

FISHERIES

Pacific Salmon

**Agreement Between the
UNITED STATES OF AMERICA
and CANADA**

**Relating to and Amending
Annex IV of the
Treaty of January 28, 1985, as
Amended**

Effected by Exchange of Notes at
Ottawa April 26 and June 17, 2005

with

Attachments



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

CANADA

Fisheries: Pacific Salmon

*Agreement relating to and amending Annex IV of
the treaty of January 28, 1985, as amended.
Effected by exchange of notes at Ottawa
April 26 and June 17, 2005;
Entered into force June 17, 2005.
With attachments.*

No. 264

Embassy of the United States of America
Ottawa, April 26, 2005

Excellency:

I have the honor to refer to the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa January 28, 1985, as amended, and to the recommendations made by the Pacific Salmon Commission on February 21, 2005, in accordance with Article XIII, paragraphs 2 and 3 of the Treaty.

In accordance with Article XIII, paragraph 3, of the Treaty, I have the further honor to propose that Chapters 1 and 4 of Annex IV of the Treaty be amended to read as set forth in the enclosures to this Note.

I have the further honor to propose that, if this proposal is acceptable to the Government of Canada, this Note, with its enclosures, and Your Excellency's Note in reply to that effect, shall constitute an agreement between our two Governments amending Annex IV of the Treaty, which shall enter into force on the date of Your Excellency's Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.


Charge d'Affaires ad interim

Enclosures:

1. Annex IV, Chapter 1
2. Annex IV, Chapter 4

His Excellency

Pierre Pettigrew,

Minister of Foreign Affairs and International Trade
of Canada,
Ottawa.

DIPLOMATIC NOTE

**Amendments to Annex IV
Chapter 1: Transboundary Rivers:
Transboundary Panel Bilateral Agreement**

Stikine River sockeye salmon:

Annex IV, Chapter 1, Paragraph 3(a)(1)

- (iv) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 600 sockeye salmon to be taken between July 1 and July 31. These fish will be part of the existing U.S. allocation of Stikine River sockeye salmon. For this fishery:
 - a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.
 - b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.
 - c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.
 - d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral TBR Panel and approved by the Pacific Salmon Commission.

Stikine River coho salmon:

Annex IV, Chapter 1, Paragraph 3(a)(2)

- (i) By 2008, the Parties agree to develop and implement an abundance-based approach to managing coho salmon on the Stikine River. Assessment programs need to be further developed before a biologically based escapement goal can be established.
- (ii) In the interim, the United States' management intent is to ensure sufficient coho enter the Canadian section of the Stikine River to meet the agreed spawning objective, plus an annual Canadian catch of 5,000 coho salmon in a directed coho salmon fishery.

- (iii) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 400 coho salmon to be taken between August 15 and October 1. For this fishery:
 - a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.
 - b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.
 - c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.
 - d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral TBR Panel and approved by the Pacific Salmon Commission.

Stikine River Chinook salmon:

Annex IV, Chapter 1, Paragraph 3(a) (3)

- (i) This agreement shall apply in 2005 through 2008.
- (ii) This agreement shall apply to large (greater than 659 mm mid-eye to fork length) Chinook salmon originating in the Stikine River.
- (iii) Both Parties shall take the appropriate management action to ensure that the necessary escapement goals for Chinook salmon bound for the Canadian portions of the Stikine River are achieved. The Parties agree to share in the burden of conservation. Fishing arrangements must take biodiversity and ecosystem requirements into account.
- (iv) Consistent with paragraph 2 above, management of directed fisheries will be abundance-based through an approach developed by the Committee. The Parties agree to implement assessment programs in support of the abundance-based management regime.
- (v) Unless otherwise agreed, directed fisheries on Stikine River Chinook salmon will occur only in the Stikine River drainage in Canada, and in District 108 in the U.S.

- (vi) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 125 Chinook salmon to be taken between May 15 and June 20. For this fishery:
 - a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.
 - b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.
 - c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.
 - d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral TBR Panel and approved by the Pacific Salmon Commission.
- (vii) Management of Stikine River Chinook salmon will take into account the conservation of specific stocks or conservation units when planning and prosecuting their respective fisheries. To avoid over-harvesting of specific components of the run, weekly guideline harvests will be developed by the Parties by apportioning their allowable harvest over the total Chinook season based on historical weekly run timing.
- (viii) By 2008, the Parties agree to develop and implement through the Committee an agreed Chinook stock identification program to assist the management of Stikine Chinook salmon.
- (ix) The current MSY escapement goal point estimate (N_{MSY}) for above-border Stikine River Chinook salmon is 17,400 fish (greater than 659 mm mid-eye to fork length) with a range of 14,000 to 28,000 fish. This goal is subject to periodic review by the Parties.
- (x) A preseason forecast of the Stikine River Chinook salmon terminal run¹ size will be made by the Committee by February 1 of each year.
- (xi) In 2005 and 2006, directed fisheries may be implemented based on preseason forecasts only if the preseason forecast terminal run size equals or exceeds the upper end of the MSY escapement goal range plus the combined Canada, U.S. and test fishery base level catches (BLCs) of Stikine River Chinook salmon. The preseason forecast will only be used for management until inseason projections become available.

