

No. 16840

**UNITED STATES OF AMERICA
and
JAPAN**

**Agreement concerning fisheries off the coasts of the United States of America (with annexes and agreed minutes).
Signed at Washington on 18 March 1977**

Authentic texts: English and Japanese.

Registered by the United States of America on 10 July 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
JAPON**

Accord relatif aux territoires de pêche au large du littoral des États-Unis d'Amérique (avec annexes et procès-verbal officiel). Signé à Washington le 18 mars 1977

Textes authentiques: anglais et japonais.

Enregistré par les États-Unis d'Amérique le 10 juillet 1978.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES OF AMERICA

The Government of the United States of America and the Government of Japan,

Considering their common concern for the rational management, conservation and optimum utilization of fishery resources off the coasts of the United States,

Recognizing that there have been new international developments on the law of the sea,

Acknowledging that the United States has established a fishery conservation zone within 200 nautical miles of its coasts within which the United States exercises fishery management authority over all fish and that the United States also exercises such authority over the living resources of the continental shelf appertaining to the United States and over anadromous species of fish of United States origin throughout their migratory range,

Acknowledging also that Japan has been cooperating for the rational management and conservation of the living resources of the high seas off the coasts of the United States and that the nationals and vessels of Japan have traditionally been engaging in the development and utilization of these resources, and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern,

Have agreed as follows:

Article I. The Government of the United States and the Government of Japan undertake to ensure effective conservation, optimum utilization and rational management of the fishery resources of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of Japan for the living resources off the coasts of the United States over which the United States exercises fishery management authority.

Article II. As used in this Agreement, the term

(1) "Fishery conservation zone" means an area of waters 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;

(2) "Living resources off the coasts of the United States" means all fish within the fishery conservation zone, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters (hereinafter referred to as the "anadromous species of United States origin"), throughout their migratory range, and sedentary species of the continental shelf

¹ Came into force on 29 November 1977 by an exchange of notes, in accordance with article XVI (1).

appertaining to the United States which are, at the harvestable stage, either immobile on or under the seabed, or unable to move except in constant physical contact with the seabed or subsoil;

(3) “Fish” means all finfish, mollusks, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds, and species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean;

(4) “Fishery resources” means 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;

(5) “Fishery” means any fishing for fishery resources;

(6) “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 sub-paragraphs (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;

(7) “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;

(B) Performing any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing; or

(C) Aiding or assisting one or more vessels at sea in the performance of any activity mentioned in (A) or (B) above;

(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. The Government of the United States and the Government of Japan shall carry out periodic bilateral consultations regarding the implementation of this Agreement, the determinations to be made by the Government of the United States in accordance with Article IV 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 IV. 1. The Government of the United States shall determine each year, with respect to the living resources off the coasts of the United States, the following, taking into account, as appropriate, the consultations with the Government of Japan referred to in Article III of this Agreement, subject to such

adjustments as may be necessitated by unforeseen circumstances affecting the stocks:

- (A) The total allowable catch for each fishery resource to be determined on the basis of the best available scientific evidence and with a view to achieving on a continuing basis the optimum yield of resources, taking into account the interdependence of stocks, internationally accepted criteria, and all other relevant factors;
- (B) The portion of the total allowable catch for a specific fishery resource that, on an annual basis, will not be harvested by fishing vessels of the United States and may be made available to fishing vessels of Japan; and
- (C) The measures necessary to prevent overfishing.

2. The Government of the United States shall notify the Government of Japan of the determinations referred to in paragraph 1 above on a timely basis.

Article V. In determining the portion that may be made available to fishing vessels of Japan in accordance with Article IV, paragraph 1 (B), of this Agreement, the Government of the United States shall promote the objective of optimum utilization, and shall take into account, *inter alia*, traditional fishing by nationals and vessels of Japan, contributions to fishery research and the identification of stocks by Japan, previous cooperation by Japan 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 fishing vessels of Japan have habitually fished for living resources off the coasts of the United States.

Article VI. In view of the fact that the anadromous species of United States origin intermingle with such species of other origins in certain waters of their migratory range, the Government of the United States and the Government of Japan shall hold consultations concerning necessary conservation measures for the anadromous species in such waters.

Article VII. The Government of Japan shall take all necessary measures to ensure:

- (A) That nationals and vessels of Japan refrain from fishing for living resources off the coasts of the United States, except as authorized pursuant to this Agreement;
- (B) That all such fishing vessels engaging in fishing under this Agreement comply with the terms and conditions established under this Agreement; and
- (C) That the portion referred to in Article IV, paragraph 1 (B), of this Agreement is not exceeded for any fishery.

