

**REPORT OF THE
INTERNATIONAL PACIFIC HALIBUT COMMISSION**

**APPOINTED UNDER THE CONVENTION BETWEEN
CANADA AND THE UNITED STATES OF AMERICA
FOR THE PRESERVATION OF THE NORTH PACIFIC HALIBUT FISHERY**

NUMBER 50

**AGREEMENTS, CONVENTIONS AND TREATIES
BETWEEN CANADA AND THE UNITED STATES
OF AMERICA WITH RESPECT TO THE
PACIFIC HALIBUT FISHERY**

BY

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FOREWORD

The terms of the 1953 Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea provide that the International Pacific Halibut Commission shall publish a report of its activities and investigations from time to time.

The present report provides a reference source for the several Conventions and respective legislation under which the International Pacific Halibut Commission has functioned during the past 45 years. The 1950 Convention on reciprocal port privileges is also included.

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INTRODUCTION

Fisheries provisions in the Treaty of Paris of 1783 between the United States of America and Great Britain terminating the American War of Independence initiated more than a century of disagreements and friction between the two countries. While the provisions had no direct bearing upon the then non-existent Pacific halibut fishery some of the issues involved subsequently did.

Under Article III of the 1783 Treaty, United States fishermen were accorded certain rights and liberties as follows:

"It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland; also in the Gulph of Saint Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish. And also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island) and also on the coasts, bays and creeks of all other of His Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlements, without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground."

Numerous attempts were made to achieve a mutually satisfactory interpretation of Article III, including what was intended by the terms "right" and "liberty". The more definitive of these efforts are briefly recounted.

When it was agreed that the War of 1812 did not abrogate the provisions of the Treaty of Paris of 1783, the Convention of 20 October 1818 attempted to redefine the rights and liberties of United States fishing vessels in Canadian coastal waters. This was only partially successful.

While a later Treaty of 1854 also attempted to be more definitive it was terminated in 1866 by the United States on account of its provision for reciprocal abatement of customs duties. Canada, however, continued the privileges of United States vessels by a system of licensing until 1870. A new treaty was consummated in 1871 which lasted until 1885. Another agreement, the Bayard-Chamberlain Treaty negotiated in 1888 was not ratified by the United States, but the negotiators had provided a *modus vivendi*. Further treaties of 1890 and 1902 to clarify the uncertainties and compose the abrasive situation also failed to be ratified by the United States again due chiefly to the inclusion of provisions for reciprocal freedom from customs duties. Notwithstanding, the *modus vivendi* of 1888 continued and prevailed.

However, with the exacerbations increasing, the original Convention of 1818 was finally submitted in 1909 to a tribunal chosen from the Members of the Permanent Court at the Hague. The Arbitration Award led to the Agreement of 20 July 1912 that provided procedures for amicable and reasonably effective means of resolving disputes regarding the provisions of the 1818 Convention.

Throughout the prolonged negotiations on the fishery question during the

Nineteenth Century there was a disposition to exchange privileges that might be accorded United States vessels in Canadian waters and ports for the access of Canadian fish to United States markets. On the other hand, shifts in political policies in the United States with respect to trade protectionism tended in the past to keep such exchanges off balance and made the duration of some agreements uncertain. Between 1818 and 1919 a number of the fishery compacts between the two countries had foundered on the matter of the reciprocal freedom from customs duties.

TRADE AND ECONOMIC AGREEMENTS

Port use and other trading arrangements as applied to United States vessels by Canada had obviously dominated the Atlantic scene for many years. Although the early Atlantic situation had no immediate application to the then non-existent Northeastern Pacific halibut fishery, in later years it did, and it also possessed a number of parallelisms.

With respect to the Pacific halibut fishery, the exchange of port and other trade privileges for access to markets was also an underlying consideration in the early relationships between the two countries.

It will also be evident that the efforts at joint conservation of the Pacific halibut only became fruitful when trade and economic matters were excluded from any agreement. Experience has shown that the most successful and lasting conservation agreements have been concerned primarily with conservation matters and the maximizing of the physical yields.

Port use privileges came into being in the Pacific halibut fishery shortly after the initiation of the modern commercial halibut fishery on the Pacific Coast in 1888 out of Tacoma, Washington Territory. In 1894 the New England Fish Company established its headquarters in Vancouver, British Columbia, and the Canadian Government, acting unilaterally by an Order-in-Council of 8 November 1897, granted that company the privilege to land halibut caught by its vessels of United States registry in Vancouver, British Columbia. The company could ship said fish in bond to the United States and the vessels were permitted to ship crews and outfit in Canadian ports. The privileges, which were continued from year to year, created no problem in themselves but the concessions that were involved became a matter of major moment in the number of subsequent agreements between the two countries.

With the completion of the Pacific terminus of the Grand Trunk Pacific Railroad at Prince Rupert, British Columbia in 1908 and the subsequent building of fish-handling facilities at that port, a demand arose for similar bonding and other port privileges for owners of American vessels landing in Prince Rupert as prevailed in Vancouver. This was permitted by Order-in-Council of 10 December 1914. However, in Prince Rupert most of the American vessels involved did not qualify. They were not owned by Prince Rupert companies engaged in the purchase and distribution of halibut as was the case with American vessels in Vancouver. Accordingly, the 10 December 1914 Order-in-Council was amended on 9 March 1915 to permit the sale in bond of American-flag halibut to Prince Rupert dealers licensed for the purpose who themselves could then process, store and transship such fish in bond.

These port-use arrangements, including some subsequent modifications, had an important bearing upon the development and magnitude of the Pacific halibut

fishery on different parts of the coast. Furthermore, due to competition between ports for the business generated by the halibut fleets these port privileges were also the object of a great amount of political manoeuvring and agitation both at local and national levels. Notwithstanding, the agreements were maintained with few interruptions.

RECIPROCAL PORT PRIVILEGES CONVENTION

A definitive settlement of the matter of reciprocal port privileges with respect to Pacific Coast halibut fishing vessels was finally achieved on 24 March 1950. The signing at Ottawa on that date of the Convention between the United States of America and Canada for the Extension of Port Privileges to Halibut Fishing Vessels on the Pacific Coast of the United States of America and Canada replaced the year-to-year agreement on the question.

The Convention entered into force on exchange of ratifications at Ottawa on 13 July 1950 (Appendixes S and T).

The agreement provided for halibut fishing vessels of either country to land their halibut and sablefish in Canadian or United States ports without payment of duty; for their sale locally on payment of applicable customs duties; for their transshipment in bond to any port within the country of the vessel's flag, or for their sale in bond for export; and to obtain supplies, repairs and equipment.

CONSERVATION AGREEMENTS

The inclusion of controversial trade arrangements such as port-use privileges and tariffs along with conservation measures in some draft agreements between Canada and the United States practically assured their rejection by one or the other of the principals. In more recent times with the maturing of their economies and a greater sense of interdependence and of equality between Canada and the United States, the highly sensitive and once very abrasive matters such as customs regulations, reciprocal port use, tariff reciprocity, recruitment of crews, and other trading considerations have reached a more equable state of balance and rationality. This was not the case 60 years ago nor in the Nineteenth Century.

Nevertheless it was by the divorcement of trade and economic matters from conservation considerations that the 1923 Halibut Convention became the first effective step toward the ultimate rehabilitation of the Pacific halibut stocks. Tariffs and other trade matters had been relegated to other areas of international negotiations and agreements.

Each agreement, convention or treaty that has some direct bearing on the conservation of the halibut resource of the Northern Pacific Ocean and Bering Sea is discussed chronologically as listed in the following table. The Appendix includes copies of the four Halibut Conventions and when possible facsimiles thereof. Both the Canadian and the United States versions are given. The versions differ only in the order of naming of each country (except the Halibut Convention of 1923 — Canada), some difference in spelling and in punctuation.

Also included in the Appendix are the respective legislative acts by which each country gave its own force of law to the particular covenant and to the regulations enacted thereunder. This responsibility has been reserved to each country under the various Halibut Conventions. The reciprocal port-use Convention of 1950 described above, while having no direct bearing on conservation, is included in the Appendix.

Signed	Dates		Common Name and Place of Signing	Plenipotentiaries		Joint Commission (Initial Members Only)	
	Effective			Canada (Great Britain)	United States of America	Canada (Great Britain)	United States of America
September 3, 1783	January 14, 1784		Treaty of Paris Versailles	David Hartley	John Adams Benjamin Franklin John Hay	—	—
(Notes Exchanged)	December 6, 1892		Agreement of 1892, Washington	Sir Julian Pauncefote British Ambassador	John W. Foster, Secretary of State	William Wakehouse	Richard Rathbun
April 11, 1908	June 4, 1908		Bryce-Root Treaty Washington	James Bryce, British Ambassador	Elihu Root, Secretary of State	Edward Ernest Prince	David Starr Jordan
(Not signed)	—		Draft Treaty of 1919 Washington	John Douglas Hazen, Chief Justice of New Brunswick, Member of Privy Council	Robert Lansing, Secretary of State	—	—
March 2, 1923	October 21, 1924		Halibut Convention of 1923, Washington	Ernest Lapointe, Minister of Marine and Fisheries	Charles Evans Hughes, Secretary of State	John P. Babcock William A. Found	Miller Freeman Henry O'Malley
May 9, 1930	May 9, 1931		Halibut Convention of 1930, Ottawa	W. L. Mackenzie King, Prime Minister and Secretary of State for External Affairs	R. Reath Riggs, Charge d'Affaires in Canada	John P. Babcock William A. Found	Miller Freeman Henry O'Malley
June 29, 1937	July 28, 1937		Halibut Convention of 1937, Ottawa	W. L. Mackenzie King, Prime Minister and Secretary of State for External Affairs	Norman Armour, Envoy Extraordinary and Minister Plenipotentiary	George J. Alexander A. J. Whitmore	Edward W. Allen Frank T. Bell
March 2, 1953	October 28, 1953		Halibut Convention of 1953, Ottawa	James Sinclair, Minister of Fisheries Hugues Lapointe Minister of Veterans Affairs	Don C. Bliss, Charge d'Affaires <i>ad interim</i> William C. Herrington, Special Assistant for Fisheries to the Under Secretary of State	George R. Clark Harold S. Helland George W. Nickerson	Edward W. Allen J. W. Mendenhall Seton H. Thompson

AGREEMENT OF 1892

The Agreement of the 6th day of December 1892 between the United States of America and Great Britain with respect to Canada was probably the first significant attempt by those two countries at formalizing joint conservation measures for fishery resources of common interest. The Agreement had been reached on the basis of inquiries made in Canada by the Royal Commission of 1892 and of investigations by the United States Fish Commission, earliest predecessor of the United States Fish and Wildlife Service.

The stated scope and direction of the Agreement had been joint concern for the prevention of destructive fishing in both the territorial and contiguous waters of the two countries and in the open seas outside the territorial waters of either country; the prevention of pollution or obstruction of such contiguous waters; enforcement of closed seasons; and the preserving and increasing of fish life by restocking with fish and other means.

A joint commission, consisting of two experts, one on behalf of each government, had its initial meeting on the 2nd of March 1893 with the view of reporting within the succeeding two years upon regulatory measures that should be adopted under the Agreement.

It is timely to note that destructive fishing methods had been noted by witnesses to the Royal Commission of 1892 to include the catching of halibut in beam trawls, a gear claimed even at that early date to possess a propensity for the taking of halibut below the optimum harvesting size. In addition to destructive fishing methods, the other concerns of the Agreement are still major issues after 75 years, namely pollution, closed seasons, and aquaculture in its broad sense.

After a number of delays a detailed report was finally submitted nearly four years later on the 31st of December 1896. In essence it was concluded that the observations had —

“clearly demonstrated the inexpediency in attempting to regulate any of the fisheries herein.”

This early effort thus came to naught as far as any substantive accomplishment was concerned.

THE CONVENTION OF 1908 — THE BRYCE-ROOT TREATY

A further and noteworthy attempt by the Dominion of Canada and the United States of America to apply concurrent conservation measures to the fisheries of joint interest was the signing of a treaty between the United States and Great Britain on 11 April 1908, sometimes known as the Bryce-Root Treaty, which established an International Fisheries Commission. The agreement was restricted to fisheries in waters contiguous to the common boundaries of the two countries, and would thereby largely exclude such fisheries as that for halibut. Notwithstanding, it was an important though unsuccessful attempt to consummate a fishery conservation agreement between the two countries.

The International Fisheries Commission, appointed in 1909 under the Treaty, proposed a number of conservation regulations to be applied by concurrent legislative action by the two countries. While Canada implemented all the proposed measures by Order-in-Council in 1910, repeated attempts continuing up to 1914 to secure

passage of concurrent measures in the United States failed. There was strong opposition by State of Washington interests.

The British Ambassador stated on 19 October 1914 —

“that the Government of Canada now purpose to resume their liberty of action in the matter of the administration of the fisheries in Canadian waters contiguous to international boundaries.”

Thereupon the 1908 Convention became non-operative and the International Fisheries Commission was dissolved.

Though the 1908 compact made no concrete contribution to the cause of conservation, it was oriented toward conservation and provided for a joint fisheries commission. Probably its major weakness lay in the fact that its effectiveness depended upon concurrent legislation to implement any regulations rather than through executive action as ultimately became the case with recent halibut conventions.

1919 DRAFT TREATY

Under the impetus of the joint World War I effort a Canadian-American Fisheries Conference opened on 16 January 1918 to consider pending questions concerning the fisheries of both the Atlantic and the Pacific. For the period of the War only, the two governments took concurrent action upon the reciprocal port privileges with respect to the Pacific Coast under United States Executive Order of 20 February 1918 and Canadian Order-in-Council of 8 March 1918.

The Canadian-American Fisheries Conference report of 6 September 1918 included a number of proposals respecting the Pacific halibut fishery. To implement those proposals a draft halibut treaty of 24 October 1919 was developed.

Provisions of that treaty of immediate concern to the Pacific halibut fishery included —

1. That the International Fisheries Commission, provided for under the Convention of 2 September 1919 for the rehabilitation and protection of the sockeye salmon fishery of Fraser River, would also be charged with the supervision of the halibut investigations and the halibut closed season as proposed under the draft treaty of 24 October 1919.

2. A comprehensive reciprocal port-use provision designed to resolve differences that had existed between the two countries particularly on the Atlantic Coast under the Treaty of Paris in 1783 and the Convention of the 20th of October 1818.

3. Full tariff reciprocity in which all shipments of fresh and frozen fish could be admitted from and into each country free of duty.

4. A closed season for halibut fishing from the 16th day of November to the 15th day of February for the succeeding ten years provided that upon recommendation of the International Fisheries Commission such closed season could be modified or rescinded by agreement anytime after 14 February 1924, subject to the provision that in the United States such modification be made by the President of the United States and with the advice and counsel of the Senate thereof.

5. That the closed season should not interfere with fishing for other species of fish, and any halibut that may be incidentally caught when fishing for such other species of fish may be retained and landed, but must either be sold fresh for

consumption in the port or place where it is landed, or must be frozen, canned or cured in such port or place.

6. That a thorough joint investigation be made into the life history of the Pacific halibut and that such investigation shall be undertaken as soon as practicable.

7. That each party shall pay any investigator or investigators it may employ and any joint expenses incurred by agreement shall be paid by the parties in equal moieties.

While it was a period of great expectations stimulated by joint World War I effort, and even the preamble of the draft 1919 Convention had the lofty objective for—

“a free movement of fresh fish to aid in maintaining and increasing the food supplies of the United States and the Dominion of Canada,”

it is difficult at this distance to understand how any successful conclusion could have been expected of such an omnibus-type agreement. There had already been a long history of rejection for many of its provisions. Also the unrealistic joining of the activities under the September 1919 draft Sockeye Salmon Convention with those under the 24 October 1919 draft Halibut Convention did not contribute to the likelihood of its passage. Strong representations again chiefly from the State of Washington resulted in the draft Convention not even being signed. It is noteworthy that the draft did require that in the United States modification of the closed halibut season be made with the advice and counsel of the Senate, i.e. with legislative approval.

Notwithstanding, the draft Halibut Convention of 1919 did provide a substantial base for what ultimately became the first effective convention between the two countries with respect to the Pacific halibut fishery. Some of the landmark features to be found in the 1919 document are — provision for a closed winter season and for its modification; provision for the conduct of a joint investigation with monies to be paid in equal moieties; and provisions for the inadvertent taking of incidental amounts of halibut in closed seasons.

THE HALIBUT CONVENTION OF 1923

Despite the premature demise of the 1919 draft treaty many elements in the Pacific halibut industry in both countries persisted in advocating some international agreement pertaining to the Pacific halibut fishery. However, much of the thrust at that time was still directed to implementing a closed winter season, motivated mainly by economic rather than conservation considerations. That rather limited objective, however, did provide an entrée whereby more broadly-based conservation measures might ultimately be attained.

In 1922 a Canadian Royal Commission in canvassing the British Columbia fishing industry found amongst other things general unanimity on the matter of a winter closed season for halibut fishing. Furthermore, that Commission placed a primary emphasis upon conservation considerations.

Preliminary exchanges in 1922 between Canada and the United States resulted in the formulation of a draft convention that excluded such sensitive provisions as reciprocal port use and tariffs that had been included in the rejected 1919 draft treaty.

Despite general concurrence by the halibut industry that some agreement was necessary, there was continuing opposition in the State of Washington to any agreement that did not provide for legislative review of any control measures that might

lengthen the winter closed season. Notwithstanding, on the 2nd of March 1923 the United States and Canada signed a Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean.

The signing of this Convention was a further step toward an effective joint conservation program for the Pacific halibut fishery. The Convention was also another landmark on Canada's path toward attaining independent nationhood.