¹ Terminal run = total Stikine Chinook run size minus the US troll catch of Stikine Chinook salmon outside District 108.

- (xii) For the purposes of determining whether to allow directed fisheries using inseason information in 2005 and 2006, such fisheries will not be implemented unless the projected terminal run size exceeds the mid-point of the escapement goal range plus the combined Canada, U.S. and test fishery BLCs of Stikine River Chinook salmon. The Committee shall determine when inseason projections can be used for management purposes and shall establish the methodology for inseason projections and update them weekly or at other agreed intervals.
- (xiii) If escapements in 2005 and 2006 are less than the escapement goal point estimate (N_{MSY}), the Parties agree to review the 2005 and 2006 directed fisheries and implement additional precautionary management measures intended to achieve the escapement goal point estimate (N_{MSY}) in 2007 and 2008.
- (xiv) In 2007 and 2008, directed fisheries may be implemented based on preseason forecasts only if the preseason forecast terminal run size equals or exceeds the escapement goal point estimate (N_{MSY}) plus the combined Canada, U.S. and test fishery base level catches (BLCs) of Stikine River Chinook salmon. The preseason forecast will only be used for management until inseason projections become available.
- (xv) For the purposes of determining whether to allow directed fisheries using inseason information in 2007 and 2008, such fisheries will not be implemented unless the projected terminal run size exceeds the escapement goal point estimate (N_{MSY}) plus the combined Canada, U.S. and test fishery BLCs of Stikine River Chinook salmon. The Committee shall determine when inseason projections can be used for management purposes and shall establish the methodology for inseason projections and update them weekly or at other agreed intervals.
- (xvi) The allowable catch (AC) will be calculated as follows:
- [Base terminal run (BTR) = escapement target + test fishery BLC + U.S. BLC + Cdn BLC]
- [Terminal run - (BTR) = AC]
- (xvii) BLCs include the following:
- U.S. Stikine BLC: 3,400 large Chinook²;
 - Canadian Stikine BLC: 2,300 large Chinook³;
 - Test fishery: 1,400 large Chinook.
- (xviii) Harvest sharing and accounting of the AC shall be as follows:

² Includes average combined US gillnet, troll and sport catches of Stikine Chinook salmon in District 108.

³ Includes average combined Canadian Aboriginal, commercial and sport catches of Stikine Chinook salmon.

Allowable Catch Range		Allowable Catch Share			
		U.S.		Canada	
Lower	Upper	Lower	Upper	Lower	Upper
0	5,000	0	500	0	4,500
5,001	20,000	501	11,000	4,500	9,000
20,001	30,000	11,001	17,500	9,000	12,500
30,001	50,000	17,501	30,500	12,500	19,500
50,001	100,000	30,501	63,000	19,500	37,000

Within each Allowable Catch Range, each Party's Allowable Catch Share will be calculated proportional to where the AC occurs within the range.

- (xix) The U.S. catch of the Stikine Chinook salmon AC will not count towards the SEAK AABM allocation. In particular:
- non-Stikine Treaty Chinook salmon harvested in District 108 will continue to count toward the SEAK AABM harvest limit;
 - the U.S. BLC of Stikine Chinook salmon in District 108 will count toward the SEAK AABM harvest limit;
 - the U.S. catch of Stikine Chinook salmon in District 108 above the U.S. BLC will not count towards the SEAK AABM allocation.

Accounting for the SEAK AABM Chinook salmon catches as pertains to transboundary rivers harvests will continue to be the responsibility of the Chinook Technical Committee as modified by (a) through (c) above.

- (xx) With the exception of the provisions included in paragraph (vi) above, the Parties shall determine the domestic allocation of their respective harvest shares.
- (xxi) When the terminal run is insufficient to provide for the Party's Stikine Chinook BLC and the lower end of the escapement goal range, the reductions in each Party's base level fisheries, i.e. the fisheries that contributed to the BLCs, will be proportionate to the BLC shares, excluding the test fishery.
- (xxii) If the escapement of Stikine River Chinook salmon is below the lower bound of the agreed escapement range for three consecutive years, the Parties will examine the management of base level fisheries and any other fishery which harvests Stikine River Chinook salmon stocks, with a view to rebuilding the escapement.

Taku River Chinook salmon:

Annex IV, Chapter 1, Paragraph 3(b)(3)

- (i) This agreement shall apply in 2005 through 2008.

