

No. 33346

**AUSTRALIA
and
JAPAN**

**Subsidiary Agreement concerning Japanese tuna long-line
fishing (with appendices). Signed at Canberra on 4 June
1996**

Authentic text: English.

Registered by Australia on 5 November 1996.

**AUSTRALIE
et
JAPON**

**Accord subsidiaire concernant la pêche de thonidés à la
palangre par des navires japonais (avec appendices).
Signé à Canberra le 4 juin 1996**

Texte authentique : anglais.

Enregistré par l'Australie le 5 novembre 1996.

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 250, subject to payment to the Government of Australia of a fee of three million four hundred and fifty thousand Australian dollars for all the vessels to be licensed and for the period of validity of this Subsidiary Agreement. This fee consists of the following amounts:

- (a) two million one hundred and seventy-five thousand Australian dollars for the East Coast Area specified in Appendix I to this Subsidiary Agreement, which forms an integral part hereof;
- (b) two hundred and seventy-five thousand Australian dollars for the West Coast Area specified in Appendix I to this Subsidiary Agreement; and
- (c) one million Australian dollars for the Area off Tasmania specified in Appendix I to this Subsidiary Agreement.

Article II

The Government of Australia shall, by the licences issued for the vessels referred to in Article I of this Subsidiary Agreement, permit those vessels to take within the Zone all

¹ Came into force on 4 June 1996 by signature, in accordance with article IX.

² United Nations, *Treaty Series*, vol. 1217, p. 3.

species of tuna and broadbill swordfish, together with all other species of finfish including bill-fish and oceanic sharks which are incidentally caught:

- (a) by the use of floating long-lines, except in the areas specified in Appendix II 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 B of Appendix II to this Subsidiary Agreement.

Article III

The Government of Australia and the Government of Japan recognise that it might not be possible for a vessel to prevent parts of its long-line from drifting into an area of the Zone at the time when that vessel is not permitted to take fish in that area in accordance with the provisions of Article II of 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 an area 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, Albany, Cairns, Port Lincoln and Port Hedland.
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.

Article V

1. The Government of Australia shall, in accordance with the relevant laws and regulations of Australia, issue a licence to the master of any vessel licensed under this Subsidiary Agreement.
2. If an application for a licence for a master of any vessel 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 masters;
 - (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.

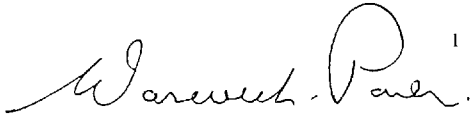
Article IX

This Subsidiary Agreement shall enter into force on signature and shall remain in force until 31 October 1996.

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

DONE in duplicate at Canberra this fourth day of June, 1996, in the English language.

For the Government
of Australia:

Handwritten signature of Warwick Raymond Parer, with a small superscript '1' to the right of the signature.

For the Government
of Japan:

Handwritten signature of Akio Suda, with a small superscript '2' to the right of the signature.

¹ Warwick Raymond Parer.

² Akio Suda.

APPENDIX I

For the purposes of Article I of this Subsidiary Agreement, the terms "East Coast Area", "West Coast Area" and "Area off Tasmania" defined below shall not include the areas specified in paragraphs A, B, C and D of Appendix II to this Subsidiary Agreement.

A. East Coast Area

That portion of the Zone lying to the east of the meridian of Longitude 141° East and to the north of the parallel of Latitude 34° South, including that portion of the Zone off Lord Howe Island lying to the south of the parallel of Latitude 34° South, and that portion of the Zone around Norfolk Island.

B. West Coast Area

That portion of the Zone lying to the west of the meridian of Longitude 129° East and to the north of the parallel of Latitude 34° South, including those portions of the Zone around Christmas Island and around the Cocos (Keeling) Islands.