There had been a considerable exchange as to whether the Dominion of Canada or Great Britain should be designated in the title of the Convention. Fortunately that problem was overcome by the expedient of having no title on the Convention as signed (Appendix A). Since that time it should be noted, however, that it has been variously titled in official sources. In registering the Convention in 1925 with the League of Nations, Canada described it as the "Convention between the United States of America and *Canada*" (Appendix B). In contrast, the President of the United States in proclaiming the Convention in 1924 entitled it as a Convention between the United States of America and *Great Britain* (Appendix F).

Notwithstanding the problem of entitlement, the most contentious question at the time was who should act and who should sign for His Britannic Majesty.

Commencing on 16 January 1923 there were numerous exchanges between the Colonial Secretary in London, the Governor General of Canada in Ottawa, and the British Ambassador in Washington, D.C. The latter apparently seemed so reluctant to relinquish historic imperial prerogatives that the records suggest even some intentional lack of comprehension of instructions received from the Foreign Office in London.

It was not until a late hour on 1 March 1923, or early 2 March, which was the previously-agreed-upon signing date of the Convention, that the British Ambassador was explicitly instructed by cablegram that Great Britain *per se* would not participate in the signing process, that the duly named plenipotentiary from the Dominion of Canada would *alone* sign on behalf of His Britannic Majesty.

However, the constitutional implications of the solitary signing had created many domestic and international consequences as well as caused delays in ratification. Such independent action by Canada also aroused a furor of parliamentary debate throughout the British Empire and a welter of journalistic comment in many parts of the world. Remarks ranged from a restrained level that "it impaired the unity of the Empire" to the more extreme that it was a "formal withdrawal of Canada from the British Empire." The parliamentary Opposition in Canada labeled it as a "new-fangled manner" of executing a treaty and an "act of discourtesy to the British Ambassador."

Prior to this halibut convention Canada had in some instances signed and even negotiated a number of international agreements, conventions, or treaties on her own behalf, but *always* in conjunction with plenipotentiaries of Great Britain.

Unquestionably the signing of the 1923 Halibut Convention by Canada *alone* unaccompanied by any British plenipotentiary was a significant episode in the development of Canada's autonomy and of an empire to be based upon equality of nationhood.

This assertion of equality and independence and the solitary signing of the Convention by Canada were of concern to the United States Senate. The Foreign Relations Committee in consenting to ratification of the Halibut Convention included an understanding that the Senator from the State of Washington had introduced —

“that none of the nationals and inhabitants, and vessels, and boats of any other part of Great Britain* shall engage in halibut fishing contrary to any of the provisions of this treaty.”

The inclusion of this understanding by the Senate Committee naturally created further problems and delays. This also brought into focus United States recognition of the independent statehood of Canada and other former Dominions of the now British Commonwealth. Earlier this had been an element in the failure of the Foreign Relations Committee of the United States to ratify the Treaty of Versailles as well as to reject the League of Nations.

The United States Secretary of State, Charles Evans Hughes, even noted to the President of the United States at the time, 16 June 1923, that —

“the reservation of the Senate Foreign Affairs Committee had placed the Canadian Government in the embarrassing position of being obliged to go down on bended knee not only to the British Government, but to all of the British self-governing Dominions to secure their consent before Canada could be in a position to carry out legislation of purely domestic character.”

In the ensuing discussions it was felt that concurrent domestic legislation by Canada and the United States would be an interim solution pending reconsideration by the United States Senate to exclude the reservation. Accordingly, the Parliament of Canada assented to such legislation on 30 June 1923 (Appendix C). While the Act did include some ambiguities, there was the further problem in that the United States could not on constitutional grounds execute similar concurrent legislation.

At this point of impasse a joint statement was issued 19 October 1923 noting that the closed season would not take effect in the winter of 1923-1924 pending achieving some solution and binding agreement. The announcement at least relieved some uncertainty in the market for the stocks of frozen halibut.

On 27 May 1924 Canada revised some enforcement provisions in the Act of 30 June 1923, repealing Section 9, and the respective Order-in-Council was signed by the Governor General on 27 May 1924 (Appendix D). Both the original 30 June 1923 Act and the 27 May 1924 amendment were consolidated in 1927 into a single Act, Chapter Seventy-five, Revised Statutes of Canada (Appendix E).

On 31 May 1924 the United States Senate gave its consent to ratification without reservation. Ratifications were finally exchanged on 22 October 1924 and the closed season then went into effect on 15 November 1924.

The year delay brought about by the solitary signing by Canada of the 1923 Convention soon had a significant sequel. As it later materialized, the concern of the United States Senate as expressed in its reservation was not unjustified. Also the associated legislation possesses some implications continuing to the present.

During the House of Commons debate in 1923 on the applicability of the legislation covering the 1923 Convention it had been stated by the Minister that —

“As far as the extra-territorial waters are concerned no vessel from any country can carry on halibut fishing without using either United States or Canadian ports. It will be easy in the legislation which will have to be enacted by the United States Congress and by the Parliament of Canada to close Canadian and American ports to any vessels carrying on halibut fishing.”

* It was subsequently mutually understood that the phrase “part of Great Britain” was intended to be synonymous to being “part of the British Empire”, not just England, Scotland and Wales.

The weakness of this position was to be verified 13 years later when in 1936 the British mothership *Thorland*, with a freezer capacity of about 4,000,000 pounds, planned to fish halibut in the northeastern Pacific. There was also concern that Japan, already engaged in some salmon fishing in Bristol Bay, might also commence to exploit halibut in the Convention waters which included those of the Northern Pacific Ocean and Bering Sea.

Halibut fishing by the *Thorland* was only averted by formal representations made to Great Britain in 1937 by both Canada and the United States. Extended operations by Japan were undoubtedly discouraged by strong representations made to that country by the United States with respect to salmon fishing. However, neither Great Britain nor Japan renounced nor abdicated any of its rights to fish off the North American coast.

To prevent similar events as the *Thorland* occurring in the future and to discourage halibut fishing by other nations in the Convention waters, it was necessary to expand and strengthen the interdiction in Canadian and United States legislation regarding the 1923 Halibut Convention against the use of the ports of Canada and the United States by fishing vessels of a country not a party to the Halibut Convention.

In the United States Enabling Act implementing the 1937 Convention (Appendix N), the prohibition against the landing in United States ports of any halibut caught in Convention waters by any nation not a party to the Halibut Convention was extended to include any type of vessel. With the type of vessel defined as "every description of watercraft or other contrivance used or capable of being used as a means of transportation in water" the prohibition would effectively prevent the use of United States ports by foreign fishing vessels and would also preclude water-borne imports of halibut caught in Convention waters, namely the Northern Pacific Ocean and Bering Sea by other than the parties to the Halibut Convention.

The Convention of 1923 (Appendixes B and F) provided —

1. For a closed season — November 16 to February 15 — subject to modification on recommendation of the Commission anytime after three seasons "by special agreement concluded and duly ratified by both countries."

2. That incidentally-caught halibut during the closed season may be used for food for the crew of the vessel, and any remaining be landed and immediately turned over to enforcement officers.

3. That there be an International Fisheries Commission of four members, two from each country.

4. That each country pay the salaries and expenses of its own members but joint expenses of the Commission be paid in equal moieties.

5. That a thorough investigation be made of the life history of the Pacific halibut and a report made on the results, with recommendations as to the regulations which may seem desirable for preservation and development of the fishery.

6. That the Convention remain in force for five years and thereafter until two years from the date when either party shall give notice to terminate it.

The winter closed season provided under the Convention failed to achieve any effective restriction on the removals and was thus of limited conservation value.

While the provisions of a closed season, which has been furthered largely for economic reasons, was the prominent feature of the 1923 Convention it was a means by which scientific management and conservation of the resources later became a reality under subsequent conventions.

In 1928 the International Fisheries Commission made a comprehensive scientific report to the two governments with definitive recommendations of what was required for the development of the fishery and for the preservation of the resource. The winter closed season alone had been shown to be ineffective in providing any substantial protection.

The report recommended that authority be provided to establish areas within each of which the total catch of halibut could be reduced by a predetermined percentage annually until there was a stability of yield; to revise such percentage from time to time in order to prevent any increase in the amount of fishing; to close nursery grounds; to prevent the use of unduly destructive gear; to extend the present three-month closed season by two weeks at the beginning and provide for future modifications of the closed season; and to license all vessels for statistical and other purposes of the Convention.

While Canada was prepared to implement the Commission's recommendations under the 1923 Convention by Order-in-Council, constitutional requirements in the United States necessitated concluding a new convention to supplant that of 1923. A draft of the new Convention was submitted 29 May 1929 by the United States.

There were amendments to the draft by Canada and protracted exchanges over various details. Again there were strong and organized representations from Washington State not to expand the authority of the Commission without providing for direct legislative controls over its actions. Though the Convention was signed 9 May 1930, ratifications were not exchanged until 9 May 1931, a year later.

THE HALIBUT CONVENTION OF 1930

The general provisions of the 1930 Convention were similar to those of the 1923 Convention (Appendixes H and I). The essential change was the broad regulatory authority conferred upon the International Fisheries Commission as a result of its 1928 recommendations to the Governments. Regulations enacted by the Commission were subject to the approval of the Governor General of Canada and the President of the United States of America.

This procedure was continued under the Conventions of 1937 and 1953. To expedite approval or rejection by the United States of actions of the International Pacific Halibut Commission taken pursuant to Article III, paragraph 2 of the 1953 Convention, the Presidential authority was delegated by Executive Order No. 11467 of 1 May 1969 to the Secretary of State. It was also ordered that in carrying out such authority the Secretary of State shall consult with the Secretary of the Interior.

The Commission was empowered to divide the convention waters into areas and to limit the catch of halibut to be taken from each area during its fishing season; to regulate the licensing and departure of vessels for purposes of the Convention; to collect statistics; to fix the type and character of gear to be used; to close grounds found to be populated by small immature halibut; and to conduct such investigations as were necessary into the life history of the halibut. Enforcement of the closed season and the regulations continued to be the responsibility of the individual governments.

The closed season under the 1923 Convention had been subject to modification or suspension "by special agreement concluded and duly ratified by the high contracting parties on recommendations of the Commission" — a vague and possibly cumbersome procedure. In the United States for an agreement to be "duly ratified" would most likely be interpreted as requiring consent to ratification on the part of the Foreign Relations Committee of the Senate. Under the Convention of 1930 the Halibut Commission was empowered to change or suspend the closed season subject to the approval of the Governor General of Canada and the President of the United States of America.

Under regulations that were initiated in 1932 the stocks improved. The higher catch per unit effort, attracting many primarily salmon vessels to the spring halibut fishery, resulted in the fishing seasons becoming shorter by reason of the earlier attainment of the respective catch limits. With the shorter halibut fishing season the provision of the 1930 Convention governing incidentally-caught halibut became increasingly less satisfactory to all concerned.

Under the 1923 Convention the "food for members of the crew" provision, which was continued almost without change in the 1930 Convention, had been generally adequate for controlling the incidental taking of halibut in the closed season. There was very little activity in the bottomfish fishery during the three-month statutory winter closed season. Consequently the question of the retention of incidentally-caught halibut during the closed halibut season arose very infrequently. However, as the length of the fishing seasons declined with the improved stocks and larger fleets the open season no longer encompassed the main period of activity in the other setline fisheries such as for blackcod in which considerable amounts of incidentally-caught halibut were taken.

From the enforcement standpoint, the detection of sales of illegal halibut was made almost impossible by the fact that vessels even when found unloading halibut at the dock could claim that they were going to turn it over "immediately" to the authorities as required by the Convention. Also, when confronted at sea it could be claimed that all halibut would be surrendered in excess of what would be consumed as "food for the crew." These conditions were conducive to some vessels disposing of catches illegally instead of surrendering them. In order to eliminate the "food for members of the crew" device, amendment of the 1930 Convention was indicated.

Also the shortening of the halibut fishing season and the severe economic conditions in the 1930's had resulted in a considerable amount of illegal fishing past the closing hour. This led to the fleet requesting the Commission to set a last date that vessels could depart from port prior to the date of closure. By setting the last date of departure an appropriate number of days before the final closing date, all vessels would have adequate time to complete a trip of normal length. The measure would thus to some degree protect the individual from the consequences of his poor judgment as to the time required to secure a successful trip. Also by reducing the likelihood of illegal overtime fishing it would also lessen the demands upon the enforcement agencies responsible for surveillance at sea, which at that time was largely dependent upon surface ship patrol.

The foregoing measures had unanimous support from the industry and there was no organized resistance from Washington State interests to such a revision of the 1930 Convention.

In negotiating the several halibut conventions the objections consistently voiced by some to international controls unless subjected to prior legislative approval was symptomatic of a general concern in each country on the diminution of sovereign rights. However, the terms of the Halibut Conventions have clearly safeguarded the sovereignty of the participating countries.

Under each convention the authority of the Commission has been severely restricted to certain clearly defined functions. Also all regulatory proposals, to be effective, required approval by the executive branches of the two national governments. In turn the legislative branches controlled the funds required for the functioning of the Commission. Members of the Commission were appointed by the respective governments and were subject to removal by the same. Furthermore, the Conventions themselves could be terminated upon due notice of either party.

The prolonged negotiation that each convention entailed is also indicative of the critical appraisal that each country made of its content and implications. (See table at foot of page). Also while nationals or inhabitants of each country in violation of the Commission's regulations may be apprehended by either country, the prosecution and judicial determination of offenses under the Convention remain the prerogative of the country to which each such individual belongs.

THE HALIBUT CONVENTION OF 1937

The Convention of 1937 (Appendixes K and M) was a revision of that of 1930 differing in that it permitted more effective control of the capture of halibut caught incidentally to fishing for other species in areas closed to halibut fishing. In addition it provided for prohibiting the departure of vessels to any area when it was deemed that those which had already departed would suffice to take the catch limit for the area.

The provision for the control of retention of incidentally-caught halibut remained in effect for the next 28 years, to 1965. The need for such a provision declined in later years with changing conditions along with the lengthening of the open season, particularly in Area 2 since 1957.

As to the last date of departure, despite some benefits to law observance and its initial popularity with the fleet, the provision was put into effect only in 1937, 1938 and 1939. Considerable objection soon arose to the long notice that had to be given of final closure. Also the measure did tend to reduce the freedom of individual decision or choice. Furthermore the shortening of the fishing season posed a difficult administrative problem by having to determine and announce a last day of departure and a final closing date practically at the outset of the season. The arrangement created more problems than it solved.

The approximate times elapsing between prior substantive discussions to signing and the additional time to exchange of ratifications and coming into force of the several Halibut Conventions were as follows:

Halibut Convention of	Discussions Prior to signing		Additional Time to Effective Date		Total Elapsed Time	
	Years	Months	Years	Months	Years	Months
1923	—	6	1	8	2	2
1930	2	—	1	—	3	—
1937	1	—	—	6	1	6
1953	8	4	—	8	9	—

The stocks continued to rebuild. The further shortening of the fishing season brought about by the entry of many primarily salmon vessels into the now more profitable halibut fishery created a number of biological and economic problems. The foreshortened period of fishing caused imbalanced utilization. Some grounds tended to be overfished and others underfished, both conditions inimical to the maximizing of the yields from the stocks.

From 1933 to 1942 the fleets had endeavored to offset the economic effects of the concentration of landings during a shortened season by engaging in a voluntary program designed to spread the catch over a longer period of the year.

The Commission, whose sole function under the Conventions of 1930 and 1937 was the furthering of the conservation and development of the fishery, could not provide legal support to the voluntary program despite repeated requests by the fleets. The Commission did, however, assist the fleets in their self-imposed program for economic improvement.

Early in 1938 as a result of insistent and unanimous requests of the halibut fleets of Canada and the United States the Commission presented to the two governments a report commending to their consideration the fleets' requests for an extension of the Commission's treaty authority to provide legal support for the voluntary program. The Commission pointed out that the objectives of the fleets' requests were primarily economic although there were some unfavorable biological effects from the shortening of the season beginning to be evident. The effects were not yet great as the seasons were still four and seven months long in Areas 2 and 3 respectively.

In 1940, however, the Commission found through public hearings that the previous unanimity in the fleets no longer existed, and it recommended to the governments that consideration of any treaty change be deferred.

During World War II the seasons became shorter and shorter and the question of their lengthening soon became one of prime biological importance. Accordingly, the Commission in 1946, at the end of hostilities with the Axis Powers and on its own initiative, recommended on conservation grounds treaty changes that would enable it to lengthen the season. This was now supported by the entire halibut fleet and by most of the other participants in the industry.

Again in 1948 with conditions continuing to deteriorate the Commission drew attention of the governments to its 1946 recommendations and to the urgent conservation needs for extended treaty authority. There was some belief that a broader interpretation of the provisions of the 1937 Convention would permit application of some control measures that would permit better utilization of the stocks.

In 1949 the Commission examined the feasibility of dividing the fishing season into two or more periods on the premise that the 1937 Convention provided such authority. However, the Commission was formally advised by the United States that in its opinion the 1937 Convention would not permit such division of the fishing season nor the application of between-trip tie-ups to vessels individually or on any other basis. This decision was based partly on the wording of the 1937 Convention and also upon the fact that at the time of the negotiations of the 1937 Convention such control was neither stated nor contemplated.

Notwithstanding the fact that the Canadian Government advised the Commission to the contrary, that is that the terms of the 1937 Convention did provide the necessary powers, such conflict of national opinions precluded application of any

multiple seasons under the 1937 Convention. It became evident that in order to alleviate the problems facing the fishery a new convention would be required.

The new Convention was signed 2 March 1953 (Appendixes O and Q), the anniversary date of the signing of the first effective Halibut Convention exactly 30 years earlier on 2 March 1923. On exchange of ratifications the 1953 Convention became effective on 28 October 1953.