- (ii) This agreement shall apply to large (greater than 659 mm mid-eye to fork length) Chinook salmon originating in the Taku River.
- (iii) Both Parties shall take the appropriate management action to ensure that the necessary escapement goals for Chinook salmon bound for the Canadian portions of the Taku River are achieved. The Parties agree to share in the burden of conservation. Fishing arrangements must take biodiversity and ecosystem requirements into account.
- (iv) Consistent with paragraph 2 above, management of directed fisheries will be abundance-based through an approach developed by the Committee. The Parties agree to implement assessment programs in support of the abundance-based management regime.
- (v) Unless otherwise agreed, directed fisheries on Taku River Chinook salmon will occur only in the Taku River drainage in Canada, and in District 111 in the U.S.
- (vi) Management of Taku River Chinook salmon will take into account the conservation of specific stocks or conservation units when planning and prosecuting their respective fisheries. To avoid over-harvesting of specific components of the run, weekly guideline harvests will be developed by the Parties by apportioning their allowable harvest over the total Chinook season based on historical weekly run timing.
- (vii) By 2008, the Parties agree to develop and implement through the Committee an agreed Chinook stock identification program to assist the management of Taku Chinook salmon.
- (viii) The current MSY escapement goal point estimate (N_{MSY}) for above-border Taku River Chinook salmon is 36,000 fish (greater than 659 mm mid-eye to fork length) with a range of 30,000 to 55,000 fish. This goal is subject to periodic review by the Parties.
- (ix) A preseason forecast of the Taku River Chinook salmon terminal run⁴ size will be made by the Committee by February 1 of each year.
- (x) In 2005 and 2006, directed fisheries may be implemented based on preseason forecasts only if the preseason forecast terminal run size equals or exceeds the upper end of the MSY escapement goal range plus the combined Canada, U.S. and test fishery base level catches (BLCs) of Taku River Chinook salmon. The preseason forecast will only be used for management until inseason projections become available.

⁴ Terminal run = total Taku Chinook run size minus the US troll catch of Taku Chinook salmon outside District 111.

- (xi) For the purposes of determining whether to allow directed fisheries using inseason information in 2005 and 2006, such fisheries will not be implemented unless the projected terminal run size exceeds the mid-point of the escapement goal range plus the combined Canada, U.S. and test fishery BLCs of Taku River Chinook salmon. The Committee shall determine when inseason projections can be used for management purposes and shall establish the methodology for inseason projections and update them weekly or at other agreed intervals.
- (xii) If escapements in 2005 and 2006 are less than the escapement goal point estimate (N_{MSY}), the Parties agree to review the 2005 and 2006 directed fisheries and implement additional precautionary management measures intended to achieve the escapement goal point estimate (N_{MSY}) in 2007 and 2008.
- (xiii) In 2007 and 2008, directed fisheries may be implemented based on preseason forecasts only if the preseason forecast terminal run size equals or exceeds the escapement goal point estimate (N_{MSY}) plus the combined Canada, U.S. and test fishery base level catches (BLCs) of Taku River Chinook salmon. The preseason forecast will only be used for management until inseason projections become available.
- (xiv) For the purposes of determining whether to allow directed fisheries using inseason information in 2007 and 2008, such fisheries will not be implemented unless the projected terminal run size exceeds the escapement goal point estimate (N_{MSY}) plus the combined Canada, U.S. and test fishery BLCs of Taku River Chinook salmon. The Committee shall determine when inseason projections can be used for management purposes and shall establish the methodology for inseason projections and update them weekly or at other agreed intervals.
- (xv) The allowable catch (AC) is calculated as follows:
- [Base terminal run (BTR) = escapement target + test fishery BLC + U.S. BLC + Cdn BLC]
- [Terminal run - (BTR) = AC]
- (xvi) BLCs include the following:
- U.S. Taku BLC: 3,500 large Chinook⁵
 - Canadian Taku BLC: 1,500 large Chinook⁶
 - Test fishery: 1,400 large Chinook;
- (xvii) Harvest sharing and accounting of the AC shall be as follows:

⁵ Includes average combined US gillnet and sport catches of Taku Chinook salmon in District 111.

⁶ Includes average combined Canadian Aboriginal, commercial and estimated sport catch of Taku Chinook salmon.

Allowable Catch Range		Allowable Catch Share			
		U.S.		Canada	
Lower	Upper	Lower	Upper	Lower	Upper
0	5,000	0	0	0	5,000
5,001	20,000	1	11,000	5,000	9,000
20,001	30,000	11,001	17,500	9,000	12,500
30,001	50,000	17,501	30,500	12,500	19,500
50,001	100,000	30,501	63,000	19,500	37,000

Within each Allowable Catch Range, each Party's Allowable Catch Share will be calculated proportional to where the AC occurs within the range.

- (xviii) The U.S. catch of the Taku Chinook salmon AC will not count towards the SEAK AABM allocation. In particular:
- non-Taku Treaty Chinook salmon harvested in District 111 will continue to count toward the SEAK AABM harvest limit;
 - the U.S. BLC of Taku Chinook salmon in District 111 will count toward the SEAK AABM harvest limit;
 - the U.S. catch of Taku Chinook salmon in District 111 above the U.S. BLC will not count towards the SEAK AABM allocation.