Article VIII. 1. The Government of Japan shall provide the Government of the United States with information concerning the identity and operation of each fishing vessel of Japan that wishes to engage in fishing for living resources off the coasts of the United States, in accordance with Annex I of this Agreement, which forms an integral part hereof.

2. On receipt of the information referred to in paragraph 1 above, the Government of the United States shall take the necessary administrative measures, including the issuance of permits pursuant to applicable laws of the

United States, to enable fishing vessels of Japan, in accordance with the provisions of this Agreement, to engage in fishing for living resources off the coasts of the United States. Such measures may include requirement of the payment of reasonable fees to facilitate the implementation of this Agreement and to ensure the conservation and management of the living resources off the coasts of the United States.

Article IX. The Government of Japan shall ensure that nationals and vessels of Japan refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the 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 X. The Government of Japan shall ensure that, in the conduct of the fisheries under this Agreement, fishing vessels of Japan comply with any administrative measures taken by the Government of the United States in accordance with Article VIII, paragraph 2, of this Agreement.

Article XI. 1. The Government of Japan shall take appropriate measures to ensure that each fishing vessel of Japan fishing pursuant to this Agreement for living resources off the coasts of the United States, allow and assist the boarding and inspection of such vessels by any duly authorized enforcement official of the United States, and cooperate in such enforcement action as may be undertaken.

2. In cases of seizure of a fishing vessel of Japan and of arrest of its crews by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of Japan of the action taken.

3. Seized fishing vessels and arrested crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

Article XII. The United States will impose appropriate penalties in accordance with its laws on fishing vessels of Japan or their owners or operators that do not comply with the requirements of this Agreement or of any administrative measure taken hereunder.

Article XIII. The Government of the United States and the Government of Japan undertake to cooperate in the conduct of scientific research required for the purpose of managing and conserving the living resources off the coasts 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 Annex II, which forms an integral part of 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 fishery resources.

Article XV. The Annexes to this Agreement may be modified by agreement between the two Governments in the form of an exchange of notes.

Article XVI. 1. This Agreement shall be approved by each country in accordance with its internal procedures. It shall enter into force through an exchange of notes on a date to be mutually agreed upon thereafter between the Government of the United States and the Government of Japan, and shall remain in force until December 31, 1982, unless terminated sooner by either Government after giving notification of such termination twelve 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 by their respective Governments, have signed this Agreement.

DONE at Washington, on the eighteenth day of March, 1977, in duplicate in the English and Japanese languages, both equally authentic.

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

For the Government
of Japan:
[Signed—Signé]²

ANNEX I

The following procedures shall govern the application for and issuance of annual permits authorizing fishing vessels of Japan to engage in fishing for living resources off the coasts of the United States:

1. The Government of Japan will submit an application to the Government of the United States for each fishing vessel of Japan 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 fishing vessel as may be requested;
- (C) A specification of each fishery in which each such fishing vessel wishes to fish;
- (D) The amount of fish or tonnage of catch by species contemplated for each such fishing 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.

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

² Signed by Fumihiko Togo—Signé par Fumihiko Togo.

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

4. The Government of Japan 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 Japan 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 Japan, 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 fishing vessel and shall not be transferred.

6. In the event the Government of Japan 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 Japan may thereupon submit a revised application.

ANNEX II

The procedures described below are designed to contribute to continuing needs for assessment of the status of stocks and management of fishery resources. 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 shall be provided to the designated representative of the National Marine Fisheries Service of the Department of Commerce of the United States.

1. Catch and Effort Statistics

A. Atlantic Coast

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

Fishing 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

By May 30 of the following year, annual catch and effort statistics shall be provided as follows: catch in metric tons and effort in hours trawling, effort in number of longline (*hachi*) units, effort in number of pots, effort in number of hours of longline or pots soaking time, effort in number of Danish seine sets, 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 groups:

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|-----------------------|-----------------------|
| — Yellowfin sole | — Pacific ocean perch |
| — Rock sole | — Other rockfishes |
| — Arrowtooth flounder | — Pacific cod |
| — Flathead sole | — Sablefish |
| — Dover sole | — Pollock |
| — Other flounders | — Atka mackerel |

- | | |
|---------------|------------------------------------|
| — King crab | — Other species taken in excess of |
| — Tanner crab | 1,000 metric tons |
| — Herring | — All other species combined |

These annual catch and effort statistics shall be provided using magnetic tape, computer cards or printouts.