Commemorative of the first Convention, it was arranged that one of the two plenipotentiaries named by the Government of Canada in 1953 was the Honourable Hugues Lapointe, Minister of Veterans Affairs, son of the Honourable Ernest Lapointe, Minister of Marine and Fisheries of Canada who had been named plenipotentiary by His Britannic Majesty in the signing of the first effective Halibut Convention in 1923.

THE HALIBUT CONVENTION OF 1953

The 1953 Convention contained important changes from the biological and regulatory standpoint. The Commission was authorized to establish one or more open or closed seasons each year in any area. This permitted the Commission to establish supplemental seasons on certain sections of the coast where the short single season had resulted in some underfishing. Other sections of the coast that showed indications of having been overfished during the single regular season were closed and opened at other times.

Membership in the Commission was increased from four to six commissioners, three from each country. This permitted a broader representation of membership, and in the United States there was a domestic understanding that one United States member would be from Alaska.

The International Fisheries Commission was renamed the International Pacific Halibut Commission, a name more descriptive of its functions having been concerned only with the halibut under the various conventions.

Also the Commission was charged with the responsibility of developing and maintaining the halibut stocks at levels which would provide the maximum sustainable yield. While the latter directive had been implied in earlier conventions it was not so explicitly stated.

Under the 1953 Convention the ultimate objective of the past 30 years was attained early in the 1960's. Studies indicated that the halibut stocks in the north-eastern Pacific including those in southeastern Bering Sea were then close to their maximum sustainable levels and were being fully utilized.

Since the early 1960's expanding trawl fisheries, both foreign and domestic, and foreign setlining have been collectively placing an increasing and substantial drain upon the halibut resource. To maintain the halibut stock at the level of maximum sustainable yield as provided in the Convention, the Commission has been required to restrict the level of catch permitted North American fishermen to take cognizance of losses resulting from the operation of concurrent fisheries.

During the forty-five years that the International Pacific Halibut Commission or its predecessor the International Fisheries Commission has been in existence a number of other international fisheries organizations have been formed. The International Pacific Salmon Fisheries Commission and the Inter-American Tropical Tuna Commission have also made concrete contributions to conservation by their close controls respectively of the Fraser River sockeye salmon and the eastern Pacific

yellowfin tuna. Other international agencies where there have been benefits of a tangible nature include the Japanese-Soviet International Commission for the Northwest Pacific Fisheries for its restriction on the catches of Asiatic salmon, the North Pacific Fur Seal Commission for its successful husbanding of the fur seal resources of the North Pacific Ocean and Bering Sea, and the Great Lakes Fishery Commission for its positive control of lamprey predation.

INTERNATIONAL NORTH PACIFIC FISHERIES CONVENTION

No accounting of the several halibut conventions would be complete without specific mention of the Convention for the High Seas Fisheries of the North Pacific Ocean of Canada, Japan and the United States. This Convention, like that between Canada and the United States for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, also embodies the principle that exploitation of the high seas fisheries should be conducted in a manner to ensure the maximum sustained productivity of the resource. In addition it also includes the principle of abstention from fishing certain exploited stocks of fish.

To relate these two bodies with respect to halibut it is necessary to briefly review how the dual control of the halibut stocks in eastern Bering Sea came into being and the *modus operandi* used to effect such control.

Japan under the terms of the North Pacific Convention recognized at the time of signing of that Convention in 1952 that the stocks of halibut originating along the coast of North America fulfilled the conditions for abstention and accordingly abstained from fishing those stocks.

The abstention conditions, as stated in the Annex of the 1952 Convention, were:

- "i Evidence based upon scientific research indicates that more intensive exploitation of the stock will not provide a substantial increase in yield which can be sustained year after year.
- "ii The exploitation of the stock is limited or otherwise regulated through legal measures by each Party which is substantially engaged in its exploitation, for the purpose of maintaining or increasing its maximum sustained productivity; such limitations and regulations being in accordance with conservation programs based upon scientific research, and
- "iii The stock is the subject of extensive scientific study designed to discover whether the stock is being fully utilized and the conditions necessary for maintaining its maximum sustained productivity."

The Convention provides that the continued abstention by Japan is contingent upon the stocks *continuing* to reasonably satisfy the foregoing conditions.

It also requires that the International North Pacific Fisheries Commission study the stocks of halibut for the purpose of determining annually whether such stocks continue to qualify for abstention. However, no determination or recommendation as to whether such a stock continues to qualify for abstention was to be made before the Convention had been in force for five years,* namely before June 12, (Tokyo) 1958, and all decisions of that Commission on abstention must be made by unanimous vote of the three national sections involved.

From 1958 to 1961 inclusive, the International North Pacific Fisheries Commis-

* Ratifications were exchanged June 12 (Tokyo), 1953.

sion annually reviewed the qualifications of the halibut stocks for continued abstention. No determination was made and Japan continued to abstain despite non-agreement with Canada and United States as to the continued qualification of the stocks for abstention.

In 1962 the International North Pacific Fisheries Commission determined that the halibut stock of eastern Bering Sea no longer qualified for abstention and recommended to the governments of the Contracting Parties that it be removed from the Annex to the Convention. In the Annex Japan had agreed to abstain from fishing halibut originating along the coast of North America. Although the Convention does not define such area of origin, it is regarded by Japan to terminate at the meridian of 175° W. Japan considers that the halibut stock west of 175° W. longitude do not originate along the coast of North America.

Notification of the acceptance of the recommendation of the International North Pacific Fisheries Commission was received by that Commission from Japan on February 26, 1963, from the United States on March 23, and from Canada on May 8. Japan commenced fishing halibut in eastern Bering Sea, and on May 10 reported the first landings.

In anticipation that Japan, Canada and the United States would confirm the recommended removal of the halibut stock of eastern Bering Sea from the Annex, joint conservation measures for the Bering Sea east of 175° W. longitude were agreed to at an Interim Meeting of the International North Pacific Fisheries Commission in February 1963. These proposed measures, announced on February 14, included among others the establishment of a regulatory area in eastern Bering Sea, commonly referred to as the Triangle, with an 11,000,000 pound three-nation catch limit for 1963.

The imposition of such a catch limit on what the Halibut Commission had regarded as a fully-utilized population, decimated the stocks. The resultant economic effect on the North American fleet in 1964 caused the Halibut Commission to advise Canada and the United States that it was considering recommending to them that the Triangle open for only five days in 1965, but if such limited fishing could not be provided the Halibut Commission had under consideration recommending that the Triangle remain closed to all fishing in 1965.

Since that time an acceptable *modus operandi* has been developed whereby the halibut resource in eastern Bering Sea has come under the effective scientific control of two international management bodies.

The Halibut Commission, the joint research agency of Canada and United States with respect to Pacific halibut has provided those two countries with specific statements on the indicated regulatory requirements for scientific management of the halibut resource in eastern Bering Sea.

The International North Pacific Fisheries Commission, acting jointly through its three National Sections and committees of scientific advisors and experts, and in communication with scientists of the Halibut Commission, has developed and proposed conservation measures for eastern Bering Sea halibut to the governments of the three participating countries. Such interagency consultation commencing in 1965 has led to a satisfactory concurrence in views between the two Commissions. Such general agreement could be expected as both Commissions are required under their respective Conventions to be guided by scientific findings.

SUMMARY

The agreements, conventions or treaties briefly reviewed herein provide some of the background leading to the conservation of the Pacific halibut by Canada and the United States of America. Although there were many earlier treaties or agreements with fishery provisions entered into between the United States of America and Canada (or Great Britain) including that terminating the American War of Independence and several others ending with the Agreement of 1912 under the North Atlantic Arbitration Award, they lacked any conservation considerations.

The agreement of 1892 and the Bryce-Root Treaty of 1908, though not devoted to halibut did provide for the concurrent application of conservation measures for fisheries in waters contiguous to common boundaries of Canada and the United States of America. Both covenants and their respective regulations failed to attain the concurrent legislative support that they required from both countries.

The 1919 draft Treaty encompassing tariff, reciprocal port privileges and other trade matters along with some conservation considerations, did include some specific measures directed to the Pacific halibut including a closed winter season, joint investigations, and provision for the retention of incidentally-caught halibut in the closed season. This Treaty never reached the signing stage.

The 1923 Convention was directed to the Pacific halibut fishery exclusively. It established the International Fisheries Commission and empowered it to investigate and to recommend measures for the preservation and development of the halibut fishery. It also provided a closed winter season which, however, was of limited conservation value.

The 1930 Convention contained most of the essential elements for scientific management of the resource and conferred upon the International Fisheries Commission regulatory authority that appeared to be required under the then prevailing conditions.

The 1937 Convention extended the authority of the Commission by providing for the further control of the halibut caught incidentally in other fisheries during the closed season and for regulating the departure of vessels.

The 1953 and current Convention broadened the Commission's authority to permit multiple open seasons in any one year. It also changed the name of the Commission to the International Pacific Halibut Commission and enlarged its membership to three members from each country.

While the Halibut Conventions have been successful in conserving the halibut resources, the rapid expansion of other demersal fisheries in the northeastern Pacific including Bering Sea challenges the cause of conservation generally. Also such expansion jeopardizes the realization of benefits that Canada and the United States should expect to receive as a result of their special interests in the Pacific halibut fishery resulting from nearly half a century of restraint and concern for the resource achieved under the joint agreements and related legislation briefly reviewed in this report.

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Appendix A

TREATY

FOR THE PROTECTION OF THE PACIFIC HALIBUT



OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1923

TREATY

FOR THE PROTECTION OF THE PACIFIC HALIBUT

HIS MAJESTY the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

His Britannic Majesty: The Honourable Ernest Lapointe, K.C., B.A., LL.B., Minister of Marine and Fisheries of Canada; and

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

The nationals and inhabitants and the fishing vessels and boats of the Dominion of Canada and of the United States, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coast of the Dominion of Canada and of the United States, including Behring Sea, from the 16th day of November next after the date of the exchange of ratifications of this Convention, to the 15th day of the following February, both days inclusive, and within the same period yearly thereafter, provided that upon the recommendation of the International Fisheries Commission hereinafter described this close season may be modified or suspended at any time after the expiration of three such seasons, by a special agreement concluded and duly ratified by the High Contracting Parties.

It is understood that nothing contained in this Article shall prohibit the nationals or inhabitants and the fishing vessels or boats of the Dominion of Canada and of the United States, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Article. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Article may be retained and used for food for the crew of the

vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Marine and Fisheries of the Dominion of Canada or of the Department of Commerce of the United States. Any fish turned over to such officers in pursuance of the provisions of this Article shall be sold by them to the highest bidder and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

ARTICLE II

Every national or inhabitant, vessel or boat of the Dominion of Canada or of the United States engaged in halibut fishing in violation of preceding Article may be seized except within the jurisdiction of the other Party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be mutually agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of the preceding Article or of the laws or regulations which either High Contracting Party may make to carry those provisions into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE III

The High Contracting Parties agree to appoint within two months after the exchange of ratifications of this Convention, a Commission to be known as the International Fisheries Commission, consisting of four members, two to be appointed by each party. This Commission shall continue to exist so long as this Convention shall remain in force. Each party shall pay the salaries and expenses of its own members and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The Commission shall make a thorough investigation into the life history of the Pacific halibut and such investigation shall be undertaken as soon as practicable. The Commission shall report the results of its investigation to the two Govern-

ments and shall make recommendations as to the regulation of the halibut fishery of the North Pacific Ocean, including the Behring Sea, which may seem desirable for its preservation and development.

ARTICLE IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention with appropriate penalties for violations thereof.

ARTICLE V

This Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it. It shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Washington as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

Done at the City of Washington, the second day of March, in the year of our Lord one thousand nine hundred and twenty-three.

(Sgd.) ERNEST LAPOINTE.

(Sgd.) CHARLES EVANS HUGHES.

Appendix B No. 809. — CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PRESERVATION OF THE HALIBUT FISHERIES OF THE NORTHERN PACIFIC OCEAN, SIGNED AT WASHINGTON, MARCH 2, 1923.

Texte officiel anglais communiqué par le « Advisory Officer » du Canada auprès de la Société des Nations. L'enregistrement de cette convention a eu lieu le 2 février 1925.

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, and THE UNITED STATES OF AMERICA, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean, have resolved to conclude a Convention for this purpose, and have named as their Plenipotentiaries :

HIS BRITANNIC MAJESTY :

The Honourable ERNEST LAPOINTE, K.C., B.A., LL.B., Minister of Marine and Fisheries of Canada ; and

THE PRESIDENT OF THE UNITED STATES OF AMERICA :

Charles Evans HUGHES, Secretary of State of the United States :

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles :

Article I.

The nationals and inhabitants and the fishing vessels and boats of the Dominion of Canada and of the United States, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas of the western coasts of the Dominion of Canada and of the United States, including Behring Sea, from the 16th day of November next after the date of the exchange of ratifications of this Convention, to the 15th day of the following February, both days inclusive, and within the same period yearly thereafter, provided that upon the recommendation of the International Fisheries Commission hereinafter described, this close season may be modified or suspended at any time after the expiration of three such seasons, by a special agreement concluded and duly ratified by the High Contracting Parties.

¹ L'échange des ratifications a eu lieu à Washington, le 21 octobre 1924.

It is understood that nothing contained in this Article shall prohibit the nationals or inhabitants and the fishing vessels or boats of the Dominion of Canada and of the United States, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Article. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Article may be retained and used for food for the crew of the vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Marine and Fisheries of the Dominion of Canada or of the Department of Commerce of the United States. Any fish turned over to such officers in pursuance of the provisions of this Article shall be sold by them to the highest bidder, and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

Article 2.

Every national or inhabitant, vessel or boat of the Dominion of Canada or of the United States engaged in halibut-fishing in violation of the preceding article may be seized except within the jurisdiction of the other Party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be mutually agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of the preceding article or of the laws or regulations which either High Contracting Party may make to carry those provisions into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Article 3.

The High Contracting Parties agree to appoint within two months after the exchange of ratifications of this Convention, a Commission to be known as the International Fisheries Commission, consisting of four members, two to be appointed by each Party. This Commission shall continue to exist so long as this Convention shall remain in force. Each Party shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The Commission shall make a thorough investigation into the life history of the Pacific halibut, and such investigation shall be undertaken as soon as practicable. The Commission shall report the results of its investigation to the two Governments and shall make recommendations as to the regulation of the halibut fishery of the North Pacific Ocean, including the Behring Sea, which may seem to be desirable for its preservation and development.

Article 4.

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention with appropriate penalties for violations thereof.

Article 5.

This Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it. It shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Washington as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective Plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

Done at the City of Washington, the second day of March in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ERNEST LAPOINTE. (L. S.)

(Signed) CHARLES EVANS HUGHES. (L. S.)

Certified a true copy of the original.

Joseph POPE,
Under-Secretary of State for External Affairs,
Canada.

13-14 GEORGE V.

CHAP. 61.

An Act for the Protection of the Northern Pacific Halibut Fishery.

[Assented to 30th June, 1923.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Northern Pacific Halibut Fishery Protection Act*. Short title.

- 2.** In this Act, unless the contrary intention appears,—
- (a) "close season" means the period from the sixteenth day of November in any year to the fifteenth day of February in the next following year, both days inclusive, while this Act is in force, or any other period which may be substituted therefor by the authority of the Governor in Council; Interpretation. "Close season."
- (b) "Territorial waters of Canada" means the territorial waters of Canada contiguous to the Western coast of Canada; "Territorial waters of Canada."
- (c) "Territorial waters of the United States" means the territorial waters of the United States of America contiguous to the Western coast of the United States of America; "Territorial waters of United States."
- (d) "Prohibited waters" comprises and means the territorial waters of Canada, the territorial waters of the United States, the high seas extending westerly from the limit of the territorial waters of Canada, and of the United States of America, also Behring Sea. "Prohibited waters."

- 3.** (a) Every person who at any time in the close season fishes for or catches, or attempts to catch halibut (*hippoglossus*) in the territorial waters of Canada; and Fishing for halibut in territorial or prohibited waters in close season forbidden.
- (b) Every national or inhabitant of Canada who at any time in the close season fishes for or catches or attempts to catch halibut (*hippoglossus*) in prohibited waters; is guilty of an offence against this Act: Provided that

Chap. 61. *Northern Pacific Halibut Fishery.* 13-14 GEO. V.

Exception as to incidental catching if used for food by crew or delivered to officer.

the catching of halibut unintentionally or incidentally while fishing during any close season in any of the waters aforesaid for any species of fish other than halibut, which the person fishing is at the time by law permitted there to fish for or to catch, shall not be an offence against this Act, if the halibut so caught be used for food by the crew of the vessel by which they are taken, or, if not so used, be landed and immediately delivered to any officer of the Department of Marine and Fisheries authorized to receive the same.

Making use of Canadian port to outfit vessel to engage in prohibited fishing.

4. The owner or master of every vessel, and every other person who in the close season or at any time within three days next preceding the beginning of the close season makes use of any port or place in Canada for the purpose of furnishing, providing, preparing or outfitting in any manner, whether in whole or in part, any vessel for the purpose of engaging in the halibut fishery or for the purpose of fishing for halibut in the close season in the prohibited waters or any part thereof; or who causes or permits any vessel to depart from any such port or place with the intention of fishing for halibut in any of the prohibited waters in the close season, or with the intention that such vessel shall fish or be used in fishing for halibut in any of the prohibited waters in the close season, shall be guilty of an offence against this Act; and in like manner the owner or master of any vessel shall, if the said vessel enter or come to any port or place in Canada while upon or in the prosecution of any voyage at any time during which the said vessel fished or was used in fishing for halibut in prohibited waters in the close season, or having on board the said vessel any halibut intentionally caught during the close season in prohibited waters, be guilty of an offence against this Act.

Permitting departure of vessel with intention to engage in such fishing.

Entry in Canada while on voyage to fish, or with halibut on board.

Vessel, cargo and outfit liable to seizure and forfeiture.