Accounting for the SEAK AABM Chinook salmon catches as pertains to transboundary rivers harvests will continue to be the responsibility of the Chinook Technical Committee as modified by (a) through (c) above.

- (xix) The Parties shall determine the domestic allocation of their respective harvest shares.
- (xx) When the terminal run is insufficient to provide for the Party's Taku Chinook BLC and the lower end of the escapement goal range, the reductions in each Party's base level fisheries, i.e. the fisheries that contributed to the BLCs, will be proportionate to the Taku Chinook BLC shares, excluding the test fishery.
- (xxi) When the escapement of Taku River Chinook salmon is below the lower bound of the agreed escapement range for three consecutive years, the Parties will examine the management of base level fisheries and any other fishery which harvests Taku River Chinook salmon stocks, with a view to rebuilding the escapement.

Alsek River:

Annex IV, Chapter 1, Paragraph 3(c)

- (i) By 2008, the Parties will develop and implement cooperative abundance-based management programs for Alsek River Chinook, sockeye and coho salmon, including agreed escapement and management goals for Chinook, sockeye and coho salmon.

- (ii) The Committee will develop an annual pre-season fishery management plan for Alsek River fisheries by May 1.
- (iii) Chinook salmon:
 - a. The Parties agree that new directed fisheries on Alsek River Chinook salmon will not occur without the consent of both Parties and an agreed abundance-based management regime has been developed.
 - b. In 2005 through 2008, the Parties agree to conduct an assessment test fishery to be administered by the U.S. under terms to be developed by the Committee. The test fishery will be conducted over the duration of the run. The overall Chinook catch in the test fishery will not exceed 500 fish. All fish caught will be sampled for length, age, sex and tissue (for genetic stock ID).
 - c. In 2005 through 2008, the Committee will develop in-river abundance estimates of Alsek Chinook salmon and a stock identification program.
- (iv) Sockeye salmon:
 - a. In 2005 through 2008, the Committee will refine and implement inseason abundance-based management. The Parties will endeavour to continue to explore methods for determining inriver abundance (such as genetic stock ID).
 - b. In 2005 through 2008, weekly tissue samples will be collected from the Dry Bay commercial fishery in addition to the normal sampling program.
- (v) Coho salmon:
 - a. The Parties agree to develop an abundance-based management regime.

4. The Parties agree that if catch allocations set out for transboundary river salmon are not attained due to management actions by either Party in any one year, compensatory adjustment shall be made in subsequent years. If a shortfall in the actual catch of a Party is caused by management action of that Party, no compensation shall be made. The Parties agree that midway through the Chapter period, the harvest sharing performance will be evaluated and adjustments made over the remainder of the Chapter period, if necessary. At the end of the Chapter period, cumulative overages or underages will be carried forward to the next Chapter period.

5. The Parties agree that midway through the Chapter period, or other agreed time, they will review the current Chapter and may determine if they want to renew the Chapter for an additional period of time.

6. Consistent with paragraph 2 above, the Parties agree to develop and implement abundance-based fishery regimes for Taku and Stikine River chinook and coho salmon. Once bilaterally agreed MSY escapement objectives and in-season stock assessment programs are established, the Parties agree to examine their respective abilities to access enhanced sockeye salmon and re-examine harvest sharing arrangements for chinook, sockeye and coho salmon.

7. The Parties agree to consider cooperative enhancement possibilities and to undertake, as soon as possible, studies on the feasibility of new enhancement projects on the transboundary rivers and adjacent areas for the purpose of increasing productivity of stocks and providing greater harvests to the fishermen of both countries.

8. Recognizing that stocks of salmon originating in Canadian sections of the Columbia River constitute a small portion of the total populations of Columbia River salmon, and that the arrangements for consultation and recommendation of escapement targets and approval of enhancement activities set out in Article VII are not appropriate to the Columbia River system as a whole, the Parties consider it important to ensure effective conservation of up-river stocks which extend into Canada and to explore the development of mutually beneficial enhancement activities. Therefore, notwithstanding Article VII, paragraphs 2, 3, and 4, the Parties shall consult with a view to developing, for the transboundary sections of the Columbia River, a more practicable arrangement for consultation and setting escapement targets than those specified in Article VII, paragraphs 2 and 3. Such arrangements will seek to, *inter alia*,:

- (a) ensure effective conservation of the stocks;
- (b) facilitate future enhancement of the stocks on an agreed basis; and
- (c) avoid interference with United States management programs on the salmon stocks existing in the non-transboundary tributaries and the main stem of the Columbia River.

**Appendix to Annex IV, Chapter 1:
Understanding on the Joint Enhancement of Transboundary River Sockeye Stocks**

Pursuant to Annex IV of the Pacific Salmon Treaty, and recognizing the desire of Canada and the United States to continue a joint enhancement program for the transboundary rivers that is carefully planned and co-ordinated:

1. The Parties agree:
 - (a) to continue to develop strategies for management of the enhanced stocks prior to the return of adult fish;
 - (b) to continue to develop an agreed process for conducting periodic review of implemented projects to identify and recommend action regarding, *inter alia*:
 - (i) success or failure of a project in a given year or series of years;
 - (ii) a distribution of benefits that is substantially different than expected; and
 - (iii) costs which are substantially greater than expected; and
 - (c) to recommend a plan, when required, for funding of projects including:
 - (i) cost sharing arrangements between the Parties; and
 - (ii) long term funding obligations.

