

No. 24913

CANADA
and
UNITED STATES OF AMERICA

Treaty concerning Pacific salmon (with annexes and memorandum of understanding). Signed at Ottawa on 28 January 1985

Authentic texts: English and French.

Registered by Canada on 16 July 1987.

CANADA
et
ÉTATS-UNIS D'AMÉRIQUE

Traité concernant le saumon du Pacifique (avec annexes et mémoire d'entente). Signé à Ottawa le 28 janvier 1985

Textes authentiques : anglais et français.

Enregistré par le Canada le 16 juillet 1987.

TREATY¹ 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.

¹ Came into force on 18 March 1985 by the exchange of the instruments of ratification, in accordance with article XV (1).

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 right 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, 1930,¹ 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.

¹ League of Nations, *Treaty Series*, vol. CLXXXIV, p. 305.

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 I 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 Sechart 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 I. 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 ensure 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 harvests 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 per cent, 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:

	<i>Sockeye</i>	<i>Pink</i>
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:

	<i>Sockeye</i>	<i>Pink</i>
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.

[For the testimonium and signatures, see p. 392 of this volume.]

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.

EN FOI DE QUOI, les représentants soussignés, dûment autorisés par leurs Gouvernements respectifs, ont signé le présent Traité.

FAIT en double exemplaire à Ottawa, en français et en anglais, chaque version faisant également foi, ce 28^e jour de janvier 1985.

For the Government of Canada:
Pour le Gouvernement du Canada :

[Signed — Signé]¹

For the Government of the United States of America:
Pour le Gouvernement des Etats-Unis d'Amérique :

[Signed — Signé]²

[Signed — Signé]³

¹ Signed by Allan Fraser — Signé par Allan Fraser.

² Signed by Edward J. Derwinski — Signé par Edward J. Derwinski.

³ Signed by Theodore G. Kronniler — Signé par Theodore G. Kronniler.

MEMORANDUM OF UNDERSTANDING

The Governments of Canada and the United States of America 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 pre-season 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 tag 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.

[*For the testimonium and signatures, see p. 400 of this volume.*]

DONE in duplicate at Ottawa, in the English and French languages, both versions being equally authentic, this 28th day of January 1985.

FAIT en double exemplaire à Ottawa, en français et en anglais, chaque version faisant également foi, ce 28^e jour de janvier 1985.

For the Government of Canada:
Pour le Gouvernement du Canada :

[*Signed — Signé*]

ALLAN FRASER

For the Government of the United States of America:
Pour le Gouvernement des Etas-Unis d'Amérique :

[*Signed — Signé*]

EDWARD J. DERWINSKI

[*Signed — Signé*]

THEODORE G. KRONNILER
