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File No. Dossier 25-5-7-2-SALMON-1  
Volume 4 From - De 74-01-01 To - À 75-01-30

CLASSIFIÉ

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DEPARTMENT  
OF  
EXTERNAL AFFAIRS

MINISTÈRE  
DES  
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TITLE — TITRE:

*FISHERIES -*  
Boundaries - Water - High Seas International  
Pacific Salmon Fisheries Commission -  
Canada - Usa

Semi-Active  
SXIS-SA

Semi-Active  
SXIS-SA

Retention period - Période de retention:

PUBLIC RECORDS APPROVALS  
NOS. 68/001, 69/063 AND  
73/004

AND 304 (SA-2SD)+1  
*h.v.*



2005



PAPERS IN REVERSE ORDER

000715



Dossier 25-5-7-2-SALMON-1  
 From - De 74-01-01 To - À 75-01-31

TITLE — TITRE:

Boundaries - Water - High Seas, International  
 Pacific Salmon Fisheries Commission -  
 Canada - Usa

FISHERIES -

ACRI

Retention period - Période de retention:

PUBLIC RECORDS APPROVALS  
 NOS. 68/001, 69/063 AND  
 73/004

AND

~~80 (5A-15B)~~  
 304 (5A-25D) +  
 4x1.



25-5-7-2-SALMON [6]  
12

Draft

January 3, 1974

ANTICIPATED QUESTION  
HOUSE OF COMMONS

Canada-U.S.A. Salmon Negotiations

File  
25-5-7-2-Salmon-1  
Feb 19/74  
B. Appleton

QUESTION:

Mr. Speaker, will the Secretary of State for External Affairs advise the House about what is happening in the Canada-U.S.A. salmon negotiations which have been ~~dragging~~ on for several years, and particularly whether any progress has been made toward protecting Canadian fish and fishermen and asserting Canadian control over the Fraser River?

ANSWER:

Mr. Speaker, these negotiations have been going on for several years because obviously there are very difficult and complex issues to be resolved. Progress has been made at the most recent meetings where both sides have been able to review the technical data and come to a greater understanding of each other's problems. The next meeting is tentatively scheduled for February in Seattle and it is hoped that further progress will be made at that time.

AR



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

TO  
A FILE

FROM  
De B. Applebaum

REFERENCE  
Référence

SUBJECT  
Sujet CANADA-U.S. SALMON TALKS,  
MEETING WITH CANADIAN ADVISERS,  
VANCOUVER, DECEMBER 5-6, 1973

SECURITY  
Sécurité

RESTRICTED

DATE January 8, 1974

NUMBER  
Numéro

FILE	DOSSIER
OTTAWA	
25-5-7-2-SALMON-1	
MISSION	12 / —

ENCLOSURES  
Annexes

DISTRIBUTION

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/Lapointe  
FLP  
GWU  
ECS  
ITC/Mrs. Delage

The purpose of the meeting which I attended in Vancouver was to receive and discuss the evaluation which had been made by Canadian technical experts of the effect of the United States "compromise" proposal evolved at the recent Canada-U.S. meeting held in Vancouver. In the time since that meeting, the Canadian technical team assigned to this project had produced a document some 50 pages in length providing details regarding the effect of the United States proposal on Canadian fisheries and particularly on the balance of interceptions which, based on Canadian evaluations, is presently heavily in favour of the United States. The following is a brief summary of the document and of the conclusions drawn in it.

2. The technical team proceeded on the basis that both countries have agreed that the questions of valuation and differences between estimates of interception cannot be resolved at the present time and therefore should be set aside, and that an interim agreement should be concluded which does not require immediate resolution of these two questions. As it is the balance of interceptions which is the main problem i.e., based on U.S. valuations using the reverse pricing formula the balance favours Canada and based on Canadian valuations, using landed values the balance favours the United States, it seems clear that an interim agreement acceptable to both countries should maintain the existing imbalance in interceptions at least in a relative sense and should not result in a shift of the imbalance in either direction.

3. To assess the impact of the United States proposal on the balance of interceptions the Canadian technical team applied the proposal to actual catches quoted by both countries during the years 1967 to 1972 inclusive, using the assumption that fisheries subject to reduction in interception had reached their reduced level effective 1967. The team concluded that the average balance for those years would have shifted in favour of the United States from \$624,000.00 per year to \$1,226,000.00 per year.

... 2



- 2 -

RESTRICTED

4. The Canadian team also considered the effects of enhancement on intercepting fisheries using the United States proposal and estimating future production. The team was surprised to learn from United States sources that if present trends in hatchery production continue the total contribution of United States Coho and Chinook entering the Canadian trawl fishery could double within the next ten years. Under the United States proposal for a ceiling in the percentage level of interception, and indeed under the Canadian proposal for a ceiling in numbers on interception, (both proposals incorporating the principle that all benefits from enhancement would go to the country of origin) this would mean that with the increasing proportion of United States in the intermingled fishery, to stay within the agreed levels Canadian fishermen would have to forego the opportunity to catch large numbers of fish of Canadian origin and in respect of the Coho at least 60% of these fish would be lost as they could not be caught by any Canadian terminal fishery for reasons largely related to the conflict between Canadian sports and net fisheries (these two fisheries cannot be satisfactorily geographically separated to allow the net fisheries to catch what escapes the sports fishery). Canadian investment in hatcheries to keep up the proportion of Canadian fish in the intermingled fishery would have to be of the order of \$83,000,000.00, and for other reasons as well, it is apparently out of the question. Canadian enhancements would cause no problems, in the sense of involving losses, for United States fisheries under the U.S. proposal.

5. The general conclusion drawn by the meeting was that the United States "compromise" proposal is unacceptable, and not possible to adjust through any remedial amendments and this conclusion was based on the two criteria indicated above: (a) that applied to actual 1967-1972 catches it shifted the imbalance in interceptions even further against Canada using the Canadian system of valuation, and (b) that the unforeseen predicted increase in the numbers of fish entering the west coast trawl fishery from United States hatcheries programs would, among other things, create unacceptable difficulties and losses for this Canadian fishery. It was agreed that the U.S. would be informed immediately of the Canadian conclusion so that there would be no doubts regarding the work to be faced at the next Canada-U.S. salmon talks.

6. The next day, Thursday, December 6th was dedicated to the discussion of a new Canadian proposal. This proposal, as roughly formulated, would stabilize certain intercepting fisheries for both countries at existing numerical levels of catch instead of interceptions. As regards the Canadian troll fishery, this proposal would allow an increase in interception of United States salmon if the U.S. chooses to continue its hatchery program, but would act as a disincentive to the U.S. to continue this program and would encourage it to develop hatcheries which would feed fish into other areas thereby decreasing the losses to Canadian fishermen of Canadian fish.

... 3



- 3 -

RESTRICTED

This proposal should also be suitable for the Cape Fox-Noyes Island fisheries, which could also catch increasing numbers of Canadian salmon but would be limited to the total catch they have now and would not face any pressure to decrease that catch as has been suggested in other Canadian proposals and steadily opposed by the U.S. In the case of the Fraser River, the interception level is basically the catch level as there is little intermingling and a catch level in numbers based on current catches should provide security to the Puget Sound fisheries, a matter which has been of considerable concern to them. In other fisheries, ceilings may be placed on the basis of a mix of interception levels **in numbers** and percentages and catch levels as appropriate. The Canadian technical team will examine the basis for a Canadian proposal along these lines, and will provide a written draft of the proposal and an evaluation of its impact on Canadian fisheries and on the balance in interceptions.

  
B. Applebaum.



FILE ✓  
DIV  
CIRC  
DIARY

FLO/B.Applebaum/jlj

The Canadian Embassy  
WASHINGTON

Department of External Affairs,  
Legal Operations Division

RESTRICTED

January 14, 1974

FLO-45

25-5-7-2-SALMON-1	
<del>25-5-7-2-Northwest Atlantic</del>	
12	—

International Pacific Salmon Fisheries Commission

DOE/Legault

ECS

GWU

... We enclose copies of self-explanatory correspondence comprising two letters dated December 17, 1973 from the Director-General, International Fisheries and Marine Directorate, Department of the Environment and a letter dated November 21, 1973 from the International Pacific Salmon Fisheries Commission, which propose a revision in the method of handling Commission funds, and a copy of the relevant note from the State Department dated December 10, 1937.

... We enclose as well a Draft Note on this matter from the Canadian Embassy to the Department of State for your completion and transmission.

2. We assume the Department of State will act upon this matter with dispatch in view of the date proposed for implementation of this proposal, but would be grateful for your assistance in obtaining an early response.

W. ROBERTSON

D.M. Miller, Director  
Legal Operations Division

All with copy  
of draft note.



Your file    Votre dossier

Our file    Notre dossier

Environment    Environnement  
Canada        Canada

Fisheries       Pêches

25-5-7-2  
Salmon-1

File

F-12274  
B. Applebaum

Ottawa, Ontario, Canada,  
K1A 0H3,  
January 28, 1974.

25-5-7-2-SALMON-1	
12	—

Professor Donald L. McKernan,  
c/o Stanley R. Murphy,  
Division of Marine Resources,  
University of Washington,  
3716 Brookland Avenue N.E.,  
Seattle, Washington 98105,  
U.S.A.

Dear Professor McKernan:

This refers to our telephone conversation of December 17, 1973, at which time we agreed to inform one another of developments in our thinking concerning the current round of salmon talks, without prejudice to positions either side might take at future meetings.

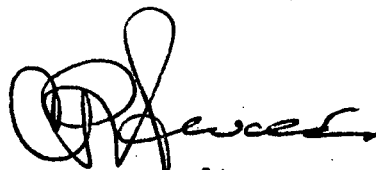
We have carefully reviewed the proposal presented by the United States at the last session of the salmon talks, and also the suggested modifications of the proposal contained in your letter of December 20, 1973. This has taken considerable time owing to the complexity of the matter, the new information made available by you to our technical experts, and the need to analyze your proposals in the light of this new information. We very much appreciate your attempts to help bring about a compromise and are gratified by what we consider to be the positive elements in the ideas you have put forward. However, I feel I must warn you now that after further study we have regretfully concluded that the approach suggested by you does not appear to us to provide a basis for agreement. There are three major reasons for this view on our part: First, because both the original and modified United States proposals would result in greater reductions in interceptions by Canada than by the United States; this would exacerbate what we already view as an imbalance in interceptions in favour of the United States. Second, because the "compensation" requested by the United States for its recent contributions to Fraser River enhancement goes beyond what we could view as being appropriate in the circumstances (as I pointed out in my closing statement at our last meeting). Third, because Canada would have to forego large catches of Canadian salmon in order to bring about the proposed reductions in interceptions of United States fish by Canadian fishermen; United States fishermen would not be required to make this sacrifice to anywhere near the same degree under the United States proposals, and indeed your delegation on numerous occasions in the past has rejected any approach to the interception problem impinging on the right of each country to harvest its own salmon stocks.



- 2 -

In summary, we consider that the United States proposals do not take into sufficient account Canadian fishing interests. Despite these difficulties, however, we remain hopeful that it will be possible for both sides to maintain the momentum achieved at the last meeting and to work out an agreement in due course. Certainly we are encouraged by the progress made in working out common basic principles and by your willingness, which we share, to explore all possible avenues of agreement in a friendly and constructive spirit. At present, we are developing proposals of our own which will be aimed at preventing gross increases in interceptions from new enhancement facilities while at the same time allowing fishermen of each country maximum opportunities for exploiting their own national salmon stocks. Hopefully these proposals may permit us to make further progress in our mutual efforts to resolve the Pacific Coast salmon problem.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'C.R. Levelton', with a large, stylized initial 'C'.

C.R. Levelton,  
Director-General,  
Operations Directorate.

cc: S. Blow



HUGH L. KEENLEYSIDE

3470 Mayfair Drive,  
Victoria, B.C.  
V8P 1P8

30 January 1974.

PERSONAL AND CONFIDENTIAL

A.E. Ritchie, Esq.,  
Under-Secretary of State for  
External Affairs,  
Ottawa, Ontario.  
K1A 0P6

Dear Ed,

..... The enclosed copy of a letter marked 1 came to me quite unsolicited and I'm not at all sure why. The author is a serious and exceptionally well-informed expert in fisheries matters. Not knowing what to do with the letter, I sent it to another unconnected but equally well-informed specialist and a copy of his response, marked 2, is also  
..... enclosed.

Neither correspondent has given me permission to use his name because each is personally involved on a more or less continuing basis with many of those who are directly or inferentially criticized. But I assure you that both authors are very senior persons with a long and intimate knowledge of the matters under discussion. Neither one is in any sense a "crack-pot", indeed quite the opposite.

Again not knowing what to do with the second letter and realizing that if the correspondence went directly to Fisheries nothing would ever be heard of it again, I decided that it should be sent to you because External has always been involved in the Salmon Treaty and related matters. (I myself did the dog's-body running around in the original negotiations in 1928-29!)

What your current experts in this field - perhaps I should say sea - may think of the letters I have no way of knowing. But the subject seemed to me to be of sufficient importance to bring it to your attention.

Also, it gave me an excuse to write to you again - and to send my warm regards and good wishes.

Yours sincerely,

Hugh Keenleyside

000724

5.2.4(us)



December 17, 1973

Dear Hugh:

I wish to elaborate upon our brief phone conversation concerning the International Pacific Salmon Fisheries Commission. In doing so I am making an assumption that may be old fashioned and out of tune with modern times, i.e. that if we have an efficient government organization that is accomplishing its assigned tasks as inexpensively as possible, it is rather stupid to abolish that organization and to replace it with one that will be far larger in size, more expensive to operate, less efficient in its operation and could destroy all the gains made by the present organization. Whether or not these gains are destroyed we have established a tradition of amicably solving problems with our friends to the south. The halibut treaty and salmon treaty are outstanding examples of successful operation of international programs of resource management. However, negotiations scheduled to begin on January 13th have as their objective the destruction of the Salmon Commission as it now stands.

In place of the new commission there would be a complicated organization of an "umbrella" commission composed of four or five commissioners from each country. Under this would be two regional groups with three to four commissioners from each country. The suggested organization made by Canada is shown in the attached sheet.

The background for this revision of the salmon treaty is our (the Canadian's) desire for a larger share of any additional sockeye or pink salmon that may be produced as a result of the program proposed by the Salmon Commission for the Fraser River. In keeping with the current, highly nationalistic attitude of some Canadian politicians this is being used as a lever to dislodge the Salmon Commission which has presented a program to the two governments for "restoration and extension of the sockeye and pink salmon stocks of the Fraser River". Our Canadian government has refused to support the Salmon Commission in its plans because it does not want the U.S. to invest more money in the Fraser River and thus to establish a basis for claiming a share of the resultant enlarged runs (the biologists are pleased to speak of the potential gain as "enhancement").

There are two problems. One is the attempt by Canada to obtain full control of any increase in numbers of sockeye or pink salmon produced in the Fraser River system; the second is the artificial one raised, I believe, by the bureaucrats on both sides of the border who see this as a fine opportunity for increasing their respective fields of jurisdiction: The Canadian Fisheries Department by taking over the entire program of research and "enhancement" in the Fraser River, the State of Washington Department of Fisheries by taking over research in its waters. The welfare of the fisheries, and the fish populations is obviously a very minor consideration in this exchange.



I have no quarrel with the attempt to obtain a larger share of the increased production of sockeye and pinks for Canadian fishermen. Our friends to the south conceived the idea of ownership of salmon runs by the country of origin, i.e. in which they spawn. If they want to promote this concept for their own rivers and salmon they must be prepared to live by it in the Fraser River.

On the other hand I do not believe that this should be used as an occasion for emasculating the Salmon Commission and demonstrating to the world that Canada and the U.S. are not the good neighbors they have been claiming to be.

Compare the commission recommended by the Canadians with the present one. Think of the staff that would be added on both sides of the line for research and enhancement and I believe that you can develop some idea of the relative size of staffs that would be used. I seriously question whether they would be competent to do the job the present commission has done.

If this move should result in failure of management of the Fraser River runs we will of course only lose that amount of salmon, as well as the potential increase. Personally, I do not feel that the probable loss would be worth the enlargement of responsibilities and costs of the Canadian Fisheries Department and the Washington State Department of Fisheries.

I suggest that if Canada and the U.S. want to change the relative amounts of fish each is to harvest from the Fraser River runs, that this can be written into the treaty. However, the Salmon Commission should be left intact to carry on the necessary research and management as well as the "enhancement" program.

Sincerely yours,



Dr. Hugh Keenleyside  
3470 Mayfair Drive  
Victoria, B.C. V8P 1P8

BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL

Dear Hugh,

It was kind of you to send me the letter about the future of the Salmon Commission. It is a good letter, and I share the concern expressed, though perhaps I would put it another way. The principle that each country should catch the salmon that originate from its streams is sound. Otherwise, we "pay" all the "opportunity costs", all the pollution abatement costs, but reap only one half the benefits. To improve our bargaining position we have increased our interceptions of U.S.-bound fish and have now reached a more or less equitable de facto position. The proposed change would be a politically visible way of restoring order to the competitive shambles, and it appeals to me because of its orderliness.

But I share the concern about the new commission arrangement that would be used to sort out the quid pro quo catch agreement. Certainly, the present Commission is an efficient operation. By contrast, our Canadian bureaucracy, especially in fisheries, seems to be growing at an astonishing rate and becomes more arthritic as it grows. I'm attending a seminar this week in Vancouver (on salmon enhancement) and I intend to comment on what I feel is becoming more than a taxpayer can bear.

The conclusion is obvious. I favor the change, but it should be combined with a purge of our Fisheries and Marine Service! A more sleepy, 9 to 5, trivia-oriented, moss-covered, and self-satisfied bunch of bureaucrats can only be seen in the Department of Indian Affairs and Northern Development!



BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL

Dr. Hugh Keenleyside

28 January 1974

Page two

Thank you again for sending me the letter. It has added fuel to my indignations about the federal bureaucracy of the moment.

Sincerely,



FLO/B.Applebaum/2-6692/jmw

Circulating diary  
Div. diary  
B.Applebaum  
File

BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL

"Return to FLO"

Ottawa, K1A 0G2

February 11, 1974

25-5-7-2-SALMON-1	
12	—

Dear Hugh:

Thank you for your letter of January 30, 1974 concerning the International Pacific Salmon Fisheries Commission and the plans currently being made to expand it in connection with a new Salmon Treaty.

This is merely an acknowledgement of your letter and interim reply, as participation by this Department in the salmon discussions with the United States in Seattle from February 11 to 16 prevents us from dealing with it more substantively at the present time. When the current round of the salmon talks has been completed I hope to have a more substantive reply for you.

Your warm regards and good wishes are appreciated, and reciprocated.

Yours sincerely,

A. E. RITCHIE

Under-Secretary

Dr. Hugh L. Keenleyside,  
3470 Mayfair Drive,  
Victoria, British Columbia.  
V8P 1P8

12.2.11/15)

000729



FLO

322

... 30/2/74



SEEN BY THE MINISTER

25-5-7-2-SALMON-1	
12	/

CONFIDENTIAL

February 19, 1974

File  
25-5-7-2  
Salmon-1  
Mar 1/74  
B. Affiliated

MEMORANDUM FOR THE MINISTER *on return*

Canada - U.S.A. Salmon Talks,  
Seattle, February 11-15, 1974

... In view of the denunciatory nature of a brief statement on these talks by a spokesman for the United Fishermen and Allied Workers Union which appeared on the front page of the Globe and Mail on Monday, February 18, (a copy of the clipping is attached) I thought you might be interested in receiving a brief report on this meeting.

2. At the meeting the Head of the Canadian Delegation commenced by explaining why the previous United States proposal had been considered unsatisfactory from the Canadian point of view, and presented a new Canadian proposal, which had received the approval of all relevant industry advisers except the United Fishermen and Allied Workers Union. The Canadian proposal incorporates major elements of previous United States proposals, and introduces a new factor, a provision for limitations on the total catch of major intercepting fisheries. This proposal differed from previous Canadian proposals which had provided for a catch limit on numbers of intercepted fish only, in a much wider range of fisheries. The United States Delegation raised numerous objections, but agreed that the Canadian proposal can provide the basic framework for an agreement. The area of dispute, however, remains quite substantial, and one of the major issues concerns which fisheries are to be subjected to total catch limits. The talks were adjourned on the basis that, while no agreement had been reached, some progress had been made, and committees would do further work on various aspects of the Canadian proposal prior to the next meeting, which is tentatively scheduled for December, 1974.

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- 2 -

CONFIDENTIAL

3. The United Fishermen and Allied Workers Union has been alone among the industry advisers in refusing to agree to any compromise to achieve Canadian objectives. The basis for their "sell out" argument would appear to be that a much harder bargain should be driven by Canada, involving confrontations and disruption of fisheries, to force the United States to agree to Canadian terms. The Union would appear to be more interested in fostering a generally difficult situation which might produce gains for the United Fishermen and Allied Workers Union on the labour and domestic political fronts than in contributing to the development of a satisfactory agreement.

4. As the meeting in Seattle concluded with an understanding that the issues involved require some public airing at this point, and the agreed record of discussion was itself released to the press for this purpose, more discussion of this matter may be expected to appear in the press, and the question may be raised in Parliament.



A. E. R.



CENTRAL STAFF  
PMO  
MIN(2)  
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PARL.SEC.  
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PAG  
FAI

FLO/B.Applebaum 2-66/100

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

DIARY  
DIV.  
CIRC.

February 22, 1974

ANTICIPATED QUESTION  
HOUSE OF COMMONS

Canada-U.S.A. Salmon Negotiations

25-5-7-2-SALMON-1	
12	—

QUESTION:

Mr. Speaker, will the Secretary of State for External Affairs advise the House about what is happening in the Canada-U.S.A. salmon negotiations which have been going on for several years, and particularly whether any progress has been made toward protecting Canadian fish and fishermen and asserting Canadian control over the Fraser River?

ANSWER:

Mr. Speaker, the latest in the series of talks on this subject took place in Seattle from February 11 to February 15, and the record of this discussion was released to the press to inform the public of the direction in which these talks have been going and to provide an opportunity for comment. Of course, those sectors of the public most directly concerned, the fishermen and processors, have been represented at the talks and have been involved fully in the development of the Canadian position.

... 2

A. E. RITCHIE



- 2 -

While the Minister of Fisheries would be able to comment more fully on the issues in these talks, chiefly the matters of securing salmon production of the Fraser River for Canada and achieving equity in the balance of interceptions by Canada and the United States, I understand that some progress was made at this last round moving us closer to a final agreement on the difficult issues to be resolved.



CANADIAN PROPOSAL

25-5-7-2-SALMON-1	
1/2	—

25-5-7-2  
Salmon-1  
File  
Feb 22/74  
B. J. J. J.

A. Definitions

1. Category - as defined in the Report of the Technical Committee on Salmon Interceptions, June 1971.
  2. Specified Fishery - those fisheries for the given species, area(s) and gear(s) described in the Annex to this Agreement.
  3. Estimates of Interceptions - to be determined. (1)
  4. Rate of Interception - for fisheries by category and species, the proportion of the total annual stock surplus to spawning requirements taken by the intercepting country.
- B. For categories A, C, D and E and for each species the rate of interception on a four year average shall not exceed the 1967-72 average rate of interception.
- C. For each specified fishery listed in the Annex, the following additional provision shall apply:
- The average catch in numbers over a four year period shall not exceed that listed in Column D (Catch Limit) of the Annex.
- D. Each country shall undertake to subtract from its permissible catch over the next four year period any excess catch incurred in (the) previous four year period(s) over that provided by paragraph C.
- E. In addition to the provisions listed above, the United States will be permitted to catch % of the total catch of salmon attributable to the Gates, Nadina, Pitt and Weaver artificial spawning facilities for a twelve year period.
- F. An international commission or other administrative body whose duties will be defined by the two Governments will be established to facilitate the implementation of this Agreement. The two Governments will agree on appropriate means of settlement of disputes which may arise between them in the application of the foregoing measures.