2. The Parties agree to maintain an Enhancement Subcommittee of the joint Transboundary Technical Committee whose Terms of Reference shall be, *inter alia*, to:
 - (a) develop preliminary summaries of various projects which meet the enhancement goals established by the Transboundary Panel;
 - (b) develop detailed feasibility studies for projects selected by the Transboundary Panel, including:
 - (i) estimation of costs and benefits;
 - (ii) likelihood of success;
 - (iii) schedules for implementation;
 - (iv) procedures for evaluation; and

- (v) fisheries management plans for the enhanced stocks; and
- (c) monitor implementation of projects and report progress to the Transboundary Panel.

3. Project Selection:

(a) General Guidelines:

- (i) If broodstock is not available to provide the agreed number of eggs, up to 30% of the available adults will be taken, provided that a minimum of 600,000 eggs are available; if this minimum number is not available, no eggs will be taken;
- (ii) A reasonable expectation that a stock identification technique will be available to estimate the contribution of enhanced sockeye in mixed stock fisheries is required in order for these projects to proceed. The appropriate stock identification technique for each fishery will be determined by the joint Transboundary Technical Committee.

(b) Stikine River:

For the duration of this Chapter, the eggtake goal for the Stikine sockeye enhancement program will be six million eggs. The Tahltan Lake sockeye salmon stock will be used as the source of eggs. Eggs will be incubated at the Port Snettisham central incubation facility (CIF). Fry will be planted into Tahltan and Tuya Lakes in the following manner, subject to review by the joint Transboundary Technical Committee:

- a. When the sockeye escapement through the Tahltan Lake weir is less than 15,000 fish or an agreed alternate threshold, all fry will be returned to Tahltan Lake;
- b. When the sockeye escapement through the Tahltan Lake weir is greater than 15,000 fish or an agreed alternate threshold, the fry will be distributed to Tahltan and Tuya Lakes in a manner which maximizes harvestable production and provides information on the potential production capacity of Tuya Lake.

(c) Taku River:

For the duration of this Chapter, the eggtake goal for the Taku sockeye enhancement program will be five million eggs. The Tatsamenie Lake salmon stock will be used as the source of eggs. Eggs will be incubated at the Port Snettisham central incubation facility (CIF). Fry will be planted into Tatsamenie Lake.

4. Harvest principles and cost sharing:

- (a) The Parties desire to maximize the harvest of enhanced sockeye salmon in their existing fisheries while considering the conservation needs of wild salmon runs. To avoid impacts on co-migrating stocks and species, exploitation rates applied to Taku and Stikine river sockeye salmon in existing mixed stock fisheries in Canada and the United States shall be at levels compatible with the maintenance of wild stocks.
- (b) Harvest sharing arrangements for enhanced stocks will be determined prior to the time eggs are taken to initiate production level enhancement.

5. Cost sharing:

- (a) In carrying out joint enhancement projects, capital construction and on-site operating costs shall be borne by the country on whose soil the project components are located.
- (b) The costs of producing Stikine River enhanced sockeye salmon shall be shared as follows:

- (i) To be paid by Canada:
 - a. Egg take;
 - b. Egg transport;
 - c. Smolt sampling;
 - d. Sampling and numerical analysis necessary to determine the contribution of enhanced transboundary river sockeye salmon to Canadian fisheries; and
 - e. Limnology sampling and hydroacoustics.

- (ii) To be paid by the United States:
 - a. Construction and operation of that portion of the Port Snettisham CIF that is dedicated to enhancement projects on the transboundary rivers.
 - b. Transport of fry to enhancement site; and
 - c. Sampling and analysis necessary to determine the contribution of enhanced transboundary river sockeye salmon to United States fisheries.

- (iii) Projects to be conducted jointly:
 - a. Disease sampling and analysis.

- (c) The costs of producing Taku River enhanced sockeye salmon shall be shared as follows:
 - (i) To be paid by Canada:
 - a. Egg take;
 - b. Egg transport;
 - c. Smolt sampling;
 - d. Sampling and numerical analysis necessary to determine the contribution of enhanced Taku River sockeye stocks to Canadian fisheries;
 - e. Limnology sampling and hydroacoustics; and
 - f. Investigations to determine the feasibility of using sockeye from terminal areas, surplus to brood stock and spawning requirements in enhanced systems, for cost recovery.

 - (ii) To be paid by the United States:
 - a. Construction and operation of that portion of the Port Snettisham CIF that is dedicated to enhancement projects on the transboundary rivers;
 - b. Transport of fry to the enhancement site;
 - c. Sampling and analysis necessary to determine the contribution of enhanced transboundary river sockeye salmon to United States fisheries; and

- d. Processing of sockeye otolith samples collected in the Taku River.

