

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; or
- d. any operations at sea 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 conducted by a scientific research vessel;

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 mammals” 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 undertakes to allow fishing vessels of the Republic of Korea to fish for the living resources within the fishery conservation zone of the United States in accordance with the provisions of the Agreement.

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:

- a. the total allowable catch for each fishery on the basis of the best available scientific evidence, taking into account the interdependence of stocks, internationally accepted criteria, and all 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 that, on an annual basis, will not be harvested by United States fishing vessels; and
- d. the allocation of such portion that can be made available to the Republic of Korea.

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. Fishing vessels of the Republic of Korea shall comply with such conservation measures and other terms and conditions as established by the Government of the United States.

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 the Republic of Korea, the Government of the United States will promote the objective of optimum utilization, taking into account, *inter alia*, traditional fishing, contributions to fishery research and identification of stocks, previous cooperation in enforcement and with respect to conservation and management of fishery resources of mutual concern, and the need to minimize economic dislocation in cases where vessels have habitually fished for living resources over which the United States exercises fishery management authority.

Article V. The Government of the Republic of Korea shall take measures to ensure that fishing vessels of the Republic of Korea comply with the provisions of this Agreement, including the provisions of permits issued hereunder, and applicable laws of the United States.

Article VI. 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 shall constitute an integral part of this Agreement. The Government of the United States may require the payment of reasonable fees for such permits.

Article VII. The Government of the Republic of Korea shall ensure 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 VIII. The Government of the Republic of Korea shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each fishing 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 in each such vessel;

3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the equivalent rank of ship's officer while aboard such vessel, 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 a vessel owner or operator for any cause arising out of the conduct of fishing activities under this Agreement; and
5. all necessary measures are taken to ensure the prompt and adequate compensation of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch that is determined by applicable United States procedures to have been caused by any fishing vessel of the Republic of Korea.

Article IX. 1. The Government of the Republic of Korea shall take such measures as may be necessary to ensure that each vessel of the Republic of Korea authorized to fish pursuant to this Agreement, and any other fishing vessel of the Republic of Korea that engages in fishing for living resources subject to the fishery management authority of the United States, shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement official of the United States, and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

2. 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.

Article X. 1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on fishing 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. In cases of an enforcement action undertaken by the Government of the United States, the economic loss encountered by the fishing vessels and crew because of lost fishing time shall be minimized through prompt release of the fishing vessels and crew upon the posting of reasonable bond or other security.

Article XI. The Government of the Republic of Korea undertakes to cooperate with the Government of the United States in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the fishery management authority of the United States, including the compilation of best available scientific information for the management and conservation of stocks of mutual concern. The competent agencies of the two Governments shall enter into such arrangements as may be necessary to facilitate such cooperation, including the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and the implementation and maintenance of a standardized system for the collection and archiving of relevant statistical and biological information in accordance with the procedures contained in Annex II, which shall constitute an integral part of this Agreement.

Article XII. 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 appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

Article XIII. Should the Government of the United States indicate to the Government of the Republic of Korea that its nationals and vessels 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 XIV. Nothing contained in this Agreement shall 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 coastal state jurisdiction or authority for any purpose other than the conservation and management of fisheries provided for in this Agreement.

Article XV. 1. This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon the completion of the internal procedures of both Governments, and shall remain in force until July 1, 1982, unless terminated sooner by either Government after giving notification of such termination 12 months in advance.

2. This Agreement shall be subject to review by the two Governments two years after its entry into force 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 in Washington, D.C., this fourth day of January, 1977, in duplicate in the English and Korean languages, both texts being equally authentic.

For the Government
of the United States of America:

[Signed — Signé]¹

For the Government
of the Republic of Korea:

[Signed — Signé]²

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 fishery management authority:

¹ Signed by Frederick Irving — Signé par Frederick Irving.

² Signed by Pyong Choon Hahm — Signé par Pyong Choon Hahm.

1. The Government of the Republic of Korea may submit an application to the Government 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.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions related to fishery management and conservation may be needed, and what fee will be required. The Government of the United States shall inform the Government of the Republic of Korea of such determinations.

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 fishing vessel of the Republic of Korea, 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 Governments 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

DATA REQUIREMENTS FOR VESSELS OF THE REPUBLIC OF KOREA

The procedures described below are designed to contribute to continuing needs for assessment of the status of stocks and management of the fisheries. However, specific needs may develop from time to time which require a change in standard procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures must be flexible enough to accommodate necessary changes.