5. Every ship, vessel or boat, including all furniture, apparel, appliances, gear, tackle and rigging thereof, which is in any manner operated or used for the purpose of committing an offence against this Act, or for aiding or facilitating the commission of any such offence, may be seized by any officer authorized by the *Customs and Fisheries Protection Act* to board and search, and shall be forfeited; and moreover all the cargo and stores found on board any such ship, vessel or boat at the time of the seizure shall also be forfeited.

R.S., c. 47.

Nationals or inhabitants of Canada or United States and ships registered therein or belonging to them, liable to seizure.

6. Every national or inhabitant of Canada or of the United States, and every ship, vessel or boat registered in Canada or the United States, or belonging to a national or inhabitant of Canada or of the United States, together with all furniture, apparel, appliances, gear, tackle and rigging thereof, engaged in or used in connection with fishing for

1923. *Northern Pacific Halibut Fishery.* Chap. 61.

halibut in prohibited waters or aiding or facilitating, or used for the purpose of aiding or facilitating such fishing, may be seized by any officer authorized by the *Customs and Fisheries Protection Act* to board and search. In case any such ship, vessel or boat or other property be registered in Canada or belong to a national or inhabitant of Canada, the same shall be forfeited, and moreover all the cargo and stores on board any such ship, vessel or boat at the time of the seizure shall also be forfeited. In case any such person, ship, vessel, or boat or other property be a national or inhabitant of the United States, or be registered in the United States or belong to a national or inhabitant of the United States, the same shall be delivered as soon as practicable to an authorized official of the United States to be dealt with in accordance with the law of the United States.

R.S., c. 47.

Canadian vessels may be forfeited.

U.S. vessels to be delivered to U.S. officials.

7. Every person who knowingly has in possession any halibut unlawfully caught within any of the waters aforesaid during any close season shall be guilty of an offence against this Act.

Knowingly in possession of halibut unlawfully caught.

8. Every person guilty of an offence against this Act shall be liable upon summary conviction to a penalty of not less than one hundred dollars and not more than one thousand dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

Penalty for violation.

9. Every ship, vessel or boat which is foreign, or not navigated according to the laws of the United Kingdom or of Canada, which

(a) has been found fishing or preparing to fish or to have been fishing for halibut in the territorial waters of the Western Coast of Canada in any close season; or

(b) has entered such waters for any purpose of which the execution is prohibited by this Act;

may be seized by any of the officers aforesaid, and shall, together with the furniture, apparel, appliances, gear, tackle, rigging, cargo and stores thereof, be forfeited.

Foreign ships fishing in territorial waters, or entering waters for prohibited purpose may be seized and forfeited.

10. Section five and all the following sections except sections ten and twenty-nine of the *Customs and Fisheries Protection Act*, shall be deemed to apply in so far as applicable for all the purposes of this Act, and shall have effect as if enacted in this Act.

Customs and Fisheries Protection Act to apply. R.S., c. 47.

11. (1) It shall be lawful for the Governor in Council to join with the Government of the United States in appointing a commission to be known as the International Fisheries Commission, consisting of four members, two to be appointed by the Governor in Council and two to be appointed by the Government of the United States, and

International Fisheries Commission.

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such Commission shall continue to exist for a period of five years, and thereafter until two years from the day when either of the constituting governments shall give notice to the other of its desire to terminate it.

Salaries and expenses of Commission.

(2) Canada shall pay the salaries and expenses of the members of the Commission appointed by the Governor in Council and one-half of the joint expenses incurred by the Commission.

Powers of Commission.

(3) The Commission shall be empowered to make a thorough investigation into the life history of the Pacific halibut, and to report the result of its investigation to the Government of Canada and to the Government of the United States and may make recommendations for the regulation of the halibut fishery of the Northern Pacific Ocean, including Behring Sea, as may seem desirable for the preservation and development of the said fishery.

Regulations by Governor in Council.

12. The Governor in Council is authorized to make regulations for giving effect to the recommendations of the Commission and otherwise as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Act, and such regulations may provide for the creation of offences and for imposing not only pecuniary penalties and forfeitures but also imprisonment for the commission of any such offences.

Power to create offences and impose penalties.

Commencement of Act.

13. This Act shall come into force on a day to be named by the Governor in Council, and may be repealed by the Governor in Council, provided that it shall not be repealed by the Governor in Council at any time during the existence of the International Fisheries Commission hereinbefore authorized.

Power to repeal.

14-15 GEORGE V.

CHAP. 4.

An Act to amend The Northern Pacific Halibut Fishery Protection Act.

[Assented to 27th May, 1924.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1923, c. 61.

1. Section six of *The Northern Pacific Halibut Fishery Protection Act*, chapter sixty-one of the statutes of 1923, is repealed, and the following is substituted therefor:—

“6. Every national or inhabitant of Canada or of the United States, and every ship, vessel or boat registered in Canada or the United States, or belonging to a national or inhabitant of Canada or of the United States, together with all furniture, apparel, appliances, gear, tackle and rigging thereof, engaged in or used in connection with fishing for halibut in prohibited waters during the close season, or aiding or facilitating, or used for the purpose of aiding or facilitating such fishing, may be seized by any officer authorized by the *Customs and Fisheries Protection Act* to board and search. In case any such ship, vessel or boat or other property be registered in Canada or belong to a national or inhabitant of Canada, the same shall be forfeited, and moreover all the cargo and stores on board any such ship, vessel or boat at the time of the seizure shall also be forfeited. In case any such person, ship, vessel, or boat or other property be a national or inhabitant of the United States, or be registered in the United States or belong to a national or inhabitant of the United States, the same shall be delivered as soon as practicable to an authorized official of the United States to be dealt with in accordance with the law of the United States.”

Nationals or inhabitants of Canada or United States and ships registered therein or belonging to them, liable to seizure.

R.S., c. 47.

Canadian vessels may be forfeited.

U.S. vessels to be delivered to U.S. officials.

2. Section nine of the said Act is repealed.

Seizure of foreign ships.

Appendix E



CHAPTER 75.

An Act for the Protection of the Northern Pacific Halibut Fishery.

SHORT TITLE.

1. This Act may be cited as the Northern Pacific Halibut Fishery Protection Act. 1923, c. 61, s. 1. Short title.

INTERPRETATION.

2. In this Act, unless the contrary intention appears, Definitions.
- (a) "close season" means the period from the sixteenth day of November in any year to the fifteenth day of February in the next following year, both days inclusive, while this Act is in force, or any other period which may be substituted therefor by the authority of the Governor in Council; "Close season."
 - (b) "Prohibited waters" comprises and means the territorial waters of Canada, the territorial waters of the United States, the high seas extending westerly from the limit of the territorial waters of Canada, and of the United States of America, also Behring sea; "Prohibited waters."
 - (c) "Territorial waters of Canada" means the territorial waters of Canada contiguous to the western coast of Canada; "Territorial waters of Canada."
 - (d) "Territorial waters of the United States" means the territorial waters of the United States of America contiguous to the western coast of the United States of America. 1923, c. 61, s. 2. "Territorial waters of United States."

3. Section five and all the following sections except sections ten and twenty-nine of the Customs and Fisheries Protection Act, shall be deemed to apply in so far as applicable for all the purposes of this Act, and shall have effect as if enacted in this Act. 1923, c. 61, s. 10. Customs and Fisheries Protection Act to apply.

4. The Governor in Council may join with the Government of the United States in appointing a commission to be known as the International Fisheries Commission, International Fisheries Commission.

R.S., 1927.

Chap. 75. *Northern Pacific Halibut Fishery.*

consisting of four members, two to be appointed by the Governor in Council and two to be appointed by the Government of the United States.

Duration of Commission.

2. Such Commission shall continue to exist for a period of five years, and thereafter until two years from the day when either of the constituting governments shall give notice to the other of its desire to terminate it.

Salaries and expenses of Commission.

3. Canada shall pay the salaries and expenses of the members of the Commission appointed by the Governor in Council and one-half of the joint expenses incurred by the Commission.

Powers of Commission.

4. The Commission shall be empowered to make a thorough investigation into the life-history of the Pacific halibut, and to report the result of its investigation to the Government of Canada and to the Government of the United States and may make recommendations for the regulation of the halibut fishery of the Northern Pacific ocean, including Behring sea, as may seem desirable for the preservation and development of the said fishery. 1923, c. 61, s. 11.

Regulations by Governor in Council.

5. The Governor in Council may make regulations for giving effect to the recommendations of the Commission and otherwise as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Act.

Power to create offences and impose penalties.

2. Such regulations may provide for the creation of offences and for imposing not only pecuniary penalties and forfeitures but also imprisonment for the commission of any such offences. 1923, c. 61, s. 12.

Fishing for halibut in territorial or prohibited waters in close season forbidden.

6. (a) Every person who at any time in the close season fishes for or catches, or attempts to catch halibut (*hippoglossus*) in the territorial waters of Canada; and

(b) Every national or inhabitant of Canada who at any time in the close season fishes for or catches or attempts to catch halibut (*hippoglossus*) in prohibited waters;

is guilty of an offence against this Act.

Exception as to incidental catching if used for food by crew or delivered to officer.

2. The catching of halibut unintentionally or incidentally while fishing during any close season in any of the waters aforesaid for any species of fish other than halibut, which the person fishing is at the time by law permitted there to fish for or to catch, shall not be an offence against this Act, if the halibut so caught be used for food by the crew of the vessel by which they are taken, or, if not so used, be landed and immediately delivered to any officer of the Department of Marine and Fisheries authorized to receive the same. 1923, c. 61, s. 3.

R.S., 1927.

Northern Pacific Halibut Fishery. Chap. 75.

7. The owner or master of every vessel, or any other person who,
- (a) in the close season or at any time within three days next preceding the beginning of the close season makes use of any port or place in Canada for the purpose of furnishing, providing, preparing or outfitting in any manner, whether in whole or in part, any vessel for the purpose of engaging in the halibut fishery or for the purpose of fishing for halibut in the close season in the prohibited waters or any part thereof; or
- (b) causes or permits any vessel to depart from any such port or place with the intention of fishing for halibut in any of the prohibited waters in the close season, or with the intention that such vessel shall fish or be used in fishing for halibut in any of the prohibited waters in the close season;
- shall be guilty of an offence against this Act.

Outfitting in and departure from Canadian port of vessel to engage in prohibited fishing.

2. The owner or master of any vessel shall, if the said vessel enter or come to any port or place in Canada while upon or in the prosecution of any voyage at any time during which the said vessel fished or was used in fishing for halibut in prohibited waters in the close season, or having on board the said vessel any halibut intentionally caught during the close season in prohibited waters, be guilty of an offence against this Act. 1923, c. 61, s. 4.

Entry into Canada while on voyage to fish, or with halibut on board.

8. Every ship, vessel or boat, including all furniture, apparel, appliances, gear, tackle and rigging thereof, which is in any manner operated or used for the purpose of committing an offence against this Act, or for aiding or facilitating the commission of any such offence,

Vessel, etc., liable to seizure and forfeiture.

- (a) may be seized by any officer authorized by the Customs and Fisheries Protection Act to board and search; and
- (b) shall be forfeited.

2. All the cargo and stores found on board any such ship, vessel or boat at the time of the seizure shall also be forfeited. 1923, c. 61, s. 5.

Cargo to be forfeited.

9. Every national or inhabitant of Canada or of the United States, and every ship, vessel or boat registered in Canada or the United States, or belonging to a national or inhabitant of Canada or of the United States, together with all furniture, apparel, appliances, gear, tackle and rigging thereof, engaged in or used in connection with fishing for halibut in prohibited waters during the close season, or aiding or facilitating, or used for the purpose of aiding or facilitating such fishing, may be seized by any officer

Nationals or inhabitants of Canada or United States and ships registered therein or belonging to them, liable to seizure.

Chap. 75. Northern Pacific Halibut Fishery.

authorized by the Customs and Fisheries Protection Act to board and search.

Canadian vessel to be forfeited.

2. Any such ship, vessel or boat or other property registered in Canada or belonging to a national or inhabitant of Canada, and all the cargo and stores on board any such ship, vessel or boat at the time of the seizure, shall be forfeited.

U.S. vessels to be delivered to U.S. officials.

3. Any such person, ship, vessel, or boat or other property being a national or inhabitant of the United States, or registered in the United States or belonging to a national or inhabitant of the United States, shall be delivered as soon as practicable to an authorized official of the United States to be dealt with in accordance with the law of the United States. 1924, c. 4, s. 1.

Knowingly in possession of halibut unlawfully caught.

10. Every person who knowingly has in his possession any halibut unlawfully caught within any of the waters aforesaid during any close season shall be guilty of an offence against this Act. 1923, c. 61, s. 7.

Penalty for violation.

11. Every person guilty of an offence against this Act shall be liable upon summary conviction to a penalty of not less than one hundred dollars and not more than one thousand dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment. 1923, c. 61, s. 8.

Act may be repealed.

12. This Act may be repealed by the Governor in Council, provided that it shall not be so repealed at any time during the existence of the International Fisheries Commission hereinbefore authorized. 1923, c. 61, s. 13.

Appendix F

TREATY SERIES, No. 701

CONVENTION
BETWEEN THE
UNITED STATES AND GREAT BRITAIN

For the Preservation of the Halibut Fishery
of the Northern Pacific Ocean
Including Bering Sea

SIGNED AT WASHINGTON, MARCH 2, 1923
RATIFICATION ADVISED BY THE SENATE, MAY 31, 1924
RATIFIED BY THE PRESIDENT, JUNE 4, 1924
RATIFIED BY GREAT BRITAIN JULY 21, 1924
RATIFICATIONS EXCHANGED AT WASHINGTON, OCTOBER 21, 1924
PROCLAIMED OCTOBER 22, 1924



WASHINGTON
GOVERNMENT PRINTING OFFICE
1924

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS a Convention between the United States of America and Great Britain for the preservation of the halibut fishery of the Northern Pacific Ocean, including Bering Sea, was concluded and signed by their respective Plenipotentiaries at Washington on the second day of March, one thousand nine hundred and twenty-three, the original of which is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Britannic Majesty: The Honorable Ernest Lapointe, K. C., B. A., LL. B., Minister of Marine and Fisheries of Canada:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The nationals and inhabitants and the fishing vessels and boats of the United States and of the Dominion of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the United States, including Bering Sea, and of the Dominion of Canada, from the 16th day of November next after the date of the exchange of ratifications of this Convention, to the 15th day of the following February, both days inclusive, and within the same period yearly thereafter, provided that upon the recommendation of the International Fisheries Commission hereinafter described, this close season may be modified or suspended at any time after the expiration of three such seasons, by a special agreement concluded and duly ratified by the High Contracting Parties.

It is understood that nothing contained in this Article shall prohibit the nationals or inhabitants and the fishing vessels or boats of the United States and of the Dominion of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Article. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Article may be retained and

used for food for the crew of the vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Commerce of the United States or of the Department of Marine and Fisheries of the Dominion of Canada. Any fish turned over to such officers in pursuance of the provisions of this Article shall be sold by them to the highest bidder and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

ARTICLE II.

Every national or inhabitant, vessel or boat of the United States or of the Dominion of Canada engaged in halibut fishing in violation of the preceding Article may be seized except within the jurisdiction of the other party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be mutually agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of the preceding Article or of the laws or regulations which either High Contracting Party may make to carry those provisions into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE III.

The High Contracting Parties agree to appoint within two months after the exchange of ratifications of this Convention, a Commission to be known as the International Fisheries Commission, consisting of four members, two to be appointed by each party. This Commission shall continue to exist so long as this Convention shall remain in force. Each party shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The Commission shall make a thorough investigation into the life history of the Pacific halibut and such investigation shall be undertaken as soon as practicable. The Commission shall report the results of its investigation to the two Governments and shall make recommendations as to the regulation of the halibut fishery of the North Pacific Ocean, including the Bering Sea, which may seem to be desirable for its preservation and development.

ARTICLE IV.

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention with appropriate penalties for violations thereof.

ARTICLE V.

This Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it. It shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Washington as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

DONE at the City of Washington, the second day of March, in the year of our Lord one thousand nine hundred and twenty-three.

CHARLES EVANS HUGHES [SEAL]
ERNEST LAPOINTE [SEAL]

AND WHEREAS the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the twenty-first day of October, one thousand nine hundred and twenty-four;

NOW, THEREFORE, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the city of Washington, this twenty-second day of October, in the year of our Lord one thousand nine hundred and twenty-four, and of the Independence of the United States of America the one hundred and forty-ninth.

CALVIN COOLIDGE

By the President:
CHARLES E. HUGHES
Secretary of State.

○

[PUBLIC—No. 267—68TH CONGRESS.]

[S. 3434.]

An Act For the protection of the northern Pacific halibut fishery

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the Northern Pacific Halibut Act.

SEC. 2. DEFINITION OF TERMS.—For the purposes of this Act “close season” shall mean the period from the 16th day of November in any year to the 15th day of February in the next following year, both days inclusive, or any other close season hereafter fixed by agreement between the United States and Canada; “territorial waters of the United States” shall mean the waters contiguous to the western coast of the United States and the waters contiguous to the coast of Alaska; “territorial waters of Canada” shall mean the waters contiguous to the western coast of Canada, and “prohibited waters” shall mean the territorial waters of the United States, the territorial waters of Canada, and the high seas, including Bering Sea, extending westerly from the limits of the territorial waters of the United States and of Canada.

SEC. 3. FISHING UNLAWFUL, WHEN.—It shall be unlawful for any person to fish for, or catch, or attempt to catch, any halibut (hippoglossus) at any time during the close season in the Territorial waters of the United States, or for any national or inhabitant of the United States to fish for, or catch, or attempt to catch, any halibut at any time during the close season in prohibited waters. The unintentional catching of halibut, when legally fishing for other species of fish, shall not constitute a violation of this Act if such halibut shall be used for food by the crew of the vessel catching the same, or be landed and immediately delivered to any authorized official of the Bureau of Fisheries of the Department of Commerce of the United States or the fishing authorities of the Dominion of Canada. The halibut delivered to any official of the United States pursuant to the provisions of this section shall be sold by the Department of Commerce to the highest bidder for cash and the proceeds therefrom, exclusive of necessary expenses in connection therewith, shall be covered into the Treasury of the United States.

