

No. 16245

**UNITED STATES OF AMERICA
and
POLAND**

**Agreement concerning fisheries off the coasts of the United States (with annexes, agreed minutes and related letter).
Signed at Warsaw on 2 August 1976**

Authentic texts of the Agreement, annexes, and agreed minutes: English and Polish.

Authentic text of the related letter: English.

Registered by the United States of America on 27 January 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
POLOGNE**

Accord relatif aux pêcheries situées au large des côtes des États-Unis (avec annexes, procès-verbal approuvé et lettre connexe). Signé à Varsovie le 2 août 1976

Textes authentiques de l'Accord, des annexes, et du procès-verbal approuvé : anglais et polonais.

Texte authentique de la lettre connexe : anglais.

Enregistré par les États-Unis d'Amérique le 27 janvier 1978.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the Polish People's Republic;

Considering their common concern for the rational management, conservation and optimum utilization of fish stocks off the coasts of the United States;

Acknowledging the fishery management authority of the United States as set forth in the Fishery Conservation and Management Act of 1976;

Having regard for the discussions of the Third United Nations Conference on the Law of the Sea regarding coastal state rights over fisheries off its coasts;

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States exercises fishery management authority; and

Recalling their Agreement regarding fisheries in the Northeastern Pacific Ocean off the coast of the United States,² and the principles set forth therein anticipating legal and jurisdictional changes in the régime of fisheries management;

Have agreed as follows:

Article I. The purpose of this Agreement is to ensure effective conservation, optimum utilization and rational management of the fisheries of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by Polish nationals and vessels for the living resources over which the United States exercises fishery management authority as provided by United States law.

Article II. As used in this Agreement, the term:

1. "Living resources over which the United States exercises fishery management authority" means all fish within the fishery conservation zone of the United States except highly migratory species, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters, throughout their migratory range, and all living resources of the continental shelf appertaining to the United States.

2. "Fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species.

3. "Fishery" means:

- a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and
- b. any fishing for such stocks.

4. "Fishery conservation zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that

¹ Came into force on 28 February 1977, the date agreed upon by an exchange of notes after completion of the internal procedures of the Parties, in accordance with article XVI (1).

² United Nations, *Treaty Series*, vol. 1067, No. 1-16244.

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.

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 is willing to allow access for Polish fishing vessels to harvest, in accordance with conditions and restrictions to be established in permits issued under article VI, an allocation of that portion of the allowable catch for a specific fishery that will not be harvested by United States fishing vessels.

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 qualifying Polish fishing vessels.

3. In implementation of paragraph 2, *d*, of this article, the United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. Such measures may include, *inter alia*:

- a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;
- b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;
- c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel or the total fleet may engage in fishing in a designated area within the fishery conservation zone or for a specified fishery;

- d. requirements as to the types of gear that may, or may not, be employed;
- e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Government of Poland 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 Polish vessels, and vessels of other countries, the Government of the United States will promote the objective of optimum utilization, taking into account, *inter alia*, traditional fishing, if any, contributions to fishery research and the identification of stocks, previous cooperation in enforcement, previous cooperation 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 now exercises fishery management authority.

Article V. The Government of Poland shall take all necessary measures to ensure:

1. that Polish nationals and vessels refrain from fishing for living resources over which the United States exercises fishery management authority except as authorized pursuant to this Agreement;
2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and
3. that the total allocation referred to in article III, paragraph 2, *d*, of this Agreement is not exceeded for any fishery.

Article VI. The Government of Poland may submit an application to the Government of the United States for a permit for each Polish fishing vessel 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 to this Agreement, which shall constitute an integral part hereof. The Government of the United States may require the payment of reasonable fees for such permits.

Article VII. The Government of Poland shall ensure that Polish nationals and vessels 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 Poland shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each Polish vessel is prominently displayed in the wheel-house of such vessel;
2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each vessel;
3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the 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 proximately caused by any Polish fishing vessel.

Article IX. 1. The Government of Poland shall take such measures as may be necessary to ensure that each Polish vessel authorized to fish pursuant to this Agreement, and any other Polish fishing vessel 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 where a Polish fishing vessel has violated a provision of this Agreement or a provision of a permit issued pursuant thereto, the Government of the United States shall immediately notify the Government of Poland through diplomatic channels of the facts and the action taken.