C. Area off Tasmania

That portion of the Zone south of the line:

- (1) commencing at the point of intersection of the parallel of Latitude 39° South with the outer limit of the Zone off the east coast of Australia;
- (2) thence running west along that parallel to its intersection by the meridian of Longitude 151° East;
- (3) thence south along that meridian to its intersection by the parallel of Latitude 40° South;
- (4) thence west along that parallel to its intersection with the meridian of Longitude 140° East; and
- (5) thence south along that meridian to its intersection by the outer limit of the Zone.

APPENDIX II

- A. At all times, the areas of the Zone, other than the areas described in paragraph B, paragraph C and paragraph D of this Appendix, within 12 nautical miles seaward of the baselines from which the breadth of the territorial sea is measured.
- B. At all times, the area landward of the line:
- (1) commencing at the point of intersection of the meridian of Longitude 145° East by the outer limit of the Zone off north-eastern Australia;
 - (2) thence south along that meridian to its intersection by the parallel of Latitude 12° South;
 - (3) thence south-easterly along the rhumb line to the point of Latitude 14° South, Longitude 147° East;
 - (4) thence south-easterly along the rhumb line to the point of Latitude 17° South, Longitude 149° East;
 - (5) thence south along the meridian of Longitude 149° East to its intersection by the parallel of Latitude 18° South;
 - (6) thence east along that parallel to its intersection by the meridian of Longitude 152° East;
 - (7) thence south along that meridian to its intersection with the parallel of Latitude 20°28'49" South;
 - (8) thence south-easterly along the rhumb line to the point of Latitude 21° South, Longitude 152°55' East;
 - (9) thence south-easterly along the rhumb line to the point of Latitude 24°30' South, Longitude 154° East;
 - (10) thence east along the parallel of Latitude 24°30' South to its intersection by the line every point of which is 50 nautical miles seaward from the nearest point of the baseline from which the breadth of the territorial sea is measured;
 - (11) thence generally southerly along that 50 nautical mile line to its intersection by the parallel of Latitude 34° South;
 - (12) thence east along the parallel of Latitude 34° South to its first intersection by the outer limit of the Zone;
 - (13) thence generally south-westerly along the outer limit of the Zone to its intersection by the parallel of Latitude 39° South;

- (14) thence west along that parallel to its intersection by the meridian of Longitude 151° East;
- (15) thence south along that meridian to its intersection by the parallel of Latitude 40° South;
- (16) thence west along that parallel to its intersection by the meridian of Longitude 140° East;
- (17) thence south along that meridian to its intersection by the outer limit of the Zone;
- (18) thence generally north-westerly, westerly, south-westerly, westerly, north-westerly and northerly along the outer limit of the Zone to its intersection by the parallel of Latitude 34° South;
- (19) thence east along that parallel to its intersection by the line every point of which is 50 nautical miles seaward from the nearest point of the baseline from which the breadth of the territorial sea is measured;
- (20) thence generally north-westerly, northerly and north-easterly along that line to its intersection by the meridian of Longitude 129° East;
- (21) thence north along that meridian to its intersection by the outer limit of the Zone; and
- (22) thence generally easterly along the outer limit of the Zone to the point of commencement.

C. At all times, the area within the line every point of which is 35 nautical miles seaward from the nearest point of the low-water lines of the Territory of Norfolk Island.

D. At all times, within the boundaries of all areas declared by Proclamation pursuant to sub-section (2) of section 7 of the *National Parks and Wildlife Conservation Act 1975 (Cth)* to be a national nature reserve, including the following:

(1) MERMAID REEF MARINE NATIONAL NATURE RESERVE

Being the area bounded by the line:

- (a) commencing at the point of Latitude 16°58' South, Longitude 119°32' East;
- (b) running thence east along the parallel of Latitude 16°58' South to its intersection by the meridian of Longitude 119°43' East;
- (c) thence south along the meridian of Longitude 119°43' East to its intersection by the parallel of Latitude 17°13' South;

- (d) thence west along the parallel of Latitude $17^{\circ}13'$ South to its intersection by the meridian of Longitude $119^{\circ}32'$ East;
- (e) thence north along the meridian of Longitude $119^{\circ}32'$ East to the point of commencement.

