

No. 19626

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**AUSTRALIA
and
JAPAN**

Subsidiary Agreement concerning Japanese tuna long-line fishing (with appendix, record of discussion and related exchange of notes). Signed at Canberra on 17 October 1979

Authentic text: English.

Registered by Australia on 11 March 1981.

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**AUSTRALIE
et
JAPON**

Accord subsidiaire concernant la pêche de thonidés par lignes de fond par des navires japonais (avec appendice, procès-verbal de discussions et échange de notes connexes). Signé à Canberra le 17 octobre 1979

Texte authentique : anglais.

Enregistré par l'Australie le 11 mars 1981.

SUBSIDIARY AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF JAPAN CONCERNING JAPANESE TUNA LONG-LINE FISHING

The Government of Australia and the Government of Japan,

Pursuant to the provisions of paragraph 2 of article II of the Agreement on fisheries between the Government of Australia and the Government of Japan, signed at Canberra on the Seventeenth day of October, 1979² (hereinafter referred to as “the Head Agreement”), and

Wishing to establish the detailed procedures for the conduct of tuna long-line fishing operations by fishing vessels of Japan (hereinafter referred to as “the vessels”) within the Australian fishing zone (hereinafter referred to as “the Zone”) and for the issuance of licences by the Government of Australia,

Have agreed as follows:

Article I. The Government of Australia shall, in accordance with the provisions of the Head Agreement, issue licences for the vessels, the number of which shall not exceed 350, subject to payment to the Government of Australia of a fee of one million four hundred thousand Australian dollars for all the vessels to be licensed and for the period of validity of this Subsidiary Agreement.

Article II. The Government of Australia shall, by the licence issued for each of the vessels referred to in article I of this Subsidiary Agreement, permit that vessel to take within the Zone all species of tuna and bill-fish, together with all other species of finfish including oceanic sharks which are incidentally caught:

- (a) By the use of floating long-lines, except in the areas and at the times for each of those areas specified in the appendix to this Subsidiary Agreement, which forms an integral part hereof; and
- (b) By the use of hand-lines, in the area of the Coral Sea bounded to the north by the parallel of latitude 12° south, to the south by the parallel of latitude 22°21'30" south and to the west by the line described in paragraph A of the appendix to this Subsidiary Agreement.

Article III. The Government of Australia and the Government of Japan recognise that it might not be possible to prevent parts of long-lines from drifting into the areas and at the times for each of those areas specified in the appendix to this Subsidiary Agreement. Cases verified by the Government of Australia as cases in which the drifting of a part of a long-line into such areas cannot reasonably be avoided shall not be regarded as infringements of this Subsidiary Agreement.

Article IV. 1. The Government of Australia, subject to the relevant laws and regulations of Australia, undertakes to permit the vessels licensed under this Subsidiary Agreement to enter the ports of Brisbane, Sydney, Hobart, Fremantle and Albany.

2. The Government of Australia shall give due notice to the Government of Japan of the procedures relating to the entry of the vessels into those ports.

¹ Came into force on 1 November 1979, in accordance with article IX.

² See p. 3 of this volume.

Article V. 1. The Government of Australia shall permit the lodgement of bulk applications for licences in respect of persons intending to engage in fishing on board each of the vessels licensed under this Subsidiary Agreement and shall, in accordance with the relevant laws and regulations of Australia, issue licences in respect of those persons.

2. If an application for a licence for a person intending to engage in fishing on board any of the vessels licensed under this Subsidiary Agreement has been accepted by the competent Australian authorities, the Government of Australia shall not require that person to have in his possession, or to produce, the licence until due procedures have been completed for passing the licence to that person.

Article VI. 1. The Government of Australia shall determine, after consultation between the two Governments, the methods of and the terms and conditions with respect to:

- (a) Applying for and issuing licences in respect of the vessels and persons;
- (b) Preparing and reporting of catch and effort data in respect of the vessels; and
- (c) Communicating between the vessels and the competent Australian authorities.

2. The Government of Australia shall notify the Government of Japan of determinations under paragraph 1 of this article within a reasonable time.

Article VII. The Government of Japan shall, in accordance with the relevant laws and regulations of Japan, provide the Government of Australia with available current economic and marketing information relevant to the operations of the vessels within the Zone.