3. Both Governments agree to the continuation of the U.S.-Polish Fisheries Board created by Annex I of the Agreement between the Government of the United States of America and the Government of the Polish People's Republic Regarding Fisheries in the Western Region of the Middle Atlantic Ocean, signed in Washington, May 29, 1975, as amended,¹ and as set forth in Annex II of this Agreement. Annex II of this Agreement forms an integral part of this Agreement.

Article X. 1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on Polish vessels, or their owners or operators, that violate the requirements of this Agreement or of any permit issued hereunder.

2. In cases of arrest of a Polish fishing vessel, the economic loss encountered by the vessel and crew because of lost fishing time shall be minimized through prompt release of the vessel and crew upon the posting of reasonable bond or other security.

Article XI. The Government of Poland 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 the best available scientific information required 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 in Annex III, which constitutes an integral part of this Agreement.

Article XII. The Government of the United States and the Government of Poland 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 establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

Article XIII. The Government of the United States undertakes to authorize Polish fishing vessels allowed to fish pursuant to this Agreement to enter designated ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or for such other purposes as may be authorized.

Article XIV. Should the Government of the United States indicate to the Government of Poland that United States nationals and vessels wish to engage in fishing in the

¹ United Nations, *Treaty Series*, vol. 1006, p. 167.

fishery conservation zone of Poland, or its equivalent, the Government of Poland will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

Article XV. Nothing contained in the present Agreement shall prejudice the views of either Government with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

Article XVI. 1. This Agreement shall enter into force on a date to be mutually agreed by exchange of notes following the completion of the internal procedures of both Parties, and shall remain in force until July 1, 1982, unless terminated sooner by either Party after giving written notification of such termination one year 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 Warsaw, August 2, 1976, in duplicate, in the English and Polish languages, both texts being equally authentic.

For the Government
of the United States of America:
[Signed — Signé]¹

For the Government
of the Polish People's Republic:
[Signed — Signé]²

A N N E X I

APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing Polish vessels to engage in fishing for living resources over which the United States exercises fishery management authority:

1. The Government of Poland may submit an application to the Government of the United States for each Polish fishing vessel 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;
 - f. such other relevant information as may be requested, including desired transshipping areas.

¹ Signed by Rozanne L. Ridgway — Signé par Rozanne L. Ridgway.

² Signed by E. Wisniewski — Signé par E. Wisniewski.

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 Poland of such determinations.

4. The Government of Poland 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 Poland and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each Polish fishing vessel, which is thereupon 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 Poland 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 Poland 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.

A N N E X II

AMERICAN-POLISH FISHERIES BOARD

Section I. ESTABLISHMENT OF THE BOARD

1. There is hereby established an American-Polish Fisheries Board (hereinafter called the Board).

2. The Board shall consist of four members, two appointed by the Government of the United States of America and two appointed by the Government of the Polish People's Republic. At least one of the two members appointed by each Government shall have knowledge of the general principles of international law, particularly those relating to fisheries matters. Each Government-appointed member shall serve as an instructed representative of the appointing Government. It is the responsibility of each Government to maintain its full complement of members.

3. Each Government may appoint one non-voting technical adviser to the Board for each matter heard.

4. All decisions of the Board shall be undertaken unanimously by those members present and voting, so long as at least one member appointed by each Government is present.

5. The Board shall normally sit in New York, New York. Insofar as is necessary considering the location of the Parties and the availability of evidence, the Board may sit elsewhere.

6. English and Polish shall be the official working languages of the Board. The Governments shall assist the Board in arranging for necessary translations and interpretations.

7. As used in this Annex, the term "national" refers to any vessel or person, natural or juridical, including but not limited to a governmental entity.

Section II. CONCILIATION FUNCTIONS

1. The Board shall consider claims advanced by a national of either State against a national of the other State regarding financial loss resulting from damage to or loss of the national's fishing vessel or fishing gear.

2. No claim may be brought more than six months after the occurrence of the relevant incident, unless the Board decides unanimously to make an exception for a specific incident occurring during the six weeks prior to the entry into force of the Agreement.