(1) Subject to discussion on estimates of Category A sockeye and coho.



For United States fisheries on stocks originating in Canadian sections of Panhandle Rivers, the Yukon River and the Columbia River, no immediate limitations will apply, except to meet the needs of existing Canadian fisheries and the needs of conservation. In the event that additional salmon are required for increased or additional Canadian fisheries, the two Governments will meet to arrange appropriate reductions in United States catches.

- H. This Agreement shall be subject to review by the two Governments by the end of a period of five years from the coming into force of this Agreement, with a view to adjusting catch and other provisions of this Agreement, such adjustments reflecting changing relative values of the different species of salmon, emerging changes in relative strengths of intermingled stocks, or the development of new fisheries not specifically mentioned in this Agreement.



# ANNEX

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>	<u>Column D</u>
<u>Category and Area</u>	<u>Species</u>	<u>Gear</u>	<u>Catch Limit</u> <sup>(2)</sup>
A. Cape Fox	Sockeye	Gillnet	
Noyes Island	Sockeye	Seine	
	Pinks		
	(odd year only)	Seine	
All areas	Chinook	Troll	
	Coho	Troll	
D. 20	Coho )	Net	
C, 21-27	Chinook)	Troll	
E. IPSFC Area	Sockeye	Net	
IPSFC Area	Pinks	Net	
Pt. Roberts )	Chinook	Net	
San Juan Islands )	Coho	Net	
West Beach )	Chum	Net	

(2) Average 1967-72 catches, except for those in Category D, which have been adjusted upwards to provide for an equitable balance.



- ① Washington
- ② Pacific Salmon Fisheries Commission
- ③ Fisheries

③

25-5-7-2-SALMON-1	
12	20

Mr. Applebaum  
cc Mr. Lee

ACTION COPY

~~25-5-7-2~~  
25-5-7-2 Salmon-1

Phoned to  
Roberta DOE  
File Mar 12/74  
B. Applebaum

R E S T R I C T E D

FM WSHDC 700 MAR6/74

TO EXTOTT (FLO)

INFO ENVHULL/ROBERTS DE OTT

DISTR ECS GWU

REF YOURTEL FLO270 MAR5

---INNATL PACIFIC SALMON FISHERIES COMMISSION

HAVE ASKED STATE WHEN REPLY TO OUR NOTE OF JAN21 WILL BE FORTHCOMING.  
SEEMS TO HAVE BEEN MIXUP IN THAT REPLY WAS DRAFTED AND SUPPOSEDLY  
SENT. COPY MAY HAVE GONE TO COMMISSION BUT ORIGINAL FOR UNEXPLAINED  
REASON DID NOT/NOT LEAVE STATE DEPT. IN ANY EVENT REPLY IS AFFIRM-  
ATIVE; USA AGREES TO CDN PROPOSAL, AND WE EXPECT TO RECEIVE NOTE  
CONFIRMING THAT IN NEXT FEW DAYS.

062007Z 150



GWP/J.S.NUTT/EDB

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

MEMORANDUM

TO  
À GWU

FROM  
De GWP

REFERENCE  
Référence

SUBJECT  
Sujet West Coast Salmon Fishery

SECURITY  
Sécurité

CONFIDENTIAL

DATE March 6, 1974

NUMBER  
Numéro

FILE	DOSSIER
OTTAWA	
25-5-7-2-SALMON-1	
MISSION	
34	

ENCLOSURES  
Annexes

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FLO  
FCO

In a CBC radio interview this morning Frank Howard, NDP, Skeena, made the following points: the U.S. catch in the west coast salmon fishery was about twice as much (\$18 million) as the Canadian catch (\$9 million). He referred to a surf(?) line agreement under which both countries agreed to establish lines within which salmon could not be taken by net. In many places Canada had established the line at the shore whereas in the Gulf of Alaska for instance the U.S. line was six miles from the shore. This meant that Canada "got diddled". He attributed this to the Department of External Affairs which "was operating from a tactful diplomatic point of view". He said that in earlier years Canada got a square deal when the P.M.'s father-in-law was Minister of Fisheries and George Clark was the businesslike Deputy Minister. Howard said "we should say to hell with the U.S.". "We should unequivocally declare fish of Canadian origin to be Canadian and we should close out the Americans." He scorned the "gentle, Sharp type of approach". He implied that the U.S. was not playing the game by the rules and Canada should play it as they did, even if it meant the extermination of a fishery.

2. To say the least this is not helpful to the Canada/U.S. relationship if only from the point of view that it misinforms Canadians about the situation. Also it does not enhance the Department's image nor by implication that of the Department of the Environment on the fisheries side.

MAR - 7 1974

*J.S. Nutt*

J.S. Nutt,  
GWP

U.S.A. DIV.	
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RECORDS MANAGEMENT  
DIRECTIONS DES ARCHIVES

MAR 8 10 11 AM '74

25-5-72-SALMON  
12 18

ENV/OTT  
(Mr. Roberts)

To: A *FLO*  
From: Do: *ACIA*  
MAR 14 1974  
Att'n: *Appelbaum*

CANADIAN EMBASSY  
AMBASSADE DU CANADA  
WASHINGTON, D.C.

RECEIVED

MAR 14 1974

In Legal Operations Division  
Department of External Affairs

OUR TEL  
700 of  
March 6  
to FLO

File  
MAR 14 1974  
25-5-7-2  
Salmon-1

*Appelbaum*  
*Shmied*  
*Long, etc*

The Department of State acknowledges receipt of note

No. 25 of January 21, 1974, from the Canadian Embassy concerning the method of payment of the U.S. contribution to the International Pacific Salmon Fisheries Commission. The Department of State agrees that the method of payment should be revised as to correspond with the method used for the Halibut, North Pacific, Northwest Atlantic and Great Lakes Commissions, whereby each government makes payment directly to the account of the Commissions, and the Commissions than disburse the funds with a post-audit. The Department further agrees that transfers be made to the International Pacific Salmon Fisheries Commission in a lump sum, quarterly, to the account of the Commission commencing on April 1, 1974.

Department of State,

March 7, 1974

Washington,

000740



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

File

s.23

TO  
A

FLP

FROM  
Do

REFERENCE  
Référence

SUBJECT  
Sujet

Canada-U.S.A. Salmon Talks,  
Seattle, February 11-15, 1974

SECURITY  
SécuritéRESTRICTED

DATE March 8, 1974

NUMBER  
Numéro

FILE	DOSSIER
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25-57-2-SALMON-1	
MISSION	121

ENCLOSURES  
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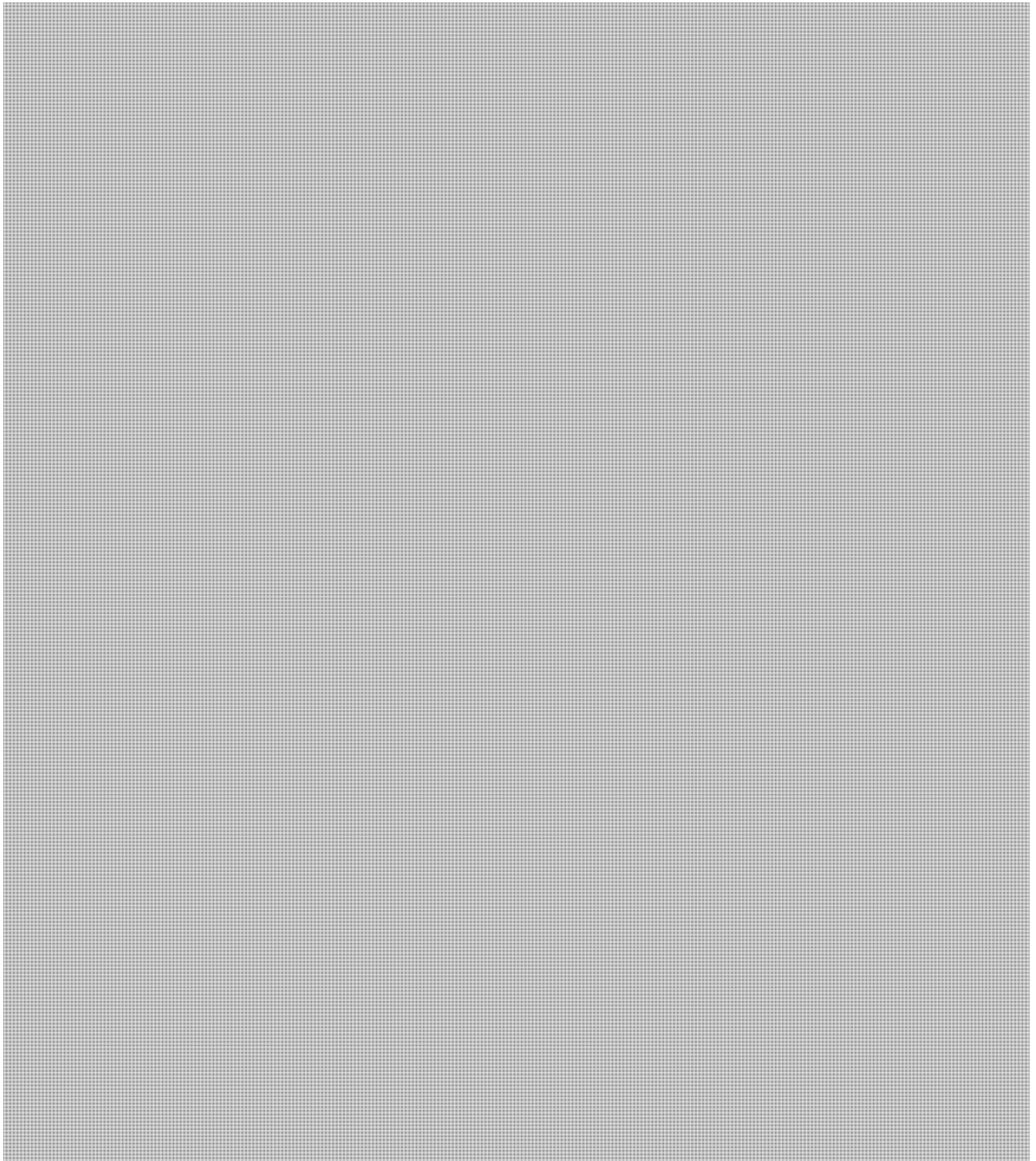


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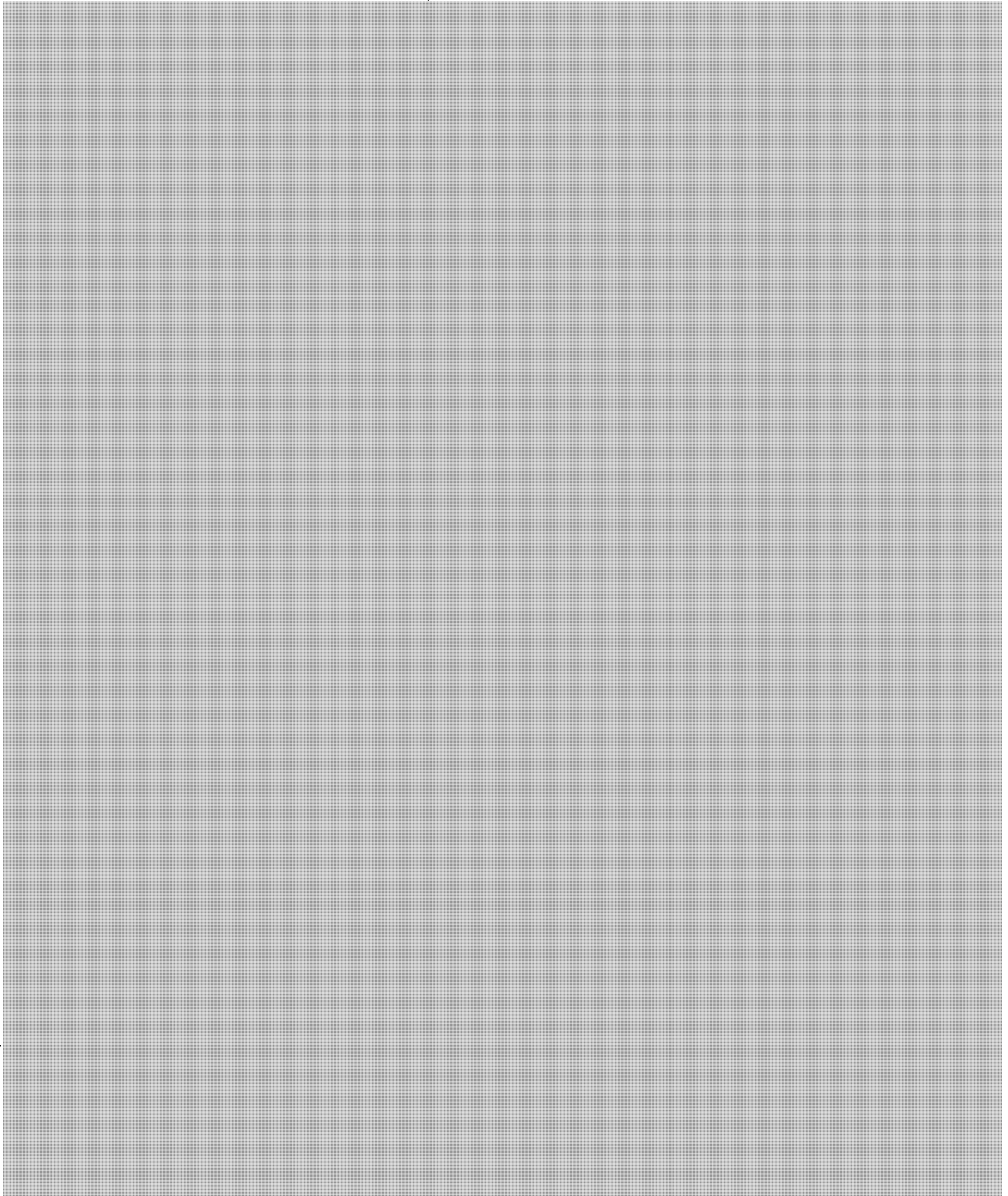
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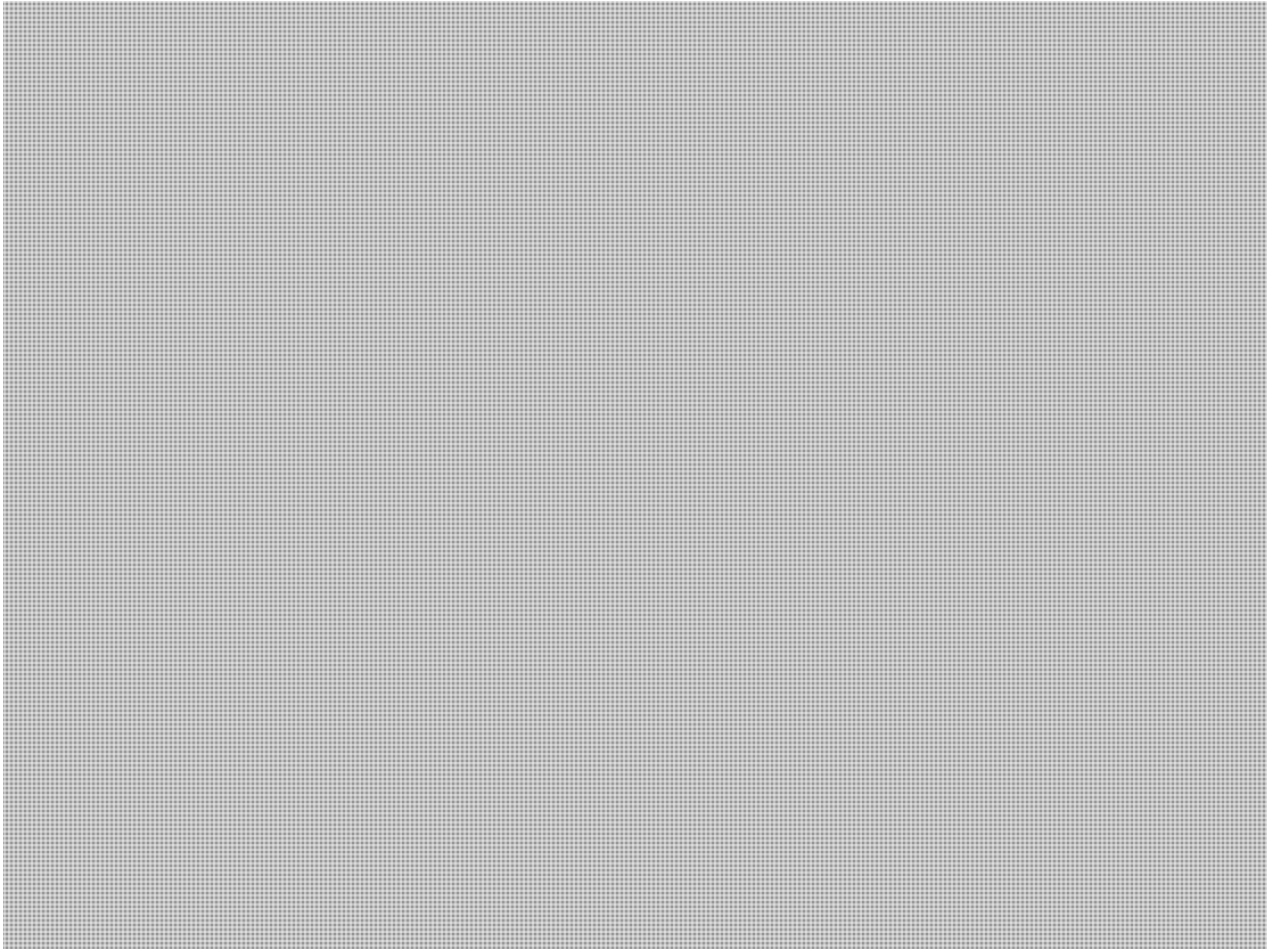


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RESTRICTED



P. A. LAPOINTE

Legal Operations Division.



Dept of Environment  
Salmon  
Conservation  
International Pacific Salmon Fisheries Commission

FLO/B.Applebaum 2-6692/dah

FILE  
DIARY  
DIV.  
CIRC.

s.23

BY HAND

Ottawa, K1A 0G2 CONFIDENTIAL

March 12, 1974

Our File:

25-5-7-2-SALMON-1

(4)

25-5-7-2-SALMON-1	
12	20

Mr. C.R. Levelton,  
Director General,  
Operations Directorate,  
Department of the Environment,  
Fontaine Building,  
Hull, Quebec.  
K1A 0H3

Dear Mr. Levelton:

Yours sincerely,

P. A. LAPOINTE

D.M. Miller,  
Director,  
Legal Operations Division.

cc: DOE/Logault )  
" /Shepard } -with attachment  
FLA )



"Return to FLO

DS"

DOE/Shepard  
FPR  
ECS  
GWU

FLO/B.Applebaum 2-6692/dah

FILE  
DIARY  
DIV.  
CIRC.

RESTRICTED

Ottawa, KLA OG2

March 12, 1974

25-572-SALMON-1	
12	_____

Dear Hugh:

Further to my letter of February 11, 1974 in reply to yours of January 30, 1974 concerning plans currently being made to expand the International Pacific Salmon Fisheries Commission in connection with a new salmon treaty, I am writing to provide some background and information which I hope will explain the basis for these plans.

It might be best to begin with some description of the proposals being developed for a new commission to implement a new salmon treaty. I do not know if your two correspondents have seen the full set of proposals so far developed, or have only heard some description of them, as the comments of your correspondent of December 17 seem to reflect only a partial understanding of what the proposals are designed to do. First of all, a new commission will have to deal with much more than pink and sockeye salmon in the Fraser River Convention Area: it will have to implement an agreement of some considerable complexity concerning interceptions all along the coasts of Washington, Alaska and British Columbia. Further, any new commission devised is not expected to "abolish", "replace" or destroy the old commission, but is expected to incorporate it, retaining its responsibility to regulate the fishery in the Convention Area to provide escapements and division of catches, but not its research and development functions. Overall management of the fishery in the sense of setting escapement goals, would revert to Canada. The costs of operating the expanded commission, which would no longer have research and development functions, should be considerably lower than the costs of operating the present commission, as the secretariat staff would be smaller than the present staff, and the "expansion" would be in commissioners, who would of course not be salaried as such.

... 2

Dr. Hugh L. Keenleyside,  
3470 Mayfair Drive,  
Victoria, British Columbia.  
V8P 1P8

000746

14:3.19(55)



- 2 -

RESTRICTED

I regret that I cannot send you a copy of the report of the Administrative Committee set up during the salmon negotiations, which provides a full description of the proposals to date, but it is restricted to those involved in the negotiations. I am afraid that if you have been shown only a segment of this report you may have developed a misleading impression of its contents.

Perhaps I should go on to deal with some of the specific points raised by your correspondent of December 17, 1973.

As I have indicated it is probably misleading to say that there is an intention to "abolish" or destroy the International Pacific Salmon Fisheries Commission, and if the sheet attached to the letter of December 17, 1973 was in fact the suggested Canadian organization chart, it should show three, not two, regional panels. The third is the Fraser River Regulation Unit, and the proposals made to date are to have this Convention Area Panel carry on the regulation functions of the present IPSFC, but not the research and development functions. This latter point is, of course, considered objectionable by your correspondent, but is a key element of the Canadian position: the Fraser River is a Canadian river, and, while acknowledging that there were good reasons for the conclusion of the Convention in the 1930's, we would, for the future, consider it a derogation from Canadian sovereignty to have research and development, and determination of escapement requirements connected with the river performed by a bi-national commission; there is no similar arrangement applying to any United States salmon producing river, and further, joint research and development requires allocation of funds, the availability of which will vary with the national priorities of the two countries, and development of the Fraser River under the existing arrangement has already been retarded in the past by the unwillingness of the United States to put up its share. There can be no question, from this Department's point of view, of the need for solely Canadian research and development for a Canadian river.

Your December 17 correspondent seems to see something objectionable in the Canadian wish to obtain the benefits from new enhancement prospects in the Fraser River, and our refusal to permit more United States investment in these projects in order to obtain a share of the enlarged runs. The welfare of the fisheries, or more particularly the Canadian fisheries, is obviously the primary consideration in these negotiations. As to the suggestion of bureaucratic empire building, I have dealt with the importance of establishing Canadian jurisdiction over Canadian rivers, and I can assure you that the State of Washington, on the contrary, would like nothing more than to continue the present system, and reap the benefits of the Fraser at Canada's expense.

... 3



- 3 -

RESTRICTED

Your correspondent has expressed fears regarding the staff that would be added to the Department of the Environment in connection with the new commission, for research and development, and questioned their potential competence. I have made it clear that the new commission will have much wider areas to cover than the present one, fisheries in the north in the Alaska Boundary area, and fisheries in the south, into the Columbia River, as well as the Convention Area. As far as the Convention Area is concerned, it is planned that employment will be offered by Canada to the present commission's research and enhancement staff, so that all their expertise will be at Canada's disposal and there can be no question of their competence. As regards the other areas, with acceptable and secured control of interceptions, Canada will be free to develop more enhancement programs, knowing they will benefit Canadian fishermen; this will involve personnel, time and money, and the rate of return is expected to be extremely favourable.