Article VIII. 1. The Government of Australia and the Government of Japan shall, in accordance with the provisions of article IX of the Head Agreement, consult in Canberra not later than three months before the expiry of this Subsidiary Agreement for the purposes of:

- (a) Reviewing the operations of the vessels under this Subsidiary Agreement including any problems identified by either Government; and
- (b) Discussing the terms and conditions under which a subsidiary agreement might be concluded for the following period of one year.

2. Upon request by either Government, consultations shall be undertaken at any time during the period of validity of this Subsidiary Agreement on any aspect of the implementation of this Subsidiary Agreement.

Article IX. This Subsidiary Agreement shall enter into force on the first day of November 1979 and shall remain in force for a period of one year.

IN WITNESS WHEREOF, the undersigned being duly authorised by their respective Governments, have signed this Subsidiary Agreement.

DONE in duplicate at Canberra, this seventeenth day of October 1979, in the English language.

For the Government
of Australia:

[Signed — Signé]¹

For the Government
of Japan:

[Signed — Signé]²

¹ Signed by Peter Nixon — Signé par Peter Nixon.

² Signed by Yoshio Okawara — Signé par Yoshio Okawara.

APPENDIX

EXCEPTED AREAS AND TIMES

A. At all times, the area landward of the line:

- (1) Commencing at the point latitude $9^{\circ}39'26''$ south, longitude $144^{\circ}28'$ east;
- (2) Thence south to the point latitude $9^{\circ}54'$ south, longitude $144^{\circ}28'$ east;
- (3) Thence south-westerly to the point latitude $10^{\circ}15'$ south, longitude $144^{\circ}12'$ east;
- (4) Thence south-westerly to the point latitude $10^{\circ}28'$ south, longitude $144^{\circ}10'$ east;
- (5) Thence west along the parallel of latitude $10^{\circ}28'$ south to its intersection with the outer edge of the Great Barrier Reef (Adm. 1039);
- (6) Thence southerly along the outer edge of the Great Barrier Reef to its intersection with the parallel of latitude $14^{\circ}20'$ south (Adm. 1039);
- (7) Thence east to the point latitude $14^{\circ}20'$ south, longitude $145^{\circ}44'$ east;
- (8) Thence south-easterly to the point latitude $14^{\circ}44'$ south, longitude $145^{\circ}56'$ east;
- (9) Thence southerly to the point latitude $15^{\circ}25'$ south, longitude 146° east;
- (10) Thence southerly to the point latitude $16^{\circ}09'$ south, longitude $146^{\circ}07'$ east;
- (11) Thence south-easterly to the point latitude $16^{\circ}47'$ south, longitude $146^{\circ}39'$ east;
- (12) Thence southerly to the point latitude $17^{\circ}29'$ south, longitude $146^{\circ}55'$ east;
- (13) Thence southerly to the point latitude $17^{\circ}47'$ south, longitude $146^{\circ}57'$ east;
- (14) Thence south-easterly to the point latitude 18° south, longitude $147^{\circ}10'$ east;
- (15) Thence west along the parallel of latitude 18° south to its intersection with the outer edge of the Great Barrier Reef (Adm. 1042);
- (16) Thence southerly along the outer edge of the Great Barrier Reef to its intersection with the parallel of latitude $22^{\circ}21'30''$ south (Adm. 1042, 1024);
- (17) Thence east along the parallel of latitude $22^{\circ}21'30''$ south to its first intersection with the 200-metre isobath (Aus. 4602);
- (18) Thence southerly along that isobath to its intersection with the parallel of latitude $32^{\circ}45'$ south;
- (19) Thence west along the parallel of latitude $32^{\circ}45'$ south to its intersection with the line every point on which is 12 nautical miles seaward of the base-line from which the breadth of the territorial sea is measured;
- (20) Thence southerly along that line to its intersection with the parallel of latitude 35° south;
- (21) Thence east along the parallel of latitude 35° south to its intersection with the 200-metre isobath (Aus. 4601);
- (22) Thence southerly along that isobath to its intersection with the parallel of latitude 40° south at the eastern approach to Bass Strait (Aus. 4601);
- (23) Thence west along the parallel of latitude 40° south to its intersection with the 200-metre isobath at the western approach to Bass Strait (Aus. 4601);
- (24) Thence north-westerly along that isobath to its first intersection with the meridian of longitude 140° east (Aus. 4601, 4709);
- (25) Thence north along the meridian of longitude 140° east to its intersection with the line every point on which is 12 nautical miles seaward of the base-line from which the breadth of the territorial sea is measured;

