parties shall take appropriate steps to secure copyright to works created under this Agreement in accordance with their respective national laws, except as otherwise specifically agreed. The following provisions shall apply to copyright protection for works created under this Agreement:

1. Except as otherwise agreed, each Party is entitled to a nonexclusive, irrevocable, royalty-free license under a copyright, secured in accordance with the national laws of either Party, to translate, reproduce, publish, and distribute published scientific, technical, and medical works in its own territory, with the right to grant sublicenses in its territory in accordance with this Party's laws and practices. Any such copyrighted work shall indicate the names of all persons who participated in the joint work. Either Party is entitled to a license in third countries upon request.

2. Rights to other copyrighted works (such as computer software) shall be allocated in the same manner as for inventions, as set forth in Article III, Paragraphs B - E of this Annex. A Party receiving rights pursuant to this

provision to copyrighted works which embody business-confidential information shall protect such information in accordance with Article IV of this Annex.

III. INVENTIONS

A. For purposes of this Annex, "invention" means any invention made in the course of cooperation under this Agreement which is or may be patentable or otherwise protectable under the laws of the United States of America, the Union of Soviet Socialist Republics, or any third country. An invention "made" means one conceived or for which an application for patent or other title of protection has been filed or which has otherwise been reduced to practice.

B. Between a Party and its nationals, the ownership of rights and interests in inventions will be determined in accordance with that Party's national laws and practices.

C. As between the Parties, unless otherwise specifically agreed, the Parties shall take appropriate steps to implement the following:

1. If the invention is made in the course of a program of cooperative activity that involves only the transfer or exchange of information between the Parties, such as by joint meetings, seminars, or the exchange of technical reports or papers, unless otherwise specifically agreed:

a. The Party whose personnel make the invention ("the Inventing Party") has the right to obtain all rights and interests in the invention in all countries in accordance with applicable national laws of such countries;

b. In any country where the Inventing Party decides not to obtain such rights and interests, the other Party has the right to do so.

2. If the invention is made by personnel of one Party ("the Assigning Party") while assigned to the other Party ("the Receiving Party") in the course of a program of cooperative activity that involves only the visit or exchange of scientific and technical personnel:

a. The Receiving Party has the right to obtain all rights and interests in the invention in all countries in accordance with applicable national laws of such countries;

b. In any country where the Receiving Party decides not to obtain such rights and interests, the Assigning Party has the right to do so.

D. For other forms of cooperation, such as joint research projects with an agreed scope of work, each Party has the right to obtain all rights and interests in its own country in any invention made as a result of such cooperation, whereas the Party in whose country the invention was made has first option to secure legal protection of that invention in third countries, as well as the right to license or transfer such rights and interests in third countries, However, if the Parties agree that the application of this paragraph to a particular cooperative activity would lead to an inequitable result, they shall agree to an equitable allocation of rights with respect to that activity.

E. Notwithstanding the foregoing, if an invention is of a type for which exclusive rights are available under the laws of the Party but not of the other Party, the Party whose laws provide for exclusive rights shall be entitled to all rights in all countries which provide rights to such invention. The Parties may agree, however, to a different allocation of rights to such invention.

F. The Parties shall disclose to one another inventions made in the course of programs of cooperative activities and furnish to one another any documentation and information necessary to enable them to secure any rights to which they may be entitled. The Parties may ask one another in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting their respective rights related to inventions. Unless otherwise agreed in writing, such restriction shall not exceed a period of six months from the date of communication of such information. Communication shall be through the Executive Agents.

IV. BUSINESS-CONFIDENTIAL INFORMATION

A. The Parties do not expect to furnish to one another or create business-confidential information in the course of cooperation under this Agreement. In the event that such information is inadvertently furnished or created or the Parties agree to furnish such information, the Parties shall give full protection to such information in accordance with their laws, regulations, and administrative practices.

B. For the purposes of this Annex, "business-confidential information" means information of a confidential nature which meets all of the following conditions:

1. it is of a type customarily held in confidence for commercial reasons;

2. it is not generally known or publicly available from other sources;

3. it has not been previously made available by the owner to others without an obligation concerning its confidentiality; and

4. it is not already in the possession of the recipient Party without an obligation concerning its confidentiality.

C. Any information to be protected as "business-confidential information" shall be appropriately identified by the Party furnishing such information or asserting that it is to be protected, except as otherwise provided in the Parties' laws, regulations, and administrative practices. Subject to the aforesaid laws, regulations and administrative practices, unidentified information will be assumed not to be information to be protected, except that a Party to the cooperative activity may notify the other Party in writing, within a reasonable period of time after furnishing or transferring such information, that such information is business-confidential under the laws, regulations, and administrative practices of its country. Such information will thereafter be protected in accordance with paragraph A above.

V. OTHER TYPES OF INTELLECTUAL PROPERTY

"Other types of intellectual property" means any intellectual property protectable in accordance with the laws, regulations and administrative practices of either Party or any third country other than those described in Articles II and III above and includes, for example, scientific discoveries, maskworks and trademarks. Rights to other types of intellectual property shall be determined in the same manner as for inventions, as set forth in Article III, Paragraphs B - D of this Annex. If an intellectual property is one for which protection is available under the laws of one Party but not of the other Party, the Party whose laws provide such protection shall be entitled to all rights in all countries which protect such intellectual property. The Parties may agree, however, to a different allocation of rights to such intellectual property.