As regards your second correspondent, it appears that despite his opening comments, he disagrees with your first correspondent, and generally favours the system which is being developed. As to his closing remarks, I need not comment in any other way than to state that the officials of the Fisheries and Marine Service who have been working on the salmon question with officials of my own Department are dedicated men, often doing double jobs, their normal work and work connected with preparations for and participation in the salmon negotiations, and they give freely and steadily of their own time.

I hope I have provided some explanation of what is going on, and I would be quite content if you passed copies of this letter to your two correspondents. As they are obviously close to, if not actively involved in, the negotiations which are taking place, they should feel free to place their questions, and objections, with the Canadian Government representatives who frequently travel to Vancouver to consult with advisers from all branches of the industry. These representatives have heard no objections expressed to the proposals for institutional arrangements which have been developed, and are of the impression that, insofar as these proposals are concerned, all are "on side". If there is any disagreement they would be most anxious to know about it, and have it openly discussed with all advisers present. I sincerely hope that your correspondents will take this avenue of expressing any doubts they may have, and thus contribute to the progress being made.

Yours sincerely,

A. E. RITCHIE

Under-Secretary.



Ottawa, Ontario, 12 /  
K1A 0H3.

25-5-7-2

Salmon-1

File

Mar 13/74

B. Applebaum

Mr. George Hewison,  
United Fishermen and Allied Workers'  
Union,  
Fishermen's Hall,  
138 East Cordova Street,  
Vancouver, B.C.  
V6A 1K9

Dear Mr. Hewison:

This is in reply to your telegram of February 12, 1974 in which you demanded the withdrawal of the Canadian proposal, the recall of the Canadian negotiating team and suggested that Canada take strong measures which would force the U.S. to accept an agreement more favourable to Canada.

The proposal advanced by the Canadian delegation at the salmon talks was fully endorsed by me. I was not willing to entertain any suggestion that the proposal be withdrawn.

I believe that the Canadian proposal advanced at the Seattle meeting is the most practical approach to limiting interceptions and to achieving an equitable balance in the value of interceptions. It provides for a freeze on the rate of interceptions in all fisheries and a limit in terms of numbers of salmon in specified fisheries such as the United States fishery for Fraser River sockeye and pinks, the Canadian troll fishery off the west coast of Vancouver Island and Washington, and certain fisheries in Alaska. At the same time, it would secure for Canada the right to develop the Fraser and to be the beneficiary from returns to enhancement projects both on the Fraser and elsewhere. Moreover, the proposal, if accepted, would have the additional desirable feature of not creating severe economic disruption in any of Canada's fisheries.

Our negotiating team has explored with the United States side many approaches to solving our salmon problems. These explorations have taken several years and have been conducted consistent with the principles developed in June, 1971. I believe the Canadian proposal advanced this February offers the best hope yet of achieving an agreement which will provide us with equity while at the same time allowing us to develop the potential of our west coast fisheries for the benefit of all segments of our own fishing industry.



- 2 -

In your telegram you suggest that we should take strong unilateral action to force the issue. I am completely opposed to this sabre-rattling approach at this time. We are now on the eve of the Law of the Sea Conference where we hope to achieve substantial improvements in the international law governing the conduct of the exploitation and utilization of the world's oceans and the resources in and under them. The results of the Law of the Sea Conference should prove to be of significant benefit to fishermen on both coasts. I am particularly concerned about acceptance by other nations of our approach, and that of the United States, with respect to anadromous species at the Conference. Certainly a breach between the two nations now would only serve to raise the question of our sincerity in the eyes of other countries and could seriously prejudice the larger interest.

I have also received your letter circulated to all British Columbia M.P.'s and M.L.A.'s. I must say I am surprised by the misleading statements it contains and some of the omissions of substance. It also concerns me that you have made public details of the negotiations. Certainly, I consider this action premature and irresponsible and that it will do nothing towards settlement of the salmon problems faced by both countries. I am enclosing, for your information, a copy of letter I have sent to the recipients of your communication.

Yours sincerely,

Encl.

Jack Davis.



25-5-7-2-SALMON-1	
12	/

25-5-7-2 Salmon 1

File  
Mar 13/74  
B. Upplund

FLO SUBMISSION TO GWU  
FOR PAPER ON  
CANADA/U.S. PROBLEM: WEST COAST SALMON

Canadian fishermen catch salmon bound for their rivers of origin in the U.S., and U.S. fishermen catch salmon bound for Canadian rivers, such catches being termed "interceptions". The dollar value of interceptions by the U.S. is greater than for those by Canada. In addition to this inequity, under the Fraser River Convention, the U.S. has the right to participate equally in salmon development on the Fraser River preventing Canada from developing it solely for Canadians.



SEEN BY THE MINISTER

FLO

KEEP for  
House Committee hearings on  
External Affairs & Defence

March 13, 1974

25-5-7-2-SALMON-1

25-5-7-2 Salmon-1

File

Newby 1/2 x  
B. G. P. L. L. L.MEMORANDUM FOR THE MINISTER

38

Canada/U.S. Salmon Negotiations  
Correspondence with B.C. M.P.'s and M.L.A.'s

I enclose a copy of a letter from the Minister of the Environment to all British Columbia M.P.'s and M.L.A.'s, in response to a letter from the United Fishermen and Allied Workers Union, a copy of which is also attached, for your information should questions be raised on this subject at the meeting of the House Committee on External Affairs and National Defence when you appear before it on March 19.

2. Briefly, the letters deal with complaints by the United Fishermen and Allied Workers Union, concerning which you have been informed, that Canadian interests are being "sold out" in these negotiations. The letter by Mr. Davis is an effective reply, with which officials of this Department agree.



A. E. R.



Ottawa, Ontario.

K1A 0H3.

25-5-7-2-SALMON-1	
12	—

*FLP  
Lapointe to  
B. Applebaum*

*MAR 12/74  
B. Applebaum*

O.A. PRO	
ACRO	ACRO
MAR 8 1974	
ATT'N <i>Applebaum</i>	

TO: ALL BRITISH COLUMBIA MEMBERS OF THE LEGISLATIVE ASSEMBLY  
ALL BRITISH COLUMBIA MEMBERS OF PARLIAMENT

Dear Sirs:

You will have received, as I did, a letter from the United Fishermen and Allied Workers' Union, dated February 20, 1974, denouncing the position taken by the Canadian negotiating team at the recent Canada-U.S.A. salmon talks in Seattle.

Representatives of the U.F.A.W.U. have long been members of our advisory group at these and other fishery negotiations. While we seek and welcome the advice of the various segments of the fishing industry in our many international negotiations, I think it should be pointed out that this constitutes a privilege, not a right. It should therefore be expected that advisors will act in a responsible manner and not reveal confidential details of the negotiations while they are in progress as the representatives of the United Fishermen and Allied Workers' Union have done.

In negotiations of this sort, there is a necessity for discussion of a confidential nature as a prelude to fair and equitable solutions to the common problems which Canada and the United States face in their west coast salmon fisheries. Any agreement which the negotiating teams may reach must be ratified by the governments concerned. In our country, this would involve the consent of the Canadian Government and enactment of enabling legislation through the parliamentary process, procedures which would take at least one year. During that time, there would be full debate in Parliament, in Parliamentary Committees and in various public forums including the news media. The decision of representatives of the U.F.A.W.U. to make public the details of the negotiations is, in my opinion, irresponsible, premature and prejudicial to the reaching of an agreement satisfactory to Canadians.

I must point out that the communication of the U.F.A.W.U. is misleading in that there is no mention of the fact that the Canadian proposal had the support of all other segments of the British Columbia fishing industry as well as public servants representing the British Columbia Government. In addition, there are several gross misrepresentations of fact. These include the use of old data presented on the second page of their letter (1958-69 estimates of interceptions instead of 1967-72 data upon which the Canadian proposal is based), the allegation that an opportunity was not given to have the Canadian proposal explained fully to the advisors and the implication, pervasive throughout the letter, that the Canadian negotiating team has bent to every United States demand of substance or detail. I will not impute motives for this kind of behaviour, though they will be obvious to anyone close to the British Columbia fisheries scene.



- 2 -

I must add further that the west coast salmon talks are perhaps the most complicated and intricate negotiations we have ever conducted in fisheries. Problems of assigning large numbers of salmon to their country of origin, historical considerations and past agreements, the conflicts between different groups and gears harvesting different salmon runs in both countries, and different viewpoints as to how to measure the value of salmon, all serve to complicate these already difficult negotiations. In addition, these discussions must be put into the larger context of the other fisheries negotiations we are conducting, particularly related to the Law of the Sea Conference.

Because of the complex nature of the problem, I feel that the most effective way of presenting the issues would be to arrange briefings for any interested British Columbia M.P.'s and M.L.A.'s. This I am prepared to organize within the next month.

I am confident that these consultations will demonstrate that the proposal advanced by Canada is sound and, if agreement is reached, contains elements which can readily be implemented from the administrative standpoint. In particular, one of the desirable features of the proposal is that there will not be any economic disruption in any of our major fisheries. This is of critical importance to our west coast salmon troll fishery, a fishery which the U.F.A.W.U. does not fully represent, and one which would be adversely affected by any agreement that limits interceptions in any way other than by the application of the Canadian proposal. Moreover, it would secure for Canada the right to undertake salmon enhancement projects on the Fraser River system and to be the beneficiary from returns to such enhancement projects on the Fraser and in other streams of the Province. In addition, it will be seen that the unilateral steps being advocated by the U.F.A.W.U. would not be in Canada's long-term best interests since the high seas fishing for Bristol Bay salmon suggested by the Union would jeopardize Canada's Law of the Sea position with respect to anadromous fish. Acceptance of this position is needed to keep distant-water fishing nations from eventually moving in and destroying our runs before they reach our coastal waters. Also it would constitute abrogation of the North Pacific Fisheries Treaty to which Canada, the United States and Japan are party. This Treaty protects Canadian west coast salmon from the depredations of the Japanese high seas fisheries. Its termination would permit the Japanese to fish for Canadian salmon off the British Columbia coast in waters outside of our exclusive fishing zones and twelve-mile limit, waters where salmon of Canadian origin would be highly susceptible to such a fishery.

For your information in the interim, I am enclosing an outline of the Canadian proposal made to the United States negotiating team in Seattle in mid-February.

Yours sincerely,

Encl.

Jack Davis.

000754



OUTLINE OF CANADIAN PROPOSAL  
SEATTLE, FEBRUARY, 1974

The proposal presented by the Canadian side in Seattle in February, 1974 will put a brake on interceptions but would not result in their reduction. It would utilize the U.S. concept of limitation of interceptions on the basis of rate of interception (the proportion of the total allowable catch of a stock of fish bound for the rivers of one country intercepted by the other country) rather than on aggregate numbers. It will allow the investing country to reap the benefits of its enhancement programs, without involving haggling over what fish are of natural origin and what fish are from enhanced stocks. It will not result in serious economic disruptions of any of U.S. or Canadian fisheries and so would meet another major concern. At the same time, this proposal will in large measure alleviate the problem of either country not being able to harvest its own stocks. All of these points, it is considered, represent advantages for both sides.

Basically the proposal is as follows:

- (a) With the exception of salmon originating in Canadian sections of rivers draining to the sea through the United States, rates of interceptions (irrespective of whether they are produced artificially or naturally) would be frozen at a yet to be agreed average level.
- (b) Further, for certain specified fisheries, a limit would be established in that actual average catches in consecutive four-year periods would not be permitted to exceed the 1967-72 average. Many of these are fisheries where artificial enhancement is expected to result in substantial increases in the stocks. In these fisheries the lowest of the two limits would apply. These catch ceilings would be subject to upward adjustments to take into account enhancement undertaken by the intercepting country, provided that the number of intercepted fish does not increase.

Note:

The second part of the proposal is an attempt to meet the desire of both countries to allow each country to harvest, in large measure, the results of its own enhancement activities while at the same time allowing fisheries exploiting intermingled stocks to continue fishing without undue economic and sociological disruption at their present levels. This approach would also permit such intermingling fisheries to continue harvesting stocks bound for their own rivers.



- 2 -

It meets these objectives by placing a limitation on actual catch in specified fisheries. Many of these fisheries involve stocks which might be enhanced. In these fisheries, the magnitude of interceptions is significant, or the degree of intermingling of stocks from the two countries is most pronounced, or both situations apply. Since any increase in the catch in these fisheries by one country would involve an unacceptable increase in interceptions of the other country's fish, these fisheries should be subject to a catch ceiling. We maintain that their nature makes it necessary that no further expansion take place.

- (c) A provision for negotiated reductions of U.S. fisheries on Panhandle and Yukon fish in the event that Canadian fisheries require additional or increased catches from these stocks.
- (d) Repayment for recent U.S. contributions to enhancement programs on the Fraser River in terms of some percentage of the actual output of these facilities in the present convention area over a yet to be agreed term.

Note:

The provision concerning the Fraser River is, of course, especially important. What the proposal seeks to do is to simplify the Fraser River problem. The suggested approach would avoid tortuous debates on what may or may not be fair compensation for U.S. investments in the Fraser. It seems more appropriate to agree that the U.S. may continue, for a reasonable number of years, to share in the benefits of our joint enhancement programs on the same basis as that upon which the original investments were made by both sides.

- (e) A new international commission would be established to replace the present International Pacific Salmon Fisheries Commission.



# UNITED FISHERMEN AND ALLIED WORKERS' UNION

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

Telephone  
684-3254

Headquarters: The Fishermen's Hall, 138 East Cordova Street  
VANCOUVER, B.C. V6A 1K9

February 20, 1974

MINISTER OF  
THE ENVIRONMENT

FEB 26 1974

RECEIVED

TO: ALL B.C. MEMBERS OF THE LEGISLATURE  
ALL B.C. MEMBERS OF PARLIAMENT

Dear Sirs:

The reciprocal Canada-United States salmon talks have now adjourned in Seattle until early fall, at which time it is quite likely, an agreement will be concluded between the two countries, which will severely compromise the interests of the Canadian public in general and British Columbia fishermen in particular. We believe there is an urgent need to speak out against this proposed agreement and have it replaced by an agreement more in keeping with Canada's national interests.

The latest Canadian proposal culminates a series of retreats on the part of Canadian negotiators in face of stiff American opposition. The proposal now embodies many of the original United States demands and drops all the basic principles pursued by Canada (and agreed to by both countries in June of 1971) and lays the basis for a further imbalance of interceptions of salmon in favour of the U.S.

In June, 1971 fundamental agreement was reached on the following principles:

1. Each country should reap the benefits of its efforts to maintain or increase the stocks of salmon.
2. Each country should fish the salmon bound for its own rivers and should seek to avoid interception of salmon bound for their rivers of origin in the other country.
3. There shall be an equitable balance between the interception by the two countries. By "equitable balance" is meant that the total value of salmon bound for Canadian rivers shall as nearly as possible, equal the total value of salmon bound for United States rivers caught by Canada.
4. This equitable balance should be achieved where possible by reducing rather than increasing interceptions.



5. Each country should seek to make adjustments in the techniques and economics of its fisheries which will make reduction of interceptions possible.
6. These adjustments must take into account the overriding requirements of conservation.

The average amount of interception according to averages taken from a Canadian working party report 1971 and priced according to 1972 wholesale values (which is the pricing formula advanced by Canada) indicates:

TABLE I - Estimates Canada intercepts the following amounts of U.S. salmon - value 1972

Sockeye	19,000	\$5.80	\$110,280.00
Chums	40,000	5.10	204,000.00
Net caught even year Pinks	317,000	1.40	453,800.00
Troll caught even year Pinks	83,000	1.40	116,200.00
Odd year net Pinks	632,000	1.40	884,800.00
Odd year troll Pinks	167,000	1.40	233,800.00
Net Chinooks	11,000	9.06	99,660.00
Troll Chinooks	286,000	9.06	2,591,160.00
Net Cohoe	219,000	4.96	1,087,240.00
Troll Cohoe	635,000	4.96	3,149,600.00
			<u>\$8,887,540.00</u>

Does not include Yukon or Columbia River salmon originating in Canada.

Imbalance \$10,017,220.00 values doubled according to Provincial Government Economic Summary 1973, p. XIX (estimate).

TABLE II - Estimates United States intercepts the following amounts of Canadian salmon value 1972

Sockeye	1,683,000	\$5.80	\$9,761,400.00
Chums	66,000	5.10	336,600.00
Net Pinks even year	151,000	1.40	211,400.00
Troll Pinks even year	10,000	1.40	14,000.00
Net Pinks odd year	2,070,000	1.40	2,898,000.00
Troll Pinks odd year	211,000	1.40	295,400.00
Net Chinooks	32,000	9.06	289,920.00
Troll Chinooks	166,000	9.06	1,503,960.00
Net Cohoe	224,000	4.96	1,111,040.00
Troll Cohoe	299,000	4.96	1,483,040.00
			<u>\$18,904,760.00</u>

This indicates a substantial imbalance existing in the U.S. favour.



U.S. opposition to the basic Canadian position centers around their wish to maintain "historic fisheries". The obstacles the U.S. raise involved everything from statistics indicating that Canada was the aggressor nation insofar as salmon in value, a reverse pricing formula, refusal to proceed to negotiate unless Canada accepted estimates of interception made by the U.S. on Alaskan interceptions (differences range from 19% U.S. to 75% Canadian), the fact that the Panhandle stocks were not being exploited by Canada and should not be counted, investments made in the Fraser and their special interest there and the difference in their estimation of Canada's West Coast troll fishery which was not a historic fishery in their opinion, but which intercepted vast quantities of U.S. salmon. The frustration of bargaining in face of such an arrogant U.S. position, led Canadian negotiators to threaten to balance interceptions by mounting fisheries in areas where we suspected Canada could take increased quantities of U.S. salmon and to take a number of other measures designed to bring the U.S. to time. Twice during this preliminary stage, Canada used this threat but twice Canada was forced to withdraw under U.S. pressure. Why? Because the Canadian Federal Cabinet withheld use of any levers against the U.S. or later what became known as the contingency plan. Faced with this, Canadian negotiators began casting around for possible positions to accommodate the U.S. appetite. Canada proposed an interim agreement, hoping to set aside the fundamental issues of valuation, of interception, equity for the time being and proposed a start be made on reductions of interceptions. In face of renewed American pressure, Canada revised the proposal even further, suggesting that reductions only commence five years after the signing of the agreement.

The U.S. then proposed a rate reduction rather than reduction in absolute numbers of salmon. They argued this would allow for less complicated management but allowed that absolute numbers of salmon could conceivably be increased under the formula. They disputed the base years used by Canada for determining interception rates, accusing Canada only of selecting years most favourable to itself. They pursued even further, their separate argument for the Fraser, arguing that the comparison of the last two cycles indicates catches were going up and insisted on sharing increases so indicated. They said by no means would they accept being phased out of the Fraser. Canada conceded they were not trying to phase the U.S. off the Fraser stocks.

Along with this important concession, Canada put forward a further compromise which allowed for both the determined rate of interception plus a limit on interception (again on an interim basis only).

The U.S. insisted on not proceeding to negotiate further in the North unless Canada accepted their exceedingly low estimate of interceptions, that is 19% based on forty-year old data. Canada agreed not to press for American reduction of interception of the Panhandle unless and until Canada began to mount a fishery, at which time negotiations would take place. On the Fraser, the U.S. disagreed with the Canadian estimate of an absolute limit on



their catch and insisted on several thousands more Sockeye from the Fraser to amortize recent U.S. investment on that river. Canada originally offered to buy the U.S. investment out, indicating however that the United States had been repaid over and over again for that investment. The U.S. demanded to be paid off in fish and only for the most recent enhancements at that, because they in no way accepted giving up their claim to the Fraser River stocks. The U.S. price tag for buying out these 3/4 million dollars investment was three full cycles of Sockeye or twelve years, or about two hundred and sixty-five thousand Sockeye per year or about fifteen million dollars worth of salmon. For the fisheries off the West Coast of Vancouver Island, the United States proposed the only actual reductions of note and that to the Canadian fleet.

The United Fishermen and Allied Workers' Union went out and campaigned against this weakened Canadian position and as late as January 28, 1974, appealed to the Minister of Fisheries to reject the U.S. proposal and give Canadian negotiators the teeth they had asked for on August 16, 1973. On January 28th, Canada issued a formal rejection of the latest U.S. proposal but promptly supplanted it at a meeting of Canadian advisors January 31st, 1974 with a proposal which dropped formally two more and ultimately the last three principles which Canada had held onto. No longer was Canada talking reductions in order to get an equitable balance. In the new proposal (which was no longer considered an interim arrangement), Canadian negotiators made an unsubstantiated claim that we didn't need to talk about equity because we would achieve that by 1980 based on output of U.S. hatcheries. "Talking about equity is like putting a red flag in front of a bull" according to one negotiator and thus Canada should not stress this.

It should be noted that the U.F.A.W.U. had issued a protest over the calling of the advisors' meeting during its Annual Convention. Three delegates nevertheless attended. A number of statistical charts were presented, to which advisors were given one and a half hours to decide on the new proposal and to express an opinion. The U.F.A.W.U. expressed basic opposition to the further retreat and loss of principles. U.F.A.W.U. delegates expressed the desire for the proposal in writing for study and consultation with their membership, plus a further meeting at which time to review the new position. Both requests were denied. No documents on Canada's new proposal were firmly in the advisors' hands for study until moments before it was presented to the United States on February 12th, 1974. On February 12th, our advisors reiterated their opposition to the dropping of basic principles and refused to take part in a Sub-Committee set up to examine possible U.S. counter-positions on the grounds that the proposal as it stood was a bad deal for Canada and no amount of patching could improve it, much less discuss possible further areas of retreat to the U.S.

On February 13th, we requested the new U.S. hatchery figures and did a very rough analysis illustrated in the attached graphs which indicates there was sufficient doubt on catch statistics



- 5 -

in B.C. relative to U.S. hatchery output to warrant a total review of Canada's concessions to date and the manner in which bargaining proceeded. In fact, none of the other advisors to the negotiating team even received the crucial data on U.S. hatcheries until Thursday, February 14th, when the meeting with the U.S. was winding up. The U.F.A.W.U. advisors requested at the outset, information on values involved in the Canadian proposal. They received one sketchy document which contains inconsistencies if not mistakes. Moreover, in the document received, values were computed on the basis of landed values, not wholesale, which has been the Canadian and (in our opinion) the correct position. Finally the U.F.A.W.U. advisors worked out, (using Department of Fisheries statistics), the tables which were mentioned earlier. As expected, the U.S. viewed the Canadian proposition (even as good as it was for them), as a framework for extracting more. They want less limits on their fleet and more limits on the Canadian fleet. They have now suggested they would want to harvest, not only their quota of Fraser salmon plus the extra they get to repay their enhancements, but also the right to take part in "boom" years on the Fraser. Canadian negotiators here are relenting again as they suggest wording such as "when Canadian boats cannot adequately share the harvest". This opens the door wide to further endless argument. We're at the point of drafting wording for the new Treaty. Canada has gone 180° since June of 1971 in its position and basically has adopted the original U.S. positions. All that remains to be bargained away is the further amounts of salmon. The U.F.A.W.U. requested that the Canadian proposal of February 11th, 1974 be withdrawn and a new set of negotiations take place with the U.S. based on mutual respect starting with the fundamental recognition that an imbalance exists. Should Canada meet with the same response over the negotiating as it has in the last set of negotiations, then it should be prepared to take all steps necessary as it threatened to do previously but later back down on.

