

It is provided in Article II of the Protocol that the Protocol shall enter into force on the date of exchange of ratifications;

The instruments of ratification of the Protocol, with Annex, were exchanged at Ottawa on October 15, 1980; and accordingly the Protocol, with Annex, entered into force on October 15, 1980;

Now, THEREFORE, I, Jimmy Carter, President of the United States of America, proclaim and make public the Protocol, with Annex, to the end that they be observed and fulfilled with good faith on and after October 15, 1980, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this eleventh day of November in the year of our Lord one thousand nine hundred eighty and of the Independence of the United States of America the two hundred fifth.

JIMMY CARTER

By the President:

EDMUND S. MUSKIE

Secretary of State

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^[1] (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 exclu-
sive fisheries jurisdiction,

Recognizing that the Convention does not take fully
into account developments in fishery conservation and
management and,

Desirous of amending the Convention,

¹ TIAS 2900; 5 UST 5.

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

Handwritten annotations: A bracket underlines the text from "the optimum yield" to "and to maintain the stocks at those levels." Below this bracket is a handwritten "\$1".

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

Handwritten annotations: A bracket underlines the text from "including the payment of fees" to "may be conducted in". Below this bracket is a handwritten "2".

Convention on waters, except that licensing or permit requirements directed specifically at foreign fishing vessels pursuant to the Fishery Conservation and Management Act of 1976 [1] 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.]

Convention on Halibut and Coarcted

Article II *Enforcement*

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

Commission

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, [1] continued by the Convention signed at Ottawa, May 9, 1930, [2] and further continued by the Convention, signed at Ottawa, January 29, 1937. [3] 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.

¹ 90 Stat. 281; 16 U.S.C. § 1801.

¹ TS 701; 43 Stat. 1841.
² TS 837; 47 Stat. 1872.
³ TS 917; 50 Stat. 1351.

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

Reserve

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.

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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 Eering 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 regis-

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.

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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.

1. 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. [1]

1 Oct. 15, 1890.

TIAS 9855

PROTOCOLE PORTANT MODIFICATION DE LA CONVENTION
DES
ÉTATS-UNIS D'AMÉRIQUE ET LE CANADA POUR LA CONSERV.
PÊCHERIES DE FLETTAN DU PACIFIQUE NORD ET DE LA MER DE BÉRING

Le Gouvernement des États-Unis d'Amérique et le
Gouvernement du Canada,

Considérant la Convention entre les États-Unis
d'Amérique et le Canada pour la conservation des pêcheries
de flettan du Pacifique nord et de la mer de Béring, signée à
Ottawa le 2 mars 1953 (ci-après "la Convention"),

Partageant l'opinion que la Convention a servi à
promouvoir et à coordonner les études scientifiques portant
sur les ressources de flettan du Pacifique nord et de la mer
de Béring et a aidé à la conservation de ces ressources
halieutiques,

Tenant compte du fait que chacune des Parties a
établi sa juridiction exclusive sur les pêches situées en
deçà de 200 milles marins de ses côtes, et que certaines
parties de la zone visée par la Convention se trouvent à
l'intérieur de ces zones de juridiction exclusive sur les
pêches,

Reconnaissant que la Convention ne tient pas
pleinement compte des faits nouveaux en matière de
conservation et de gestion des pêches, et

Désireux de modifier la Convention,

TIAS 9855