All data described below for the Pacific area shall be provided to the designated representative of the National Marine Fisheries Service.

1. Catch and Effort Statistics

- (A) The Government of the Republic of Korea shall provide by August 1 of the following year annual catch and effort statistics, as follows: catch in metric tons and effort in hours trawling, effort in number of longline units, effort in number of hours of longline and trap soaking time, effort in number of traps, and effort in number of days fishing by vessel class, by gear type, by month, by half degree Latitude \times one degree Longitude statistical area, by the following species groupings:

—Yellowfin sole	—Alaska pollock
—Rock sole	—Atka mackerel
—Arrowtooth flounder	—Hake
—Dover sole	—Jack mackerel
—Other flounders	—Anchovies
—Pacific ocean perch	—Herring
—Other rockfishes	—Other species taken in excess of 1,000 metric tons
—Pacific cod	—All other species combined
—Sablefish	

- (B) The data collection and reporting procedures for species taken incidentally in small quantities will be developed through consultations between scientists of the United States and the Republic of Korea.

- (C) In addition to the annual statistics described in 1 (A), the Government of the Republic of Korea will provide by the end of the following month provisional monthly fishery information as follows: catch in metric tons and effort in vessel-days on the grounds by vessel class, by species groups previously identified in Annex II 1 (A) for each of the following International North Pacific Fisheries Commission (INPFC) statistical areas:

—Bering Sea	—Vancouver (excluding that portion off Canada)
—Aleutian Region	—Columbia
—Shumagin	—Eureka
—Chirikof	—Monterey
—Kodiak	—Conception
—Yakutat	
—Southeast	

and other designated areas

2. Biological Statistics

Biological sampling by the Republic of Korea will be conducted and measurements from sampling recorded as required according to procedures developed and coordinated through consultations between scientists of the United States and the Republic of Korea so as to determine the representative size, age, and weight of individual fish in the catch.

When such samples are collected, the Government of the Republic of Korea shall provide by May 30 of the following year the annual biological statistics which will include:

- (1) length frequency samples by vessel class, by gear type, by month, by half degree Latitude \times one degree Longitude statistical area, by sex, and by species previously identified in Annex II 1 (A);

(2) length-weight samples of each principal species (e.g., expected yearly catch in area of agreement of 500 or more metric tons) per INPFC statistical area (previously identified in Annex II 1 (B)) fished. Each sample will contain 10 fish per centimeter interval and sex shall be recorded for mature individuals. As scientific needs arise, samples of scales or otoliths will also be collected for age determination.

3. United States Observers

With regard to Article VIII, Paragraph 3, the United States observers will be assisted to perform the following duties while aboard vessels of the Republic of Korea:

- (A) sampling the catch to estimate species composition; size, weight, and age composition; and collect other biological data as appropriate for scientific evaluations of the fish stock;
- (B) measure daily catch rates, determine location and duration of fishing, observe gear dimensions and performance of fishing operations; and
- (C) be assisted in transmitting messages to the Government of the United States whenever requested.

4. Amendment Procedure

The procedures in 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 Government of the United States took note of the statement of the representative of the Government of the Republic of Korea that the Korean population as a developing fishing nation depended heavily on fish as a major source of animal protein, and agreed that this factor could be considered, as appropriate, in determinations of any allocation to the Republic of Korea.

2. With respect to Article VIII (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.

3. In connection with Article IX 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 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.

4. With respect to provisions of Article X of the Agreement, the representative of the Government of the United States stated that the appropriate representatives of the Government of the United States will recommend to the court that, in any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations not include imprisonment or any other form of corporal punishment.

5. With respect to Article XI, the representative of the Government of the United States took note of the statement of the Korean representative that the Government of the Republic of Korea is not presently capable of fully complying with the data requirements of Annex II. Representatives of the two Governments considered that these data reporting requirements could be modified for a transitional period of one year from the entry into force of the Agreement. During this transitional period, with regard to Annex II (1) (A), reports of catches by vessels of the Republic of Korea would be provided under the following species groupings,

- | | |
|-----------------|----------------------|
| —Alaska pollock | —Pacific ocean perch |
| —Sablefish | —Flatfishes |
| —Pacific cod | —Other fishes |

Furthermore, with respect to Annex II (1) (B), during the transitional period, reports of catches by vessels of the Republic of Korea would be provided in the form of all species taken in each INPFC statistical area, rather than by species groups. All other provisions of Annex II would remain applicable.