The Minister has accused the Union of trying to start a fish war. That accusation must be tempered by the Minister's other statements that he was attempting to cut Americans back on the take of the Fraser River salmon, when in fact he knew all along that the new Canadian proposal made no such proviso.

Canada's salmon all down the line has been intercepted by the United States. The Union has done its best to maintain the original principles of the talks of June, 1971. The only way that those principles can be maintained in face of the openly aggressive U.S. attitude to our salmon resource is to let them know that Canada is not dealing from a position of weakness and empty threats but is prepared itself, to aggressively seek an equitable arrangement. Much has been made during the six sessions since June of 1971 about jeopardizing Canada and the U.S. Law of the Sea position on anadromous species if there happens to be an open rupture in these set of U.S.-Canada reciprocal salmon talks. This is the sure way for Canada to guarantee a poor agreement. The U.S. is having its Bristol Bay salmon intercepted by the Japanese on the high seas and indignantly protests the Japanese



lack of concern for conservation of that major fishery, yet hypocritically they use the same argument on Canada with respect to the Skeena and Nass Rivers and the intercepting fisheries off Hecate Island. The U.S. has far more to lose at the Law of the Sea Conference from a rupture of talks than Canada and that must be borne in mind when considering equitable balances and rejection of this subtle form of extortion.

We urge you as an elected representative to press:

1. To have the latest Canadian proposal withdrawn.
2. To have it replaced by a proposal in keeping with the June, 1971 principles.
3. To have Canada's new proposal backed by the Federal Cabinet and to include all moves necessary to bring about an equitable agreement, including reopening the Fraser River Convention to take a bigger share of the catch going to the Fraser, subsidized fishing in Panhandle rivers, large scale experimental fisheries by Canadians outside the U.S. contiguous zone and along the Alaska-B.C. boundary, (the A.B. line), tighten up travel and port entry privileges to U.S. vessels, reopen the N.O.R.P.A.C. Treaty with a view to large scale operations on Bristol Bay stocks, indicate at the upcoming reciprocal fishery talks with the U.S. that we intend to close off Dixon Entrance, Hecate Straits and Queen Charlotte Sound to all American fishing vessels and all other areas of Canada's twelve-mile zone East and West Coast included. Table any other economic and political steps to back up the Canadian fishing industry and Canadian sovereignty and self-respect.

As you can see, although the subject is a complex one, the basic issues in these talks are clear. Any assistance you can give towards obtaining an equitable agreement with the United States insofar as salmon is concerned, will be appreciated as will word of your activities in this respect. If you require any further information, please feel free to contact the undersigned.

Yours truly,

UNITED FISHERMEN & ALLIED WORKERS' UNION

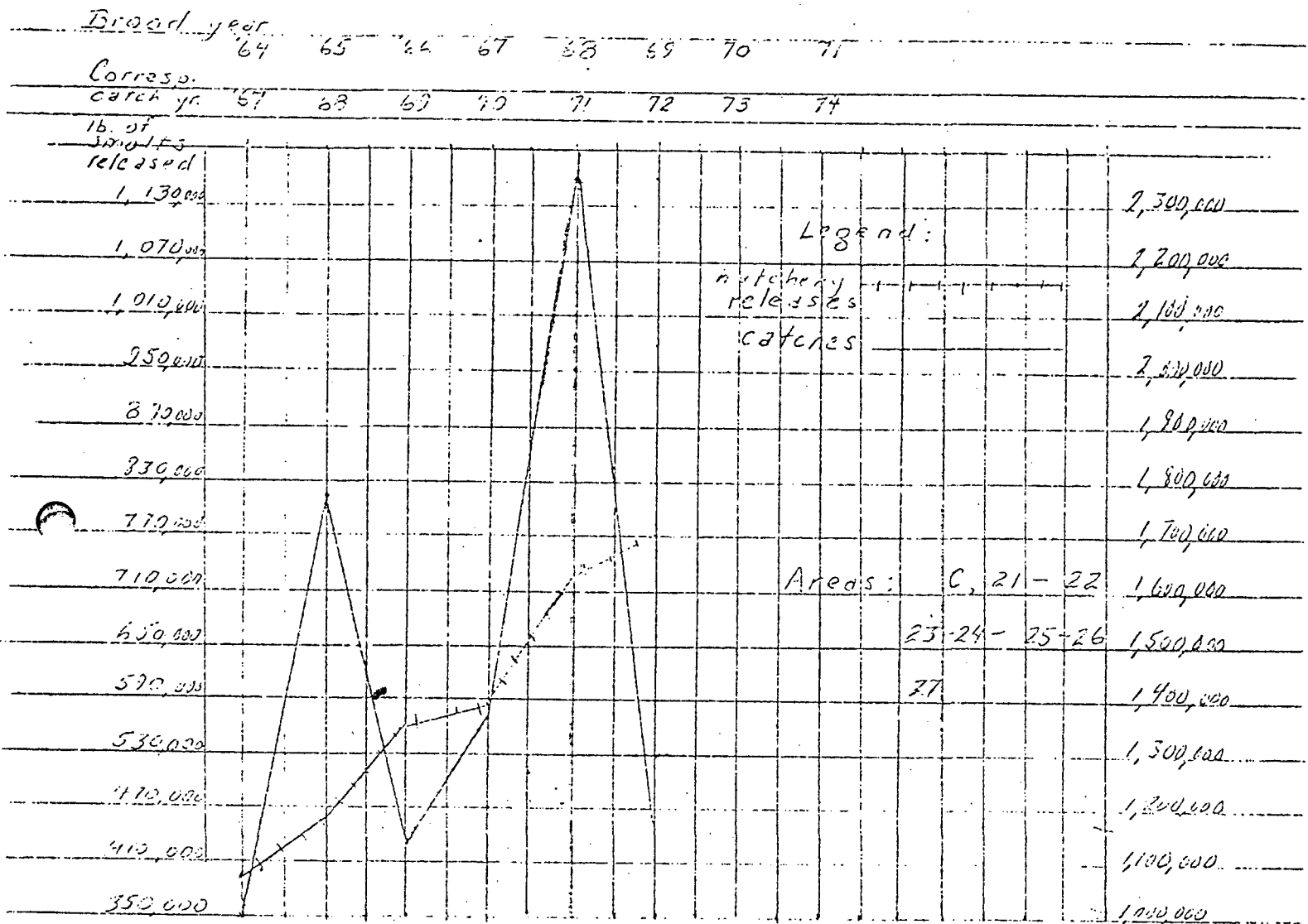
Per: George Hewison, Elgin Neish,  
Cliff Gissing.

GPH/bc  
oteu 15  
Attach. 3

*George Hewison*  
*Elgin Neish*  
*Cliff Gissing*



BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL







Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

*Salmon  
Conservation*

25-5-7-2-SALMON-1	
12	file

March 19, 1974

*25-5-7-2 Salmon-1  
Mar 22/74  
P. Appleton*

CONFIDENTIAL

(3)

Your file    Votre référence

Our file    Notre référence

Mr. D.M. Miller,  
Director,  
Legal Operations Division,  
Department of External Affairs,  
Ottawa, Ontario  
K1A 0G2

Dear Mr. Miller:

Thank you for your letter of March 12, 1974, with which you forwarded a first draft of a new Convention between Canada and the United States to deal with salmon problems of mutual concern between the two countries.

I have sent a copy on a confidential basis to the Regional Director of Fisheries (Operations) in Vancouver seeking his input and have asked for comment by the appropriate officers of Fisheries and Marine Service in Ottawa.

The competent advice and assistance of you and your staff in this matter and during the course of negotiations with the United States is greatly appreciated.

Yours sincerely,

C.R. Levelton,  
Director-General,  
Operations Directorate

RECEIVED

MAR 20 1974

In Legal Operations Division  
Department of External Affairs

Ottawa K1A 0H3



INTERNATIONAL PACIFIC SALMON  
FISHERIES COMMISSION

CONFIDENTIAL

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38.	/

April 19, 1974

*Philby*  
to me &

File  
25-5-7-2-Salmon-1  
Oct 29/27  
B Appleman

TO: W. R. Hourston, Chairman  
FROM: A. C. Cooper, Director  
SUBJECT: JUDGE BOLDT DECISION

Dear Rod:

Enclosed for your information is a copy of a paper prepared by Mr. Powell, Attorney for NOAA who is advising Mr. Johnson, and presented at the meeting on April 18 that John Roos and I attended.

Yours very truly,

INTERNATIONAL PACIFIC SALMON  
FISHERIES COMMISSION

*AC*

A. C. Cooper  
Director

Encl.



## Issue Paper for Discussion with Salmon Commission

### *United States v. Washington*

The February 12, 1974, decision by the United States District Court in *United States v. Washington* constitutes an important interpretation of the nature of Indian fishing rights under treaties negotiated between the tribes and the United States government in 1855. Of immediate concern is assessment of the effect of Judge Boldt's ruling on implementation of the Convention for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fishery of the Fraser River System between the Dominion of Canada and the United States of America.

The threshold question to be answered and acted upon prior to the June 23, 1974, assumption by the Salmon Commission of jurisdiction in U.S. waters is whether, in light of the Court's decision, the present practice of implementation in the United States of the Salmon Commission's regulations by the State of Washington's adopting and enforcing these regulations under State law can be continued, or whether some other procedure must promptly be initiated in order that the United States may meet its responsibilities under the Convention.

As noted in the attachments to Director Cooper's communication of April 9 to the Commissioners, two basic propositions of Judge Boldt's ruling must be reviewed:

A. *Extent of Indian fishing right.* In ceding most of their lands to the United States, the Indian tribes reserved to themselves in their 1855 treaties the right to take fish at all "usual and accustomed grounds and stations" off the reservation, "in common with all citizens of the territory." The basic issue in the case was the meaning of this phrase. The State of Washington maintained that "in common with" meant that off-reservation Indian fishing must be carried out "under the same restrictions as" the non-Indian fishery. Under this interpretation, the State would have been able to regulate off-reservation fishing to the same extent (but to no greater extent) that it regulated non-Indian fishing.

The Court rejected this interpretation, holding that "in common with" meant that the Indians must be permitted to *share equally* (with non-Indians) in the opportunity to take harvestable fish. In the words of the Court:

"...non-treaty fishermen shall have the opportunity to take up to 50% of the harvestable number of fish that may be taken by all fishermen at usual and accustomed grounds and stations and treaty right fishermen shall have the opportunity to take up to the same percentage of harvestable fish...."



In calculating the number of "harvestable fish" to be shared equally, the decision requires subtraction from the total run not only the fish required for spawning escapement and all fish caught on the reservation, but also fish taken by Indians off-reservation for their subsistence and for traditional tribal ceremonies.

B. *Requirements for valid State regulation.* Previous decisions of the United States Supreme Court had established the rule that State regulation of Indian off-reservation fishing must be "reasonable and necessary for conservation of the resource." The precise circumstances under which a State might properly limit Indian fishing rights pursuant to this test was left for later determination. Judge Belloni's 1969 decision of the Oregon District Court in *Sohappy v. Smith* was the first to identify the actual process to be utilized by a State agency in fashioning its regulations. That decision required the State, prior to implementing a regulation, to justify that the proposed regulation was reasonable and necessary, and in order to carry its burden of proof as to "necessity", to show that the measure it proposes is "the least restrictive which can be imposed consistent with assuring the necessary escapement."

Judge Boldt further refined the burden upon the State:

"In order for this court to determine that a state statute or regulation is reasonable and necessary for conservation, defendants must demonstrate that:

- a. the specific statute or regulation is required to prevent demonstrable harm to the actual conservation of fish, *i.e.*, it is essential to the perpetuation of a particular run or species of fish;
- b. the measure is appropriate to its purpose;
- c. existing tribal regulation or enforcement is inadequate to prevent demonstrable harm to the actual conservation of fish;
- d. the conservation required cannot be achieved to the full extent necessary, consistent with the principle of equal sharing between treaty and non-treaty fishermen or by other less restrictive alternative means or methods."

The forum in which the State is to demonstrate the conservation purpose of the statute or regulation it proposes to enforce against Indian fishermen is the Court itself, which has retained jurisdiction for this purpose. Court approval is not required if the State has obtained the consent of the tribe whose fishing would be limited by the regulation.



### *Possible Effect on Salmon Commission*

The question of the effect of *United States v. Washington* on implementation of the salmon treaty may be viewed in three parts:

1. Does the District Court's ruling directly affect the ability of the State of Washington in 1974 to adopt and enforce Salmon Commission regulations, even if such regulations would limit treaty fishing in Convention waters considered to be "usual and accustomed grounds and stations" for certain tribes (such as the Makahs and the Lummis).

2. Even if the decision does not prevent Salmon Commission Regulations from being enforced in the usual manner, what effect would the failure to recognize a special allocation to treaty Indians of the Salmon Convention catch in U.S. waters have on the ability of the State to regulate its fisheries in general.

3. What responsibility do the United States Commissioners have under the ruling to attempt to have the Convention implemented in a manner that specifically recognizes a special treaty fishing right of certain citizens of the United States.

*Issue 1. Ability of State to enforce Commission regulations.* The Court recognized that it is the usual practice for Salmon Commission regulations to be enforced by the Washington Department of Fisheries as State regulations. However, the decision also recognized that

"the United States has both the authority and the obligation to enact the International Commission's recommendations as domestic federal regulation and directly enforce them if the State of Washington does not do so."

While he did not specifically decide the question whether the State of Washington could promulgate and enforce Salmon Commission regulations as it had in the past, Judge Boldt seems rather clearly to be saying that, should the equal sharing and burden of proof requirements of the Court prove incapable of being met by the State in the context of the Salmon Commission, the Federal Government should be prepared to enforce Salmon Commission regulations as Federal regulations.

An option to this method of enforcement has been suggested by the State. The Washington Attorney General's office believes that Judge Boldt would require tribal regulations to conform to Salmon Commission regulations and, if tribal enforcement of these regulations could be shown to be



inadequate, the Court would further require that the regulations be enforced by the State of Washington instead of by the tribes themselves. Although the procedure proposed might well be adopted by the Court, discussion may not end here for at least two reasons. First, in the complex procedure of obtaining Court approval and determining whether tribal enforcement is adequate, the assurance of full implementation of Commission regulations might suffer. Secondly, it is not clear that the method could have long range effect because of the expected increase of Indian fishing effort in Convention waters and the conflict that will result with non-Indian fishermen. It must be expected that the tribes will not long be satisfied with equal treatment that does not assure them a greater share of the U.S. catch.

Looking only to 1974, Commission regulation may well receive full assurance of being enforced by Mr. Tollefson's unofficially affording extra fishing days on a small scale to the Makah tribe, as has been done in past years, and accommodating in some manner the desires of the Lummi tribe to fish in Convention waters.

*Issue 2. Effect on State fisheries management of failure to allocate share of Convention catch to Indians.* If neither the Commission's regulations nor United States implementation of them recognizes a special treaty fishing right on the part of Washington Indians, the question must be asked whether the overall fisheries management program of the State would be adversely impacted. The issue arises because the District Court held that the State not only must allocate to treaty tribes an equal share of those fish within the regulatory jurisdiction of the State which would be available for harvest by the tribes, but that the State must also make

"[a]n additional equitable adjustment, determined from time to time as circumstances may require, to compensate treaty tribes for the substantially disproportionate numbers of fish, many of which might otherwise be available to treaty right fishermen for harvest, caught by non-treaty fishermen in marine areas closely adjacent to but beyond the territorial waters of the State, or outside the jurisdiction of the State, although within Washington waters."

In other words, the State must make up in other fish for those fish that do not become available to treaty Indian fishermen at their usual and accustomed stations for reasons beyond the control of the State.

It is not clear how far the State must go in making this equitable adjustment, but in view of the magnitude of the salmon catch in Convention waters (part of which are "within Washington waters" but "outside



the jurisdiction of the State"), it would appear that the State would have a difficult time compensating treaty Indian fishermen for fish that would otherwise be available to them at their usual and accustomed grounds and stations had they been allowed to fish freely in Salmon Convention waters without limitation of Salmon Convention regulations applicable to other U.S. citizens. If this is the case, it behooves us to attempt a solution of the problem that will not make even more difficult the State's new burden of fisheries management.

On the other hand, we must also recognize the somewhat conflicting fact that the State would prefer to continue enforcement of Salmon Convention regulations under State law, if this is possible within the framework of the Court's decision. We cannot expect, in other words, that the State will request the United States to enforce Salmon Convention regulations as Federal regulations, even if this procedure contemplated designating State officers as Federal law enforcement agents for this purpose, unless such a method was clearly meant only to serve as a fall-back position in the event no other satisfactory enforcement scheme was possible.

*Issue 3. Responsibilities of the United States Commissioners under the decision.* This particular subject may well be the most sensitive and complicated of the three parts to this question because of the dual role played by two of the U.S. Commissioners. As a U.S. Commissioner and Regional Director of the Northwest Region, Mr. Johnson is responsible not only for carrying out the responsibilities of a Commissioner with respect to the treaty, but is also the National Marine Fisheries Service official most directly involved with the actual implementation of the Salmon Commission's regulations. Of much greater import is the role played by Mr. Tollefson, who is both Director of the Washington Department of Fisheries and a U.S. Commissioner and, therefore, has direct responsibility to respond to the decision of the District Court and to his duties as a Commissioner under the salmon treaty.

Judge Boldt made specific reference to Mr. Tollefson's dual role in the following words:

"As a U.S. Commissioner on the Commission, the Director of the Fisheries Department has attempted unsuccessfully to obtain Canadian agreement to a greater number of fishing days for the Makah Indians on the Fraser River sockeye and pink salmon runs. The Director has taken unilateral action to provide more fishing days for the Makahs."

The decision makes further reference to the role of the Washington Department of Fisheries and its Director in the following language:



"A considerable number of fish taken within the territorial waters of Washington are under the regulatory authority of the International Pacific Salmon Fisheries Commission, an international body established by treaty between the United States and Canada. While the defendants cannot determine or control the activities of that Commission, *the Washington Department of Fisheries does have some input into development of the harvest program which is prescribed or permitted by that Commission, particularly as it pertains to harvest within Washington waters....* Consequently, while it must be recognized that these large harvests by non-treaty fishermen cannot be regulated with any certainty or precision by the state defendants, *it is incumbent upon such defendants to take all appropriate steps within their actual abilities to assure as nearly as possible an equal sharing of the opportunity for treaty and non-treaty fishermen to harvest every species of fish to which the treaty tribes had access at their usual and accustomed fishing places at treaty times.* Some additional adjustments in the harvesting scheme under state jurisdiction may be necessary to approach more nearly an equal allocation of the opportunity to harvest fish at usual and accustomed grounds and stations." (emphasis supplied)

It is believed that the State considers the mandate of the Court in this respect to extend to the presentation by Mr. Tollefson, in his role as Director of the Washington Department of Fisheries, to the Salmon Commission of a request for specific recognition of treaty fishing rights.

The Court's ruling does not speak directly of a role on the part of the United States Commissioners, acting in that capacity, in carrying out any part of the ruling. Judge Boldt did find, however, that:

"The 1937 [salmon] Convention does not explicitly or implicitly modify the Stevens' treaties. However, this Court believes that treaty right tribes fishing in waters under the jurisdiction of the International Pacific Salmon Fisheries Commission must comply with regulations of the Commission." /

Thus, although the decision does not speak directly to the question of the manner in which the Salmon Treaty is to be implemented in the United States, the implication emerges that the State of Washington might no longer be



7.

capable of limiting Indian treaty fishing in Convention waters under State law and regulation. The responsibility for enforcement may have to come either from the Federal government in its role as the party ultimately responsible for seeing to the enforcement of the Convention or from the Salmon Commission itself in recognizing a special allocation to treaty fishermen. Federal enforcement could be accomplished under authority of the Sockeye and Pink Salmon Fishing Act of 1947, 16 U.S.C. 776.

This approach would not by itself appear to satisfy the responsibility the United States Commissioners have to apply domestic law, including *United States v. Washington*, within the framework of the Salmon Convention. Judge Boldt stated above that the Salmon Convention did not modify the Indian treaties. The statement appears accurate insofar as the Indian treaties might require the allocation to certain of the citizens of the United States of a greater share of fish than might otherwise be available to them in the absence of a treaty fishing right. (There is some question whether the Salmon Convention might well have worked a limitation to the Indian treaties in other respects, such as the seasons during which an Indian might fish and the type of gear he might use.)

In other words, while the complexion of the Commission's regulatory process might be required to undergo substantial change, the Salmon Convention itself would not prevent the Commission either from setting aside certain days for treaty Indian fishing or from permitting, on the record or otherwise, the United States catch to be allocated in some way among U.S. fishermen, so long as the overall goal of equal sharing between the United States and Canada were not disturbed. For discussion purposes, the following language is offered:

*Draft Proposal for IPSFC Regulation*

"The Dominion of Canada and the United States of America are authorized to take such action as is necessary to comply with domestic law applicable to the fishing rights of their citizens; *Provided, however,* (1) that the Commission be notified at least 24 hours in advance of any such action that falls within the regulatory concern of the Commission, (2) that such action must be taken within the season and gear limitations of the Commission's regulations, (3) that no such action may disturb the equal sharing of the harvestable catch as between the Dominion of Canada and the United States of America or adversely affect the spawning escapement, and (4) that the Commission may modify or rescind any such action by emergency order."



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Pursuant to such a regulation the Director of the Washington Department of Fisheries, acting under his own authority (if approval of the Court or tribes concerned is secured) or pursuant to that of the Federal Government, might set aside certain open season days exclusively for treaty Indian fishing in (U.S.) Convention waters. No action at all would be required on the part of Canada. The question is whether the Commission's present regulatory structure could accommodate itself to the activities contemplated by the regulation suggested.

April 18, 1974



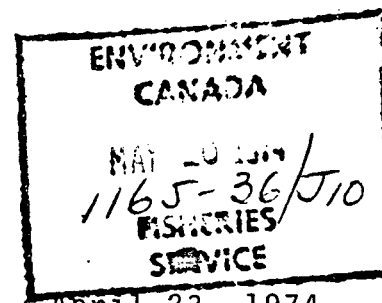


Environment  
Canada

Fisheries

Environnement  
Canada

Pêches



April 23, 1974.

Your file    Votre référence

Our file    Notre référence

- (1) L. Hegault
- (2) Joe Canton

Mr. C. R. Levelton,  
Director-General,  
Operations Directorate,  
Fisheries and Marine Service,  
Department of the Environment,  
Ottawa, Ontario.

Dear Mr. Levelton:

You will recall that during our U. S. - Canada meeting in Seattle Judge Boldt's decision with reference to the fishing rights of Treaty Indians was announced. At that time we did speculate as to what effect, if any, this decision would have on the harvesting of sockeye and pink salmon in U. S. Convention waters.

This matter has been receiving consideration in the State of Washington and on April 5 the Director of the Salmon Commission, Mr. A. Cooper, attended a meeting in Olympia, Washington which was called by Mr. Donald R. Johnson and Mr. Thor C. Tollefson. One of the purposes of the meeting was to consider how the Commission would be affected by Judge Boldt's decision.

On April 9 Mr. Cooper circulated a memorandum to all Commissioners which included a review of the documents arising from Judge Boldt's decision and indicated his understanding of matters discussed at the above meeting. A copy of this is enclosed, including the referenced extracts from Judge Boldt's decisions.