Section III. CONCILIATION PROCEDURES

1. The Board shall establish its procedures in accordance with this Annex.
2. A claim, as referred to in section II above, shall be brought before the Board by a written request. The request shall be in the form of a sworn statement which shall include, *inter alia*, a detailed account of the incident from which the claim arises, the identity of all persons and vessels involved, the remedy sought (damages claimed), and a list of potential witnesses knowledgeable about the incident. All appropriate documentary evidence supporting the claim shall be forwarded with the claim to the Board.
3. Upon receipt of a claim, the Board shall, as soon as practicable, commence an inquiry into the incident, and inform both Governments. Each Government shall immediately notify any of its nationals against whom a claim is made. Its nationals may in turn file with the Board a sworn statement responding to the claim. The response may contain a counterclaim insofar as the counterclaim arises from the same incident upon which the claim is based. A counterclaim shall be in the same form and contain the same information as a claim. The Board may join claims that arise from the same incident, without prejudice to the right of each party to present evidence with or without counsel.
4. The Board may request further information and documents from the Parties to the dispute or from appropriate governmental agencies. All statements, reports, or other documents presented to the Board shall be duly sworn and attested as to their authenticity, insofar as reasonably possible. Official Government reports and documents need not be so authenticated.
5. If either the claimant or the respondent requests a hearing, or if the Board deems it desirable to hold a hearing, the Board shall convene a hearing regarding the incident. The claimant and respondent may appear at the hearing, personally or through a representative, with or without counsel, and may present witnesses. The Board may invite as a witness any person, organization, corporation or other entity which has a direct interest in or knowledge of the matter. The claimant and respondent shall be permitted to question all persons testifying at the hearing, provided that no person shall be required to respond to any question.
6. The Governments will facilitate the work of the Board.

Section IV. CONCILIATION REPORT

1. The Board shall prepare a report containing its findings as to:
 - a. the facts giving rise to the claim;
 - b. the extent of damage or loss;
 - c. the degree of respondent's or claimant's responsibility, if any; and
 - d. the amount, if any, which should be paid by respondent or claimant as compensation for losses arising from the incident.
2. If the Board does not unanimously adopt the findings, this shall be stated in the report, and the report shall contain separate statements of each Board member's opinion.
3. The Board shall transmit its report to the claimant, to the respondent, and to each of the two Governments no later than sixty days after the completion of the procedures under section III.
4. Within thirty days after receipt of the Board's report, either the claimant or the respondent may request in writing that the Board reconsider its report. The request shall set forth the reasons for the request and material substantiating the request. The Board may decide to reconsider its report and, if it deems appropriate, receive new evidence or convene a rehearing, or both. Section III procedures will be applicable to the reconsideration.
5. The two Governments undertake to encourage settlement of claims in accordance with the findings of the Board.
6. Within sixty days of receipt of the Board's report each Government shall report to the Board in writing the actions taken by its nationals pursuant to the Board's findings.

7. If one of the Parties to a conciliation proceeding refuses to settle in accordance with the findings of the Board, the Board shall encourage the Parties to submit their dispute to binding arbitration.

8. The Board's report and the report of each Government shall be published in the form agreed by the Board.

Section V. USE OF THE BOARD

The two Governments shall encourage their nationals to use in the first instance the Board to settle claims resulting from damage to or loss of fishing gear and vessels. The Governments shall give information about the Board to interested persons.

Section VI. APPLICABLE LAW

In all proceedings under this Annex the Board shall apply:

1. international conventions, whether general or particular, establishing rules expressly recognized by the two Governments, including bilateral and multilateral agreements between the two Governments dealing with fisheries and maritime matters generally;
2. international custom, as evidence of a general practice accepted as law;
3. the general principles of law recognized by nations;
4. judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

Section VII. OTHER REMEDIES

1. Nothing in this Annex shall preempt, prejudice, or in any other way affect judicial proceedings, or the right to institute such proceedings or in any way prejudice or affect the substantive or procedural rights of any person, whether or not such person appears before or participates in the proceedings of the Board.