- (26) Thence north-westerly along that line to its first intersection with the parallel of latitude 35° south, south-west of Eyre Peninsula in South Australia;
- (27) Thence west along the parallel of latitude 35° south to its fourth intersection with the line every point on which is 12 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured, east of Albany;
- (28) Thence westerly, northerly and north-easterly along that line to its first intersection with the meridian of longitude 129°55' east;
- (29) Thence north to the point latitude 10°30' south, longitude 129°55' east;
- (30) Thence east to the point latitude 10°30' south, longitude 133° east;
- (31) Thence south along the meridian of longitude 133° east to its intersection with the line every point on which is 12 nautical miles seaward of the base-line from which the breadth of the territorial sea is measured;
- (32) Thence easterly along that line to its first intersection with the straight line drawn from Cape Wilberforce (latitude 11°52' south, longitude 136°33' east) in the Northern Territory to Slade Point (latitude 10°59' south, longitude 142°08' east) in Queensland;
- (33) Thence easterly along that straight line to its intersection with the meridian of longitude 141° east;
- (34) Thence north to the point latitude 10°22'44" south, longitude 141° east;
- (35) Thence north-easterly to the point latitude 9°46' south, longitude 142° east;
- (36) Thence easterly to the point latitude 9°45'24" south, longitude 142°03'30" east;
- (37) Thence north to the point latitude 9°15'43" south, longitude 142°03'30" east;
- (38) Thence north-easterly to the point latitude 9°12'50" south, longitude 142°06'25" east;
- (39) Thence north-easterly to the point latitude 9°11'51" south, longitude 142°08'33" east;
- (40) Thence easterly to the point latitude 9°11'58" south, longitude 142°10'18" east;
- (41) Thence easterly to the point latitude 9°11'22" south, longitude 142°12'54" east;
- (42) Thence easterly to the point latitude 9°11'34" south, longitude 142°14'08" east;
- (43) Thence south-easterly to the point latitude 9°13'53" south, longitude 142°16'26" east;
- (44) Thence south-easterly to the point latitude 9°16'04" south, longitude 142°20'41" east;
- (45) Thence south-easterly to the point latitude 9°22'04" south, longitude 142°29'41" east;
- (46) Thence easterly to the point latitude 9°21'48" south, longitude 142°31'29" east;
- (47) Thence south-easterly to the point latitude 9°22'33" south, longitude 142°33'28" east;
- (48) Thence north-easterly to the point latitude 9°21'25" south, longitude 142°35'29" east;
- (49) Thence easterly to the point latitude 9°20'21" south, longitude 142°41'43" east;
- (50) Thence easterly to the point latitude 9°20'16" south, longitude 142°43'53" east;
- (51) Thence easterly to the point latitude 9°19'26" south, longitude 142°48'18" east;
- (52) Thence south-easterly to the point latitude 9°23'40" south, longitude 142°51' east;
- (53) Thence south to the point latitude 9°40'30" south, longitude 142°51' east;
- (54) Thence easterly to the point latitude 9°40' south, longitude 143° east;
- (55) Thence north-easterly to the point latitude 9°33' south, longitude 143°05' east;
- (56) Thence east to the point latitude 9°33' south, longitude 143°20' east;
- (57) Thence north-easterly to the point latitude 9°24' south, longitude 143°30' east;
- (58) Thence easterly to the point latitude 9°22' south, longitude 143°48' east;

- (59) Thence easterly to the point latitude 9°30' south, longitude 144°15' east; and
(60) Thence south-easterly to the point of commencement.

B. At all times, the areas, other than the area described in paragraph A of this appendix, within 12 nautical miles seaward of the baselines from which the breadth of the territorial sea is measured.

C. From 30 September to 31 March at 1600 hours GMT on each of those days (equivalent to midnight Australian Western Standard Time), the area bounded by the line:

- (1) Commencing, south of Australia, at the point of the meridian of longitude 120° east which is 200 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured;
- (2) Thence north to the point latitude 35° south, longitude 120° east;
- (3) Thence east along the parallel of latitude 35° south to its third intersection with the line every point on which is 12 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured, west of Eyre Peninsula in South Australia;
- (4) Thence south-easterly along that line to its intersection with the meridian of longitude 140° east;
- (5) Thence south to the point latitude 40° South, longitude 140° east;
- (6) Thence west along the parallel of latitude 40° south to its first intersection with the line every point on which is 200 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured; and
- (7) Thence westerly along that line to the point of commencement.