Messrs. Cooper and Roos attended a further meeting with Mr. Johnson and Mr. Powell, Attorney for NOAA, on April 18. At that meeting Mr. Powell presented a paper entitled "Issue Paper for Discussion with Salmon Commission - United States v Washington." A copy of this is enclosed. I haven't had an opportunity to review

1090 West Pender Street  
Vancouver 1, B.C.

1090 Ouest, rue Pender  
Vancouver 1, (C.-B.)



-2-

this but from a cursory examination of the material it appears to me that Judge Boldt's decisions could affect the operation of the Commission. Under these circumstances I think it is important that this material be examined by our International section so that we will be in a position to evaluate any opinions that may be arising from the attorneys of both the Federal and State authorities.

The Commission is meeting on May 2nd and 3rd and Mr. Johnson had suggested that he have Mr. Powell attend and present his interpretation of how the decisions might affect the Commission. I advised him that I did not think this was the appropriate time to have such a discussion primarily because our legal people had not had the opportunity to consider the matter. He agreed to this and we have now decided to merely have an up-dated report from him on the matter.

I will keep the Department advised of any new developments that might arise.

Yours very truly,



W. R. Hourston  
Director of Fisheries,  
Pacific Region.

Enc.



INTERNATIONAL PACIFIC SALMON  
FISHERIES COMMISSION

TO: All Commissioners

FROM: A. C. Cooper 4384

SUBJECT: Judge Boldt's Decisions in  
United States vs. State of Washington

APR 9, 1974

APR 10 1974

RECEIVED  
STATE  
ASSISTANT  
LEGAL  
COUNSEL  
MAY 2 1974

1165-36-J10

This office has reviewed the documents arising from Judge Boldt's decisions with the purpose of determining what effect, if any, the decisions will have on this Commission's regulations for 1974. The documents are very lengthy and only certain parts contain statements which have a bearing on this Commission's regulations. We have selected the parts we feel to be of direct interest to you and have attached them for your reference.

The first part is the Statement of the Case. On Page 22 of this part, the underlined statement refers to powers of the State in relation to Federal treaties. On Pages 25 and 26, the underlined statement refers to the powers of Federal authority. On Page 37, a definition of the phrase, "in common with" is given. Following this page there is an addition to it, and the underlined passages on this page refer to how the allocation of fish to the plaintiff tribes is to be determined. It will be noted that the statement provides for compensation to the tribes for fish caught by non-Treaty fishermen (non-Indians) within waters under jurisdiction of this Commission, which fish might otherwise be available to the plaintiff tribes for harvest.

The second part is the Findings of Fact and Conclusion of Law. On Pages 117-119 of the Findings of Fact, there is reference to this Commission. The underlined statement on Page 117 is of particular interest. On Pages 136-137 of the Conclusion of Law, the underlined passage states the fishing areas and subject matter of the case. On Pages 139-140, there is another statement concerning the obligation of the State with respect to United States Treaties. On Pages 145-146, paragraph 37 contains a statement concerning multiple jurisdiction.

The entire Declaratory Judgement and Decree is enclosed. The underlined statement on Page 2 states that the rights of the plaintiff tribes to harvest anadromous fish outside of Indian Reservations and areas of exclusive federal jurisdiction are as detailed.

On April 5 I attended a meeting in Olympia called by Mr. Donald R. Johnson and Mr. Thor C. Tollefson with their respective attorneys from NOAA and the State Attorney General's office to consider, among several things, how the Commission would be affected by Judge Boldt's decision.



It is my understanding from this discussion that:

a) The State has obtained a stay for a year or two on the portion of the Decree requiring equal sharing of salmon catches by the tribes. Thus the question of how the tribes are to be compensated for catches made in Convention waters does not need to be settled for the 1974 fishing season.

b) In the State attorney's opinion, based on Judge Boldt's decision and subsequent response to referrals made by the State's attorney, the United States has an obligation to enforce the Commission's regulations, and the Judge will require the Indian Tribes to observe the regulations.

The principal concern of the NMFS was with enforcement of the Commission's regulations. If the regulations are adopted by the Washington State Fisheries Department in the usual way, and if the self regulated Indian Tribes do not observe the regulation, the State would not be able to enforce the Commission's regulations. If this was considered a likely event, the NMFS believed early consideration must be given to promulgation of the regulations by the Commission or by the NMFS.

To try and clarify this point, the State Attorney has undertaken to ask the Master of the Court if, under the Boldt Decree, the State could enforce the Commission's regulations, or if the Court will recognize the adoption by the State of regulations conforming to the regulations adopted by the Commission. In the meantime, the NOAA's attorney will be examining requirements for Federal promulgation of the Commission's regulations.

The State Attorney indicated it would be necessary to advise Judge Boldt in the event the Commission regulations are to be promulgated by the Commission or by NMFS, so that it will not appear this action was taken to circumvent his decision.

The following interesting points arose during the discussion.

1) If an Indian fishes in contravention of Tribal Regulations, he is not considered an Indian and may be arrested by the State.

2) Non-self regulating tribes can adopt regulations and attempt to enforce them.

3) Unilateral action by the State, granting fishing time to the Makahs when the area was closed under Commission regulations, would be illegal.

4) The areas of exclusive federal jurisdiction referred to in the Decree are believed to be National Parks. The attorneys did not believe the Judge had Sockeye Salmon Convention waters in mind when preparing his statement.



Your staff has reached the following conclusions:

1. Under Public Law 245, 80th Congress, the enforcement of the Commission's regulations is the responsibility of a Federal agency, designated by the President.
2. The United States (Federal Government) has the obligation to enforce the Commission's regulations, notwithstanding the Treaties with the Indian Tribes.
3. The question of the rights of Lummi Indians to fish with reef nets at Legoe Bay does not concern this Commission. The Commission's only concern in this matter would be that its regulations be observed and the catches be reported and included in the Convention waters catch. The same would apply at other usual and accustomed fishing stations utilized by tribes within Convention waters during the period of regulatory control by the Commission.

Yours very truly,

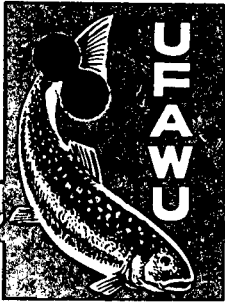
INTERNATIONAL PACIFIC SALMON  
FISHERIES COMMISSION



A. C. Cooper  
Director



PRESIDENT: HOMER STEVENS • SECRETARY-TREASURER: J. H. NICHOL • BUSINESS AGENT: GEORGE HEWISON



# UNITED FISHERMEN AND ALLIED WORKERS' UNION

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## SYNOPSIS - UNITED FISHERMEN AND ALLIED WORKERS' UNION SUBMISSION

TO  
STANDING COMMITTEE  
ON  
FISHERIES AND FORESTRY  
OTTAWA

25-5-7-2-SALMON-1

May 1, 1974

no 9.

The United Fishermen and Allied Workers' Union welcomes the opportunity to place its views before the Standing Committee on Fisheries and Forestry.

We are in Ottawa to reiterate and elaborate on many of the propositions we have placed in the past. Now however, we are motivated by the urgency of two separate, but related situations in the fishing industry:

- (1) The Crisis in Halibut.
- (2) The looming prospects of a very bad Treaty for Canada in the Reciprocal Talks between the U.S. and Canada, centering around salmon interceptions.

Evidence was clear in 1963 and has been borne out since, that foreign mothership trawl operations, such as have moved into the Bering Sea, changed the nature of halibut management. Halibut have all but been wiped out.

In Halibut Commission meetings in the 1960s, fishermen were telling scientists and government alike that the halibut were on the decline. Not until 1972 did the experts agree that the fishermen had been right and their own scientific yardsticks for measuring halibut abundance was wrong, thus focusing attention on the real threat to halibut - foreign trawl fleets. What needs to be done immediately? Canada should extend her territorial seas to two hundred miles or to the edge of the



- 2 -

continental slope to a depth of one thousand fathoms, whichever is greater and secondly, we should press for a new North Pacific Treaty involving all nations presently fishing the North Pacific Ocean.

Extension of Canada's territorial seas and enforcement of Canadian sovereignty over these waters, as many Latin American countries have done, will establish Canadian ownership and control over fishery resources above the continental shelf. It will prevent the over-exploitation of these resources and will provide negotiating material for Canada in talks with foreign nationals, as well as a reserve for the extension of Canadian fisheries. Enforcement of Canada's territorial seas might provide a modicum of protection for Canadian-bred halibut, in addition to other species of fish endangered by the foreign fleets' "pulse" fishing.

Preliminary to this, a proper assessment of the stocks within Canada's proposed territorial seas needs to be made to determine Canada's true bargaining position.

A new all-inclusive North Pacific Treaty to provide for proper management of fishery resources of the North Pacific Ocean is required urgently. Halibut in their life cycle range over wide expanses of ocean. For instance, in their larval stage, they drift with the current. Halibut tagged in the Bering Sea have been recovered off B.C.'s coast. Similarly, there is some interchange across the man-made "abstention" line (170° W.), which separates the Eastern Bering Sea from the Western Bering Sea (which the present North Pacific Fisheries Treaty does not concern itself with). Because the Soviet Union is not Party to the Treaty, statistics on their catches of halibut are sparse thus, any full conservation programme for halibut will have to involve all nations fishing the North Pacific. Moreover, stocks of fish other than halibut are showing signs of the wear and tear of indiscriminate exploitation and cry out for a new conservation Treaty.

The sighting of more than seventy non-North American (mostly Soviet trawlers) operating in the Gulf of Alaska early this year, underlines the basic flaw of the North Pacific Treaty and Canada's short-sighted policy up until now of not pressing to have the Treaty cover all nations, including the Soviet Union. The International Pacific Halibut Commission estimates that as much as three million pounds of legal-sized halibut and



- 3 -

an equal amount of sublegal-sized (or potential yield in future years) may have been taken already.

The Halibut Commission has issued a call to its participating governments (Canada and the United States), to convene a conference of all nations fishing halibut stocks to take measures to save the halibut. We support that call. Canada must act now without false acrimony to initiate such a conference. At this conference, as with all negotiations with foreign countries involving our fisheries, representatives of the U.F.A.W.U. and the rest of industry should be invited to participate. We have a vital stake in the outcome of any such negotiations and all too often in the past, the greatest mistakes have been made when the politician failed to heed the advice of those most directly connected to the fishing industry - the fisherman.

Discussions between Canada and the United States involving their respective share of salmon have been going on for many years. In June of 1971, after many meetings, the two countries finally agreed to basic principles to govern future discussions.

- (a) Each country should reap the benefits of its efforts to maintain or increase the stocks of salmon.
- (b) Each country should fish the salmon bound for its own rivers and should seek to avoid interception of salmon bound for their rivers of origin in the other country.
- (c) There shall be an equitable balance between the interception by the two countries. By equitable balance is meant that the total value of salmon intercepted by the U.S. bound for Canadian rivers shall as nearly as possible, equal the total value of salmon bound for the United States' rivers caught by Canada.
- (d) This equitable balance should be achieved where possible, by reducing, rather than increasing interceptions.
- (e) Each country should seek to make adjustments in the techniques and economics of its fisheries which will make reduction of interceptions possible.
- (f) These adjustments must take into account the overriding requirements of conservation.

The Canadian negotiators, frustrated at every turn by American



- 4 -

obstacle and thus the poor prospects for reaching an equitable agreement, resolved after many meetings, that the only way to resolve the imbalance, reduce U.S. interceptions and bring the U.S. to time, was by taking unilateral action. The Canadian negotiating team with the advisors' unanimous support, informed the Americans that, "the situation that is now likely to persist will lead Canada to taking measures designed to correct what in our view is the continuing imbalance in interceptions. These will involve unilateral action in respect of our salmon net and troll fisheries and will be aimed primarily at harvesting our own Fraser River stocks". Cliff Levelton, chief Canadian negotiator, at a Vancouver press conference on his return from Seattle in May, 1973 stated, "The only way we could have reached agreement was by selling out our national interests. Every proposal that the Americans made, no matter how phrased, was designed to increase the U.S. share of the Canadian salmon....our purpose is to increase our catch of our own fish, although there is no doubt that we shall be intercepting some American fish. How we shall do this is still to be decided but we served sixty days notice on the U.S. yesterday that we will, - not may, but will, be taking such special measures". However, faced with American pressure, Canada later that month withdrew the sixty day notice. Canada, having made its stand, then backed down, were faced to retreat from one position after another in the salmon talks. In sessions of the Canadian advisors, the negotiators tried to sell the industry representatives on the merits of using negotiating skills and tactics alone. With no support from the Canadian government to back this up, each plenary session with the Americans exploded this myth along with Canada's dignity, not to mention her negotiating position. The latest Canadian proposal to the U.S. now embodies many of the features of previous U.S. proposals. It calls for rates of interceptions on intercepting fisheries established on the basis of an average of the years 1967 to 1972. The concept of rates of interception is a concept originally put forward by the United States. Secondly, it calls for overall catch limits for specific intercepting fisheries, notably Southeast Alaska of Skeena and Nass River fish, United States catches of Fraser River sockeye and pinks and Canada's West Coast net and troll fisheries interception of U.S. salmon. Catch limits were also initially put forward by the United States. Third,



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there would be no immediate limitations on the Panhandle, Yukon or Columbia rivers. This had earlier been acceded to by Canada. Fourth, in addition to all the rest of the proposals, forty-two percent of the total catch of salmon attributable to Gates, Weaver, Pitt and Nadina spawning channels on the Fraser River, would go to the U.S. for a six-year period. This demand was subject to negotiation and had been agreed to earlier under U.S. pressure. The latest Canadian proposal means:

- (1) That principle (1), that each country should reap the benefits of its efforts to maintain or increase the stocks of salmon, has been dropped. The U.S. will continue to reap major benefits of the Fraser and other Canadian rivers, irrespective of work done to keep these rivers free of pollution and power dams.
- (2) That principle (2), that each country should fish the salmon bound for its own rivers and should seek to avoid interception of salmon bound for their rivers of origin in the other country is out, as Canada maintains it will not eliminate "historic" U.S. fisheries on Canadian stocks bound for the Skeena, Nass or Fraser River.
- (3) That the matter of equitable balance of salmon has gone out the window. As Canada now proposes a lid on catches within which interceptions can increase, as Canadian runs increase, as the Canadian hatchery programme develops, or, as the U.S. places further demands on Canada, the inequity will widen.
- (4) That principle (4), that equity should be achieved by reducing interceptions rather than increasing, is obviously dropped if we're talking about catch limits with increases in interceptions only governed by these limits.
- (5) That principle (5), that each country should seek to make adjustments in the techniques and economics of its fisheries which will make reductions of interception possible, is obviously out, as the U.S. refuses to upset any of their fisheries and Canada has agreed to this.
- (6) That principle (6), on conservation is obviously out if the U.S. insists on and Canada agrees to, the principle of taking salmon offshore miles from their home stream, such as Noyes Island off Southeast Alaska.



- 7) That there will be quite unnecessary catch limits on the West Coast Canadian trollers and net fishermen, since the imbalance has been and still is, strictly in the United States' favour. This could mean a shortened season for many Canadian fishermen.
- (8) That further retreats by Canadian negotiators on salmon are likely as the indication has been given, that as bad as this present Canadian proposal is, it is subject to negotiations. Canada's position is a total reversal of the June, 1971 principles. It is as scandalous as the sell-out talked about by Mr. Levelton in May of 1973, which has been incorporated in the new Canadian proposal.

Canada must withdraw its latest proposal. It must return to the basic principles of June, 1971 agreed to by both countries. It must stop being pushed off those principles by the United States. If necessary, it must carry out the pledge of the negotiators of May, 1973 to increase fishing pressure on Fraser River and United States stocks, with the full support of the Cabinet and the House of Commons. To meet firmly U.S. attempts to thwart Canada's just claims, we suggest the following possible actions in addition:

- (A) Increased Canadian fisheries in the Canadian headwaters of rivers emptying through U.S. territories, such as the Stikine, Yukon and Columbia Rivers.
- (B) Fisheries could be mounted in Dixon Entrance and off Southeast Alaska and even consider fisheries of salmon as far afield as Bristol Bay.
- (C) Canada should announce its' intention to remove all U.S. nationals fishing inside its' twelve mile limit, should the U.S. move to abrogate the Reciprocal Fisheries Treaty.
- (D) Canada should seek to bring all of our other political and economic pressure to bear to ensure an equitable settlement of this dispute, rather than allowing the United States to end up with a heavy advantage to themselves.

Much has been said in recent weeks about a "fish war" versus co-operation with our neighbours. Our organization stands fully for co-operation. However, co-operation is a two-way street and must be based on mutual respect. If a Treaty is signed on the present basis, Canada's



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respect in the world

fishing community will be damaged and her fishermen and Canadians will economically come out on the short end of another resource treaty.

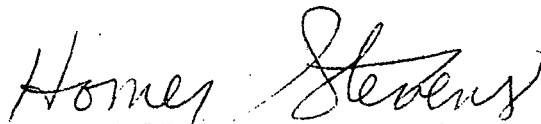
The key to both the "crisis in halibut" and the sell-out of Canada's salmon resource is a shift in Government policy. In order to chart a correct fishery path for the future, Canada needs to examine the route we have followed and the mistakes we have made in the past, in order to place our fisheries in the proper perspective today.

Political considerations, rather than the welfare of Canada's fisheries, have been paramount up until now. It dictated the North Pacific Fisheries Treaty and it explains our reluctance to press for control of our salmon resource.

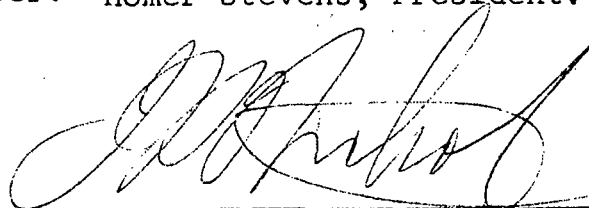
In the attached submission, we hope you will gain some insight into two of the critical problems of British Columbia's fisheries as we in the United Fishermen and Allied Workers' Union see them.

Respectfully submitted,

UNITED FISHERMEN & ALLIED WORKERS' UNION



per: Homer Stevens, President.



per: J. H. Nichol, Secretary-Treasurer.



per: George P. Hewison, Business Agent.

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## I N D E X

### SYNOPSIS OF SUBMISSION

#### Submission to Standing Committee on Fisheries and Forestry

(a) Introduction	Page 1-2
(b) Crisis in Halibut	2-8
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(d) Law of the Sea	19-21
(e) Reciprocal Rights Fishing Treaty	21-22
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### APPENDICES

1. Excerpts from the Canadian and Japanese positions at North Pacific Fisheries Commission meeting Tokyo, Japan November 5, 1973.
2. North American Bering Sea setline catches.
3. Illustration of foreign fishing fleet off Alaska.
4. Excerpts from study by Bernard Skud, Halibut Commission, on serious miscalculation made by Commission which fishermen had been attempting to point out years previous.
5. Press Release...Department of Environment serious build-up foreign mothership fleets.
6. Telegram from G. Hewison to J. Davis urging support for Halibut Commission.
7. Speech of James Sinclair, former Minister of Fisheries from Verbatim Report of Plenary Session of Conference on Pink Salmon of the Fraser River Area between United States and Canada - October 22, 1956.
8. U.S. Closing Statement May 8, 1973 - Canada-U.S. Salmon Talks, upon breakdown of those negotiations.
9. U.F.A.W.U. Appendix explaining latest Canadian Proposal, the Draft Canadian Proposal and Record of Discussion - February 15, 1974.
10. Values of Salmon intercepted by respective countries.



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11. Table on U.S. Hatcheries Cohoe Smolt Releases... supplied by U.S. to Canada to justify claims of Canada's increased catches.
12. U.F.A.W.U. Graph relating U.S. Hatchery Cohoe Smolt Releases to Canadian catches of adult coho of the same brood year - refuting U.S. claim.
13. Letter from J. Davis to E. Neish re: experimental fisheries on Stikine and Panhandle rivers.
14. Charts showing East and West Coast fisheries zones.
15. Wire from U.F.A.W.U. to Jack Davis April 26, 1972, urging immediate start on Fraser River enhancement funded solely by Canada.

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# UNITED FISHERMEN AND ALLIED WORKERS' UNION

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SUBMISSION  
of the  
UNITED FISHERMEN & ALLIED WORKERS' UNION  
to  
STANDING COMMITTEE  
on  
FISHERIES AND FORESTRY  
OTTAWA

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May 1, 1974

The United Fishermen and Allied Workers' Union welcomes the opportunity to place its views before the Standing Committee on Fisheries and Forestry. The membership of our organization fluctuates between six thousand and seventy-five hundred and embraces all sections of working people in British Columbia's commercial fisheries. Amongst our membership we include those who sail on seiners, gillnetters, trollers, trawlers, longliners, trap vessels and fish packers and those who work in the processing and ancillary industries. The well-being of British Columbia's fishing industry is thus not a narrow concern to one or another section of our Union. Nor has our concern over the years been limited merely to problems of the fishing industry. At annual conventions of our Union, which bring together representatives of all sections, policies are hammered out which we feel are in the best interests of all Canada and all of the Canadian people.

The United Fishermen and Allied Workers' Union is no stranger to Ottawa. Over the years, our small organization has travelled many times the three thousand miles from the West Coast to place our point of view on vital questions of the day.

For instance, the U.F.A.W.U. fought long and hard against provisions of and for needed changes in the North Pacific Fisheries Treaty, which contained the genesis of many of today's B.C. fishing industry problems.



- 2 -

This might included many trips to Ottawa to lobby Members of Parliament, which thus far has met with little success.

The U.F.A.W.U. has been in the forefront in demanding ownership, control and conservation of stocks of fish off Canada's coasts, to the extension of Canada's territorial limits. From the "Truman Proclamation of 1946" calling for extension of territorial seas beyond three miles, to the campaign for the full twelve mile limit seaward from a headland to headland baseline to enclose great bodies of water, such as the Gulf of St. Lawrence, the Bay of Fundy, Hecate Straits, Queen Charlotte Sound and Dixon Entrance (a campaign not yet completed), the U.F.A.W.U. has many times been to Ottawa to place their views before Members of Parliament.

In past lobbies, we have also placed our position on the valuable B.C. salmon resource<sup>1</sup> and some of the international (as well as domestic) problems which plague us, whether those problems be Japanese interception on the high seas or U.S. take of Canadian salmon bound for the Fraser or northern B.C. rivers and streams. In such cases, we have also outlined solutions to these problems.

We are in Ottawa to reiterate and elaborate on many of the propositions we have placed in the past. Now, however we have additional motivation in the urgency of two separate but related situations in the fishing industry:

- (1) The Crisis in Halibut.
- (2) The looming prospects of a very bad Treaty for Canada in the Reciprocal Talks between the United States and Canada centering around salmon interceptions.

#### CRISIS IN HALIBUT

More than sixty years ago, halibut fishermen in the fishing industry were recognizing problems of depleted stocks of halibut and taking steps to resolve the problem. In 1913, the Deputy-Minister of Fisheries for British Columbia commissioned a study which concluded, "Fishermen and dealers are aware that the best known halibut banks are becoming

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1 1972 - 164,386,000 pounds with \$50,341,000.00 to fishermen at least.



seriously depleted by over-fishing. Their catches each season are brought from more distant banks and it has become alarmingly evident that the supply is limited and rapidly decreasing. It is beyond question that if this important source of food is not to be lost to the public, some protection must be extended to this species in the near future. To effect this rationally and without undue disturbance to the industry, complete knowledge of the life history of the halibut must be obtained".

From that point onwards, rapid expansion out of the concepts of rigid management within the halibut industry came into being, along with considerable research (although obviously not as yet sufficient) and led to a viable fishery for North American longliners, particularly so, following the signing of the U.S.-Canadian Treaty establishing the International Pacific Halibut Commission. Halibut fishermen of the day accepted conservation, seeing in today's sacrifice, tomorrow's harvest. As a matter of record, fishermen themselves established voluntary curtailment systems, which is recognized by halibut management authorities as having placed a decisive role in proper management of halibut.