VI. MISCELLANEOUS

A. Each Party shall take all necessary and appropriate steps to provide for the cooperation of its authors, inventors, and discoverers which is required to carry out the provisions of this Annex.

B. Each Party shall assume the responsibility to pay to its nationals such awards or compensation as may be in accordance with its laws and regulations. This Annex does not create any entitlement or prejudice any right or interest of the author or inventor to an award or compensation for his or her work or invention.

C. Intellectual property disputes arising under this Agreement should be resolved, if possible, through discussions between the Executive Agents. If the Executive Agents cannot resolve such a disagreement, it shall be settled through consultations between the Parties or their designees.

VII. EFFECT OF TERMINATION OR EXPIRATION

Termination or expiration of this Agreement shall not affect rights or obligations under this Annex.

VIII. APPLICABILITY

This Annex is applicable to all cooperative activities under this Agreement, except as otherwise specifically agreed.

BILATERAL

UNITED KINGDOM

ENVIRONMENT AND NATURAL RESOURCES

Memorandum of Understanding Between the Environmental Protection Agency of the United States of America and the Department of the Environment of the United Kingdom of Great Britain and Northern Ireland Concerning Co-operation in the Field of Environmental Affairs, Washington, 1986

Done at Washington 2 June 1986

Entered into force 2 June 1986

Primary source citation: TIAS 11364

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA AND THE DEPARTMENT OF THE ENVIRONMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING CO-OPERATION IN THE FIELD OF ENVIRONMENTAL AFFAIRS

The Environmental Protection Agency of the United States ("EPA") and the Department of the Environment of the United Kingdom ("the Department") have reached the following understanding regarding co-operation in the field of environmental affairs:

ARTICLE 1

EPA and the Department will maintain and enhance bilateral co-operation regarding environmental affairs (including effects on human health). Such co-operation will proceed on the basis of equality, reciprocity and joint benefit.

ARTICLE 2

EPA and the Department will, for the purpose of this Memorandum, exchange information in the areas of joint interest identified under Articles 3 and 4 below. Other forms of co-operation within such areas may include the holding of joint meetings and reviews, the exchange of relevant personnel and the commissioning of research projects.

ARTICLE 3

The following have been identified as initial areas of joint interest:

(a) management of hazardous wastes; and

(b) acid deposition.

ARTICLE 4

Further areas of joint interest may be identified in addenda to this Memorandum signed by the co-ordinators, as appointed under Article 8 below, or other designated officials.

ARTICLE 5

The details of co-operative activities within the areas of joint interest identified and the terms under which those activities are to be carried out will be established through exchange of letters between the appropriate officials of EPA and the Department. The considerations set out in Article 6 below will apply to all such co-operative activities.

ARTICLE 6

It is expressly understood that the ability of each side to carry out co-operative activities under this Memorandum is subject to the availability of appropriated funds and to its laws and regulations. Each side will bear the direct cost of its participation in co-operative activities under this Memorandum. EPA and the Department recognise that the most effective means of co-operation in respect of a research project may involve the transfer of funds.

ARTICLE 7

Unless otherwise determined, information will not be exchanged under this Memorandum where there is provision for it to be transferred through an international organisation or under an international agreement. Information under this Memorandum will be exchanged in accordance with the laws and regulations of the country providing the information.

ARTICLE 8

Each side will appoint a co-ordinator to be responsible for the planning and management of co-operative activities under this Memorandum. The co-ordinators will in particular:

(a) designate project officers to be responsible for activities under each of the areas of joint interest identified under Articles 3 and 4, above;

(b) review annually the activities carried out under this Memorandum; and

(c) consider future policy directions.

ARTICLE 9

The project officers designated under Article 8(a) above will, as appropriate, make arrangements for the participation of governmental or non-governmental bodies within the United States and the United Kingdom in activities under this Memorandum.

ARTICLE 10

The Memorandum will come into operation upon signature and remain in operation for five years, and be automatically renewed for further five year periods, unless either party notifies the other three months prior to the expiration of one of those five year periods of its desire that the Memorandum be terminated. During a five year period the Memorandum may be terminated by either signatory upon six months written notice of such intention. Save as may otherwise be decided, termination of this Memorandum will not affect the validity of arrangements already initiated under its provisions but not yet completed at the date of termination.

ARTICLE 11

This Memorandum may be amended by joint decision of EPA and the Department in writing.

The foregoing record represents the understandings reached between the Environmental Protection Agency of the United States of America and the Department of the Environment of the United Kingdom of Great Britain and Northern Ireland.

Signed in duplicate at Washington, D.C. on this second day of June 1986.