D. From 30 April to 31 July at 1400 hours GMT on each of those days (equivalent to midnight Australian Eastern Standard Time), the area bounded by the line:

- (1) Commencing at the intersection of the parallel of latitude 40° south with the 200-metre isobath at the eastern approach to Bass Strait (Aus. 4601);
- (2) Thence east to the point latitude 40° south, longitude 151° east;
- (3) Thence north along the meridian of longitude 151° east to its intersection with the 200-metre isobath (Aus. 4601); and
- (4) Thence southerly along that isobath to the point of commencement.

E. From 1 September to 30 April at 1400 hours GMT on each of those days (equivalent to midnight Australian Eastern Standard Time), the area bounded by the line:

- (1) Commencing, east of Australia, at the intersection of the parallel of latitude 32°45' south with the line every point on which is 12 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured;
- (2) Thence east along the parallel of latitude 32°45' south to its intersection with the 200-metre isobath (Aus. 4602);
- (3) Thence southerly along that isobath to its intersection with the parallel of latitude 35° south;
- (4) Thence west along the parallel of latitude 35° south to its intersection with the line every point on which is 12 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured; and
- (5) Thence northerly along that line to the point of commencement.

RECORD OF DISCUSSION

The Representatives of the Government of Australia and the Government of Japan, with respect to the Subsidiary Agreement between the Government of Australia and

the Government of Japan concerning Japanese tuna long-line fishing signed today, wish to record the following:

The limitation of catch in respect of Japanese tuna long-line fishing shall be determined through the number of its vessels, and through the periods and the areas in which that fishing shall be conducted.

Canberra, 17 October 1979

EXCHANGE OF NOTES

I

CH052966

The Department of Foreign Affairs presents its compliments to the Embassy of Japan and has the honour to refer to consultations between representatives of the Government of Australia and the Government of Japan pursuant to the Subsidiary Agreement between the Government of Australia and the Government of Japan concerning Japanese tuna long-line fishing done at Canberra on 17 October, 1979.

In accordance with that Subsidiary Agreement, the Department wishes to notify the Embassy of the following determinations of the Government of Australia.

A. APPLYING FOR AND ISSUING LICENCES

1. The following arrangements will operate in respect of applying for and issuing licences, permitting fishing vessels of Japan and persons on those vessels to engage in fishing in the area of the Zone in which fishing is permitted in accordance with article II of the Subsidiary Agreement (the "Japanese tuna long-line fishing area"):

- (a) The competent Japanese authorities will notify the Australian Department of Primary Industry, Canberra, of the appropriate organisations representing the vessels (called "the Organisations");
- (b) The Australian Department of Primary Industry, Canberra, will provide the Organisations with Australian licence application forms for distribution to the operators of the vessels;
- (c) The Organisations will deliver to the Australian Department of Primary Industry, Canberra, completed Australian licence application forms for each vessel and its crew, not later than 30 days before it is intended that the vessel will commence fishing in the Japanese tuna long-line fishing area;
- (d) At the time of applying for licences, the Organisations will submit a fishing plan for each vessel to the Australian Department of Primary Industry, Canberra, specifying the intended program of port entries and the calendar months in which that vessel expects to operate in the Japanese tuna long-line fishing area;
- (e) Upon the granting of a licence the Government of Australia will notify the Organisations within a reasonable time of the names of the vessels in respect of which licences have been granted and the serial number of each such licence;