Tomorrow has now arrived and instead of the promised viable, healthy halibut fishery, the industry appears dommed and careful management practised all these years, has been discarded.

The following are catch statistics for halibut over the years:

Table 1

1912	60,500,000 lbs.	1924	32,500,000 lbs.
1932	43,600,000 lbs.	1942	49,900,000 lbs.
1952	57,300,000 lbs.	1962	63,100,000 lbs.
1964	59,900,000 lbs.	1965	63,500,000 lbs.
1966	62,300,000 lbs.	1967	55,500,000 lbs.
1968	48,800,000 lbs.	1969	58,600,000 lbs.
1970	54,900,000 lbs.	1971	46,600,000 lbs.
1972	43,100,000 lbs.	1973	31,500,000 lbs.

The above figures point out the dramatic and steady decline of halibut. In 1974 the picture appears even bleaker. Last year, the



- 4 -

International Pacific Halibut Commission initially recommended total closure of the Bering Sea, an area which in 1963 produced 7,000,000 lbs. of halibut, but which last year 1973, produced a mere 265,000 lbs.

The I.P.H.C. in an unprecedented move during the middle of the season, also recommended to member governments, Canada and the U.S., an early closure of the areas South of the Bering Sea because "of a severe decline in the abundance since last year".<sup>2</sup> The early closure was set for September 1st, 1973. The U.F.A.W.U. argued against the total closure in the Bering Sea and early closures in other areas, on the basis that it would only result in added hardships to those who have been bearing the brunt of all conservation efforts over the years (Canadian and U.S. halibut fishermen) and do nothing to resolve the crisis.

The Halibut Commission did make a strong case for halibut conservation at the North Pacific Fisheries Commission meeting in Tokyo in November, 1973,<sup>3</sup> but ran headlong into the Japanese position: "conservation only if it does not interfere with Japanese fisheries".<sup>4</sup>

The Japanese announced simultaneously, domestic measures to control their trawl fishery which Canada considered at that time, "totally inadequate in the face of the rapidly declining stocks of this species".<sup>5</sup> Since then, Canadian officials have had discussions with the Japanese which have made minor amendments to their proposed domestic regulations.

The roots of the crisis go back to the signing of the Japanese Peace Treaty in San Francisco in 1951, in an environment of cold war which dictated major concessions in order to keep Japan as a friendly

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2 International Pacific Halibut Commission press release July 30, 1973

3 Report of the Working Group to Draft Recommendations For Conservation Measures in 1974 For Halibut of The Eastern Bering Sea - November 9, 1973.

4 See Appendix 1.

5 Canadian Statement on Japanese Domestic Regulations, November 1973



- 5 -

ally in Asia and which excluded the U.S.S.R. from participation. When renewal of the Treaty came up in 1963, the expanded Japanese appetite for fish seized upon the built-in "achilles heel" of the Treaty and insisted upon removal of the abstention<sup>6</sup> protection coverage for halibut in the Eastern Bering Sea. Again, fishery policy was subverted to U.S. foreign policy requirements, as Japanese threats of withdrawal from NORPAC coupled with veiled statements outside fisheries circles about relationships with their "allies", were met not with a determined position to have all nations fishing the North Pacific observing sound conservation principles and included in the Treaty, but with total acquiescence, culminating with the minority government of the day hastening by order-in-council, to approve the appeasement to Japan. That, coupled with exclusion of the Soviet Union from the Treaty, sealed the fate of the B.C. halibut industry. Evidence was clear in 1963 and has been borne out since, that foreign mothership trawl operations such as have moved into the Bering Sea, changed the nature of halibut management. Halibut there has all but been wiped out.<sup>7</sup> In the Gulf of Alaska, massive mothership operations have been mounted.<sup>8</sup> It has substantially upset the regime of the halibut fishery. The Halibut Commission's role of gathering data and regulating a highly selective setline operation, has been plunged into utter chaos.

In Commission meetings in the 1960s, fishermen were telling scientists and government alike, that the halibut was on the decline. Not until 1972 did the experts agree that the fishermen were right and their own "scientific" yardstick for measuring halibut abundance was

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6 Abstention Principle #4 - When scientific studies indicate substantial increase in exploitation will not produce an increase in yield which can be questioned from year to year, then any nation which has not engaged in the fishery should abstain from entering it.

7 Bering Sea - See Appendix 2.

8 See Appendix 3.



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wrong,<sup>9</sup> thus focusing attention on the real threat to halibut - foreign trawl fleets. Scientific knowledge of the Pacific halibut is still sketchy. Certainly more funds need to be expended to gain a fuller understanding of its' habits, migratory routes and the effects of various types of fishing upon it. Much of Canada's halibut fishery takes place in Area 3, North and West of Cape Spencer, Alaska, hence any salvage of the halibut fishery in that area, must involve action by the U.S., but because Canada appears to have the most stable, if not the greatest halibut prospects at the moment, it may be in a position to preserve a remnant of a fishery given certain concrete action of its own. Extension of Canada's territorial seas to two hundred miles, or to the edge of the continental slope to a depth of one thousand fathoms which ever is greater and secondly, a new North Pacific Treaty involving all nations presently fishing the North Pacific Ocean is required immediately to halt the further decline of halibut and to begin rehabilitation.

Extension of Canada's fisheries' jurisdiction and enforcement of Canadian sovereignty over these waters, as many Latin American countries have done, will establish Canadian ownership and control over their fishery resources above the continental shelf. It will prevent the over-exploitation of these resources and will provide negotiating material for Canada and a reserve for the extension of Canadian fisheries, or both. Enforcement of Canada's claim to her territorial seas might provide a modicum of protection for Canadian-bred halibut, as well as other species of fish endangered by the "pulse" fishing of foreign mothership fleets.

As an immediate step, a proper evaluation of the stocks of fish in the areas where we propose to extend our fisheries' jurisdiction, needs to be made to determine Canada's true bargaining position.

A new North Pacific Treaty to provide for proper management of fishery resources of the North Pacific Ocean is required urgently. Halibut, in their life cycle, range over wide expanses of ocean. In their larval stage, they drift with the current. Halibut tagged in the

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9 See Appendix 4.



- 7 -

Bering Sea have been recovered off British Columbia's coast. There is some interchange across the man-made "abstention" line (170° W.), which separates the Eastern Bering Sea from the Western Bering Sea, an area not regulated by the present North Pacific Treaty. Up until now, the gathering of information and data has been hampered by lack of halibut catch statistics from the land-based Japanese dragnet fleet operating in the Western Bering Sea and from the fleet of the Soviet Union, operating in the entire Pacific. Thus, any full conservation programme for halibut, will have to involve all nations fishing North Pacific halibut. Moreover, stocks of fish other than halibut are showing signs of wear and tear of indiscriminate exploitation and need the protection of conservation treaties.

The sighting of more than seventy non-North American (mostly Soviet) trawlers operating in the Gulf of Alaska early this year, underlines the basic flaw of the North Pacific Treaty, and Canada's short-sighted policy up until now, of not pressing to have the Treaty cover all nations, including the Soviet Union.<sup>10</sup> The International Pacific Halibut Commission estimates that as much as three million pounds of legal-sized halibut and an equal amount of sublegal-sized (or potential yield in future years) may have been taken already this year.

In 1974, only three North American vessels went to the Bering Sea to take part in the early opening. The Quota for Area 3 has been cut by more than half, down to twelve million pounds. A flourishing industry of just a few years back is in a sorry state.

The Halibut Commission has issued a call to its' participating governments to convene a conference of all nations fishing halibut stocks to take measures to save the halibut. We support that call.<sup>11</sup> Canada must act now, without false acrimony, to initiate this conference. At such a conference, as with all negotiations with foreign countries involving our fisheries, representatives of the United Fishermen and Allied Workers' Union and the rest of the industry should be invited to participate.

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10 See Appendix 5 - Press release Department of Environment.

11 See Appendix 6 - Telegram to Minister Jack Davis.



We have a vital stake in the outcome of such negotiations and all too often in the past, the greatest mistakes have been made when the politicians failed to heed the advice of those most directly connected to the fishery industry - the fishermen.<sup>12</sup>

#### CANADA - U.S. SALMON TALKS

Discussions between Canada and the United States involving their respective share of salmon have been going on for many years. In the early days of the International Pacific Salmon Commission regulations, U.F.A.W.U. members raised the wisdom and justice of a fifty-fifty split of Fraser River sockeye. In 1956, Canadians led by James Sinclair,<sup>13</sup> then Minister of Fisheries, were forced to take a hard line against the U.S. to bring pink salmon under the sharing provisions of the Fraser River Convention. High seas fishing for salmon led scientists, politicians and fishermen alike, to the principles of harvesting salmon close to home streams as the only method of properly regulating and conserving. Thus, the Surfline Treaty between Canada and the U.S. was signed in 1957, which halted high seas expansion of the Canadian and U.S. salmon net fleet. The Alaskan section of the U.S. delegation however, departed from the basic principles worked out and drew its' surflines far offshore, thereby setting the stage for further disruption of Canada-U.S. salmon relations.

Combined with the Japanese high seas salmon effort which had expanded to include Alaskan stocks (and we suspect Canadian chums and chinook salmon stocks), the concept of ownership of anadromous species by the country of origin grew. Why should Canada invest millions of dollars in stream clearance, artificial propagation and enhancement, or forego other uses for rivers and streams in order to allow other countries who make no contribution, to harvest our salmon stocks? Insofar as the United States was concerned, several problem areas emerged. Canada repeatedly raised with the Americans, the problem of the Alaska Surfline and new tagging information which indicated major interceptions of Northern B.C. Salmon. Likewise on the Fraser River, there was no reason why Canada should surrender, every year, fifty percent of that river's fish, when the United States had been paid over and over again for its

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<sup>12</sup> See Appendix 4

<sup>13</sup> See Appendix 7 - James Sinclair's Speech to Canada-U.S.  
Pink Negotiations.



- 9 -

meagre investment. Canada had judiciously used its' main salmon river, the Fraser, and intended to develop it further - alone. Canada had also raised the question of getting no benefit from Panhandle Rivers, 90% of which were in Canada. The U.S., for its' part, raised the increase in Canada's West Coast troll fleet and interception of U.S. salmon. So, from the Yukon River and the Canadian portions of Panhandle rivers in the North, to the Columbia River in the South, Canadians raised the question of the loss of their salmon resource. Canadian estimates of interception by the U.S. over and above Canadian interceptions of U.S. salmon range from a low of 644,000 to a high of 3,018,000.<sup>14</sup>

Finally, in June of 1971,<sup>15</sup> after many meetings, the two countries agreed to basic principles to govern future discussions:

- (a) Each country should reap the benefits of its' efforts to maintain or increase the stocks of salmon.
- (b) Each country should fish the salmon bound for its own rivers and should seek to avoid interception of salmon bound for their rivers of origin in the other country.
- (c) There shall be an equitable balance between the interception by the two countries. By "equitable balance" is meant that the total value of salmon intercepted by the U.S. bound for Canadian rivers shall as nearly as possible, equal the total value of salmon bound for United States' rivers caught by Canada.
- (d) This equitable balance should be achieved where possible, by reducing rather than increasing interceptions.
- (e) Each country should seek to make adjustments in the techniques and economics of its' fisheries which will make reduction of interceptions possible, and
- (f) These adjustments must take into account the overriding requirements of conservation.

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14 "Report of the Pacific Salmon Negotiation Working Party 1970-71", Vancouver, March 1971, Table 21A.

15 "Record of Agreement - United States-Canada Consultations on Salmon Problems of Mutual Concern" June 17-18, 1971 Seattle, Washington.



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From the outset, the United States sought to amend, qualify or nullify these principles they had agreed upon. Their opposition was clothed in quasi-scientific linguistics which changed depending on which aspect of the salmon fishery they were discussing.

Their main qualification to the June, 1971 principles centered around their concept of "historic fisheries", particularly insofar as it applied to the Fraser River and Northern British Columbia stocks. On the Fraser, they assert that they have historically fished those stocks and have invested money in good faith and thus reserved the right to fish the Fraser in perpetuity. While magnanimously allowing Canadians the right to develop our own further stocks on the Fraser, they have gone as far as to leave the impression that use of the Fraser for other purposes, still may require some assent from the United States, as they have a vested interest there. In the North, they maintain their Noyes Island fishery (an offshore fishery contrary to the Surfline Agreement), on Canadian stocks, is an historic one and we really can't expect them to alter their techniques or economics there.

The U.S. has gone so far as to state that Canada is the aggressor nation and that we intercept more U.S. salmon than the Americans intercept Canadian.

To reinforce this smokescreen, during discussions on valuation of intercepted stocks, the U.S. came up with a reverse pricing formula, which in fact made Canada appear the aggressor. Not only did they wish to apply U.S. prices (which were far higher) to salmon intercepted by Canada and Canadian prices to Canadian fish intercepted by the U.S., but they insisted on using landed price, which did not reflect the price at different ports, bonuses, or added processing values which bring fish prices far closer to the value to the entire economy.

They challenged Canadian scientific information, supplanting it in the North with their own, which proved to be made on the basis of forty year-old surveys (using less than a score of recovered tags). At one point in the negotiations, Ambassador Donald L. McKernan, U.S. spokesman, rudely told the Canadian negotiators that unless we were prepared to accept these figures as the basis for discussion, there was no point in proceeding further on the issue.



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Canada's West Coast troll fishery on the other hand, was considered by the U.S. to be different from her "historic" fisheries and all U.S. argumentation was designed to isolate that fishery and make reductions in interceptions exclusively in that area. The American negotiators wished to negate, in the balancing of interceptions, salmon spawned in Canadian portions of the Columbia, Yukon and Panhandle rivers. They raised the issue of "estuarine environment", in order to obscure the fact that salmon spawned in Canada are harvested almost exclusively by Americans. The U.S. strategy against Canadian complaints: the best defence is a good offence. Make Canada appear the aggressor; change the data basis for the complaint or eliminate one or two of the main intercepting fisheries such as the Fraser and invariably the U.S. appears hard done by.

The Canadian negotiators, frustrated<sup>16</sup> at every turn by American obstinacy and thus the poor prospects for reaching an equitable agreement, resolved after many meetings that the only way to resolve the imbalance, reduce U.S. interceptions and bring the U.S. to time, was by being prepared to take unilateral action. The Canadian negotiating team with the advisors' unanimous support, informed the Americans that "The situation that is now likely to persist will lead Canada to taking measures designed to correct, what in our view, is the continuing imbalance in interception. These will involve unilateral action in respect of our salmon net fish and troll fisheries, will be aimed primarily at harvesting our own Fraser River stocks". Cliff Levelton, chief Canadian negotiator at a Vancouver press conference on his return from Seattle in May, 1973 stated "The only way we could have reached agreement was by selling out our national interests. Every proposal the Americans made, no matter how phrased, was designed to increase the U.S. share of Canadian salmon....our purpose is to increase our catch of our own fish although there's no doubt that we shall be intercepting some American fish. How we shall do this is still to be decided but we served sixty days' notice on the U.S. yesterday that we will - not may -

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16 See Appendix 8 - Closing Statement United States - May 8, 1973.



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but all, be taking such special measures".

However, later that month in the Reciprocal Treaty Talks between the two countries which allows fishing by each country in the territorial seas of the other, Canada withdrew its' sixty day notice under pressure from the U.S., and in doing so, had its' trollers pushed twelve miles off the coast of Oregon and Washington, south of Carroll Island, thus increasing the imbalance in salmon interceptions. Moreover, the U.S. demanded in writing that if Canada pressed for equalizing salmon interceptions by extending its' net and troll fisheries, the U.S. could reopen or terminate the Reciprocal Fishing Treaty, thereby further threatening Canadian halibut fishermen and troll fishermen. These threats Canada could have answered had the Cabinet been prepared to take action.

Canada did not, and as a result, were faced to retreat from one position after another in the salmon talks. In sessions of the Canadian advisors, negotiators tried to demonstrate to industry representatives the merits of using negotiating skills and tactics as a substitute for concerted Canadian action. Each plenary session with the Americans exploded this myth and hurt Canada's dignity, not to mention her negotiating position.

One tactic to get around American objections was for an interim agreement which would set aside momentarily the main issues in dispute and concentrate on reducing interceptions on each side. The U.S., serving Canada's weakness, pressed their offensive and Canada retreated even further. Canada then proposed an interim agreement to be implemented after the fourth year of the Treaty. It called for gradual reduction of interception away from a level calculated by using the average interception for the years 1967 to 1972 and by using an average of the Canadian and American estimates of interception, thus watering down Canada's position even further. This agreed upon level would then be reduced by an amount of five percent per year, until the interceptions on each side were halved. For the Fraser River, the idea of buying out the U.S. investment on the Fraser was first proposed. It gave way to Canada proposing to buy the Americans out in fish, which led to a proposal to add U.S. interception of Fraser River sockeye for a sixteen year-period, while recent U.S. investment was being "amortized".



Canada temporarily disregarded the Panhandle, Yukon and Columbia rivers as not being part of the balancing procedure.

The U.S., not satisfied with this deal, demanded reduction of interceptions not in absolute numbers as Canada proposed, but as in rates (percentages). By their proposal, the only areas of actual reduction in interception would take place in Canada's West Coast fishery, while U.S. interceptions could actually increase. On the Fraser, the U.S. stated that stocks were increasing naturally and they wanted additional hundreds of thousands of fish to account for these increases over and above amounts to compensate for their most recent investments. It should be noted that prior to the above-mentioned proposal being submitted to the Americans, the Canadian negotiators and advisors worked out a contingency plan and submitted this to Cabinet in the event that the U.S. maintained its usual stubborn approach. That contingency plan<sup>17</sup> included:

- (1) Mounting fisheries on the West Coast of Vancouver Island and in Dixon Entrance to intercept U.S. fish and a bigger share of Fraser salmon.
- (2) If the U.S. moved to abrogate the Reciprocal Treaty, Canada would expel U.S. trawlers beyond our twelve mile limit which encloses prime U.S. fishing areas in Hecate Straits, Dixon Entrance, Queen Charlotte Sound, Bay of Fundy and the Gulf of St. Lawrence.
- (3) If the U.S. abrogates the Salmon Convention, Canada would mount increasing fishing pressure in the North and elsewhere.

Again the Cabinet refused to give the negotiators the "green light" to suggest to the Americans that such a course of action would be followed. Negotiators were told to report back if they had any difficulties in negotiations.

The U.F.A.W.U., fearful of the retreats by Canada, took the position that the only way to stiffen Canada's stance was to alert public opinion and force policy-makers in Ottawa to reject the latest U.S. counter-proposal.

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17 Meeting of Aug. 16, 1973, of Canadian advisors, Dept. Environment Board Room, 1090 W. Pender, Vancouver.



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However, like past Canadian position papers, a new Canadian proposal containing much of the rejected U.S. position and actually culminating the sacrificing of all basic principles of June, 1971 was put forward. In fact, in the submission to the U.S., it stated that it "incorporates many features of an earlier United States' proposal" and "can, with modifications, provide the basic framework for an agreement".<sup>18</sup>

That new proposal was drafted without written copies or written statistical data available for distribution to the industry advisors. Indicative of the way negotiations were carried out, the proposal was laid out (with charts on an easel) in a two-hour presentation; delegates were given one and a half hours for lunch, over which they were to formulate their organization's opinion of the new Canadian proposal to the U.S. The U.F.A.W.U. indicated that they had had insufficient time to study the proposal or to consult their membership, but expressed their opposition to dropping two basic principles: the reaching of equity, or reducing of interceptions with no guarantees of any change in the U.S. position. They asked for written copies of the Canadian draft position, and a further meeting of all the advisors prior to meeting with the United States. Both requests were denied.

On the eve of Canada making the presentation of her proposal to the United States, the advisors still did not have written copies of the Canadian proposal, which they could take back to their hotel room for study and analysis. Approximately one-half hour before meeting the Americans, written copies of Canada's latest proposal was distributed to the advisors.

The latest proposal<sup>19</sup> which is the one currently sitting on the table calls for:

- (a) Rates of interception on all intercepting fisheries to be established based on the 1967 - 1972 average rate of interception, and

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18 Record of Discussion - February 15, 1974.

19 See Appendix 9.



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- (b) Overall catch limits for specific fisheries in addition to the above to be established.
- (c) No immediate limitation on Panhandle, Yukon or Columbia Rivers.
- (d) In addition to the rest, forty-two percent of the total catch of salmon attributable to Gates, Weaver, Pitts and Nadina spawning channels on the Fraser River for a six-year period would be harvestable by the United States.

The U.S. reacted with pleasure to the Canadian proposal, stating the Canadian proposal constituted the basis for a settlement, but in their typical stubborn way, the U.S. set about to whittle away whatever was left of Canadian resistance. Insofar as conservation was concerned on the Skeena or Nass, Ambassador McKernan used essentially the same argument on Canada as the Japanese used on the United States to justify its' piracy of Bristol Bay salmon: "We have fisheries which take significant amounts of pink and sockeye. It is quite easy for you to reduce your take of Skeena sockeye where your rate of exploitation is ninety to ninety-five percent. Our rate is five to six or nine percent at Noyes Island, but if you had a catastrophe, it would be practical for you to eliminate fishing on the Skeena, but unreasonable for us", even though some years the American take five hundred thousand Canadian sockeye at Noyes Island. "The effect on conservation would be small and adjustment would be difficult", McKernan stated. In other words, Canadians practice conservation and the United States harvest the results. In response, Canada's chief negotiator stated "We have some sympathy with your problem". McKernan accused Canada of ignoring the interceptions of Alaska pinks in even-numbered years and demanded that the situation be corrected. On the Fraser River, the U.S. demanded to use different base years on which to find catch limits. They suggested a four-year period which would give them an additional nine hundred thousand sockeye per year on the Fraser alone.

Turning to Canada's intercepting fishery on U.S. coho and chinook, McKernan chided, "Canada hasn't contributed a dime" to the U.S. hatchery programme, while the U.S. has invested close to two million dollars on the Fraser. What McKernan doesn't mention is that the U.S. dammed the Columbia, killing her salmon (including millions of Canadian



salmon), making necessary large expenditures for hatcheries, while Canada has used the Fraser wisely.

In summary, the United States have demanded removal of restrictions on her intercepting fisheries and stricter catch limits on Canadians.

One additional thing needs to be said about the last meeting in Seattle. The United Fishermen and Allied Workers' Union advisors had demanded to know what the latest Canadian proposal would mean in dollars to both countries. In a Table provided to the advisors given in "landed" (not wholesale, which is the agreed Canadian measurement)\* prices, the imbalance was still in U.S. favour but as was explained by the technical personnel, the situation would turn sometime after 1980 in Canada's favour because of new information on the U.S. hatchery programme. The UFAWU also demanded information on the U.S. hatchery programme, which ostensibly was the reason for Canada's abandonment of all the June, 1971 principles. Three days into the session with the U.S., the U.F.A.W.U. advisors were able to get this information,\*\* although it was not printed, distributed to, or analysed by the advisors up to that point. Preliminary analysis done by the Union advisors and distributed to the other industry representatives,\*\*\* proved there was a yet no sound connection between U.S. hatchery output of coho smolts and increased catches by Canadian fishermen of U.S. fish.