2. No claim shall be brought the substance of which has been or is being adjudicated or arbitrated between the Parties. The Board may refuse to consider a claim on the grounds that it should be joined to an existing judicial proceeding involving substantially the same issues and in which the law applicable to such judicial proceeding appears to permit such joinder.

3. The Board shall immediately suspend conciliation proceedings regarding a claim in respect to which judicial proceedings are instituted, unless the court before which the proceedings are pending determines, in the exercise of its lawful authority, that the Parties may continue to proceed before the Board.

4. The Board shall immediately terminate conciliation proceedings regarding a claim in respect to which there is a binding agreement to arbitrate.

Section VIII. FUNDING

Each Government shall pay all expenses, including compensation, of the members it appoints to the Board and of any technical advisers it appoints. The two Governments will share equally all the administrative and operational costs of the Board. Such costs do not include expenses related to the presentation or production of evidence or the appearance of witnesses.

Section IX. REVIEW

At the request of either Government, representatives of the two Governments shall meet to review the operation of this Annex and to consider proposals for its revision. This Annex may be amended through an exchange of notes between the two Governments.

Section X. TERMINATION

At any time either Government may give written notice to the other Government of its intention to denounce this Annex, in which case the Annex shall terminate sixty days from the date of the notification, provided that the effect of the Annex shall in any event continue until the conclusion of conciliation proceedings and arbitrations instituted prior to its termination, unless otherwise agreed by the two Governments.

A N N E X III

DATA COLLECTION AND REPORTING REQUIREMENTS FOR POLISH VESSELS

The reporting procedure described below is designed to contribute to continuing needs for assessment of the status of stocks. 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 for reporting must be flexible enough to accommodate necessary changes. It also implies that some form of archiving of the basic data be developed so that retrieval at a later date in a different format is possible.

All data described below for the Atlantic area shall be reported to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts; data for the Pacific area shall be reported to the Director, Northwest Region, National Marine Fisheries Service, Seattle, Washington.

1. STATISTICAL INFORMATION REQUIREMENTS FOR ALL FISHERIES

a. *Atlantic Coast*

Catch and effort. Three months after the close of each quarter, catch-effort statistics for bi-weekly time periods for 30-minute square areas will be reported by vessel for the previous quarter. These will be reported using 30-minute square Statlant 21 B Forms or magnetic tape, computer cards or printouts for all species and gear types.

Vessel logbook data is to be available for selected, specific joint assessment studies. The collection of samples, specified in 2 below, should also be annotated in the logbook.

b. *Pacific Coast*

(1) *Statistical information requirements for Gulf of Alaska trawl fisheries*

Fishery Data. Poland shall report by May 30 of the following year annual catch and effort statistics, as follows: effort in hours trawled, by vessel class, by gear type, by month, by $\frac{1}{2}^\circ$ latitude \times 1° longitude statistical area; catch in metric tons, by vessel class, by gear type, by month, by $\frac{1}{2}^\circ$ latitude \times 1° longitude statistical area, by the following species groupings:

- rocksole,
- flathead sole,
- arrowtooth flounder,
- other flounders,
- Pacific ocean perch,
- other rockfishes,
- Pacific cod,
- sablefish,
- Alaska pollock,
- Atka mackerel,
- any other species taken in excess of 1,000 mt,
- other fishes.

In addition to the annual statistical report above, Poland will report by the end of the following month, provisional monthly fishery information as follows: effort in vessel-days on the grounds by vessel class; and catch in metric tons of flounders, rockfishes, cod, pollock, sablefish, Atka mackerel, and others, for each of the following statistical areas of the International North Pacific Fisheries Commission (INPFC):

- Charlotte,
- Southeastern,
- Yakutat,
- Kodiak,
- Chirikof,
- Shumagin.

(2) *Statistical information requirements for the Pacific hake fisheries*

Fishery data. Poland shall report by May 30 of the following year annual catch and effort statistics, as follows: effort in hours trawled, by vessel class, by gear type, by month, by $\frac{1}{2}^{\circ}$ latitude \times 1° longitude statistical area; catch in metric tons, by vessel class, by gear type, by month, by $\frac{1}{2}^{\circ}$ latitude \times 1° longitude statistical area, by the following groupings:

- hake,
- jack mackerel,
- Pacific ocean perch,
- other rockfishes,
- sablefish,
- Dover sole,
- other flounders,
- anchovies,
- herring,
- any other species taken in excess of 1,000 mt,
- other fishes.