(iii) Projects to be conducted jointly:

- a. Disease sampling and analysis; and
- b. Identification and evaluation of alternative sockeye salmon enhancement opportunities in the Taku River.

Chapter 4: Fraser River Sockeye and Pink Salmon

1. The provisions of this Chapter shall apply for the period 2005 through 2010.
2. The U.S. share of the annual Fraser River sockeye and pink salmon Total Allowable Catch (the "TAC"), as defined in paragraph 3 to be harvested in the waters of Washington State is as follows:
 - (a) for sockeye salmon, the U.S. catch in the Fraser Panel Area shall not exceed 16.5 percent of the TAC;
 - (b) for pink salmon, the U.S. catch in the Fraser Panel Area shall not exceed 25.7 percent of the TAC.
3. For the purpose of this Chapter, the TAC shall be defined as the remaining portion of the annual aggregate Fraser River sockeye and pink runs (including any catch of Fraser River sockeye identified in Alaskan waters) after the spawning escapement targets established, unless otherwise agreed, by application of Canada's pre-season escapement plan (subject to any adjustments made pursuant to paragraph 3(b), below), the agreed Fraser River Aboriginal Exemption, and the catch in Panel authorized test fisheries have been deducted. TAC shall be computed separately for Fraser River sockeye and pink salmon. The following definitions and procedures apply to TAC calculations:
 - (a) The annual U.S. share shall be computed based on the inseason run size estimates in effect at the time the Panel relinquishes control of the U.S. Panel waters, using the escapement targets established by application of Canada's preseason escapement plan as may be adjusted pursuant to paragraph 3(b), below, and taking into account any adjustments as provided in paragraph 8, below.
 - (b) For the purposes of in-season management by the Fraser River Panel, the spawning escapement objective is the target set by Canada, including any extra requirements that may be identified and agreed to by the Fraser River Panel, for natural, environmental, or stock assessment factors, to ensure the fish reach the spawning grounds at target levels. In the event the Fraser River Panel does not agree to additional escapement amounts, the PSC staff will make a recommendation which shall become effective upon agreement by at least one national section of the Panel. Any additional escapement amounts believed necessary by Canada above those determined pursuant to the foregoing will not affect the U.S. share.
 - (c) The agreed Fraser River Aboriginal Fishery Exemption (AFE) is that number of sockeye which is subtracted from the total run size in determining the TAC upon which the U.S. shares specified in paragraph 2 are calculated. Any Canadian harvests in excess of these amounts count against the TAC, and do not affect the U.S. share. The agreed Fraser River Aboriginal Fishery Exemption is the actual catch of Fraser River sockeye harvested in both the in-river and marine area Aboriginal Fisheries, up to 400,000 sockeye annually.

- (d) For computing TAC by stock management groupings, the AFE shall be allocated to management groups as follows: The Early Stuart sockeye exemption shall be up to 20% of the Fraser River Aboriginal Fishery Exemption (AFE), and the remaining balance of the latter exemption shall be based on the average proportional distribution for the most recent three cycles and modified annually as required to address concerns for Fraser River sockeye stocks and other species and as otherwise agreed by the Fraser River Panel. For the duration of this Chapter, the harvest distribution of Early Stuart sockeye is expected to remain similar to that of recent years.
- (e) To the extent practicable, the Fraser River Panel shall manage the United States fishery to spread the United States harvest proportionately to the TACs across all Fraser River sockeye stock management groupings (Early Stuart, Early Summer, Mid-Summer, and Late Run).
4. Pursuant to Article IV, paragraph 3, Canada shall annually establish the Fraser River sockeye and pink salmon spawning escapement targets for the purpose of calculating the annual TAC. For the purposes of pre-season planning, where possible, Canada shall provide forecasts of run size and spawning escapement requirements by stock management groupings to the Fraser River Panel no later than the annual meeting of the Commission. Forecasts of migration patterns, gross escapement needs, and any in-season adjustments in escapement requirements shall be provided to the Fraser River Panel by Canada as they become available in order to accommodate the management needs of the Panel in a timely manner. In addition, on a timely basis, the United States shall provide forecasts of sockeye and pink salmon run size returns affected by Panel management.
 5. The Fraser River Panel will develop fishing plans and in-season decision rules as may be necessary to implement the intent of this Chapter. The Parties shall establish and maintain data sharing principles and processes which ensure that the Parties, the Commission, and the Fraser River Panel are able to manage their fisheries in a timely manner consistent with this Chapter. With respect to management responsibilities, all activities of the Parties and the Fraser River Panel shall be consistent with the August 13, 1985, Memorandum of Understanding between the Parties.
 6. Fraser River Panel pre-season planning meetings that do not occur simultaneously with Commission meetings shall be held alternately in Canada and the United States. Scheduled in-season management meetings shall be held at Richmond, B.C. unless the Panel agrees otherwise. As agreed, Panel meetings may be held by telephone conference call.
 7. The Parties may agree to adjust the definition of the Fraser Panel Area as necessary to simplify domestic fishery management and ensure adequate consideration of the effect on other stocks and species harvested in the Area.
 8. Annually, the U.S. share shall be adjusted for harvest overages and underages in accordance with annual guidance provided by the Commission.