SEC. 4. UNLAWFUL PORT USE; DEPARTURES.—No person, firm, or corporation shall use any port of or place in the United States to furnish, prepare, or outfit any vessel, boat, or other craft intended to be used in violation of this Act, nor shall any person permit, or cause to be permitted, any vessel, boat, or other craft intended to be used in violation of this Act to depart from any port of or place in the United States.

SEC. 5. UNLAWFUL PORT ENTRY; POSSESSION.—It shall be unlawful for any vessel, boat, or other craft having on board any halibut caught contrary to the provisions of this Act to enter any port or place in the United States, or for any vessel, boat, or other

craft to enter any such port or place while upon or in the prosecution of any voyage during which the vessel, boat, or other craft fished or was used in fishing for halibut in prohibited waters in the close season. It shall be unlawful for any person knowingly to have in his possession any halibut unlawfully caught under the provisions of this Act.

SEC. 6. PENALTY.—Any person violating any of the provisions of this Act shall be fined not less than \$100 nor more than \$1,000 or imprisoned not more than one year, or both.

SEC. 7. PATROLS; SEARCHES.—The President shall cause a patrol of naval or other public vessels designated by him to be maintained in such places and waters as to him shall seem expedient for enforcing this Act, and any officer of any vessel engaged in such service, and any other officers designated by the President, may search any vessel, boat, or other craft in the territorial waters of the United States and any vessel, boat, or other craft of the United States on the high seas when suspected of having violated or being about to violate the provisions of this Act.

SEC. 8. CANADIAN VESSELS AND NATIONALS.—Every national or inhabitant and every vessel of Canada found violating this Act shall be delivered as soon as practicable to an authorized official of Canada at the nearest point to the place of seizure or elsewhere as the officials of the United States seizing the same and the authorized officials of Canada may agree upon, and the witnesses and proof necessary to the prosecution of said persons and vessels of Canada shall be furnished with reasonable promptitude to the authorities of Canada having jurisdiction thereof.

SEC. 9. SEIZURE AND FORFEITURE.—Every vessel, boat, or craft employed in any manner in violating this Act shall be seized by any collector, surveyor, inspector, officer of a revenue cutter, or person specified in section 7 hereof, and except as provided in section 8 hereof, every such vessel, boat, or craft, including its tackle, apparel, furniture, cargo, and stores, shall be forfeited to the United States by proper proceedings in any court of the United States in Alaska, California, Oregon, or Washington.

SEC. 10. FISHERIES COMMISSION EXEMPTION.—None of the inhibitions contained in this Act shall apply to the International Fisheries Commission when engaged in any scientific investigation.

SEC. 11. APPROPRIATION.—There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$15,000 for the fiscal year 1925 for the salaries and expenses of the International Fisheries Commission.

SEC. 12. DURATION OF ACT.—This Act shall take effect immediately and continue in force until the termination of the convention concluded by the United States and Great Britain on March 2, 1924, for the protection of the halibut fishery of the northern Pacific Ocean.

Approved, June 7, 1924.

Appendix H

PACIFIC HALIBUT FISHERY

CONVENTION between Canada and the United States
for the preservation of the Halibut Fishery of the
Northern Pacific Ocean and Bering Sea, signed at Ottawa,
on the 9th day of May, 1930.



OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1930

PACIFIC HALIBUT FISHERY CONVENTION

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, and the President of the United States of America, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

His Majesty, for the Dominion of Canada:

The Right Honourable William Lyon Mackenzie King, Prime Minister and Secretary of State for External Affairs; and

The President of the United States of America:

Mr. B. Reath Riggs, Chargé d'Affaires of the United States of America in Canada;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The nationals and inhabitants and fishing vessels and boats of the Dominion of Canada and of the United States of America, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the Dominion of Canada, and of the United States of America, including the southern as well as the western coasts of Alaska, from the first day of November next after the date of the exchange of ratifications of this Convention to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by Article III is hereby empowered, subject to the approval of the Governor General of the Dominion of Canada and of the President of the United States of America, to suspend or modify the closed season provided for by this article, as to part or all of the convention waters, when it finds after investigation such changes are necessary.

It is understood that nothing contained in this convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the Dominion of Canada or of the United States of America, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Convention or by any regulations adopted in pursuance of its provisions. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Convention or by any regulations adopted in pursuance of its provisions may be retained and used for food for the crew of the vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Marine and Fisheries of the Dominion of Canada or of the Department of Commerce of the United States of America. Any fish turned over to such officers in pursuance of the provisions of this article shall be sold by them to the highest bidder and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

It is further understood that nothing contained in this convention shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes during the closed season.

ARTICLE II

Every national or inhabitant, vessel or boat of the Dominion of Canada or of the United States of America engaged in halibut fishing in violation of the preceding article may be seized except within the jurisdiction of the other party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE III

The High Contracting Parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention between His Britannic Majesty and the United States of America for the preservation of the halibut fishery of the Northern Pacific Ocean including Bering Sea, concluded March 2, 1923, consisting of four members, two appointed by each Party, which Commission shall make such investigations as are necessary into the life history of the halibut in the convention waters and shall publish a report of its activities from time to time. Each of the High Contracting Parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each of the High Contracting Parties shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The High Contracting Parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the Governor General of the Dominion of Canada and of the President of the United States of America, may, in respect of the nationals and inhabitants and fishing vessels and boats of the Dominion of Canada and of the United States of America, from time to time,

- (a) divide the convention waters into areas;
- (b) limit the catch of halibut to be taken from each area;
- (c) fix the size and character of halibut fishing appliances to be used therein;
- (d) make such regulations for the collection of statistics of the catch of halibut including the licensing and clearance of vessels, as will enable the International Fisheries Commission to determine the condition and trend of the halibut fishery by banks and areas, as a proper basis for protecting and conserving the fishery;
- (e) close to all halibut fishing such portion or portions of an area or areas, as the International Fisheries Commission find to be populated by small, immature halibut.

ARTICLE IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulation adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

The present Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

This Convention shall, from the date of the exchange of ratifications be deemed to supplant the Convention between His Britannic Majesty and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean including Bering Sea, concluded March 2, 1923.

ARTICLE VI

This Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged at Ottawa as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have hereunto affixed their seals.

Done at Ottawa on the ninth day of May, in the year one thousand nine hundred and thirty.

W. L. MACKENZIE KING,
B. REATH RIGGS.

Appendix I

TREATY SERIES, No. 837

PRESERVATION OF HALIBUT FISHERY
OF NORTHERN PACIFIC OCEAN
AND BERING SEA

CONVENTION
BETWEEN THE UNITED STATES OF AMERICA
AND THE DOMINION OF CANADA

Signed at Ottawa, May 9, 1930.

Ratification advised by the Senate of the United States, February 24,
1931 (legislative day of February 17, 1931).

Ratified by the President of the United States, March 4, 1931.

Ratified by His Majesty in respect of Canada, March 20, 1931.

Ratifications exchanged at Ottawa, May 9, 1931.

Proclaimed by the President of the United States, May 14, 1931.



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1931

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS a Convention between the United States of America and His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, for the preservation of the halibut fishery of the northern Pacific Ocean and Bering Sea, was concluded and signed by their respective Plenipotentiaries at Ottawa on the ninth day of May, one thousand nine hundred and thirty, the original of which Convention is word for word as follows:

The President of the United States of America,
And His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada,

Being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

The President of the United States of America: Mr. B. Reath Riggs, Chargé d'Affaires of the United States of America in Canada; and

His Majesty, for the Dominion of Canada: The Right Honourable William Lyon Mackenzie King, Prime Minister and Secretary of State for External Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The nationals and inhabitants and fishing vessels and boats of the United States of America and of the Dominion of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the United States of America, including the southern as well as the western coasts of Alaska, and of the Dominion of Canada, from the first day of November next after the date of the exchange of ratifications of this Convention to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by Article III is hereby empowered, subject to the approval of the President

of the United States of America and of the Governor General of the Dominion of Canada, to suspend or modify the closed season provided for by this article, as to part or all of the convention waters, when it finds after investigation such changes are necessary.

It is understood that nothing contained in this convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of the Dominion of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Convention or by any regulations adopted in pursuance of its provisions. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Convention or by any regulations adopted in pursuance of its provisions may be retained and used for food for the crew of the vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Commerce of the United States of America or of the Department of Marine and Fisheries of the Dominion of Canada. Any fish turned over to such officers in pursuance of the provisions of this article shall be sold by them to the highest bidder and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

It is further understood that nothing contained in this convention shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes during the closed season.

ARTICLE II

Every national or inhabitant, vessel or boat of the United States of America or of the Dominion of Canada engaged in halibut fishing in violation of the preceding article may be seized except within the jurisdiction of the other party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE III

The High Contracting Parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention between the United States of America and His Britannic Majesty for the preservation of the halibut fishery of the Northern Pacific

Ocean including Bering Sea, concluded March 2, 1923, consisting of four members, two appointed by each Party, which Commission shall make such investigations as are necessary into the life history of the halibut in the convention waters and shall publish a report of its activities from time to time. Each of the High Contracting Parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each of the High Contracting Parties shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The High Contracting Parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the President of the United States of America and of the Governor General of the Dominion of Canada, may, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of the Dominion of Canada, from time to time,

- (a) divide the convention waters into areas;
- (b) limit the catch of halibut to be taken from each area;
- (c) fix the size and character of halibut fishing appliances to be used therein;
- (d) make such regulations for the collection of statistics of the catch of halibut including the licensing and clearance of vessels, as will enable the International Fisheries Commission to determine the condition and trend of the halibut fishery by banks and areas, as a proper basis for protecting and conserving the fishery;
- (e) close to all halibut fishing such portion or portions of an area or areas, as the International Fisheries Commission find to be populated by small, immature halibut.

ARTICLE IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulation adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

The present Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

This Convention shall, from the date of the exchange of ratifications be deemed to supplant the Convention between the United States of America and His Britannic Majesty for the Preservation of the Halibut Fishery of the Northern Pacific Ocean including Bering Sea, concluded March 2, 1923.

ARTICLE VI

This Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged at Ottawa as soon as practicable, and the Con-

vention shall come into force on the day of the exchange of ratifications.

IN FAITH WHEREOF, the respective plenipotentiaries have signed the present Convention in duplicate, and have hereunto affixed their seals.

DONE at Ottawa on the ninth day of May, in the year one thousand nine hundred and thirty.

[SEAL] B. REATH RIGGS.

[SEAL] W. L. MACKENZIE KING.

AND WHEREAS the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Ottawa on the ninth day of May, one thousand nine hundred and thirty-one;

NOW, THEREFORE, BE IT KNOWN THAT I, HERBERT HOOVER, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the city of Washington this fourteenth day of May in the year of our Lord one thousand nine hundred and [SEAL] thirty-one, and of the Independence of the United States of America the one hundred and fifty-fifth.

HERBERT HOOVER

By the President:
HENRY L STIMSON
Secretary of State.

○

Appendix J

[PUBLIC—No. 113—72D CONGRESS]

[H. R. 8084]

AN ACT

For the protection of the northern Pacific halibut fishery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That this Act may be cited as the Northern Pacific Halibut Act.

DEFINITION OF TERMS

SEC. 2. For the purposes of this Act "close season" shall mean the period from the 1st day of November in any year to the 15th day of February in the next following year, both days inclusive, unless this period or any part thereof shall be opened to fishing by regulation of the International Fisheries Commission, as empowered by the provisions of the Convention for the Preservation of the Halibut Fishery of Northern Pacific Ocean and Bering Sea, signed on behalf of the United States of America and the Dominion of Canada, May 9, 1930, or any other close season hereafter established by the International Fisheries Commission in accordance with the provisions of that convention, "territorial waters of the United States" shall mean the waters contiguous to the western coast of the United States and the waters contiguous to the southern and western coasts of Alaska; "territorial waters of Canada" shall mean the waters contiguous to the western coast of Canada; and "convention waters" shall mean the territorial waters of the United States, the territorial waters of Canada, and the high seas, including Bering Sea, extending westerly from the limits of the territorial waters of the United States and of Canada.

FISHING UNLAWFUL; WHEN

SEC. 3. It shall be unlawful for any person to fish for, or catch, or attempt to catch, any halibut (*Hippoglossus*) at any time in any of the territorial waters of the United States closed to fishing under the provisions of the above-mentioned convention or by any regulations adopted in pursuance thereof, or under the provisions of this Act, or for any national or inhabitant of the United States to fish for, or catch, or attempt to catch, any halibut at any time in any of the convention waters so closed to fishing, or to violate any regulations established pursuant to the authority of the convention. The unintentional catching of halibut, when legally fishing for other species of fish, shall not constitute a violation of this Act if such halibut shall be used for food by the crew of the vessel catching the same, or be landed and immediately delivered to any official duly

authorized by the Secretary of Commerce of the United States to accept delivery, or delivered to the proper authorities of the Dominion of Canada. The halibut delivered to any official of the United States pursuant to the provisions of this section shall be sold to the highest bidder for cash and the proceeds therefrom, exclusive of necessary expenses in connection therewith, shall be covered into the Treasury of the United States.

UNLAWFUL PORT USE; DEPARTURES

SEC. 4. No person, firm, or corporation shall use any port of or place in the United States to furnish, prepare, or outfit any vessel, boat, or other craft intended to be used in violation of the Convention for the Preservation of the Halibut Fishery or in violation of this Act, nor shall any person permit, or cause to be permitted, any vessel, boat, or other craft intended to be used in violation of the said convention or of this Act to depart from any port of or place in the United States.

UNLAWFUL PORT ENTRY; POSSESSION

SEC. 5. It shall be unlawful for any vessel, boat, or other craft having on board any halibut caught contrary to any of the provisions of the said convention or of this Act to enter any port or place in the United States, or for any vessel, boat, or other craft to enter any such port or place while upon or in the prosecution of any voyage during which the vessel, boat, or other craft fished or was used in fishing for halibut in convention waters closed to fishing. It shall be unlawful for any person knowingly to have in his possession in any port of or place in the United States or in any territorial water of the United States any halibut unlawfully caught under the provisions of the said convention or of this Act. It shall also be unlawful for any person to land in any port of or place in the United States halibut caught in convention waters during any period closed to fishing.

PENALTY

SEC. 6. Any person violating any of the provisions of the said convention or of this Act shall be fined not less than \$100 nor more than \$1,000 or imprisoned not more than one year, or both.

PATROLS; SEARCHES

SEC. 7. The President shall cause a patrol of naval or other public vessels designated by him to be maintained in such places and waters as to him shall seem expedient for enforcing the said convention and this Act, and any officer of any vessel engaged in such service, and any other officers designated by the President, may stop, board, and search any vessel, boat, or other craft in the territorial waters of the United States and any vessel, boat, or other craft of the United States on the high seas when suspected of having violated or being about to violate any of the provisions of the said convention or of this Act.

CANADIAN VESSELS AND NATIONALS

SEC. 8. Every national or inhabitant and every vessel, boat, or other craft of Canada found violating the said convention or this Act shall be delivered as soon as practicable to an authorized official of Canada at the nearest point to the place of seizure or elsewhere as the officials of the United States seizing the same and the authorized officials of Canada may agree upon, and the witnesses and proof necessary to the prosecution of said persons and vessels of Canada shall be furnished with reasonable promptitude to the authorities of Canada having jurisdiction thereof.

SEIZURE AND FORFEITURE

SEC. 9. Every vessel, boat, or craft, employed in any manner in violating any of the provisions of the said convention or of this Act shall be seized by any collector, surveyor, inspector, officer of a revenue cutter, or person specified in section 7 hereof, and except as provided in section 8 hereof, every such vessel, boat, or craft, including its tackle, apparel, furniture, cargo, and stores, shall be forfeited to the United States by proper proceedings in the district court of the United States, including the United States District Courts of Alaska, in the judicial district in which the violation is alleged to have occurred; or in the United States district court in the nearest judicial district within the United States, if the violation is alleged to have occurred outside the territorial waters of the United States.

FISHERIES COMMISSION EXEMPTION

SEC. 10. None of the inhibitions contained in this Act shall apply to the International Fisheries Commission when engaged in any scientific investigation.

DURATION OF ACT

SEC. 11. This Act shall take effect immediately and shall continue in force until the termination of the convention signed by the United States and the Dominion of Canada, on May 9, 1930, for the preservation of the halibut fishery of the northern Pacific Ocean and Bering Sea.

Approved, May 2, 1932.

Appendix K

CONVENTION
BETWEEN
CANADA
AND THE
UNITED STATES OF AMERICA
FOR THE
PRESERVATION OF THE HALIBUT FISHERY
OF THE NORTHERN PACIFIC OCEAN AND BERING SEA

Signed at Ottawa, January 29th, 1937



OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1937

**CONVENTION BETWEEN CANADA AND THE UNITED STATES OF
AMERICA FOR THE PRESERVATION OF THE HALIBUT FISHERY
OF THE NORTHERN PACIFIC OCEAN AND BERING SEA
SIGNED AT OTTAWA JANUARY 29th, 1937**

His Majesty the King of Great Britain, Ireland, and the British dominions
beyond the Seas, Emperor of India, in respect of the Dominion of Canada,
And the President of the United States of America,

Desiring to provide more effectively for the preservation of the halibut
fishery of the northern Pacific Ocean and Bering Sea, have resolved to conclude
a convention revising the convention for the preservation of that fishery signed
on their behalf at Ottawa on May 9, 1930, and have named as their plenipo-
tentiaries for that purpose,

His Majesty, for the Dominion of Canada:

The Right Honourable William Lyon Mackenzie King, Prime Minister
and Secretary of State for External Affairs; and

The President of the United States of America:

Norman Armour, Envoy Extraordinary and Minister Plenipotentiary
of the United States of America to Canada;

Who, after having communicated to each other their respective full powers,
found in good and due form, have agreed upon the following articles:—

ARTICLE I

The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the United States of America, including the southern as well as the western coasts of Alaska, and of Canada, from the first day of November next after the date of the exchange of ratifications of this Convention to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by Article III is hereby empowered, subject to the approval of the President of the United States of America and of the Governor General of Canada, to suspend or change the closed season provided for by this Article, as to part or all of the convention waters, when it finds after investigation such suspensions or changes are necessary, and to permit, limit, regulate and prohibit in any area or at any time when fishing for halibut is prohibited, the taking, retention and landing of halibut caught incidentally to fishing for other species of fish, and the possession during such fishing of halibut of any origin.