In addition to the annual statistical report above, Poland will report by the end of the following month, provisional monthly fishery information as follows: effort in vessel-days on the grounds by vessel class; and catch in metric tons of hake, jack mackerel, rockfishes, flounders, and others, for each of the following statistical areas of the INPFC:

- Conception,
- Monterey,
- Eureka,
- Columbia,
- Vancouver (including that portion off Canada).

2. PROCEDURES FOR SCIENTIFIC SAMPLES

a. *Atlantic Coast*

(1) *Length-age composition samples*

(a) Samples should be taken separately for each gear type (e.g., bottom trawl, pelagic trawl, purse seine) and water layer (e.g., on the bottom, midwater level) combination every month for which fishing is pursued by 30-minute square areas throughout the Agreement region. One sample should be taken for every 1,000 tons or fraction thereof within the above categories.

(b) Data to be recorded for each sample:

- vessel classification;
- method of fishing, e.g., pelagic;
- specific type of trawl, including reference to its construction or actual scale drawing;
- mesh sizes;

- tonnage of the species sampled in the trawl haul;
- total weight of the fish sampled;
- time of day of haul;
- date;
- latitude and longitude of haul.

(c) *Sampling procedures.* (i) Species for which the catch is sorted:

- (a) from a single net haul take 4 random aliquots of approximately 50 fish each (for species with less than 200 fish in a single trawl haul accumulate samples over trawl hauls until approximately 200 fish are taken);
- (b) measure fork length for each fish to nearest cm, except for herring where the measurement will be the total length to the nearest cm below; where other measurement systems are used, appropriate conversion information must be supplied;
- (c) take a subsample of one fish from each cm interval and remove scales and otoliths as appropriate; record the sex of mature individuals.

(ii) Species for which catch is not sorted:

- (a) from a single trawl take 2 random aliquots of approximately 30 kilos each;
- (b) sort to individual species (for "river herring" this means sorting to alewife *Alosa pseudoharengus* and blueback *A. aestivalis*);
- (c) measure fork length for each fish to nearest cm, except for herring where the measurement will be the total length to the nearest cm below; where other measurement systems are used, appropriate conversion information must be supplied;
- (d) take a subsample of one fish from each cm interval and remove scales and otoliths as appropriate; record the sex of mature individuals.

(2) *Length-weight samples*

Individuals of one sample of each principal species of fish (e.g., expected yearly catch in area of Agreement of 500 or more tons), per International Commission for the Northwest Atlantic Fisheries (ICNAF) Division per month, should be weighed in grams and measured in millimeters. Each sample will contain 10 fish per centimeter interval. The length range of fish may be accumulated if necessary from small samples taken over several catches and days. With small fish, where weighing at sea of individuals is not accurate, appropriate numbers of fish of the same length class shall be weighed in aggregate. Sex shall be recorded for mature individuals.

b. *Pacific Coast*

Biological sampling by Poland will be conducted and measurements from sampling recorded according to sampling procedures developed and coordinated through consultations between United States and Polish scientists to answer specific and current research needs.

3. AMENDMENT PROCEDURE

The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

AGREED MINUTES

The representatives of the Government of the United States and the Government of Poland have agreed to record the following in connection with the Agreement between the Government of the United States of America and the Government of the Polish People's Republic Concerning Fisheries off the Coasts of the United States signed today:

1. With respect to article III, paragraph 4, of the Agreement signed today, the two Governments agreed to take note that the administration of the Agreement during the first

year of its operation would be in some respects transitional in nature. The two Governments further noted that, taking this into account, the Government of the United States informed the Government of Poland that, without prejudice to the completion of certain internal procedures resulting in operative determinations in this regard, it had determined on a tentative and contingency basis that the portion of the allowable catch for certain fisheries that will not be harvested by United States fishing vessels and that could be made available to Poland during 1977 is expected to be as follows:

a. *For the Northwest Atlantic Coast of the United States*

Should the International Commission for the Northwest Atlantic Fisheries (ICNAF) cease to be effective with respect to the United States in 1977, the portion of the allowable catch that could be expected to be made available to Poland in 1977 would reflect the United States views offered at the December 1976 meeting of ICNAF.