(2) ELIZABETH AND MIDDLETON REEFS MARINE NATIONAL NATURE RESERVE

Being the area bounded by the line:

- (a) commencing at the point of Latitude $29^{\circ}21'$ South, Longitude $158^{\circ}59'$ East;
- (b) running thence east along the parallel of Latitude $29^{\circ}21'$ South to its intersection by the meridian of Longitude $159^{\circ}14'$ East;
- (c) thence south-westerly along the geodesic to the point of Latitude $30^{\circ}03'$ South, Longitude $159^{\circ}10'$ East;
- (d) thence west along the parallel of Latitude $30^{\circ}03'$ South to its intersection by the meridian of Longitude $158^{\circ}55'$ East; and
- (e) thence north-easterly along the geodesic to the point of commencement.

(3) ASHMORE REEF NATIONAL NATURE RESERVE

Being the area bounded by the line:

- (a) commencing at the point of Latitude $12^{\circ}10'$ south, Longitude $123^{\circ}00'$ East;
- (b) running thence east along the parallel of $12^{\circ}10'$ South to its intersection by the meridian of Longitude $123^{\circ}14'$ East;
- (c) thence south-easterly along the geodesic to the point of Latitude $12^{\circ}13'$ South, Longitude $123^{\circ}16'$ East;
- (d) thence south along the meridian of Longitude $123^{\circ}16'$ East to its intersection by the parallel of Latitude $12^{\circ}16'$ South;
- (e) thence south-westerly along the geodesic to the point of Latitude $12^{\circ}20'$ South, Longitude $123^{\circ}10'$ East;
- (f) thence north-westerly along the geodesic to the point of Latitude $12^{\circ}19'$ South, Longitude $123^{\circ}00'$ East;

- (g) thence north-westerly along the geodesic to the point of Latitude 12°14' South, Longitude 122°53' East;
- (h) thence north-easterly along the geodesic to the point of Latitude 12°12' South, Longitude 122°55' East;
- (i) thence north-easterly along the geodesic to the point of commencement.

(4) CORINGA-HERALD NATIONAL NATURE RESERVE

Being the area bounded by the line:

- (a) commencing at the point of Latitude 17°11' South, Longitude 150°05' East;
- (b) running thence west along the parallel of Latitude 17°11' South to its intersection by the meridian of Longitude 149°00' East;
- (c) thence north along the meridian of Longitude 149°00' East to its intersection by the parallel of Latitude 16°46' South;
- (d) thence east along the parallel of Latitude 16°46' South to its intersection by the meridian of Longitude 149°48' East;
- (e) thence north-easterly along the geodesic to the point of Latitude 16°23' South, Longitude 150°12' East;
- (f) thence east along the parallel of Latitude 16°23' South to its intersection by the meridian of Longitude 150°30' East;
- (g) thence south along the meridian of Longitude 150°30' East to its intersection by the parallel of Latitude 16°52' South; and
- (h) thence south-westerly along the geodesic to the point of commencement.

(5) LIHOU REEF NATIONAL NATURE RESERVE

Being the area bounded by the line:

- (a) commencing at the point of Latitude 17°54' South, Longitude 151°08' East;
- (b) running thence north along the meridian of Longitude 151°08' East to its intersection by the parallel of Latitude 17°21' South;
- (c) thence north-easterly along the geodesic to the point of Latitude 16°57' South, Longitude 151°54' East;

- (d) thence east along the parallel of Latitude $16^{\circ}57'$ South to its intersection by the meridian of Longitude $152^{\circ}20'$ East;
 - (e) thence south along the meridian of Longitude $152^{\circ}20'$ East to its intersection by the parallel of Latitude $17^{\circ}27'$ South; and
 - (f) thence south-westerly along the geodesic to the point of commencement.
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