It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Convention or by any regulations adopted in pursuance of its provisions.

It is further understood that nothing contained in this Convention shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes at any time.

ARTICLE II

Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in halibut fishing on the high seas in violation of this Convention or of any regulation adopted under the provisions thereof may be seized by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Each High Contracting Party shall be responsible for the proper observance of this Convention, or of any regulation adopted under the provisions thereof, in the portion of its waters covered thereby.

ARTICLE III

The High Contracting Parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention for the preservation of the halibut fishery, signed at Washington, March 2, 1923, and continued under the Convention signed at Ottawa, May 9, 1930, consisting of four members, two appointed by each Party, which Commission shall make such investigations as are necessary into the life history of the halibut in the convention waters and shall publish a report of its activities from time to time. Each of the High Contracting Parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each of the High Contracting Parties shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The High Contracting Parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the President of the United States of America and of the Governor General of Canada, may, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, from time to time,

- (a) divide the convention waters into areas;
- (b) limit the catch of halibut to be taken from each area within the season during which fishing for halibut is allowed;
- (c) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Fisheries Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (b) of this paragraph;
- (d) fix the size and character of halibut fishing appliances to be used in any area;

(e) make such regulations for the licensing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;

(f) close to all halibut fishing such portion or portions of an area or areas, as the International Fisheries Commission find to be populated by small, immature halibut.

ARTICLE IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

The present Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

This Convention shall, from the date of the exchange of ratifications be deemed to supplant the convention for the preservation of the halibut fishery signed at Ottawa, May 9, 1930.

ARTICLE VI

This Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged at Ottawa as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have hereunto affixed their seals.

Done at Ottawa on the twenty-ninth day of January, in the year one thousand nine hundred and thirty-seven.

(L.S.) W. L. MACKENZIE KING

(L.S.) NORMAN ARMOUR

Appendix L

1 GEORGE VI.

CHAP. 36.

An Act respecting a certain Convention between Canada and the United States of America, for the preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 29th day of January, 1937.

[Assented to 10th April, 1937.]

HIS Majesty by and with the advice and consent of the R.S., c. 75.
Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as *The Northern Pacific Halibut Fishery (Convention) Act, 1937.* Short title.

INTERPRETATION.

2. In this Act, unless the contrary intention appears,—
- (a) "closed season" means, in respect of fishing for halibut in the convention waters, the period from the 1st day of November in any year to the 15th day of February in the next following year, both days inclusive, or any other period which may be substituted therefor either as to part or all of the convention waters by the International Fisheries Commission, with the approval of the Governor in Council and of the President of the United States of America; Definitions.
"Closed season."
- (b) "Convention" means the convention between Canada and the United States of America for the preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 29th day of January, 1937; "Conven-
tion."
- (c) "convention waters" comprises and means the territorial waters and the high seas off the western coasts of Canada and of the United States of America, including the southern as well as the western coasts of Alaska; "Conven-
tion waters."

Chap. 36. *N. Pacific Hal. Fish. (Conv.) Act.* 1 GEO. VI.

- "Halibut." (d) "halibut" means the species of fish known as *hippoglossus*;
- "International Fisheries Commission." (e) "International Fisheries Commission" means the commission established by the Convention for the preservation of the halibut fishery aforesaid concluded on May 2, 1923, and under the authority of the *Northern Pacific Halibut Fishery Protection Act* and continued by the Convention for the preservation of the said fishery concluded on May 9, 1930, and which is further continued under the Convention and under the provisions of this Act;
- R.S., c. 75.
- "Regulations." (f) "regulations" means orders or regulations of the Governor in Council;
- "Territorial waters of Canada." (g) "territorial waters of Canada" means Canadian waters as defined for the purposes of the *Customs Act* which are contiguous to the western coast of Canada.
- R.S., c. 42.
- Convention confirmed and sanctioned. 3. The Convention, which is set out in the Schedule to this Act, is hereby confirmed and sanctioned.
- Suspension of inconsistent laws. 4. In the event of any inconsistency between the provisions of this Act and of the Convention, and the operation of any other law, the provisions of this Act and of the Convention shall to the extent of such inconsistency prevail.
- Customs and Fisheries Protection Act to apply.* 5. Section five and all of the following sections, except sections ten and twenty-nine, of the *Customs and Fisheries Protection Act*, chapter forty-three of the Revised Statutes of Canada, 1927, shall be deemed to apply in so far as applicable for all the purposes of this Act, and shall have effect as if enacted herein.
- Appointments, etc., by Governor in Council. 6. The Governor in Council may make such appointments, establish such offices, and do such things as may be deemed necessary for carrying out the Convention, and for giving effect to any of its provisions.
- Salaries and expenses of the International Fisheries Commission. 7. Canada shall pay the salaries and expenses of the members of the International Fisheries Commission appointed by the Governor in Council and one-half of the joint expenses incurred by the Commission out of moneys provided by Parliament.
- Fishing, etc., in territorial or convention waters in closed season. 8. Every person who at any time in the closed season fishes for, or catches, or attempts to catch, halibut in the territorial waters of Canada in contravention of any provision of this Act, or of any regulation; and every national or inhabitant of Canada who at any time in the closed season fishes for, or catches, or attempts to catch, halibut in convention waters, in contravention of any provision of this Act, or of any regulation, is guilty of an offence against this Act.

1937. *N. Pacific Hal. Fish. (Conv.) Act.* Chap. 36.

9. (1) The Governor in Council may make orders and regulations to give effect to any permission, limitation, regulation, prohibition, or other action of the International Fisheries Commission, pursuant to the provisions of the Convention.

Orders and Regulations by Governor in Council.

(2) The Governor in Council may make such orders and regulations as may be deemed necessary for the purpose of carrying out the Convention or for giving effect to any of its provisions.

Carrying out the Convention.

(3) The Governor in Council may make such orders and regulations as appear to him to be necessary to prevent the use of the territorial waters of Canada or of Canadian ports or of any other Canadian facilities, whether directly or indirectly, by any vessel, national or inhabitant of any country not a party to the Convention employed or intended to be employed either directly or indirectly in the halibut fishery in Convention waters.

To prevent the use of territorial waters by others.

(4) The Governor in Council may rescind, revoke, amend or vary any order or regulation made under the authority of this section.

Repeal and amendment.

(5) Every person who at any time contravenes any order or regulation made under the provisions of this section shall be guilty of an offence against this Act.

Offence.

(6) Every order or regulation made under the authority of this section shall be published in the *Canada Gazette* and shall, as on the date of such publication or any later date mentioned therein, have force and effect as if it were enacted by parliament.

Publication of orders and regulations.

10. (1) The owner or master of any vessel, or any other person, who,—

Outfitting for the purpose of engaging in prohibited fishing.

(a) makes use of any port or place within Canada for the purpose of furnishing, providing, preparing or outfitting in any manner, whether in whole or in part, any vessel for the purpose of engaging in the halibut fishery within convention waters or within any specified area thereof in contravention of any provision of this Act, or of any regulation; or

(b) causes or permits any vessel to depart from any such port or place with the intention of fishing for halibut within convention waters or within any specified area thereof in contravention of any provision of this Act, or of any regulation;

Vessel departing with the intention of fishing.

shall be guilty of an offence against this Act.

Chap. 36. *N. Pacific Hal. Fish. (Conv.) Act.* 1 GEO. VI.

Entry into
Canada
while on
voyage to
fish, or
with halibut
on board.

(2) The owner or master of any vessel shall, if the said vessel enter or come to any port or place in Canada while upon or in the prosecution of any voyage at any time during which the said vessel fished or was used in fishing for halibut as aforesaid, or have on board the said vessel any halibut caught while so fishing, be guilty of an offence against this Act.

Landing or
attempting
to land, etc.

11. The owner or master of any vessel or any person who lands or attempts to land, or knowingly has in his possession, in any port or place within Canada any halibut caught in convention waters or within any specified area thereof in contravention of any provision of this Act, or of any regulation, shall be guilty of an offence against this Act.

Vessel, etc.,
liable to
seizure and
forfeiture.

12. (1) Every ship, vessel or boat, including all furniture, apparel, appliances, gear, tackle and rigging and all cargo and stores found on board thereof, which is in any manner operated or used for the commission of any offence against this Act, or for fishing for halibut in convention waters in contravention of any regulation, or for aiding or facilitating the commission of any such offence, or of any such contravention, may be seized by any officer authorized by the *Customs and Fisheries Protection Act* to board and search and shall, save as herein otherwise provided, be forfeited.

R.S., c. 43.

Nationals or
inhabitants
of Canada or
United States
may be
detained.

(2) Every national or inhabitant of Canada or of the United States engaged in fishing for halibut in convention waters in contravention of any provision of this Act or of any regulation, or in aiding or facilitating fishing as aforesaid, may be taken into custody and detained by any officer authorized by the *Customs and Fisheries Protection Act* to board and search.

Persons,
ships, etc.,
delivered
to United
States.

(3) Whenever any such person is a national or inhabitant of the United States, or any such ship, vessel, boat or other property is registered in the United States or belongs to a national or an inhabitant of the United States, and is taken into custody and seized and detained for an offence against any provision of this Act or for a contravention of any regulation committed in convention waters other than the territorial waters of Canada, such person, ship, vessel, boat or other property shall be delivered as soon as practicable to an authorized official of the United States to be dealt with in accordance with the law of the United States.

Having
halibut
unlawfully
caught or
retained.

13. Every person who knowingly has in his possession any halibut unlawfully caught within convention waters or unlawfully retained shall be guilty of an offence against this Act.

1937. *N. Pacific Hal. Fish. (Conv.) Act.* Chap. 36.

14. (1) Every person guilty of an offence against this Act or of a contravention of any regulation shall be liable upon summary conviction to a fine of not less than one hundred dollars and not more than one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

Penalty for violation.

(2) The justice making the conviction shall adjudge and order as forfeited to the Crown for the public uses of Canada any halibut in the possession of the person convicted which is found to have been unlawfully caught in convention waters or unlawfully retained: Provided that if the conviction be quashed on an appeal or on a stated case, the person aggrieved shall be recouped the reasonable market value of the halibut so forfeited as of the date the forfeiture was so adjudged and ordered.

Halibut forfeited to the Crown

Proviso.

15. *The Northern Pacific Halibut Fishery Protection Act*, chapter seventy-five of the Revised Statutes of Canada, 1927, is hereby repealed.

Act repealed.

16. This Act shall come into force on a day to be fixed by Proclamation of the Governor in Council and shall continue in force until a day which may be fixed by Proclamation of the Governor in Council following upon the termination of the Convention, and no longer.

Commencement and duration of Act.

Appendix M

TREATY SERIES, No. 917

PRESERVATION OF HALIBUT FISHERY
OF NORTHERN PACIFIC OCEAN
AND BERING SEA

CONVENTION
BETWEEN THE UNITED STATES OF AMERICA
AND CANADA
REVISING THE CONVENTION OF MAY 9, 1930
(TREATY SERIES, No. 837)

Signed at Ottawa, January 29, 1937.

Ratification advised by the Senate of the United States, March 23,
1937.

Ratified by the President of the United States, March 29, 1937.

Ratified by His Majesty in respect of Canada, June 26, 1937.

Ratifications exchanged at Ottawa, July 28, 1937.

Proclaimed by the President of the United States, August 4, 1937.



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1937

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS a Convention between the United States of America and Canada, revising the Convention for the preservation of the halibut fishery of the northern Pacific Ocean and Bering Sea, signed at Ottawa May 9, 1930, was concluded and signed by their respective Plenipotentiaries at Ottawa, on the twenty-ninth day of January, one thousand nine hundred and thirty-seven, the original of which Convention is word for word as follows:

The President of the United States of America,
And His Majesty the King of Great Britain, Ireland, and the British dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada,

Desiring to provide more effectively for the preservation of the halibut fishery of the northern Pacific Ocean and Bering Sea, have resolved to conclude a convention revising the convention for the preservation of that fishery signed on their behalf at Ottawa on May 9, 1930, and have named as their plenipotentiaries for that purpose,

The President of the United States of America:

Norman Armour, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Canada; and

His Majesty, for the Dominion of Canada:

The Right Honourable William Lyon Mackenzie King, Prime Minister and Secretary of State for External Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the United States of America, including the southern as well as the western coasts of Alaska, and of Canada, from the first day of November next after the date of the exchange of ratifications of this Convention to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by Article III is hereby empowered, subject to the approval of the President of the United States of America and of the Governor General of Canada, to suspend or change the closed season provided for by

this Article, as to part or all of the convention waters, when it finds after investigation such suspensions or changes are necessary, and to permit, limit, regulate and prohibit in any area or at any time when fishing for halibut is prohibited, the taking, retention and landing of halibut caught incidentally to fishing for other species of fish, and the possession during such fishing of halibut of any origin.

It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Convention or by any regulations adopted in pursuance of its provisions.

It is further understood that nothing contained in this Convention shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes at any time.

ARTICLE II

Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in halibut fishing on the high seas in violation of this Convention or of any regulation adopted under the provisions thereof may be seized by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Each High Contracting Party shall be responsible for the proper observance of this Convention, or of any regulation adopted under the provisions thereof, in the portion of its waters covered thereby.

ARTICLE III

The High Contracting Parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention for the preservation of the halibut fishery, signed at Washington, March 2, 1923, and continued under the Convention signed at Ottawa, May 9, 1930, consisting of four members, two appointed by each Party, which Commission shall make such investigations as are necessary into the life history of the halibut in the convention waters and shall publish a report of its activities from time to time. Each of the High Contracting Parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each of the High Contracting Parties shall pay the

salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The High Contracting Parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the President of the United States of America and of the Governor General of Canada, may, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, from time to time,

- (a) divide the convention waters into areas;
- (b) limit the catch of halibut to be taken from each area within the season during which fishing for halibut is allowed;
- (c) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Fisheries Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (b) of this paragraph;
- (d) fix the size and character of halibut fishing appliances to be used in any area;
- (e) make such regulations for the licensing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;
- (f) close to all halibut fishing such portion or portions of an area or areas as the International Fisheries Commission find to be populated by small, immature halibut.

ARTICLE IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

The present Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

This Convention shall, from the date of the exchange of ratifications, be deemed to supplant the Convention for the preservation of the halibut fishery signed at Ottawa, May 9, 1930.

ARTICLE VI

This Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged at Ottawa as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have hereunto affixed their seals.

Done at Ottawa on the twenty-ninth day of January, in the year one thousand nine hundred and thirty-seven.

NORMAN ARMOUR [SEAL]
W. L. MACKENZIE KING [SEAL]

AND WHEREAS the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Ottawa, on the twenty-eighth day of July, one thousand nine hundred and thirty-seven;

NOW, THEREFORE, be it known that I, Franklin D. Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this fourth day of August in the year of our Lord one thousand nine hundred and thirty-seven, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

○

Appendix N

[CORRECTED PRINT]

[PUBLIC—No. 169—75TH CONGRESS]

[CHAPTER 392—1ST SESSION]

[S. 1984]

AN ACT

For the protection of the northern Pacific halibut fishery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Northern Pacific Halibut Act of 1937".

SEC. 2. When used in this Act—

(a) Convention: The word "Convention" means the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 29th day of January 1937, and shall include the regulations of the International Fisheries Commission promulgated thereunder.

(b) Commission: The word "Commission" means the International Fisheries Commission provided for by article III of the Convention.

(c) Person: The word "person" includes partnerships, associations, and corporations.

(d) Territorial waters of the United States: The term "Territorial waters of the United States" means the Territorial waters contiguous to the western coast of the United States and the territorial waters contiguous to the southern and western coasts of Alaska.

(e) Territorial waters of Canada: The term "territorial waters of Canada" means the territorial waters contiguous to the western coast of Canada.

(f) Convention waters: The term "Convention waters" means the territorial waters of the United States, the territorial waters of Canada, and the high seas of the Northern Pacific Ocean and the Bering Sea, extending westerly from the limits of the territorial waters of the United States and of Canada.

(g) Halibut: The word "halibut" means the species of *Hippoglossus* inhabiting Convention waters.