In addition to the annual statistical report above, provisional monthly fishery information shall be provided by the end of the following month as follows: catch in metric tons and effort in vessel-days on the grounds by gear type, by vessel class, by the species groups listed in (1) below, for each of the International North Pacific Fishery Commission (INPFC) statistical areas listed in (2) below:

- | | |
|--|----------------------------|
| (1) King crab | Flatfishes |
| Tanner crab | Sablefish |
| Pollock | Herring |
| Pacific cod | Others |
| Rockfishes | |
| (2) Bering Sea; Subareas 1, 2, 3 and 4 | Charlotte Region |
| Aleutian Region | Vancouver Region |
| Shumagin Region | Columbia Region |
| Chirikof Region | Eureka Region |
| Kodiak Region | Monterey Region |
| Yakutat Region | Conception Region |
| Southeast Region | and other designated areas |

2. Biological Statistics

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 area. One sample should be taken for every 1,000 metric tons or fraction thereof within the above categories.
- b. Data to be recorded for each sample:
 - Vessel classification, e.g., trawler, seiner
 - 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 samples 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 centimeter. Where other measurement systems are used, appropriate conversion information must be supplied.

- (c) Take a subsample of one fish from each centimeter interval and remove scales and otoliths as appropriate. Record the sex of mature individuals.
 - (ii) Species for which the catch is not sorted
 - (a) From a single net haul take 2 random samples of approximately 30 kilograms each.
 - (b) Measure fork length for each fish to nearest centimeter by species. Where other measurement systems are used, appropriate conversion information must be supplied.
 - (c) Take a subsample of one fish from each centimeter interval by species 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 the Agreement area of 500 or more metric 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 fishing vessels of Japan shall be conducted and measurements from sampling recorded as required according to procedures developed and coordinated through consultations between scientists of the United States and Japan so as to determine the representative length, age and weight of individual fish in the catch.

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

- (1) Length frequency data by vessel class, by gear type, by month, by half degree latitude × one degree longitude statistical area, by sex, and by species previously identified in 1, B, for annual catch and effort statistics;
- (2) Length-weight data of each principal species (e.g., expected yearly catch in the Agreement area of 500 or more metric tons) by INPFC statistical area (previously identified in 1, B). As scientific need arises, samples of scales or otoliths shall also be taken for age determination.

3. Other Statistical Requirements

As further statistics are required for analyses and should fisheries for other species and areas be conducted (other than those identified in 1 and 2), the procedures for such data collection and reporting shall be developed and coordinated through consultations between scientists of the United States and Japan.

AGREED MINUTES

The representatives of the Government of the United States of America and the Government of Japan have agreed to record the following in connection with the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America signed today (hereinafter referred to as the "Agreement"):

1. It is understood that the Government of the United States and the Government of Japan will cooperate in the exchange of scientific and technical information relating to species of tuna and other highly migratory species of mutual interest with a view to the establishment of regional arrangements, including appropriate international organizations, to ensure conservation of the species. Such exchanges shall include the reporting of tuna and associated catches.

It is further understood that at the outset of the Agreement and until such time as appropriate, the two Governments will, in order to establish a base of scientific information to further such arrangements, provide each other statistics on tuna and associated catches off the coasts of the United States.

2. The representative of the Government of the United States stated that it was the intention of the Government of the United States that any enforcement action taken with respect to anadromous species beyond the fishery conservation zone by United States authorities would only be taken after consultation with the Government of Japan.

3. It is understood that with regard to Article XII of the Agreement, the appropriate representatives of the Government of the United States will recommend to the court in any case arising out of fishing activities under the Agreement that the penalty for violation of fishery regulations not include imprisonment or any other form of corporal punishment.

4. It is understood that with respect to any matter dealt with in the Agreement which falls within its competence, the Government of Japan is prepared to accord to nationals and vessels of the United States wishing to engage in fishing for living resources off the coasts of Japan treatment no less favorable than that accorded to nationals and vessels of Japan under the Agreement in like situation, on the basis of reciprocity.

5. The Government of the United States undertakes to authorize fishing vessels of Japan engaging in fishing pursuant to the Agreement to enter United States 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.

6. With respect to the conduct of loading operations by fishing vessels of Japan, the representative of the Government of the United States stated that loading areas would be provided, taking into account past practices, and would be set forth in permits or other applicable instruments.

Washington, March 18, 1977.

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

For the Government
of Japan:
[Signed—Signé]²

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

² Signed by Fumihiko Togo—Signé par Fumihiko Togo.