9. The Parties shall establish a Technical Committee for the Fraser River Panel:
- (a) the members shall coordinate the technical aspects of Fraser River Panel activities with and between the Commission staff and the national sections of the Fraser River Panel, and shall report, unless otherwise agreed, to their respective National Sections of the Panel. The Committee may receive assignments of a technical nature from the Fraser River Panel and will report results directly to the Panel.
 - (b) membership of the Technical Committee shall consist of up to five such technical representatives as may be designated by each National Section of the Commission.
 - (c) members of the Technical Committee shall analyze proposed management regimes, provide technical assistance in the development of proposals for management plans, explain technical reports and provide information and technical advice to their respective National Sections of the Panel.
 - (d) the Technical Committee shall work with the Commission staff during pre-season development of the fishery regime and management plan and during in-season consideration of regulatory options for the sockeye and pink salmon fisheries of Fraser Panel Area waters and during post-season evaluations of the season to ensure that:
 - (i) domestic allocation objectives of both Parties are given full consideration;
 - (ii) conservation requirements and management objectives of the Parties for species and stocks other than Fraser River sockeye and pink salmon in the Fraser Panel Area during periods of Panel regulatory control are given full consideration; and
 - (iii) the Commission staff is informed in a timely manner of management actions being taken by the Parties in fisheries outside of the Fraser Panel Area that may harvest sockeye and pink salmon of Fraser River origin.
 - (e) the staff of the Commission shall consult regularly in-season with the Technical Committee to ensure that its members are fully informed in a timely manner on the status of Fraser River sockeye and pink salmon stocks, and the expectations of abundance, migration routes and proposed regulatory options, so the members of the Technical Committee can brief their respective National Sections prior to each in-season Panel meeting.
10. The Parties agree that Panel management actions should meet the following objectives, listed in order of priority:
- (a) obtain spawning escapement goals by stock or stock grouping;
 - (b) meet Treaty defined international allocation; and

(c) achieve domestic objectives.

11. The Fraser River Panel shall manage its fisheries consistent with the provisions of the other chapters of Annex IV to ensure that the conservation needs and management requirements for other salmon species and other sockeye and pink salmon stocks are taken into account.
12. The Parties agree to develop regulations to give effect to the provisions of the preceding paragraphs. Upon approval of the pre-season plan and during the period of Panel regulatory control, all sockeye and pink fisheries under the Panel's jurisdiction are closed unless opened for fishing by in-season order of the Panel.
13. Pursuant to the Parties' obligations under Article V1 the Panel will use the following in-season decision process:
 - (a) The mid-point forecast provided by Canada will be used for management purposes until in-season updates of run size become available. Based upon advice from the Fraser River Panel Technical Committee and PSC staff, the Panel may adopt a more precautionary or optimistic applications of the forecast information until in-season updates of run size are available. PSC staff will provide the Fraser River Panel with recommendations for in-season run size and other factors relevant to sound fisheries management decisions. Based on information such as, but not limited to, in-season estimates of run timing and diversion rate, the PSC staff will make recommendations to the Fraser River Panel regarding in-season decision making.
 - (b) PSC staff will provide the Fraser River Panel with projected harvestable surpluses and status of harvest from fisheries under Panel management. These projections will incorporate any Fraser River Panel agreement on management adjustments that deal with environmental conditions during in-river migration that could significantly impact the Fraser River Panel's ability to achieve spawning escapement objectives and other considerations agreed to by the Panel.
 - (c) Any changes from PSC staff recommendations for points 13(a) and 13(b) above shall be based on bilateral agreement between the National Sections of the Fraser Panel. Acceptance of the PSC staff recommendation requires approval of at least one of the National Sections.
 - (d) The respective National Sections of the Panel will develop proposed regulations for their domestic Panel Water fisheries consistent with recommendations and projections provided by the PSC staff as described in 13(a) and 13(b) as may be modified pursuant to 13(c). Either National Section may ask PSC staff for advice in designing its fisheries proposals. PSC staff will assess and provide advice as to whether proposed fishery regulations for Panel Water fisheries are consistent with recommendations and projections described in 13(a) and 13(b) and Panel objectives. Subsequently, after full discussion of a Panel water fishery proposal, the following may occur: (i) the Panel may adopt the proposal based on bilateral agreement or; (ii) the proposing National Section may modify and re-submit its proposal in response to advice from staff and/or concern(s) raised by the other National Section; or (iii) while acknowledging objection(s) of the other National Section, the Panel will grant the

request to adopt the fishery proposal . In the event that the Panel adopts a fishery under the provisions of the latter circumstance (13(d)(iii)), prior to the commencement of the proposed fishery, the proposing National Section must provide a written rationale for the fishery as submitted.