Representatives of both Governments agreed that the scientists of the United States and the Republic of Korea will consult during the transitional year with a view to improving data reporting capabilities of the Republic of Korea and would, at the end of the transitional year, jointly consider the appropriateness of a further extension of the period during which modified data may be provided.

6. The representative of the Government of the Republic of Korea and the representative of the Government of the United States 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.

7. 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.

8. With respect to the conduct of loading operations by fishing vessels of the Republic of Korea, the United States representative stated that any provisions concerning loading areas would be provided for in permits or through other applicable instruments.

[KOREAN TEXT — TEXTE CORÉEN]

미합중국 정부와 대한민국 정부간의
미국 연안에서의 어업에 관한 협정

미합중국 정부와 대한민국 정부는,

미국 연안에 있는 어족자원의 합리적인 관리와 보존 및 적정한 이용을 위한 공동의 관심을 고려하고,

미국이 그 연안 200해리 내에서 모든 어류에 대하여 어업관리권을 행사하는 어업보존수역을 설정하였으며, 또한 미국이 미국에 속하는 대륙붕 생물 자원에 대하여, 그리고 미국에서 기원하는 소하성 어종에 대하여 그의 전 회유범위내에서 그러한 권한을 행사함을 인정하고,

또한 양국 정부는 1972년 12월 12일의 어업협약에 관한 양국간의 협정의 제두리 내에서 상호간의 어업관계를 발전시킴에 있어서 긴밀하게 협력하여 있음을 인정하고,

미국이 어업관리권을 행사하는, 상호 관심있는 어업에 관한 합리적인 조건을 설정할 것을 희망하여,

다음과 같이 합의하였다.

제 1 조

본 협정의 목적은 미국 연안에서의 상호 이해관계가 있는 어류의 효과적인 보존과 적정한 이용 및 합리적인 관리를 확보하고, 또한 미국법에 규정된 바에 따라 미국이 어업관리권을 행사하는 생물자원에 대하여 대한민국 국민 및 선박이 어업을 행하는 데에 관한 원칙과 절차에 대한 공동의 양해를 설정하기 위한 것이다.

제 2 조

본 협정에서 사용된 용어로서,

1. "미국이 어업관리권을 행사하는 생물자원"이라 함은, 고도회유성 어종을 제외하고는 미국의 어업보존수역내의 모든 어류와 미국의 담수 또는 기수에서 산란하여 해수로 회유하는 어종으로서 그의 전 회유 범위내의 모든 소하성 어종 및 미국에 속하는 대륙붕의 모든 생물자원을 의미한다.

2. "어류"라 함은, 모든 지느러미물고기·연체동물·갑각류 및 기타 형태의 해양 동식물로서, 해양포유동물·조류 및 고도회유성 어종을 제외할 것을 의미한다.

3. "어업"이라 함은,

가. 보존 및 관리를 위하여 하나의 단위로 취급될 수 있고, 또한 지리적·과학적·기술적·오락적·경제적 특성에 입각하여 식별되는 하나 또는 그 이상의 어족자원을 의미하며,

나. 또한 그러한 어족자원에 대한 모든 어로행위를 의미한다.

4. "어업보존수역"이라 함은, 미국의 영해에 접속하는 수역으로서 그의 해양쪽 한계선 상의 각 점이 미국의 영해의 폭을 측정하는 기선으로부터 200 해리가 되도록 그어진 수역을 의미한다.

5. "어로행위"라 함은 다음의 행위를 의미한다.

가. 어류의 포획·채취 또는 수확행위,

나. 어류의 포획·채취 또는 수확행위의 기도,

다. 어류의 포획·채취 또는 수확의 결과를 가져온다고 합리적으로 예측되는 기타 활동,

라. 상기 "가"항 내지 "다"항에 기술된 어떠한 활동을 직접적으로 보조하거나, 또는 준비하는 해상작업. 다만, 그러한 용어는, 과학조사선이 행하는 과학조사활동을 포함하여, 공해의 다른 적법한 이용을 포함하지 아니한다.