The latest Canadian proposal means therefore that the following concepts have been dropped:

- (1) That each country should reap the benefits of its efforts to maintain or increase the stocks of salmon. The U.S. will continue to reap the benefits from the million of dollars spent to keep the Fraser and other Canadian rivers free of pollution and power dams and on artificial enhancement.
- (2) That each country should fish the salmon bound for its own rivers and should seek to avoid interception of salmon bound for their rivers of origin in the other country. Canada maintains it is not out to cut out historic U.S. fisheries, such as at Noyes Island or Cape Fox or on the Fraser River.

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\* Real values as per Appendix 10

\*\* Table on U.S. hatcheries - Appendix 11

\*\*\* U.F.A.W.U. graph on U.S. hatcheries - Appendix 12.



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- (3) The matter of equitable balance of salmon. Canada now proposes a lid on the catch, within which interceptions can increase. In fact, Canada avoids talking about equity. As one of the members of the Canadian negotiating team indicated, it was like "waving a red flag in front of a bull", to mention such a thing in front of the Americans. Canada hopes for the reversal in interceptions on the basis of the U.S. hatchery programme, which at the moment, promises little. While, as Canadian enhancement develops, or as the U.S. places further demands on Canada, the inequity in favour of the United States will widen.
- (4) Equity should be achieved by reducing interceptions, rather than increasing. Within the framework of the catch limits, interceptions will increase.
- (5) Each country should seek to make adjustments in the techniques and economics of its fisheries, which will make reductions of interceptions possible. The U.S. refuses to upset any of their fisheries and Canada agrees. We are not demanding that the U.S. forego their historic fisheries.
- (6) Over-riding concern for conservation, if the U.S. insists on and Canada agrees to the right to take salmon offshore, miles from their home stream such as at Noyes Island.

The latest proposal does mean quite unnecessary catch limits on West Coast Canadian fishermen. The imbalance in interceptions is and has been, strictly in the U.S. favour. The U.S. still refuses to recognize this. The U.F.A.W.U. sees no reason until that imbalance has been corrected, why there should be any curtailment of Canadian fishing efforts. Even worse, further retreats by Canadian negotiators on salmon talks are quite likely, as the negotiators have indicated they are prepared to negotiate away from the present proposal.

Thus, we believe the present Canadian proposal is scandalous. Our negotiators have gone 180° from the principles of June of 1971 and what last May was described by our chief negotiator, Cliff Levelton as a sell-out of our national interests, has now largely been embraced within the Canadian proposal.



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### WHAT MUST BE DONE?

Canada must withdraw its' latest proposal. It must return to the basic principles of June, 1971, agreed to by both countries. It must stop being pushed off those principles by the U.S. If necessary, it must carry out the pledge of the negotiators of May, 1973 to increase fishing pressure on the Fraser River and U.S. stocks. The words and deeds of former Fisheries Minister James Sinclair would be most appropriate at this time because with the full support of the Cabinet and the House of Commons, we can meet firmly U.S. attempts to thwart Canada's just claims. We suggest the following possible actions in addition to the contingency plan already worked out by the advisors:

- (A) Increase fisheries in the Canadian headwaters of rivers emptying through U.S. territory, such as the Stikine and Yukon and Columbia.<sup>13</sup>
- (B) Fisheries should be mounted in Dixon Entrance off Southeast Alaska and even consider fisheries of stocks of salmon as far afield as Bristol Bay.
- (C) Canada should announce its' intention to remove all U.S. nationals fishing inside its' twelve-mile limit and base-lines, should the U.S. move to abrogate the Reciprocal Fisheries Treaty.<sup>14</sup>
- (D) Canada should seek to bring all of our other political and economic pressure to bear to ensure an equitable settlement of this dispute, rather than allowing the U.S. to end up with a heavy advantage to themselves.

Holding up the development of the Fraser salmon enhancement programme solely by Canada has been a net effect of the continuing dispute with the U.S. The U.S. argues Canada's right to develop the Fraser on her own, as a major concession, only if we will agree to her other terms. Canada so far, has not challenged this, but instead, is awaiting the outcome of the talks before proceeding. Such a position assumes we must

13 See Appendix 13 - Letter from J. Davis to E. Neish.

14 See Appendix 14 - Charts.



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sign an inferior Treaty in order to repatriate part of the Fraser, or we will never be able to develop the Fraser on our own.

We believe work should commence immediately on the Fraser<sup>15</sup> solely with Canadian funds. It will be several years before those projects begin to show results. In the meantime, it will indicate to the U.S. that we do not accept their logic of their rights to fish the Fraser into perpetuity and their subtle form of blackmail.

Our organization stands fully for co-operation with our American neighbours. However, co-operation is a two-way street and must be based on mutual respect. If a Treaty is signed on the present basis, Canada's integrity in the world, her self-respect in the world fishing community will be damaged and her fishermen and Canadians will economically come out on the short end of another resource treaty. The critical factor is the attitude of government and their support in being prepared to implement whatever contingency plan is necessary to bring about an equitable agreement.

#### LAW OF THE SEA CONFERENCE

Our position in the world fishing community must complement, not substitute, for our integrated national fishery policy. When the Law of the Sea Conference convenes in Caracas, Venezuela, we believe Canada's position in that important world body must press for recognition of the following:

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15 See Appendix 15 - Telegram to J. Davis.



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- (i) The right of all coastal states to establish headland to headland baselines and to extend territorial seas twelve miles outside such baselines.
- (ii) The right of all coastal states to extend fisheries jurisdiction over all fish on the continental shelf and continental slope to a depth of one thousand fathoms or to two hundred miles, whichever is greater. That "jurisdiction" means exclusive right to harvest, except where the coastal state is willing to share the harvest, then any other nation's fishing vessels would be under control in terms of amount and place of such harvests (by the coastal state).
- (iii) Exclusive rights of harvest and management of salmon and other anadromous species to belong to the state where the salmon and other anadromous species originate. A total ban on high seas fishing for salmon, subject only to such special agreements as may be negotiated between states where intermingling appears and the states agree upon limited harvest outside their territorial waters. States to recognize it is contrary to these principles for a state to intercept salmon bound for the fresh waters of another state, even where such interceptions are made inside the intercepting state's territorial or internal waters. All fishing for wide-ranging species on the high seas to be covered by international all-inclusive fisheries treaties designed to conserve the species and share the allowable harvest between the states capable of conducting such harvest.
- (iv) Canada to prepare a full explanation of its basic concern over the extreme dangers to the salmon stocks inherent in the lack of adequate international law and to distribute this to all nations in advance of the Conference.
- (v) Canada to prepare complete and accurate information on the tremendous decline in halibut stocks, caused by large trawl fleets operating in the Bering Sea and Gulf of Alaska and distribute this information to all nations.
- (vi) Canada to prepare an explanation of the stand taken by the United States, regarding that nation's refusal to recognize Canada's territorial waters; refusal to recognize the Alaska-B.C. boundary in accord with the 1825 Treaty, which clearly stated the marine boundary between Alaska and Canada on an analysis of the loss of Canadian fishery resources, primarily groundfish, entailed in the Reciprocal Treaty with the U.S.A. and the unequal interception of Canadian salmon by the Americans. A serious effort be made to establish the principle that such grievances can be resolved by an international tribunal.



- (vii) Canada to prepare to move more strongly on a unilateral basis to protect Canadian fishery resources, since the best estimates of any successful conclusion to the Law of the Sea Conference indicate it may take until 1980 or even 1985 before international agreements become effective.

#### RECIPROCAL RIGHTS FISHING TREATY

The Reciprocal Rights Fishing Treaty which governs fishing by the two countries (Canada and the United States) in each other's territorial waters, is up for renewal. We understand that the Treaty has been extended for two weeks to May 8, until a decision of the State of Alaska to extend state jurisdiction over Cook Inlet is clarified with U.S. Federal officials.

In a meeting of the Canadian advisors held March 13, 1974 to discuss the expiry of the Reciprocal Rights Treaty, it was evident that much more needs to be done to aggressively establish a good Reciprocal Rights Fishing Treaty from Canada's point of view. The United States have used the threat of abrogation of this Treaty as a weapon against us, in the Canada-U.S. Salmon Talks. They have threatened to move our halibut and salmon troll fishermen outside their twelve-mile limit. Events of May, 1973\* plus the latest move by Alaska at Cook Inlet, prove that when the situation suits them, the U.S. will move in this direction anyway. Canada must pursue a similar programme, based on her own national fishery needs and equality, rather than rely only on American goodwill.

The U.S. is the only country in the world which fails to recognize Canada's closing lines for our twelve-mile limit. They refuse to recognize the international boundary from Cape Muzon to Cape Chacon. Unfortunately, Canada has not yet pressed its' sovereignty in these matters.

Nor have we done a complete, proper and up-to-date inventory of fish stocks within our twelve-mile limit on both coasts or within the areas of our continental shelf and slope. The suspicion of our organization

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\* Moving Canadian trollers outside 12 miles - south of Carroll Island, Washington.



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based on the sketchy information available, is that the threat by the U.S. to abrogate the Reciprocal Treaty is empty. The dramatic decline in halibut, coupled with the tremendous U.S. trawl fishery within our territorial seas reinforce our argument.

Our External Affairs Department cautioned against pressing for a more equitable Treaty now on the basis of "future of considerations" in the U.S. "pond", which would be created by the two hundred-mile limit. Yet the External Affairs admit there are no guarantees of our rights within this po and secondly, there are no clear delineations\*\* of the coastal territory covered by such a two hundred-mile limit or the fish inventory of such an area.

### CONCLUSION

Seemingly, the oceans of the world have shrunk since World War II, as more and more nations turn their attention to the living resources of the sea as a source of rich protein food. The development of sound, comprehensive fishery policies by Canada to cope with this reality has lagged and has been subverted to other political considerations.

The big loser to date, aside from various fish resources, has been Canadian fishermen and the public. May we respectfully suggest that Canada, in coping with the new reality, come out squarely for actions as we have suggested, which will preserve and rehabilitate the halibut as well as our other fish stocks; which will guarantee protection for and our exclusive rights to harvest Canadian spawned salmon; and which will not preclude agreements between states for harvesting of one another's stocks of fish or to conserve stocks jointly owned by all the countries of the world, as long as such treaties are based on mutual respect and equality. If this submission and our delegation has contributed to putting across this important message, then our trip has been successful.

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\*\* See Appendix 14 - Charts.



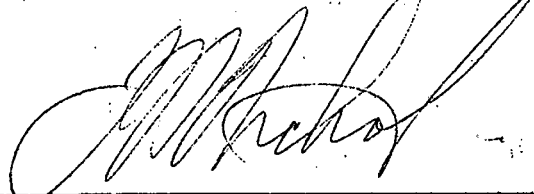
- 23 -

Respectfully submitted,

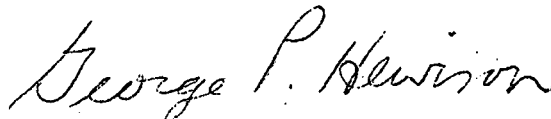
UNITED FISHERMEN & ALLIED WORKERS' UNION



per: Homer Stevens, President.



per: J. H. Nichol, Secretary-Treasurer.



per: George P. Hewison, Business Agent.

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APPENDIX 1

From the Canadian position at  
NORTH PACIFIC FISHERIES COMMISSION  
Meeting Tokyo, Nov. 5-9, 1973

"It is certain that many coastal states who will be gathering for the forthcoming Law of the Sea Conference will view Japan's position at that Conference with much skepticism. Japan has made public assertions that many of the world's fisheries problems can be resolved by existing regional conventions and agreements. Canada wishes this were so - but obviously it is not."

From the Japanese Position at Tokyo  
Nov. 5-9, 1973

"In considering conservation measures for halibut, we believe it is necessary to take into consideration the other species that may be exploited in the same area."

Actually the Japanese trawl fishery in this area (Bering Sea) is of major importance to the fishing industry of Japan. Therefore when contemplating conservation measures for the halibut stock, we believe the Commission should give due consideration to the trawl fishery in this area. Actually, deciding joint conservation measures for the North America's setline fishery for halibut and the Japanese trawl fishery is very difficult. The reason it is difficult is that the halibut catch is just a fraction of the total groundfish catch, and so in order to restrain the fishing on one specific resource we in fact have to give up catching other groundfish in amounts over 10 or 100 times the catch of halibut, and this is actually a dilemma."



APPENDIX 2

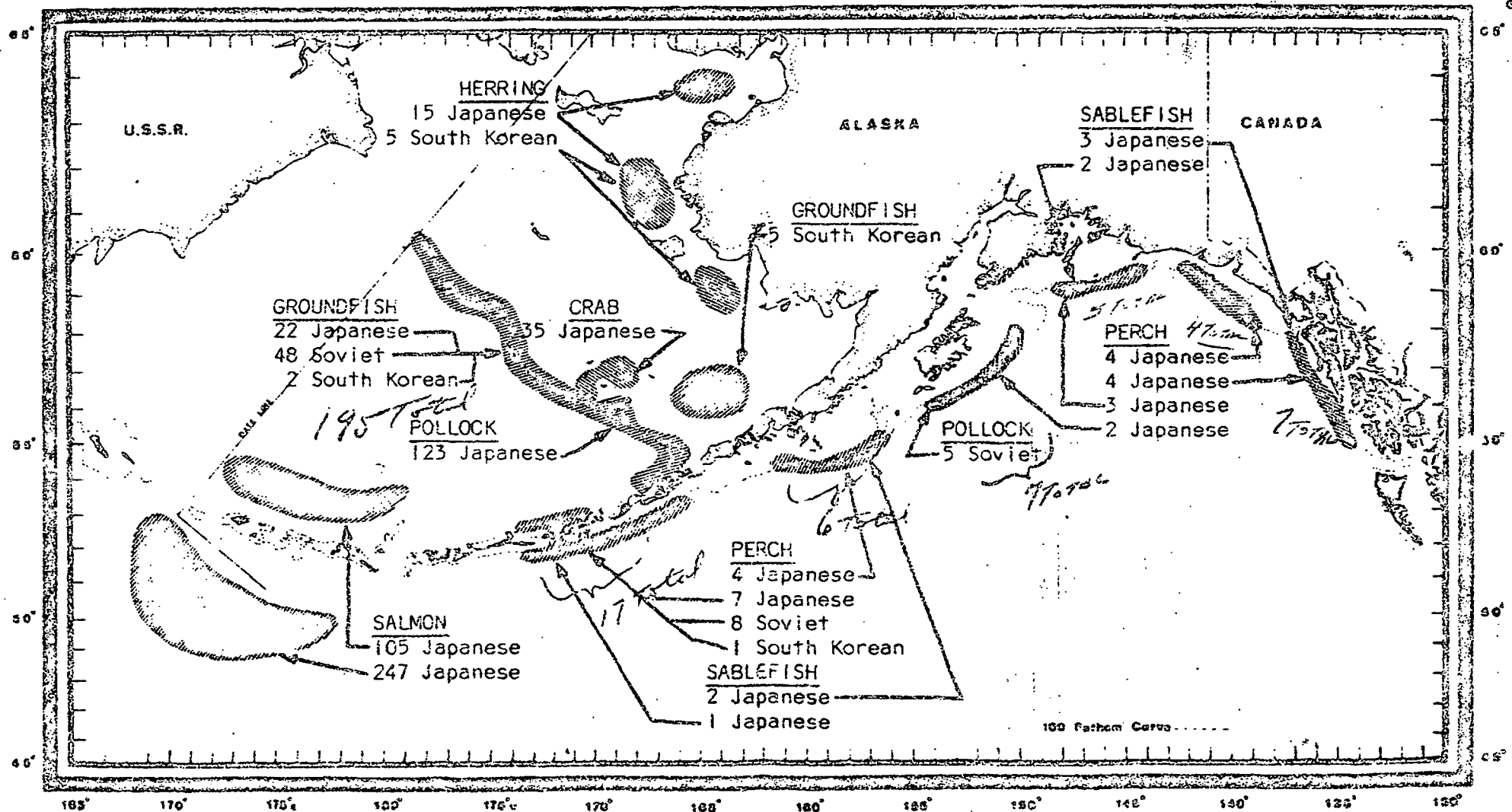
Bering Sea Halibut Catch by North American Setline Fleet

in '000,000's of pounds.

<u>1963</u> (Yr. Norpac Treaty amended)	<u>1964</u>	<u>1966</u>	<u>1968</u>	<u>1969</u>
8.1	2.328	1.195	1.331	1.233
<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
1.134	.866	.866	.264	only 3 vessels all from U.S. taking part



BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL



Foreign fishing off Alaska in June 1973; by country, number of vessels, principal fishing grounds and species fished.



APPENDIX 4

"In the late 1960's fishermen voiced the opinion that catch per unit effort (CPUE) based on the "standard skate" no longer reflected the catch rates on the fishing grounds and in 1971 the Commission decided to re-examine the calculation of C P U E."

From Report Bernard Skud, Director of Investigations,  
"Effects of Hook-Spacing On Halibut Catches".  
February, 1972



## FISHING REDUCTION SOUGHT IN GULF OF ALASKA

OTTAWA - Canada will make a request in the most emphatic terms possible to the Government of the Soviet Union to cut back its fishing operations in the Gulf of Alaska. The reason: To prevent the further depletion of the already decimated halibut stocks.

"The halibut stocks are already in a sorry state", Fisheries Minister Jack Davis said today. "The blame lies with the foreign fishing fleets, especially that of the Soviet Union."

Mr. Davis said that a continued concentrated effort in the area will adversely affect the catches of Canadian and United States halibut fishermen in the area when the season opens May 17.

The Soviet Union and Japanese fleets are fishing primarily for groundfish in the area. However, incidental catches of halibut are considerable.

Mr. Davis announced that an emergency meeting of the International Pacific Halibut Commission will be held on April 16 to deal with the matter. Both Canada and the United States are members.

Just over a month ago, there were 77 foreign vessels fishing in the Gulf of Alaska. This is the greatest concentration of foreign vessels in this area since 1965, and almost double the number operating during the same period two years ago. Two-thirds of the fleet were Soviet vessels.

- 30 -

21/5/4/74  
Peter Schnobb  
Fisheries & Marine Info.,  
Environment Canada,  
Ottawa, Ont., K1A 0H3  
819/997-1860



**TELEGRAM SENT THURSDAY, APRIL 11, 1974 AT 2:50 P.M.**

Jack Davis, Fisheries Minister,  
Parliament Bldgs.,  
Ottawa, Ont.

Bernard E. Skud, Director of Investigations,  
International Pacific Halibut Commission,  
Oceanography Teaching Bldg.,  
University of Washington,  
Seattle, Wash. 634-1838

RECEIVED AND ENDORSE LETTER CLIFF LEVELTON, CHAIRMAN INTERNATIONAL  
PACIFIC HALIBUT COMMISSION TO U.S.-CANADIAN GOVERNMENTS URGING  
ACTION TO CONTROL FOREIGN TRAWL FLEETS AND NEGOTIATIONS WITH SOVIET  
AND JAPANESE GOVERNMENTS. PARTICULARLY UNDERSCORE "WE MUST BE ABLE  
TO CONTROL THE TRAWL FISHERIES SOON - EITHER THROUGH BILATERAL OR  
MULTILATERAL AGREEMENT OR EVEN UNILATERAL ACTION - TO PREVENT A  
REPETITION OF THE CATASTROPHIC DECLINE OF HALIBUT IN THE BERING SEA  
AND TO START A LONG PERIOD OF STOCK RECOVERY IN AREA 3 AND THE BERING  
SEA". UNDERSTAND MEETINGSSSOVIETS AND JAPANESE BEING CONSIDERED  
FEEL UNION SHOULD BE CONSULTED AND PARTY TO ANY ALL MEETINGS AND  
DISCUSSIONS WITH FOREIGN COUNTRIES DEALING FISHERY RESOURCES PACIFIC  
COAST AS WE HAVE VITAL STAKE.

(signed)

George Hewison, Business Agent,  
United Fishermen & Allied Workers' Union

GPH/bc  
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Appendix 7  
(Page 4)

Mr. Sinclair

There is one other thing that I would like to mention. All of you here, of course, know what my point of view has been on the pink salmon treaty since I became Minister of Fisheries. Perhaps we Canadians have one slight advantage over our American cousins in this respect, in that we have a national Minister of Fisheries who can speak up in a national forum, and perhaps attract a little more attention than in a field where authority is divided between federal and state governments. But when I became Minister of Fisheries, about four years ago, I was most anxious that the very fine work of conservation of the sockeye salmon should be extended to the pink salmon.

I must say there was not too enthusiastic a response to this, so I advised our fishermen, as you know, to go out and increase their fishing effort.

I am happy to say that, from a purely selfish Canadian point of view, our fishermen have been doing quite well in lifting their share of the catch from 30 per cent some four or five years ago to 46 per cent in the last year.

I feel that if I had not been incapacitated in a Russian hospital last year I would have had strong words for our fishermen who took two days off each week. I spoke to the fishermen's union last spring, and chastised them as vigorously as I could on that aspect of the matter.

They of course pointed out that I had never spent week after week on a fish boat out in the north Pacific, going boat crazy. But I did suggest that we should arrange our fishing effort so that we would have some boats out there seven days of the week.

I know that that is a very selfish point of view. We wanted a pink salmon treaty that would give the same sort of intelligent conservation of the pink salmon that we have with the sockeye salmon.

I pointed out this spring, before our fishermen's convention and before a meeting of the fisheries association, that if we were not able to obtain an effective fisheries treaty before the big run of pink salmon next summer, we would continue our past policy, and that our fishermen would be encouraged to catch the fish in our Canadian waters, and there would be no more restrictions on their gear than on the gear the Americans use in their waters.

Appendix 7

Monday, Oct. 22, 1956. Verbatim Report of Plenary Session of Conference On Pink Salmon of the Fraser River Area between United States of America and Canada.



Appendix 7  
(Page 5)

Mr. Sinclair

Last year we were closed a great deal of the latter part of the season to permit adequate escapement up the Fraser river. I told both our fishing groups on the west coast that we would match our closed periods in the coming year with the closed periods on pinks in the state of Washington. If they were closed only two days of the week, we will close only two days of the week.

I hope that all this sequence I have just outlined will be unnecessary, because I am here today, thinking of the extraordinarily successful achievements of our two nations in the conservation of fish, and especially in the conservation of the sockeye of the Fraser river system; and I hope you will be able during this week to hammer out an acceptable pink salmon treaty which will assure both our fishermen ever increasing catches of these very valuable fishing resources.

I thank you.

MR. W. C. HERRINGTON: Mr. Minister, ladies and gentlemen, we appreciate very much the welcome you have given us. For some members of our delegation this is the first visit to Ottawa while, for others, it is a repeat performance. But for all of us I can say that we are glad to be here and among friends of long standing.

The United States and Canada have many common fisheries problems. We have a joint interest in wide areas of two of the great oceans of the world. We have a common border of great length, with many large bodies of water containing fishery resources which are of common interest.

These waters and resources have provided a laboratory in which, over the past years, we have worked out a series of principles and procedures for international cooperation; making the best use of our fisheries resources of common interest.

Much of this work has been pioneer work and, as we gain more knowledge and more experience, we are -- at least I hope we are -- continually in a process of evolving and improving our procedures for making use of these resources.

We are now facing a new problem in connection with pink salmon, a problem which has many special features.

I think that our past success with other fisheries problems augurs well for our success in handling this problem.



APPENDIX 8

UNITED STATES CLOSING STATEMENT

May 8, 1973

The United States delegation approaches this final plenary session with deep regret. We had come to these discussions in Seattle with a considerable measure of optimism despite our knowledge that the issues were complex and of long standing. Unfortunately, our optimism was not justified.