- (e) If post-season a party maintains that it has been adversely affected by a fishery they objected to pursuant to paragraph 13(d)(iii) above or paragraph 13 (f) below; the PSC staff will prepare an objective report on the circumstances of the fishery and its consequences for the January PSC meeting following the season in question. The Panel will review the staff report and determine what action is required. If the Panel cannot come to agreement on the appropriate action, the issue will be referred to the Commission for resolution during its February annual meeting.
- (f) Pursuant with Article VI, paragraph 7 of the treaty, the Parties will communicate and consult with one another in a timely manner regarding their fishing plans for Fraser River sockeye outside of the Panel's regulatory control. In the event that a party has an objection to the other party's fishing plans as they relate to achievement of Panel objective, the implementing party will provide the rational for such plans.



Excellency,

I have the honour to acknowledge receipt of your Note no. 264 of April 26, 2005, regarding Amendments to the Treaty between the Government of Canada and the Government of the United States of America concerning Pacific Salmon, signed at Ottawa on 28 January 1985, as amended, which reads as follows:

“Excellency,

I have the honor to refer to the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa January 28, 1985, as amended, and to the recommendations made by the Pacific Salmon Commission on February 21, 2005, in accordance with Article XIII, paragraphs 2 and 3 of the Treaty.

In accordance with Article XIII, paragraph 3, of the Treaty, I have the further honor to propose that Chapters 1 and 4 of Annex IV of the Treaty be amended to read as set forth in the enclosures to this note.

I have the further honor to propose that, if this proposal is acceptable to the Government of Canada, this Note, with its enclosures, and Your Excellency's Note in reply to that effect, shall constitute an agreement between our two Governments amending Annex IV of the Treaty, which shall enter into force on the date of Your Excellency's Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Charge d'Affaires ad interim

Enclosures:

1. Annex IV, Chapter 1
2. Annex IV, Chapter 4"

His Excellency
John S. Dickson
Charge d'Affaires ad interim
Embassy of the United States of America

I have the further honour to inform you that the proposals outlined in your Note are acceptable to the Government of Canada

Therefore, your Note, with its enclosures, and this Note in reply, with its enclosures, which are equally authentic in English and French, shall constitute an Agreement between the Government of Canada and the Government of the United States of America amending their 1985 Treaty, as amended, concerning Pacific Salmon, which will enter into force on the date of this reply.

Accept, Excellency, the renewed assurances of my highest consideration.



Legal Adviser

Ottawa, June 17, 2005

NOTE: At the present time the Treaty Office does not have the Enclosures to the Canadian Note. If these Enclosures are received, they will be added to this publication.



Excellence,

J'ai l'honneur d'accuser réception de votre note no 264, datée du 26 avril 2005, concernant des amendements au Traité entre le gouvernement du Canada et le gouvernement des États-Unis d'Amérique concernant le saumon du Pacifique, signé à Ottawa le 28 janvier 1985, tel que modifié, qui, traduite en français, se lit comme suit :

« Excellence,

J'ai l'honneur de porter à votre attention le Traité entre le gouvernement des États-Unis d'Amérique et le gouvernement du Canada concernant le saumon du Pacifique, signé à Ottawa le 28 janvier 1985, tel que modifié, ainsi que les recommandations formulées par la Commission du saumon du Pacifique le 21 février 2005, conformément à l'article XIII, paragraphes 2 et 3 du Traité.

En vertu de l'article XIII, paragraphe 3, du Traité, j'ai également l'honneur de proposer que les chapitres 1 et 4 de l'annexe IV du Traité soient modifiés comme il est énoncé dans les pièces jointes à la présente note.

J'ai également l'honneur de proposer que, si cette proposition convient au gouvernement du Canada, cette note, avec ses pièces jointes, et la note de votre Excellence en réponse à cet effet, constituent un accord entre nos deux gouvernements modifiant l'annexe IV du Traité, qui entrera en vigueur à la date de la note de votre Excellence en réponse.

Acceptez, Excellence, l'assurance renouvelée de ma très haute considération.

Chargé d'affaires ad intérim

Pièces jointes

1. Annexe IV, chapitre 1
2. Annexe IV, chapitre 4 »


Son Excellence
John S. Dickson
Chargé d'affaires ad intérim
Ambassade des États-Unies d'Amérique

J'ai également l'honneur de vous informer que le gouvernement du Canada accepte les propositions exposées ci-dessus.

En conséquence, votre note et ses pièces jointes, et la présente note en réponse, avec ses pièces jointes, dont les versions en langues française et anglaise font également foi, constituent entre le gouvernement du Canada et le gouvernement des États-Unis d'Amérique un Accord modifiant leur Traité de 1985, tel que modifié, concernant le saumon du Pacifique, qui entrera en vigueur à la date de la présente réponse.

Je vous prie d'agréer, Excellence, l'assurance renouvelée de ma plus haute considération.

La juriconsulte,



Ottawa, le 17 juin 2005