b. *For the Northeastern Pacific Coast of the United States*

The United States takes note of paragraph 4 of the Agreed Minutes of the United States–Poland Pacific bilateral Agreement¹ which expires December 31, 1976. Although an appropriate plan for the fishery for 1977 has not been approved in accordance with the internal procedures under the law of the United States, for 1977 the Government of the United States anticipates that, based on current stock assessments, the availability of the resource will result in lowered levels of fishing by all foreign nations, and that therefore Poland may expect that following completion of a plan and negotiations with others, its fishery will be reduced.

2. The Government of the United States, taking note of the Agreement signed today, and the desirability for both Governments to voluntarily continue certain conservation and management measures pending the entry into force of said Agreement, desires to inform the Government of Poland of the following:

a. With regard to the former Agreement Between the Government of the United States of America and the Government of the Polish People's Republic regarding fisheries in the Western Region of the Middle Atlantic Ocean which entered into force July 1, 1975, and expired on June 30, 1976, the United States is prepared to:

- (1) continue accepting requests from Polish fishing, fishery research and fishery support vessels to enter designated United States ports in accordance with article 7 of that Agreement;
- (2) continue measures to minimize fishing gear conflicts between fishing vessels of the two countries in accordance with article 9 of that Agreement; and
- (3) undertake the internal procedures necessary to continue to grant access to Polish fishing vessels to conduct loading operations in the waters described in article 6 of that Agreement, and in accordance with the requirements in that article.

b. The commitments and undertakings in paragraph *a* above by the Government of the United States shall be assumed during the transitional period prior to entry into force of the Agreement, signed today, with the understanding that the Government of Poland intends to voluntarily abide by the fishing restrictions and conservation measures of articles 2, 3, 4, 5, 9 and 11 of the former Agreement. It is further the understanding of the Government of the United States that should ICNAF cease to be effective with respect to either Government during the transitional period, the Government of Poland

¹ See "Agreement regarding fisheries in the Northeastern Pacific Ocean off the coast of the United States" in United Nations, *Treaty Series*, vol. 998, p. 473.

intends to apply in that portion of the Convention Area off the coast of the United States, the applicable catch, area, fishing gear and seasonal restrictions that would have applied under ICNAF.

c. With regard to the existing Agreement Between the Government of the United States of America and the Government of the Polish People's Republic regarding fisheries in the Northeastern Pacific Ocean off the coast of the United States which entered into force on January 1, 1976, and expires on December 31, 1976, the Government of the United States is prepared to continue measures to minimize gear conflicts between fishing vessels of the two countries in accordance with article 7 of that Agreement.

d. The commitments in paragraph c above by the Government of the United States shall be assumed during the transitional period following December 31, 1976, with the understanding that the Government of Poland intends to voluntarily abide by fishing restrictions and conservation measures during the same period pursuant to articles 4, 5, 6, 7 and 10 of the same Agreement.

3. It is understood by the representatives of both Governments that during 1977 Poland will be implementing a logbook system for collection of fishery statistics for the Northwest Atlantic suitable for computer processing. Full implementation of this program may not occur until 1978.

To facilitate meeting the statistical reporting requirements, the Government of the United States agrees to assist in the transfer of logbook records to Poland when requested to do so by Polish authorities.

The Polish sampling program in the Atlantic area referred to in Annex III will consist of three teams of two sea samplers each. Teams will be assigned to the main season of the herring, mackerel and squid fisheries. Each team will be in the area approximately two to three months. During that time the samplers will work according to the guidelines outlined in the data and sampling requirements in Annex III of the Agreement. Use may be made of United States Coast Guard Cutters to facilitate transfers of samplers between fishing vessels when Coast Guard operations permit. Where observers are aboard Polish vessels, it is anticipated that they will assist in the sampling program.

By the end of 1977, when the first results from processing of the new logbook data will be available, this material and these statistical procedures will be reviewed at the next regularly scheduled meeting between scientists.