For the Environmental
Protection Agency of
the United States of America

Lee M. Thomas

For the Department of
the Environment of the
United Kingdom of
Great Britain and
Northern Ireland

[Signature]

BILATERAL

UNITED KINGDOM

FISHERIES

Reciprocal Fisheries Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, London, 1979

Agreement done at London 27 March 1979

Agreement entered into force 10 March 1983

Primary source citation: 34 UST 3147, TIAS 10545

RECIPROCAL FISHERIES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland;

Seeking to maintain the long-standing and cooperative fisheries relations in adjacent waters which have formed a part of the close ties between the people of the British Virgin Islands and the people of the United States;

Desiring to ensure effective conservation of fishery stocks in the exclusive fishery zones of the British Virgin Islands and the United States;

Taking note of the United States Fishery Conservation and Management Act of 1976, establishing a fishery conservation zone contiguous to the territorial sea of the United States;

Taking note of the Proclamation by the Governor of the British Virgin Islands of 9 March 1977 establishing a fisheries zone contiguous to the territorial sea of the British Virgin Islands;

Recalling that the two Governments have a common approach based on the principle of equidistance regarding the limits of fishery jurisdiction as between the British Virgin Islands and the United States;

Have agreed as follows:

ARTICLE I

For the purposes of this Agreement:

(*a*) the exclusive fishery zone of the United States refers to waters subject to the fishery jurisdiction of the United States beyond the territorial sea;

(*b*) the exclusive fishery zone of the British Virgin Islands refers to waters subject to the fishery jurisdiction of the United Kingdom contiguous to the territorial sea of the British Virgin Islands.

ARTICLE II

Commercial fishing by vessels of the British Virgin Islands may continue in the exclusive fishery zone of the United States in accordance with existing patterns and at existing levels. The Government of the United States extends access to its exclusive fishery zone to vessels of the British Virgin Islands for the purpose of conducting such fishing.

ARTICLE III

Commercial fishing by vessels of the United States may continue in the exclusive fishery of the British Virgin Islands in accordance with the existing patterns and at existing levels. The Government of the United Kingdom of Great Britain and Northern Ireland extends access to the exclusive fishery zone of the British Virgin Islands to vessels of the United States for the purpose of conducting such fishing.

ARTICLE IV

1. The Government of the United Kingdom and Great Britain and Northern Ireland shall have exclusive authority to enforce the provisions of this Agreement and applicable national fishery regulations with respect to fishing by vessels of the United States in the exclusive fishery zone of the British Virgin Islands; provided that such national regulations as may be applied shall not disturb existing patterns and levels of fishing.

2. The Government of the United States shall have exclusive authority to enforce the provisions of this Agreement and applicable national fishery regulations with respect to fishing by vessels of the British Virgin Islands in the exclusive fishery zone of the United States; provided that such national regulations as may be applied shall not disturb existing patterns and levels of fishing.

ARTICLE V

Nothing in this Agreement shall preclude either Party from regulating recreational fishing within its exclusive fishery zone in accordance with its applicable laws.

ARTICLE VI

1. Consultations shall be held at the request of either Party to this Agreement, when:

(*a*) there is reason to believe that vessels of the other are fishing in a manner inconsistent with existing patterns and levels of commercial fishing referred to in Articles II and III;

(*b*) either Party seeks a change in existing patterns or levels of commercial fishing referred to in Articles II and III;

(*c*) either Party intends to introduce conservation measures which may affect the existing patterns and levels of commercial fishing referred to in Articles II and III;

(*d*) there is a need to discuss implementation of any provisions of this Agreement.

2. If such consultations result in a decision to amend the terms of this Agreement, such amendments shall enter into force by a subsequent exchange of diplomatic Notes.

ARTICLE VII

This Agreement shall enter into force on the date of exchange of instruments of ratification, and shall continue in force until expiry of a period of 90 days from the date on which either Party gives written notice to the other Party of its intention to terminate this Agreement.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate, at London on 27th March 1979.

For the Government of the United States of America:

Robert J. Morris

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Evan Luard

[April 28, 1980]

AGREED MINUTE

1. In connection with the signature of the Reciprocal Fisheries Agreement between the Government of the UK of Great Britain and Northern Ireland and the Government of the United States of America on 27 March 1979, representatives of the two governments agreed that the following information reflected the existing patterns and levels of commercial fishing by vessels of the United States in the exclusive fishery zone of the British Virgin Islands as defined in the Agreement:

(a) no fishing by vessels over fifty-five (55) feet in length-

(b) deep line fishing at or beyond the forty fathom curve by six vessels per day between thirty (30) and fifty-five (55) feet in length during April, May and June; and deep line fishing at or beyond the forty fathom curve by four such vessels per day during the remainder of the year;

(c) line and trap fishing by six vessels per day thirty (30) feet in length west of a line drawn due north of Mount Sage (1,789 feet) on Tortola; and west of a line drawn due south from the easternmost point of Peter Island.

2. Representatives of the two governments agreed that the following reflected the existing patterns and levels of commercial fishing by vessels of the British Virgin Islands in the exclusive fishery zone of the United States as defined in the Agreement:

deep line fishing by two vessels per day under forty (40) feet in length, at or beyond the forty fathom curve.

[Initials] [Initials]

☆ U.S. GOVERNMENT PRINTING OFFICE: 1994-337-624 VOL. 3

ISBN 0-16-043132-8
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