- (f) The Australian Department of Primary Industry, either directly or through an agent nominated by the Organisations, will make arrangements in accordance with the fishing plan for delivery of licences to the vessels concerned on their first entry to an Australian port and will not require the vessels to carry the licences until that time;
- (g) The Australian Department of Primary Industry will forward to the Organisations, or an agent nominated by the Organisations, the licences for each vessel for which the fishing plan indicates that it does not intend to call at an Australian port and the Organisations will make appropriate arrangements for the delivery of the licence to each such vessel;
- (h) During the first two months after entry into force of the Subsidiary Agreement, a vessel for which the fishing plan indicates that it does not intend to call at an Australian port may, on receipt of advice that an Australian licence has been granted, enter and fish in the Zone without having the licence on board, provided it is not possible to arrange for delivery of the licence to the vessel before it commences fishing in the Zone. The Organisations will advise the Australian Department of Primary Industry of the name and radio call-sign of each such vessel before it enters the Zone;
- (i) The fee of 1,400,000 Australian dollars payable in accordance with article I of the Subsidiary Agreement is to be paid in advance of the issue of licences as follows:
 - (i) Seven hundred thousand Australian dollars paid in one amount to the Department of Primary Industry, Canberra, in freely disposable Australian currency free of exchange and service charges, and
 - (ii) An irrevocable letter of credit established by telex by a first-class Japanese bank through the Commonwealth Trading Bank, Canberra, in favour of the Department of Primary Industry, Canberra, for an amount of seven hundred thousand Australian dollars, in freely disposable Australian currency free of exchange, negotiating, credit, service and other charges, with provision for drawings at sight to be made 180 days from the letter of credit date and for a period of 30 days thereafter.

B. COMMUNICATING BY JAPANESE TUNA LONG-LINE FISHING VESSELS WITH THE AUSTRALIAN AUTHORITIES

2. The Government of Australia will provide to the Government of Japan and to the Master of each vessel a copy, in Japanese, of the relevant procedures for reporting to the Australian Coastal Surveillance Centre and will require the Master of each such vessel to comply with the reporting procedures and messages formats specified therein.

3. The relevant procedures are set out in a document titled *Notes for the Guidance of Masters and Radio Operators on Licensed Foreign Fishing Vessels*, a copy of which, in English, is attached to this note.

4. Notwithstanding the requirement in paragraph 15 of *Notes for the Guidance of Masters and Radio Operators on Licensed Foreign Fishing Vessels* that the equipment of the vessels for taking fish be stowed below deck in the circumstances described in that paragraph, the other provisions of that paragraph will also apply to vessels proceeding in accordance with that paragraph provided the equipment of the vessels for taking fish is stowed and secured on the deck.

5. The Australian Department of Primary Industry will consult with the competent Japanese authorities at any time during the operation of the Subsidiary Agreement. In particular, the Australian Fisheries Authorities will consult with the competent Japanese authorities within six months of the signing of the Subsidiary Agreement to discuss experience in implementing the reporting requirements. Before those consultations, the Australian authorities will use their best endeavours to assist the Masters and crews of vessels in complying with the practice and will record any case evidencing genuine difficulty in complying with the relevant procedures.

C. PREPARING AND REPORTING OF CATCH AND EFFORT DATA

6. Each vessel will provide catch and effort reports in accordance with the relevant procedures set out in *Notes for the Guidance of Masters and Radio Operators on Licensed Foreign Fishing Vessels*, indicating:

- (a) The catch in the Zone for each six-day period in number and estimated total weight of southern bluefin tuna, albacore tuna, bigeye tuna, yellowfin tuna, marlins and other species; and
- (b) The effort in the Zone in each six-day period in total number of hooks set by the vessel.

7. The competent Japanese authorities will arrange for the provision of the following data to the Australian Department of Primary Industry in respect of the vessels not later than 90 days after the vessels return to their home ports:

- (a) A copy of the original data sheets of the report of tuna long-line fishing which, in accordance with the relevant laws and regulations of Japan, each Japanese tuna vessel is required to make, identified by the international radio call-sign of the vessel and relating to its fishing operations in the Zone;
- (b) Details of the main "target species" of each vessel and a description of the dimensions of its long-line gear including details of any changes that occur during a fishing campaign.

8. The competent Japanese authorities will provide from time to time to the Australian Department of Primary Industry an up-to-date table of average fish weights, by species, for each major fishing area to enable conversion of the catch by number to catch by weight.

9. The competent Japanese authorities will provide to the Australian Department of Primary Industry a copy of the Japanese error check program and sufficient supporting documentation to enable the Australian Department of Primary Industry to apply corrections to facsimile data sheets equivalent to those applied in Japan.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of Japan the assurances of its highest consideration.

Canberra, A.C.T., 17 October 1979

II

EMBASSY OF JAPAN
CANBERRA

No. 79-095

NOTE VERBALE

The Embassy of Japan presents its compliments to the Department of Foreign Affairs, and has the honour to acknowledge the receipt of the latter's Note No. CH052966 dated 17 October, 1979.

The Embassy avails itself of this opportunity to renew to the Department the assurances of its highest consideration.

Canberra, A.C.T., 17 October 1979