4. With respect to article XII of the Agreement, both representatives, noting the desirability of cooperation among commercial fishing enterprises of the United States and Poland, and noting the efforts of the Joint American-Polish Trade Commission in furthering economic and commercial cooperation between the two countries, agreed that it would be appropriate to discuss during annual meetings of the Joint American-Polish Trade Commission the existing legal and regulatory framework under which such cooperation could take place.

5. The representatives of the Government of Poland noted that Poland may submit applications for permits under article VI of the Agreement for flag vessels of other countries with which the United States has diplomatic relations, chartered by or under contract to a Polish fishing company.

The representative of the Government of the United States noted that such applications would be considered and reviewed in accordance with United States law.

[Signed — Signé]¹

[Signed — Signé]²

¹ Signed by Rozanne L. Ridgway — Signé par Rozanne L. Ridgway.

² Signed by E. Wisniewski — Signé par E. Wisniewski.

RELATED LETTER

August 2, 1976

Excellency:

In article XIII of the Agreement concerning fisheries off the coasts of the United States of America, signed today between our two Governments, the Government of the United States undertook to authorize Polish vessels to enter designated ports beginning on the date of entry into force of the Agreement, pursuant to the following procedures.

I wish to inform you that the Government of the United States will authorize the entry of Polish fishing, fishing support and fishery research vessels into the ports of New York, Baltimore, Camden, Philadelphia, Boston, San Francisco, Seattle, and Portland, Oregon.

The Government of the United States also takes note of the interest of the Government of Poland in securing authorization for Polish vessels to enter a port in Alaska.

Polish vessels may enter the ports specified above to replenish ship's stores or fresh water, obtain bunkers, provide rest for or make changes in their crews, and to obtain repairs and other services normally provided in these ports.

Entry shall be permitted subject to notice to the United States Coast Guard, forwarded so as to be received four days in advance of the port entry using (1) Telex, using Telex number 89-2427, (2) TWX, using TWX number 710-822-1959, or (3) Western Union, using the address "U.S. Coast Guard Headquarters, 6th and D Streets, S.W., Washington, D.C." All such entries are subject to the applicable laws and regulations of the United States.

The Government of the United States of America and its Embassy in Warsaw will accept crew lists in application for visas valid for a period of six months for multiple entry into the specified United States ports. Such a crew list shall be submitted at least 14 days prior to the first entry of a vessel into a port of the United States. Submission of an amended (supplemental) crew list subsequent to departure of a vessel from a Polish port will also be subject to the provisions of this paragraph, provided that visas thereunder shall only be valid for six months from the date of issuance of the original crew list visa. Notification of entry shall specify if shore leave is requested under such multiple entry visa.

In cases where a Polish seaman is evacuated from his vessel to the United States for the purpose of emergency medical treatment, the Polish authorities will ensure that the seaman departs from the United States within fourteen days after his release from the hospital. During the period that the seaman is in the United States, a representative of the Polish side will be responsible for him.

The exchange of Polish vessel crews in the above-mentioned ports shall be permitted subject to submission to the United States Embassy in Warsaw of applications for individual transit visas and crewman visas for replacement crewmen. Applications shall be submitted 14 days in advance of the date of the arrival of the crewmen in the United States and shall indicate the names, dates and places of birth, the purpose of the visit, the vessel to which assigned, and the modes and dates of arrival of all replacement crewmen. Individual passports or seaman's documents shall accompany each application. Subject to United States laws and regulations, the United States Embassy will affix transit and crewman visas to each passport or seaman's document before it is returned. Appropriate Polish authorities should also submit to the Department of State 14 days in advance of arrival the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen to be paroled into the United States for repatriation to Poland and the dates and manner of their departure from the United States.

Special provisions shall be made as necessary regarding the entry of Polish research vessels which are engaged in a mutually agreed research program in accordance with the terms of article XI of the Agreement. Requests for visits of fishery research vessels should be forwarded to the United States Department of State, Washington, D.C., through diplomatic channels.

Sincerely,

[Signed]

ROZANNE L. RIDGWAY

Chairman of the Delegation
of the United States of America

His Excellency Edwin Wisniewski
Chairman of the Delegation
of the Polish People's Republic