(h) Vessel: The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

SEC. 3. It shall be unlawful for—

(a) any person other than a national or inhabitant of the United States to catch or attempt to catch any halibut in the territorial waters of the United States;

(b) any person to transfer to or to receive upon any vessel of the United States, or to bring to any place within the jurisdiction of the United States any halibut caught in Convention waters by the use of any vessel of a nation not a party to the Convention, or caught in Convention waters by any national or inhabitant of the United States or Canada in violation of the Convention or of this Act;

(c) any national or inhabitant of the United States to catch, attempt to catch, or to possess any halibut in the territorial waters of the United States or in Convention waters in violation of any provision of the Convention or of this Act;

(d) any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel, other than a vessel of the United States or Canada, in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in Convention waters or the territorial waters of the United States or Canada;

(e) any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel of the United States or Canada in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in violation of any provision of the Convention or of this Act;

(f) any person within the territory or jurisdiction of the United States or any national or inhabitant of the United States within Convention waters knowingly to have or have had in his possession any halibut taken, transferred, received, or brought in in violation of any provision of the Convention or of this Act;

(g) any person to depart from any place within the jurisdiction of the United States in any vessel which departs from such place in violation of the Convention or of this Act;

(h) any person in the territorial waters of the United States or any national or inhabitant of the United States in Convention waters to catch or attempt to catch any halibut, or to possess any halibut caught incidentally to fishing for other species of fish by the use of or in any vessel required by the Convention to have on board any license or permit unless such vessel shall have on board a license or permit which shall comply with all applicable requirements of the Convention, and which shall be available for inspection at any time by any officer authorized to enforce the Convention or by any representative of the Commission;

(i) any person to take, retain, land, or possess any halibut caught incidentally to fishing for other species of fish, in violation of any provision of the Convention or of this Act.

SEC. 4. It shall be unlawful for the master or owner or person in charge of any vessel or any other person required by the Convention to make, keep, or furnish any record or report, to fail to do so, or to refuse to permit any officer authorized to enforce the Convention or any representative of the Commission to examine and inspect any such record or report at any time.

SEC. 5. (a) The provisions of the Convention and of this Act and any regulations issued under this Act shall be enforced by the Coast Guard, the Customs Service, and the Bureau of Fisheries. For such purposes any officer of the Coast Guard, Customs, or Fisheries may at any time go on board of any vessel in territorial waters of the United States, or any vessel of the United States or Canada in Convention waters, except in the territorial waters of Canada, to address inquiries to those on board and to examine, inspect, and search the

vessel and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel, and use all necessary force to compel compliance.

(b) Whenever it appears to any such officer that any person, other than a national or inhabitant of Canada, on any vessel of the United States is violating or has violated any provision of the Convention or of this Act, he shall arrest such person and seize any such vessel employed in such violation. If any such person on any such vessel of the United States is a national or inhabitant of Canada, such person shall be detained and shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention or at such other port or place as such officers of the United States and of Canada may agree upon.

(c) Whenever it appears to any such officer of the United States that any person, other than a national or inhabitant of the United States, on any vessel of Canada in Convention waters, except in the territorial waters of Canada, is violating or has violated any provision of the Convention, such person, and any such vessel employed in such violation, shall be detained and such person and such vessel shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention, or at such other port or place as such officers of the United States and of Canada may agree upon. If any such person on any such vessel of Canada is a national or inhabitant of the United States, such person shall be arrested as provided for in subsection (b) of this section.

(d) Officers or employees of the Coast Guard, Customs, and Fisheries may be directed to attend as witnesses and to produce such available records and files or certified copies thereof as may be produced compatibly with the public interest and as may be considered essential to the prosecution in Canada of any violation of the provisions of the Convention or any Canadian law for the enforcement thereof when requested by the appropriate Canadian authorities in the manner prescribed in article V of the Convention to suppress smuggling concluded between the United States and Canada on June 6, 1924 (44 Stat. (pt. 3), 2097).

SEC. 6. (a) Any person violating any provision of section 3 of this Act upon conviction shall be fined not more than \$1,000 nor less than \$100 or be imprisoned for not more than one year, or both.

(b) The cargo of halibut of every vessel employed in any manner in connection with the violation of any provision of section 3 of this Act shall be forfeited; upon a second violation of the provisions of section 3 of this Act, every such vessel, including its tackle, apparel, furniture, and stores may be forfeited and the cargo of halibut of every such vessel shall be forfeited; and, upon a third or subsequent violation of the provisions of section 3 of this Act, every such vessel, including its tackle, apparel, furniture, cargo, and stores shall be forfeited.

(c) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall

apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act: *Provided*, That except as provided in section 5 hereof all rights, powers, and duties conferred or imposed by this Act upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary of Commerce or by such persons as he may designate.

SEC. 7. Any person violating section 4 of this Act shall be subject to a penalty of \$50 for each such violation. The Secretary of Commerce is authorized and empowered to mitigate or remit any such penalty in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.

SEC. 8. None of the prohibitions contained in this Act shall apply to the Commission or its agents when engaged in any scientific investigation.

SEC. 9. The Secretary of the Treasury and the Secretary of Commerce are authorized to make such joint rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 10. This Act shall take effect on the date of exchange of ratifications of the Convention signed by the United States of America and Canada, on January 29, 1937, for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, unless such date shall be prior to the date of approval of this Act in which case it shall take effect immediately.

Approved, June 28, 1937.

Appendix O



CANADA

TREATY SERIES 1953 No. 14 RECUEIL DES TRAITÉS

HALIBUT FISHERY

Convention between CANADA
and the UNITED STATES OF AMERICA

Signed at Ottawa March 2, 1953

Instruments of Ratification exchanged at
Washington October 28, 1953

In force October 28, 1953

PÊCHERIES DE FLÉTAN

Convention entre le CANADA
et les ÉTATS-UNIS D'AMÉRIQUE

Signée à Ottawa le 2 mars 1953

Instruments de ratification échangés à
Washington le 28 octobre 1953

En vigueur le 28 octobre 1953

**CONVENTION BETWEEN CANADA AND THE UNITED STATES OF AMERICA FOR
THE PRESERVATION OF THE HALIBUT FISHERY OF THE NORTHERN
PACIFIC OCEAN AND BERING SEA.**

The Government of Canada and the Government of the United States of America, desiring to provide more effectively for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a Convention replacing the Convention signed at Ottawa, January 29, 1937¹ and have named as their plenipotentiaries:

The Government of Canada:

THE HONOURABLE JAMES SINCLAIR,
Minister of Fisheries.

THE HONOURABLE HUGHES LAPOINTE,
Minister of Veterans Affairs.

The Government of the United States of America:

THE HONOURABLE DON C. BLISS,
Chargé d'Affaires ad interim.

THE HONOURABLE WILLIAM C. HERRINGTON,
Special Assistant for Fisheries and Wildlife to the Under-Secretary
of State.

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

1. The nationals and inhabitants and fishing vessels and boats of Canada and of the United States of America, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) in Convention waters as therein defined, except as provided by the International Pacific Halibut Commission in regulations designed to develop the stocks of halibut in the Convention waters to those levels which will permit the maximum sustained yield and to maintain the stocks at those levels pursuant to Article III of this Convention.

2. "Convention waters" means the territorial waters and the high seas off the western coasts of Canada and of the United States of America, including the southern as well as the western coasts of Alaska.

3. It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of Canada or of the United States of America from fishing in the Convention waters for other species of fish during any season when fishing for halibut in the Convention waters is prohibited by this Convention or any regulations adopted pursuant to this Convention. It is further understood that nothing contained in this Convention shall prohibit the International Pacific Halibut Commission from conducting or authorizing fishing operations for investigation purposes at any time.

ARTICLE II

1. Every national or inhabitant, vessel or boat of Canada or of the United States of America engaged in fishing on the high seas in violation of this Convention or of any regulation adopted pursuant thereto may be seized

¹Treaty Series 1937, No. 9.

by duly authorized officers of either Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure or elsewhere as may be agreed upon. The authorities of the country to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention or any regulations which may be adopted in pursuance thereof and to impose penalties for such violation, and the witnesses and proof necessary for such prosecutions, so far as any witnesses or proofs are under the control of the other Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

2. Each Contracting Party shall be responsible for the proper observance of this Convention and of any regulations adopted under the provisions thereof in the portion of its waters covered thereby.

ARTICLE III

1. The Contracting Parties agree to continue under this Convention the Commission known as the International Fisheries Commission established by the Convention for the preservation of the halibut fishery, signed at Washington, March 2, 1923, continued by the Convention signed at Ottawa, May 9, 1930 and further continued by the Convention, signed at Ottawa, January 29, 1937, except that after the date of entry into force of this Convention it shall consist of six members, three appointed by each Contracting Party, and shall be known as the International Pacific Halibut Commission. This Commission shall make such investigations as are necessary into the life history of the halibut in the Convention waters and shall publish a report of its activities and investigations from time to time. Each Contracting Party shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each Contracting Party shall pay the salaries and expenses of its own members. Joint expenses incurred by the Commission shall be paid by the two Contracting Parties in equal moieties. All decisions of the Commission shall be made by a concurring vote of at least two of the Commissioners of each Contracting Party.

2. The Contracting Parties agree that for the purpose of developing the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the maximum sustained yield from that fishery and for maintaining the stocks at those levels, the International Pacific Halibut Commission, with the approval of the Governor General in Council of Canada and of the President of the United States of America, may, after investigation has indicated such action to be necessary, in respect of the nationals and inhabitants and fishing vessels and boats of Canada and of the United States of America, and in respect of halibut:

- (a) divide the Convention waters into areas;
- (b) establish one or more open or closed seasons, as to each area;
- (c) limit the size of the fish and the quantity of the catch to be taken from each area within any season during which fishing is allowed;
- (d) during both open and closed seasons, permit, limit, regulate or prohibit, the incidental catch of halibut that may be taken, retained, possessed, or landed from each area or portion of an area, by vessels fishing for other species of fish;

- (e) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Pacific Halibut Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (c) of this paragraph;
- (f) fix the size and character of halibut fishing appliances to be used in any area;
- (g) make such regulations for the licencing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;
- (h) close to all taking of halibut such portion or portions of an area or areas as the International Pacific Halibut Commission finds to be populated by small, immature halibut and designates as nursery grounds.

ARTICLE IV

The Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulation adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

1. This Convention shall be ratified and the instruments of ratification exchanged at Washington as soon as possible.

2. This Convention shall enter into force on the date of exchange of ratifications and shall remain in force for a period of five years and thereafter until two years from the date on which either Contracting Party shall have given notice to the other of its desire to terminate it.

3. This Convention shall, from the date of the exchange of ratifications, replace and terminate the Convention for the preservation of the halibut fishery signed at Ottawa, January 29, 1937.

IN WITNESS WHEREOF the respective plenipotentiaries have signed and sealed this Convention.

DONE at Ottawa in duplicate, in the English language, this second day of March 1953.

For the Government of Canada:

JAMES SINCLAIR
HUGUES LAPOINTE

For the Government of the United States of America:

DON C. BLISS
WILLIAM C. HERRINGTON

Appendix P

1 - 2 ELIZABETH II.

CHAP. 43.

An Act to implement a Convention between Canada and the United States for the Preservation of the Halibut Fishery.

[Assented to 14th May, 1953.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

1. This Act may be cited as the *Northern Pacific Halibut Fishery Convention Act*. Short title.

INTERPRETATION.

2. In this Act,
- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(a) "Commission" means the International Pacific Halibut Commission established under the Convention;</p> <p>(b) "Convention" means the Convention between Canada and the United States for the preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea set out in the Schedule;</p> <p>(c) "convention waters" means the territorial waters and the high seas off the western coasts of Canada and the United States and the southern and western coasts of Alaska;</p> <p>(d) "fishing vessel" means any vessel used in or outfitted for</p> <p style="padding-left: 2em;">(i) catching or processing fish, or</p> <p style="padding-left: 2em;">(ii) transporting fish from fishing grounds;</p> <p>(e) "halibut" means the species of fish known as <i>hippoglossus</i>;</p> <p>(f) "Minister" means the Minister of Fisheries;</p> <p>(g) "Protection Officer" means</p> <p style="padding-left: 2em;">(i) a fishery officer within the meaning of the <i>Fisheries Act</i>,</p> | <p>Definitions.</p> <p>"Commission".</p> <p>"Convention".</p> <p>"Convention waters".</p> <p>"Fishing vessel".</p> <p>"Halibut".</p> <p>"Minister".</p> <p>"Protection Officer".</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Chap. 43. *Northern Pacific Halibut Convention* 1-2 ELIZ. II.

- (ii) an officer of the Royal Canadian Mounted Police,
 (iii) a commissioned officer of the Royal Canadian
 Navy, or
 (iv) any other person authorized by the Governor in
 Council to enforce this Act;
 and
 (h) "regulations" means regulations made under this
 Act.

GENERAL.

- Convention approved. 3. The Convention is hereby approved and confirmed.
- Regulations 4. The Governor in Council may make regulations for carrying out and giving effect to the provisions of the Convention and anything done by the Commission thereunder.

SEIZURE AND FORFEITURE.

- Seizure for offence. 5. (1) A Protection Officer may, anywhere in the convention waters except the territorial waters of the United States, seize
- (a) any fishing vessel belonging to or operated by a citizen, national or resident of Canada by means of or in relation to which vessel he suspects on reasonable grounds that an offence against this Act was committed;
 - (b) any fishing vessel belonging to or operated by a citizen, national or resident of the United States by means of or in relation to which vessel he suspects on reasonable grounds that an offence against this Act was committed in the territorial waters of Canada;
 - (c) any goods aboard a fishing vessel described in paragraph (a) or (b), including fish, tackle, rigging, apparel, furniture, stores and cargo; or
 - (d) a fishing vessel described in paragraph (a) or (b) and any of the goods mentioned in paragraph (c).
- (2) A Protection Officer may, anywhere in the convention waters except the territorial waters of the United States, arrest without warrant,
- (a) any citizen, national or resident of Canada whom he on reasonable grounds suspects of having committed an offence against this Act; or
 - (b) any citizen, national or resident of the United States whom he on reasonable grounds suspects of having committed an offence against this Act in the territorial waters of Canada.
- (3) Subject to this section, the fishing vessel and goods seized under subsection (1) shall be retained in the custody of the Protection Officer making the seizure or shall be delivered into the custody of such person as the Minister may direct.
- Arrest for offence.
- Custody of seized vessels, etc.

1952-53. *Northern Pacific Halibut Convention.* Chap. 43.

(4) Where fish or other perishable articles are seized under subsection (1) the Protection Officer or other person having the custody thereof may sell them, and the proceeds of the sale shall be paid to the Receiver General of Canada or shall be deposited in a chartered bank to the credit of the Receiver General of Canada.

Perishable goods.

(5) Where a person is convicted of an offence against this Act, the convicting court or judge may, in addition to any other penalty imposed, order that

Court may order forfeiture.

(a) any fishing vessel seized under subsection (1) by means of or in relation to which the offence was committed,

(b) any goods aboard the fishing vessel, including fish, tackle, rigging, apparel, furniture, stores and cargo, or, if any of the goods have been sold under subsection (4), the proceeds thereof, or

(c) the fishing vessel and any of the goods mentioned in paragraph (b), or the proceeds thereof, be forfeited, and upon such order being made the fishing vessel, goods or proceeds so ordered to be forfeited are forfeited to Her Majesty in right of Canada.

(6) Where a fishing vessel or goods have been seized under subsection (1) and proceedings in respect of the offence have been instituted, the court or judge may, with the consent of the Protection Officer who made the seizure, order re-delivery thereof to the accused upon security by bond, with two sureties, in an amount and form satisfactory to the Minister, being given to Her Majesty.

Re-delivery on bond.

(7) Any fishing vessel or goods seized under subsection (1) or the proceeds realized from a sale thereof under subsection (4) shall be returned or paid to the person from whom the fishing vessel or goods were taken if the Minister decides not to institute a prosecution in respect of the offence, and in any event shall be so returned or paid upon the expiration of three months from the day of seizure unless before that time proceedings in respect of the offence are instituted.

Seized vessel, etc., to be returned unless proceedings instituted.

(8) Where proceedings in respect of an offence against this Act have been instituted and a fishing vessel or goods are at the final conclusion of the proceedings ordered to be forfeited, they may be disposed of as the Minister directs.

Disposal of forfeited vessel, etc.

(9) Where a fishing vessel or goods have been seized under subsection (1) and proceedings in respect of the offence have been instituted, but the fishing vessel or goods or any proceeds realized from a sale thereof under subsection (4) are not at the final conclusion of the proceedings ordered to be forfeited, they shall be returned or the proceeds shall be paid to the person from whom the fishing vessel or goods were taken, unless there has been a conviction and a fine imposed in which case the fishing vessel or goods

Return of seized vessel, etc., if no forfeiture ordered.

Chap. 43. *Northern Pacific Halibut Convention.* 1-2 ELIZ. II.

may be detained until the fine is paid, or the fishing vessel and the goods may be sold under execution in satisfaction of the fine, or the proceeds realized from a sale of any of the goods under subsection (4) may be applied in payment of the fine.

Seizure for
violation of
Convention.

6. (1) Whenever a Protection Officer suspects on reasonable grounds that any provision of the Convention or the regulations made thereunder have been violated, anywhere in convention waters except the territorial waters of Canada or the United States, he may, in accordance with the provisions of the Convention, anywhere in the convention waters except the territorial waters of the United States, seize and detain

(a) any fishing vessel belonging to or operated by a national or inhabitant of the United States by means of or in relation to which he suspects on reasonable grounds that the violation was committed;

(b) any goods aboard the fishing vessel, including fish, tackle, rigging, apparel, furniture, stores and cargo;

or
(c) the fishing vessel and any of the goods mentioned in paragraph (b).

Arrest for
violation of
Convention.

(2) A Protection Officer may, in accordance with the provisions of the Convention, anywhere in convention waters except the territorial waters of the United States, arrest and detain without warrant any national or inhabitant of the United States whom he on reasonable grounds suspects of having violated, anywhere in convention waters except the territorial waters of Canada or the United States, any provision of the Convention or the regulations made thereunder.

(3) Whenever, pursuant to this section,

(a) a person is arrested and detained, or

(b) a vessel or goods are seized and detained,

Delivery
of person,
vessel, etc.,
to official of
United
States.

such person, vessel or goods shall, in accordance with the provisions of the Convention, as soon as practicable at the place nearest to the place of seizure or at such other place as may be agreed upon, be delivered by the Protection Officer who made the seizure to an authorized official of the United States to be dealt with in accordance with the law of the United States.

OFFENCES AND PENALTIES.

Offences.

7. Every person is guilty of an offence who,

(a) except as provided by the regulations or the Convention, fishes for, catches, or attempts to catch halibut in the territorial waters of Canada within convention waters;

1952-53. *Northern Pacific Halibut Convention.* Chap. 43.

- (b) being a citizen, national or resident of Canada, or being a member of the crew of a fishing vessel owned by a citizen, national or resident of Canada, fishes for, catches or attempts to catch halibut in convention waters, except as provided by the regulations or the Convention;
- (c) lands or attempts to land at any port or place within Canada any halibut caught in contravention of the Convention or any regulation made thereunder;
- (d) knowingly has in his possession any halibut caught in contravention of the Convention or any regulation made thereunder; or
- (e) violates any regulation.

8. Every owner or master of a fishing vessel that enters any port or place in Canada Offences.

- (a) while upon or in the prosecution of any voyage at any time during which it was used in fishing for halibut in convention waters, except in accordance with the Convention and the regulations made thereunder; or
 - (b) that has on board any halibut caught while fishing for halibut in convention waters, except in accordance with the Convention and the regulations made thereunder;
- is guilty of an offence.

9. Every person who is guilty of an offence against this Act is liable upon summary conviction to a fine of not less than one hundred dollars and not more than one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment. Penalty.

JURISDICTION OF COURTS.

10. All courts, justices of the peace, and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 681 to 684 of the *Canada Shipping Act, 1934*, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act, 1934*. Jurisdiction.

REPEAL AND COMING INTO FORCE.

11. (1) This Act shall come into force on a day to be fixed by proclamation of the Governor in Council and shall continue in force until a day to be fixed by proclamation of the Governor in Council following upon the termination of the Convention, and no longer. Coming into force.

Chap. 43. *Northern Pacific Halibut Convention.* 1-2 ELIZ. II.

- Repeal. (2) If this Act comes into force before the day on which the Revised Statutes of Canada, 1952, come into force, then, on the day this Act comes into force, *The Northern Pacific Halibut Fishery (Convention) Act, 1937*, chapter 36 of the statutes of 1937, is repealed and, on the day the Revised Statutes of Canada, 1952, come into force
- (a) the *Northern Pacific Halibut Fishery (Convention) Act*, chapter 194 of the Revised Statutes of Canada, 1952, is repealed; and
- Transitional. (b) section 10 of this Act is repealed and the following substituted therefor:
- "10. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 689 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act.*"
- Repeal. (3) If this Act comes into force on or after the day on which the Revised Statutes of Canada, 1952, come into force, then, on the day this Act comes into force,
- (a) the *Northern Pacific Halibut Fishery (Convention) Act*, chapter 194 of the Revised Statutes of Canada, 1952, is repealed; and
- Transitional. (b) section 10 of this Act is repealed and the following substituted therefor:
- "10. All courts, justices of the peace and magistrates in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 689 to 692 of the *Canada Shipping Act*, chapter 29 of the Revised Statutes of Canada, 1952, with respect to offences under that Act, and the provisions of those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act.*"

Appendix Q

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 2900

**PRESERVATION OF HALIBUT FISHERY
OF NORTHERN PACIFIC OCEAN AND BERING SEA****Convention between the
UNITED STATES OF AMERICA
and CANADA**

- Signed at Ottawa March 2, 1953
- Ratification advised by the Senate of the United States of America July 27, 1953
- Ratified by the President of the United States of America August 18, 1953
- Ratified by Canada October 14, 1953
- Ratifications exchanged at Washington October 28, 1953
- Proclaimed by the President of the United States of America January 7, 1954
- Entered into force October 28, 1953



BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a convention between the United States of America and Canada for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea was signed at Ottawa on March 2, 1953, the original of which convention, in the English language, is word for word as follows:

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PRESERVATION OF THE HALIBUT FISHERY OF THE NORTHERN PACIFIC OCEAN AND BERING SEA

The Government of the United States of America and the Government of Canada, desiring to provide more effectively for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a Convention replacing the Convention signed at Ottawa, January 29, 1937 [¹] and have named as their plenipotentiaries:

The Government of the United States of America:

THE HONOURABLE DON C. BLISS,
Chargé d'Affaires ad interim.

THE HONOURABLE WILLIAM C. HERRINGTON,
Special Assistant for Fisheries and Wildlife to the Under-Secretary of State.

The Government of Canada:

THE HONOURABLE JAMES SINCLAIR,
Minister of Fisheries.

THE HONOURABLE HUGUES LAPOINTE,
Minister of Veterans Affairs.

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

Article I

1. The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) in Convention waters as herein defined, except as provided by the International Pacific Halibut Commission in regulations designed to develop the stocks of halibut in the Convention waters to those levels which will permit the maximum sustained yield and to maintain the stocks at those levels pursuant to Article III of this Convention.

¹ Treaty Series 917; 50 Stat. 1351.

2. "Convention waters" means the territorial waters and the high seas off the western coasts of the United States of America and of Canada, including the southern as well as the western coasts of Alaska.

3. It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada from fishing in the Convention waters for other species of fish during any season when fishing for halibut in the Convention waters is prohibited by this Convention or any regulations adopted pursuant to this Convention. It is further understood that nothing contained in this Convention shall prohibit the International Pacific Halibut Commission from conducting or authorizing fishing operations for investigation purposes at any time.

Article II

1. Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in fishing on the high seas in violation of this Convention or of any regulation adopted pursuant thereto may be seized by duly authorized officers of either Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure or elsewhere as may be agreed upon. The authorities of the country to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention or any regulations which may be adopted in pursuance thereof and to impose penalties for such violation, and the witnesses and proof necessary for such prosecutions, so far as any witnesses or proofs are under the control of the other Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

2. Each Contracting Party shall be responsible for the proper observance of this Convention and of any regulations adopted under the provisions thereof in the portion of its waters covered thereby.

Article III

1. The Contracting Parties agree to continue under this Convention the Commission known as the International Fisheries Commission established by the Convention for the preservation of the halibut fishery, signed at Washington, March 2, 1923,^[1] continued by the Convention signed at Ottawa, May 9, 1930^[2] and further continued by the Con-

¹ Treaty Series 701; 43 Stat. 1841.

² TS 837; 47 Stat. 1872.

vention, signed at Ottawa, January 29, 1937, except that after the date of entry into force of this Convention it shall consist of six members, three appointed by each Contracting Party, and shall be known as the International Pacific Halibut Commission. This Commission shall make such investigations as are necessary into the life history of the halibut in the Convention waters and shall publish a report of its activities and investigations from time to time. Each Contracting Party shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each Contracting Party shall pay the salaries and expenses of its own members. Joint expenses incurred by the Commission shall be paid by the two Contracting Parties in equal moieties. All decisions of the Commission shall be made by a concurring vote of at least two of the Commissioners of each Contracting Party.

2. The Contracting Parties agree that for the purpose of developing the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the maximum sustained yield from that fishery and for maintaining the stocks at those levels, the International Pacific Halibut Commission, with the approval of the President of the United States of America and of the Governor General in Council of Canada, may, after investigation has indicated such action to be necessary, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, and in respect of halibut:

- (a) divide the Convention waters into areas;
- (b) establish one or more open or closed seasons, as to each area;
- (c) limit the size of the fish and the quantity of the catch to be taken from each area within any season during which fishing is allowed;
- (d) during both open and closed seasons, permit, limit, regulate or prohibit, the incidental catch of halibut that may be taken, retained, possessed, or landed from each area or portion of an area, by vessels fishing for other species of fish;
- (e) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Pacific Halibut Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (c) of this paragraph;
- (f) fix the size and character of halibut fishing appliances to be used in any area;

- (g) make such regulations for the licencing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;
- (h) close to all taking of halibut such portion or portions of an area or areas as the International Pacific Halibut Commission finds to be populated by small, immature halibut and designates as nursery grounds.

Article IV

The Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulation adopted thereunder, with appropriate penalties for violations thereof.

Article V

1. This Convention shall be ratified and the instruments of ratification exchanged at Washington as soon as possible.
2. This Convention shall enter into force on the date of exchange of ratifications and shall remain in force for a period of five years and thereafter until two years from the date on which either Contracting Party shall have given notice to the other of its desire to terminate it.
3. This Convention shall, from the date of the exchange of ratifications, replace and terminate the Convention for the preservation of the halibut fishery signed at Ottawa, January 29, 1937.

IN WITNESS WHEREOF the respective plenipotentiaries have signed and sealed this Convention.

DONE at Ottawa in duplicate, in the English language, this Second day of March 1953.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

[SEAL]

DON C. BLISS

WILLIAM C HERRINGTON

FOR THE GOVERNMENT OF CANADA:

[SEAL]

JAMES SINCLAIR

HUGUES LAPOINTE

WHEREAS the Senate of the United States of America by their resolution of July 27, 1953, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said convention;

WHEREAS the said convention was ratified by the President of the United States of America on August 18, 1953, in pursuance of the aforesaid advice and consent of the Senate, and was duly ratified on the part of Canada;

WHEREAS the respective instruments of ratification of the said convention were duly exchanged at Washington on October 28, 1953;

AND WHEREAS it is provided in paragraph 2 of Article V of the said convention that the convention shall enter into force on the date of exchange of ratifications;

NOW, THEREFORE, be it known that I, Dwight D. Eisenhower, President of the United States of America, do hereby proclaim and make public the said convention to the end that the same and each and every article and clause thereof may be observed and fulfilled with good faith on and after October 28, 1953 by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this seventh day of January in the year of our Lord one thousand nine hundred fifty-four and [SEAL] of the Independence of the United States of America the one hundred seventy-eighth.

DWIGHT D EISENHOWER

By the President:

JOHN FOSTER DULLES
Secretary of State

Appendix R

Public Law 228 - 83d Congress
Chapter 382 - 1st Session
S. 2434

AN ACT

All 67 Stat., 494.

To amend the Northern Pacific Halibut Act of 1937.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Northern Pacific Halibut Act of 1937 (50 Stat. 325, 16 U. S. C. 772) is amended as follows:

Subsection (a) is amended by deleting the words "29th day of January 1937" and substituting in lieu thereof "2d day of March 1953 and any other treaty or convention which modifies or replaces that Convention" and by deleting the words "of the International Fisheries Commission".

Subsection (b) is amended by deleting the words "International Fisheries Commission provided for by article III of the Convention", and substituting in lieu thereof "Commission provided for in the Convention".

This Act shall take effect on the date of entry into force of the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, March 2, 1953. Effective date.

Approved August 8, 1953.

Appendix S

CANADA

TREATY SERIES, 1950
No. 5

CONVENTION

BETWEEN

CANADA

AND

THE UNITED STATES OF AMERICA

FOR THE EXTENSION OF PORT PRIVILEGES TO
HALIBUT FISHING VESSELS ON THE PACIFIC COASTS
OF THE UNITED STATES OF AMERICA AND CANADA

Signed at Ottawa, March 24, 1950

Entered into force July 13, 1950

RECUEIL DES TRAITÉS 1950
N° 5

CONVENTION

ENTRE

LE CANADA ET LES ÉTATS-UNIS D'AMÉRIQUE

CONCERNANT L'OCTROI DES PRIVILÈGES
D'ESCALE AUX NAVIRES DE PÊCHE AU FLÉTAN
DANS LES PORTS DES CÔTES DU PACIFIQUE
DES ÉTATS-UNIS D'AMÉRIQUE ET DU CANADA

Signée à Ottawa le 24 mars 1950

Entrée en vigueur le 13 juillet 1950



OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.P.R.,
KING'S PRINTER AND CONTROLLER OF STATIONERY
1950

**CONVENTION BETWEEN CANADA AND THE UNITED STATES OF
AMERICA FOR THE EXTENSION OF PORT PRIVILEGES TO
HALIBUT FISHING VESSELS ON THE PACIFIC COASTS OF THE
UNITED STATES OF AMERICA AND CANADA**

PREAMBLE

The Government of Canada and the Government of the United States of America, desiring to further the well-being of their fishermen engaged in the halibut fishery of the North Pacific Ocean by extending to the halibut fishing vessels of each other certain privileges in ports of the Pacific Coasts of the United States of America and Canada, respectively, have resolved for that purpose to conclude a Convention, and to that end have appointed as their Plenipotentiaries:

The Honourable ROBERT WELLINGTON MAYHEW
for Canada, and

The Honourable LAURENCE A. STEINHARDT
for the United States of America.

Who, having communicated to each other their full powers found in good and due form, have agreed as follows:

ARTICLE I

Fishing vessels of the United States of America engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs, navigation, and fisheries laws of Canada, have the privileges in the ports of entry of Canada

(1) to land their catches of halibut and sable-fish without the payment of duties and

- (a) sell them locally on payment of the applicable customs duty;
- (b) trans-ship them in bond under customs supervision to any port of the United States of America; or
- (c) sell them in bond for export, and

(2) to obtain supplies, repairs, and equipment.

ARTICLE II

Fishing vessels of Canada engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs and navigation laws of the United States of America, have the privileges in the ports of entry of the United States of America.

- (1) to land their catches of halibut and sable-fish without the payment of duties and
- (a) sell them locally on payment of the applicable customs duty,
 - (b) trans-ship them in bond under customs supervision to any port of Canada; or
 - (c) sell them in bond for exports; and
- (2) to obtain supplies, repairs, and equipment.

ARTICLE III

This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa as soon as possible.

ARTICLE IV

This Convention shall come into effect immediately upon the exchange of ratifications. It shall continue in effect for a period of one year from that date and indefinitely after that period, but may be terminated by either of the Contracting Governments at the end of the one year period or at any time thereafter provided that at least twelve months prior notice of termination has been given.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention.

Done at Ottawa, in duplicate, in the English language, both texts being equally authentic, this 24th day of March, 1950.

For Canada:

R. W. MAYHEW

For the United States of America:

LAURENCE A. STEINHARDT

Appendix T

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 2096**HALIBUT FISHING VESSELS****Port Privileges on the Pacific Coasts of the
United States of America and Canada****Convention between the
UNITED STATES OF AMERICA
and CANADA**

- Signed at Ottawa March 24, 1950
- Ratification advised by the Senate of the United States of America June 27, 1950
- Ratified by the President of the United States of America July 3, 1950
- Ratified by Canada June 21, 1950
- Ratifications exchanged at Ottawa July 13, 1950
- Proclaimed by the President of the United States of America August 2, 1950
- Entered into force July 13, 1950



BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a convention between the United States of America and Canada for the extension of port privileges to halibut fishing vessels on the Pacific Coasts of the United States of America and Canada was signed by their respective plenipotentiaries at Ottawa on March 24, 1950, the original of which convention is word for word as follows:

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE EXTENSION OF PORT PRIVILEGES TO HALIBUT FISHING VESSELS ON THE PACIFIC COASTS OF THE UNITED STATES OF AMERICA AND CANADA

PREAMBLE

The Government of the United States of America and the Government of Canada, desiring to further the well-being of their fishermen engaged in the halibut fishery of the North Pacific Ocean by extending to the halibut fishing vessels of each other certain privileges in ports of the Pacific Coasts of the United States of America and Canada, respectively, have resolved for that purpose to conclude a Convention, and to that end have appointed as their Plenipotentiaries:

The Honourable LAURENCE A. STEINHARDT for the United States of America, and

The Honourable ROBERT WELLINGTON MAYHEW for Canada.

Who, having communicated to each other their full powers found in good and due form, have agreed as follows:

ARTICLE I

Fishing vessels of the United States of America engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs, navigation, and fisheries laws of Canada, have the privileges in the ports of entry of Canada

(1) to land their catches of halibut and sablefish without the payment of duties and

- (a) sell them locally on payment of the applicable customs duty;
- (b) trans-ship them in bond under customs supervision to any port of the United States of America; or
- (c) sell them in bond for export, and

(2) to obtain supplies, repairs, and equipment.

ARTICLE II

Fishing vessels of Canada engaged in the North Pacific halibut fishery only shall, subject to compliance with applicable customs and navigation laws of the United States of America, have the privileges in the ports of entry of the United States of America

(1) to land their catches of halibut and sablefish without the payment of duties and

- (a) sell them locally on payment of the applicable customs duty;
 - (b) trans-ship them in bond under customs supervision to any port of Canada; or
 - (c) sell them in bond for export; and
- (2) to obtain supplies, repairs, and equipment.

ARTICLE III

This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa as soon as possible.

ARTICLE IV

This Convention shall come into effect immediately upon the exchange of ratifications. [1] It shall continue in effect for a period of one year from that date and indefinitely after that period, but may be terminated by either of the Contracting Governments at the end of the one year period or at any time thereafter provided that at least twelve months prior notice of termination has been given.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention.

Done at Ottawa, in duplicate, in the English language, both texts being equally authentic, this 24th day of March, 1950.

For the United States of America :

LAURENCE A. STEINHARDT

For Canada :

R. W. MAYHEW

¹ Entered into force July 13, 1950; see *post*, p. 5.

WHEREAS the Senate of the United States of America by their Resolution of June 27, 1950, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said convention;

WHEREAS the said convention was duly ratified by the President of the United States of America on July 3, 1950, in pursuance of the aforesaid advice and consent of the Senate, and was duly ratified on the part of Canada;

WHEREAS the respective instruments of ratification of the said convention were duly exchanged at Ottawa on July 13, 1950;

AND WHEREAS it is provided in Article IV of the said convention that the convention shall come into effect immediately upon the exchange of ratifications;

NOW, THEREFORE, be it known that I, Harry S. Truman, President of the United States of America, do hereby proclaim and make public the said convention to the end that the same and each and every article and clause thereof may be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this second day of August in the year of our Lord one thousand nine hundred fifty and of [SEAL] the Independence of the United States of America the one hundred seventy-fifth.

HARRY S TRUMAN

By the President:

DEAN ACHESON

Secretary of State