We have, I believe, come in sight of agreement on solutions to some of the problems of the salmon fisheries. On the major problem, however, that of the allocation of the catch of Fraser River salmon, we have not been able to agree and consequently we have not been able to agree on another major problem, that of the interceptions by the Canadian troll fishery of chinooks and cohos bound for U.S. streams.

In the case of the Fraser, there has been a shared fishery for the salmon of this river system for as long as there are records of fishing in this area. At one time, I understand, the U.S. fishery took three-fourths of the catch. Under the existing Treaty, both countries have shared in the expense of maintenance and development of the Fraser River stocks and have, in theory, shared equally in the catch. I say "in theory", since Canada has continued to increase its catch of sockeye and pink salmon outside the Treaty area to the point where the U.S. share of Fraser River sockeye is only about 42 percent, and of pink salmon only about 33 percent.

Nevertheless, during these negotiations the United States has made concessions to Canada's point of view regarding its rights on the Fraser as a Canadian river. The U.S. has recognized the Fraser as a Canadian river and consequently has recognized Canada's right to conduct programs looking to the enhancement of the runs and to the management of the stocks in the river system. We have also recognized Canada's right in these circumstances to a greater proportion of the allowable catch and, in fact, Canada's right to receive the benefits from new Canadian enhancement programs. These concessions obviously include the agreement to amend the present Salmon Convention so as to take these factors into account.

While thus giving full consideration to the Canadian point of view, we have advanced our own view that the U.S. has special interests in the Fraser River salmon runs by virtue not only of the investment it has made in the joint programs, but also through factors of history and geography. The Canadian delegation has been unable to give any recognition to such special interests of the United States except for amortization of the most recent investments. While we understand that Canada acknowledges there will be some catch of Fraser River salmon by U.S. fishermen because of the practicalities of the situation, we are unable to find any evidence that Canada would be prepared to agree to any significant continuing catch by the U.S.



We believe that the proposals we have made during these discussions are evidence of a sincere desire on our part to accommodate the Canadian position. Though we appreciate the diligent efforts of the Canadian delegation to reach a solution, we must say with regret that, in the final analysis, we see rather little evidence of a Canadian desire to accommodate our position. We believe that the basic philosophical and practical concessions that we have made far overbalance the concessions that Canada is apparently prepared to make regarding the outside troll fishery. We believe these two problems must be considered separately. The troll fishery, which takes large catches of chinooks and cohos of U.S. origin, is a recently developed fishery. The investment which produced these chinooks and cohos was entirely a U.S. investment. We cannot agree, therefore, to balance off the outside troll fishery against the Fraser River problem as if they were of one and the same type.

During yesterday's sessions, we presented two alternative proposals for an interim solution. The first of these would provide some catch by the U.S. of Fraser River runs on the basis of U.S. special interests which would not be precisely defined. The reduction for the Fraser from the base level thus arrived at would be at a lower rate than that for other fisheries in view of these U.S. special interests. This interim agreement would expire at the end of four years and the two countries would negotiate a new arrangement.

The second alternative proposal would stabilize present interceptions by both U.S. and Canada according to an agreed base. No increase in interceptions by either side would be permitted above the agreed base for four years. During this period, the two countries would enter upon the process of final adjustment through renegotiation of the present salmon Convention and the negotiation of a new and broader treaty to cover the entire problem of salmon interceptions.

We believe that either of these two proposals would offer the opportunity to make a start on final solutions to our problems. We believe that some progress toward an eventual settlement is essential. Meanwhile, the United States is prepared to refrain, wherever possible, as it has done for the past two years, from increasing its interceptions.

On the other hand, Canada has indicated that it will take certain unilateral measures aimed at increasing its interceptions of salmon of U.S. origin and its catch of the total Fraser River runs. These retrogressive measures are completely counter to the general principles which have governed our consideration of the salmon problems. They are, moreover, counter to the interests of conservation, which we have agreed must be over-riding. We fully understand the purpose of these unilateral measures by Canada, and will take such actions as may be necessary to protect the interests of United States fisheries. We hope that Canada will reconsider these plans, which in our view can only worsen the situation for both sides.

Again, I express our regret that we have arrived at this impasse and our hope that both sides will continue to give most careful consideration to means of breaking it and of moving forward.

We wish you a safe return to Canada.



U.F.A.W.U. APPENDIX TO CANADIAN PROPOSAL

A. Categories

- (a) Southeast Alaskan interception - of Northern B.C. stocks.
  - (b) Southeast Alaskan interception - of Panhandle stocks.
  - (c) Northern B.C. interception of Alaskan stocks.
  - (d) Washington State interception of B.C. bound salmon.
  - (e) B.C. interception of Washington, Oregon, California salmon.
- (2) Specified Fisheries - Canada has given a list of which intercepting fisheries should be included; the U.S. disagrees and wants more Canadian fisheries included on the list and fewer restrictions on the U.S.
- (3) Estimates of Interception - Widely vary; U.S. refuses to accept averaging concept for Southeast Alaska interceptions. Estimates in other areas substantially changed from working party report of 1971 and now bears no resemblance to losses actually suffered by Canada.
- (4) Rate of Interception - A concept introduced by the U.S. to justify continued, if not increased interceptions of Canadian salmon. A counter-move by the U.S. when Canada originally sought to begin reducing actual numbers of fish intercepted. By reducing percentage-wise, if total stocks went up, total interceptions went up.

B. Essentially a previous U.S. position of freezing rates.

C. Basically involves freezing the catch. U.S. negotiating and Canada still prepared to negotiate away from this position. These catch limits thus become the upward limit of interception. Conversely, if a nation's own stocks increase, interceptions must decrease in order to avoid going over catch limits. Furthermore once catch limits are reached, fishing must cease.

Conceivably, if another year such as 1971 occurs, Canadian troll fishermen operating off the West Coast and net fishermen in Area 20 will have to shut down at the end of July. In future, as Canada's contributions of coho and chinook develop, they would be unable to harvest under present terms.

E. Basically, paradoxical. An increase in catch quotas must of necessity mean increase in numbers of interception if rates of interception are constant. Subjecting revisions to joint agreement to the disadvantage of the U.S. will be as impossible as getting their agreement on data dealing with Southeast Alaska.

F. Still subject to considerable discussion. U.S. maintains should be separate base years for Fraser interceptions than for Canada's West Coast troll fishery and that catches have basically been on the increase on the Fraser without Gates, Nadina, Pitt and Weaver artificial spawning channels. Therefore they suggest catch limits much higher than Canada proposes plus the additional amount for the recent enhancements.



APPENDIX TO CANADIAN PROPOSAL

- 2 -

- H. The Americans basically challenged that there had ever been agreement that they would reduce their fisheries on stocks originating in Canadian sections of Panhandle Rivers, the Yukon or Columbia, merely to negotiate possible reductions if and when Canadian requirements increased.
- I. Although subject to review, the feeling of Canadian negotiators is that it will be a firm agreement.

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Appendix A

DRAFT CANADIAN PROPOSAL

February 11, 1974

A. Definitions

1. Category - as defined in the Report of the Technical Committee on Salmon Interceptions, June 1971.
2. Specified Fishery - those fisheries for the given species, area(s) and gear(s) described in the attached table.
3. Estimates of Interceptions - average between the Canadian and United States estimates of the numbers of salmon of each species intercepted in Categories A, C, D, E, as contained in the First and Second Reports of the Technical Committee on Salmon Interception. \*
4. Rate of Interception - for fisheries by category and species, the proportion of the total annual stock surplus to spawning requirements taken by the intercepting country.

B. For categories A, C, D, and E and for each species, the rate of interception on a four year average shall not exceed the 1967-72 average rate of interception.

C. For each specified fishery listed in the attached table, the following additional provision shall apply:

The average catch in numbers over a four year period shall not exceed that listed in Column D (Catch Limit) of the attached table.

D. Each country shall subtract from its permissible catch in the next four year period any excess catch incurred in (the) previous four year period(s) over the catch limit provided by paragraph C.

E. Catch quotas in fisheries specified by paragraph C may be revised upwards to take into account new enhancement production by the intercepting country on its own stocks, so long as numerical interceptions are not increased. Revisions will be subject to joint agreement on the scientific evidence for new enhancement production.

F. In addition to the provisions listed above, the United States will be permitted to catch \*\*\* of the total catch of salmon attributable to the Gates, Nadina, Pitt and Weaver artificial spawning facilities for a six year period.

\* Subject to discussion on estimates of Category A sockeye and coho.

\*\* Percentage rate of interception of sockeye in Category E for 1967-72.

G. An international body whose duties will be defined by the two Governments will be established to implement and administer this Agreement.



- H. For United States fisheries on stocks originating in Canadian sections of Panhandle Rivers, the Yukon River, and the Columbia River, no immediate limitations will apply, except to meet the needs of existing Canadian fisheries and the needs of conservation. In the event that additional Canadian salmon are required for increased or additional Canadian fisheries, the United States interceptions will be reduced accordingly.
- I. This Agreement shall be subject to review by the two Governments in the fifth year after the Agreement comes into force.

TABLE I Proposed Catch Quotas

Column A	Column B	Column C	Column D
Category and Area	Species	Gear	Catch Limit*
<b>A. U.S. Fisheries</b>			
1. Cape Fox (Areas 1A, 1B)	Sockeye	Gillnet	89,000
2. Noyes Island (District 4)	Sockeye Pinks (odd year only)	Seine Seine	101,000 503,000
3. Category A Troll plus Areas 150+ <del>152 + 154 +</del> <del>157 + 158</del>	Chinook Cohoe	Troll Troll	286,000 298,000
4. IPSFC Area	Sockeye	Net	1,631,000
5. IPSFC Area	Pinks	Net	2,500,000
6. Pt. Roberts	Chinook	Net	55,000
San Juan Islands	Cohoe	Net	198,000
West Beach	Chum	Net	107,000
<b>B. Canadian Fisheries</b>			
1. Area 20	Cohoe	Net	1,903,000
2. Areas C 20-27	Chinook	Troll	546,000

\* Average total catch recorded for the period 1967-72.



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Revision

RECORD OF DISCUSSION

February 15, 1974

Representatives of Canada and the United States met in Seattle, Washington from February 11 to February 15, 1974 to give further consideration to the problems of interceptions by fishermen of one country of salmon bound for the streams of the other. This was the latest in a series of meetings on this subject which began in 1971.

The representatives agreed, bearing in mind the principles developed at past meetings which have guided discussions between the two countries, that, subject to further evaluation, the Canadian proposal (Appendix A) presented at the February 1974 meeting, which incorporates many features of an earlier United States proposal can, with modifications, provide the basic framework for an agreement to control the interceptions of salmon in both countries. Based on discussions of the Canadian proposal, the representatives considered that an agreement would focus on three basic principles: the necessity of stabilizing interceptions, the desirability of avoiding economic disruptions of long-standing fisheries and the necessity and desirability of assuring to each country the major benefits above recent levels from its own salmon enhancement programmes. It would provide for a stabilization of interception rates for most fisheries and, for a number of fisheries yet to be specified, there may be superimposed on these limits a catch limit subject to modification, covering both intercepted and native fish. In general, these particular fisheries would be ones of specific concern, usually because the percentage of salmon bound for the other country or the numbers of salmon intercepted are very high. Limits on rates of interception and on catch would be based on those in a recent base period or periods yet to be agreed. Such limits would be applied on an averaging basis over a period of years, yet to be agreed. Provision would be made for flexibility in years of exceptionally high or low abundance and certain other circumstances that may be agreed upon and for changes in the list of specified fisheries as circumstances warrant. It would also provide for increases in catch limits in intercepting fisheries in the event of an increase, from new enhancement or improved management, of fish bound for rivers of the intercepting country. On the approaches to the Fraser, the United States would be allowed, for a number of years yet to be agreed upon, additional interceptions of Fraser River salmon attributable to recent enhancement projects as compensation for recent investments in these projects through the International Pacific Salmon Fisheries Commission and for which it has not yet received a reasonable return. For stocks originating in Canadian sections of rivers which drain to the sea through the United States, no immediate limits would be applied to United States fisheries, but provision would be made through negotiation to meet the needs of existing or new Canadian fisheries and the requirements of conservation. The agreement would also provide for regular review, and for the establishment of an international body to implement and administer it.



During discussions, there were divergences in view regarding which fisheries should be subject to catch limitations and on means of implementing stabilization of interception rates. Agreement was not reached on selection of base period or periods nor on the number of years in which the United States would be entitled to take increased numbers of Fraser River salmon as compensation for recent investments in enhancement facilities. Successful conclusion of a new agreement will depend on resolution of these differences. To permit further exploration of the consequences of implementing the Canadian proposal or modifications thereof that might be proposed by the United States, and of the further development of the framework of the new agreement, it was agreed that established committees should arrange exchanges of information and discuss details of the proposed agreement over the next few months.

The terms of reference of the Administrative and Technical Committees, both headed by Mr. D. R. Johnson of the United States and Mr. W. R. Hourston of Canada, are attached as Appendices B and C respectively. A further formal meeting between governments is planned for autumn of this year.

The representatives concluded by agreeing that fishery administrators of the two countries should consult concerning the 1974 fishing season with respect to foreseeable conservation problems concerning that season and should consider voluntary measures which might be taken to alleviate such problems.



average amount of interception according to averages taken from a Canadian working party report 1971 and priced according to 1972 wholesale values (which is the pricing formula advanced by Canada) indicates:

TABLE I - Estimates Canada intercepts the following amounts of U.S. salmon - value 1972

Sockeye	19,000	\$5.80	\$110,280.00
Chums	40,000	5.10	204,000.00
Net caught even year Pinks	317,000	1.40	453,800.00
Troll caught even year Pinks	83,000	1.40	116,200.00
Odd year net Pinks	632,000	1.40	884,800.00
Odd year troll Pinks	167,000	1.40	233,800.00
Net Chinooks	11,000	9.06	99,660.00
Troll Chinooks	286,000	9.06	2,591,160.00
Net Cohoe	219,000	4.96	1,087,240.00
Troll Cohoe	635,000	4.96	3,149,600.00
			<u>\$8,887,540.00</u>

Does not include Yukon or Columbia River salmon originating in Canada.

Imbalance \$10,017,220.00 values doubled according to Provincial Government Economic Summary 1973, p. XIX (estimate).

TABLE II - Estimates United States intercepts the following amounts of Canadian salmon value 1972

Sockeye	1,683,000	\$5.80	\$9,761,400.00
Chums	66,000	5.10	336,600.00
Net Pinks even year	151,000	1.40	211,400.00
Troll Pinks even year	10,000	1.40	14,000.00
Net Pinks odd year	2,070,000	1.40	2,898,000.00
Troll Pinks odd year	211,000	1.40	295,400.00
Net Chinooks	32,000	9.06	289,920.00
Troll Chinooks	166,000	9.06	1,503,960.00
Net Cohoe	224,000	4.96	1,111,040.00
Troll Cohoe	299,000	4.96	1,483,040.00
			<u>\$18,904,760.00</u>

This indicates a substantial imbalance existing in the U.S. favour.



BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL

U.S. Hatchery Production - Preliminary  
November 14, 1973

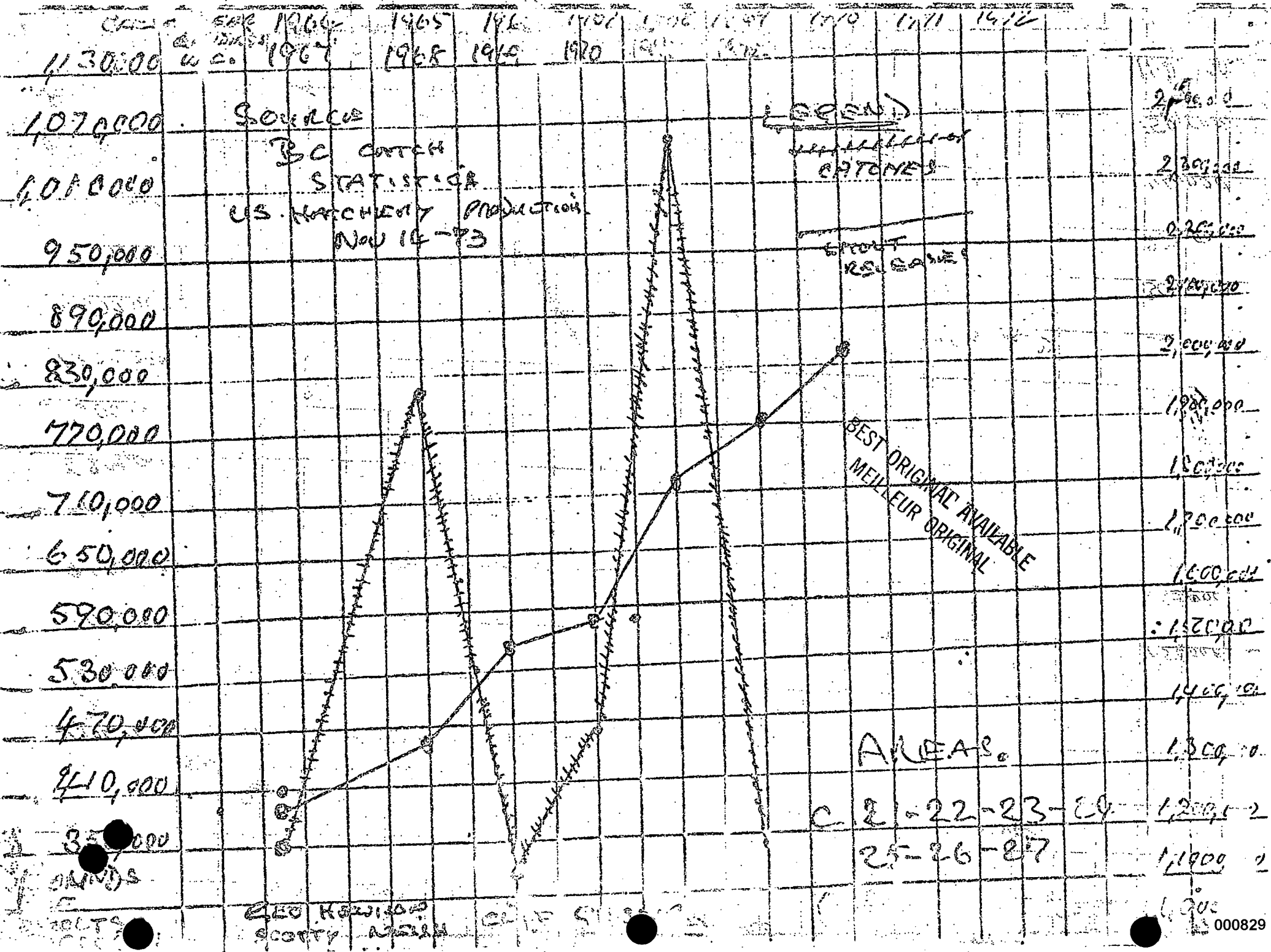
Puget Sound Coho

Brood Year	Pounds Released	<u>NUMBERS OF FISH CONTRIBUTED TO CATCHES</u>							
		1967	1968	1969	1970	1971	1972	1973	1974
1964	381,184	312,571							
1965	468,033		383,787						
1966	553,553			452,913					
1967	578,057				474,007				
1968	716,720					587,710			
1969	770,044						631,436		
1970	841,590							690,104	
1971	685,000								561,700
1972	1,178,000								965,960

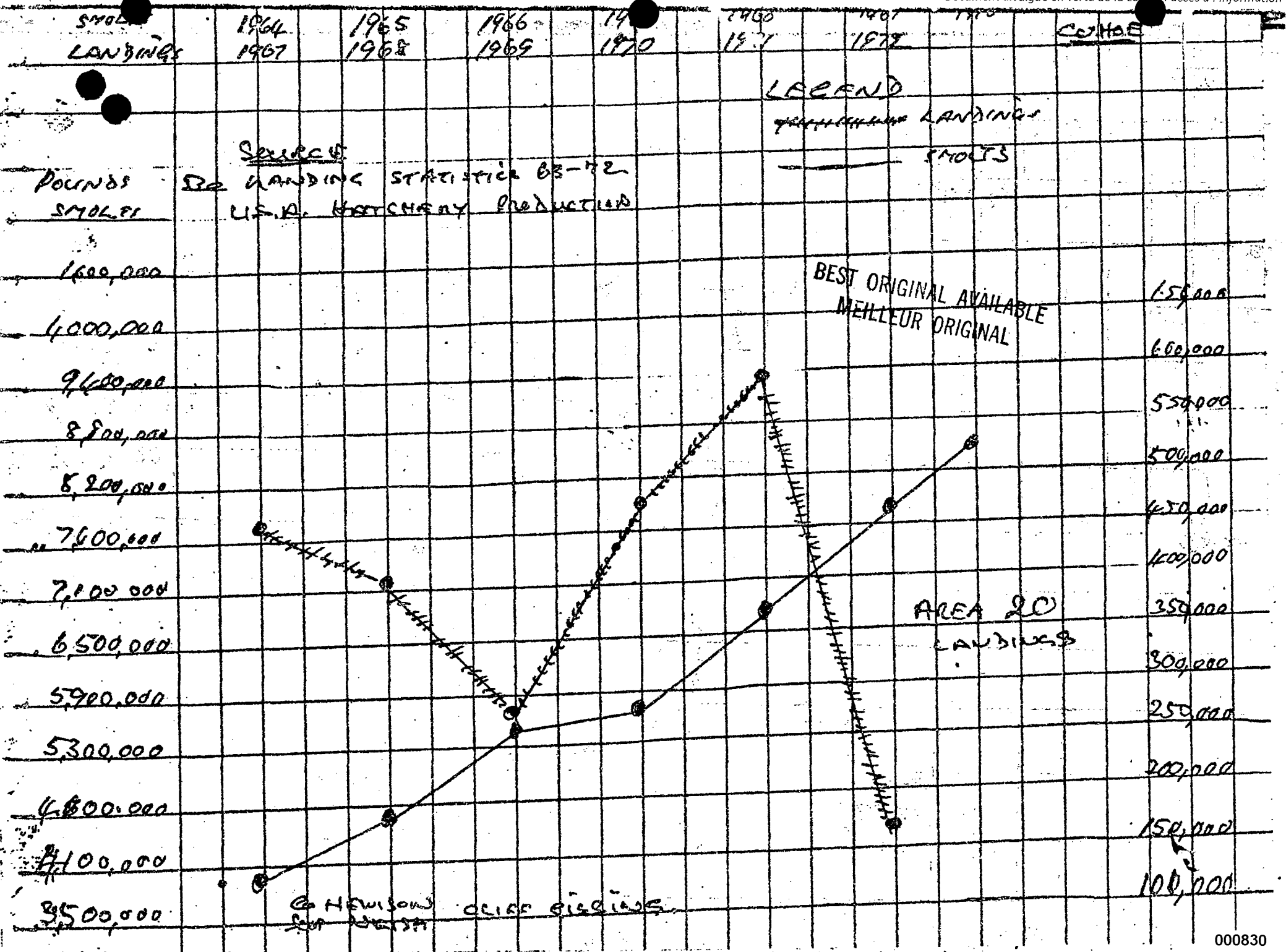
1967-72 Average = 473,904

Factors: For the 1964-1966 brood year Puget Sound coho evaluation, a total release of 1,402,770 pounds produced a total catch of 1,147,417 fish, or 0.82 per pound released.











Appendix 13

Letter from Jack Davis, January 14, 1973

Mr. Elgin Neish,  
2409 Currie Road,  
Victoria, British Columbia.

Dear Mr. Neish:

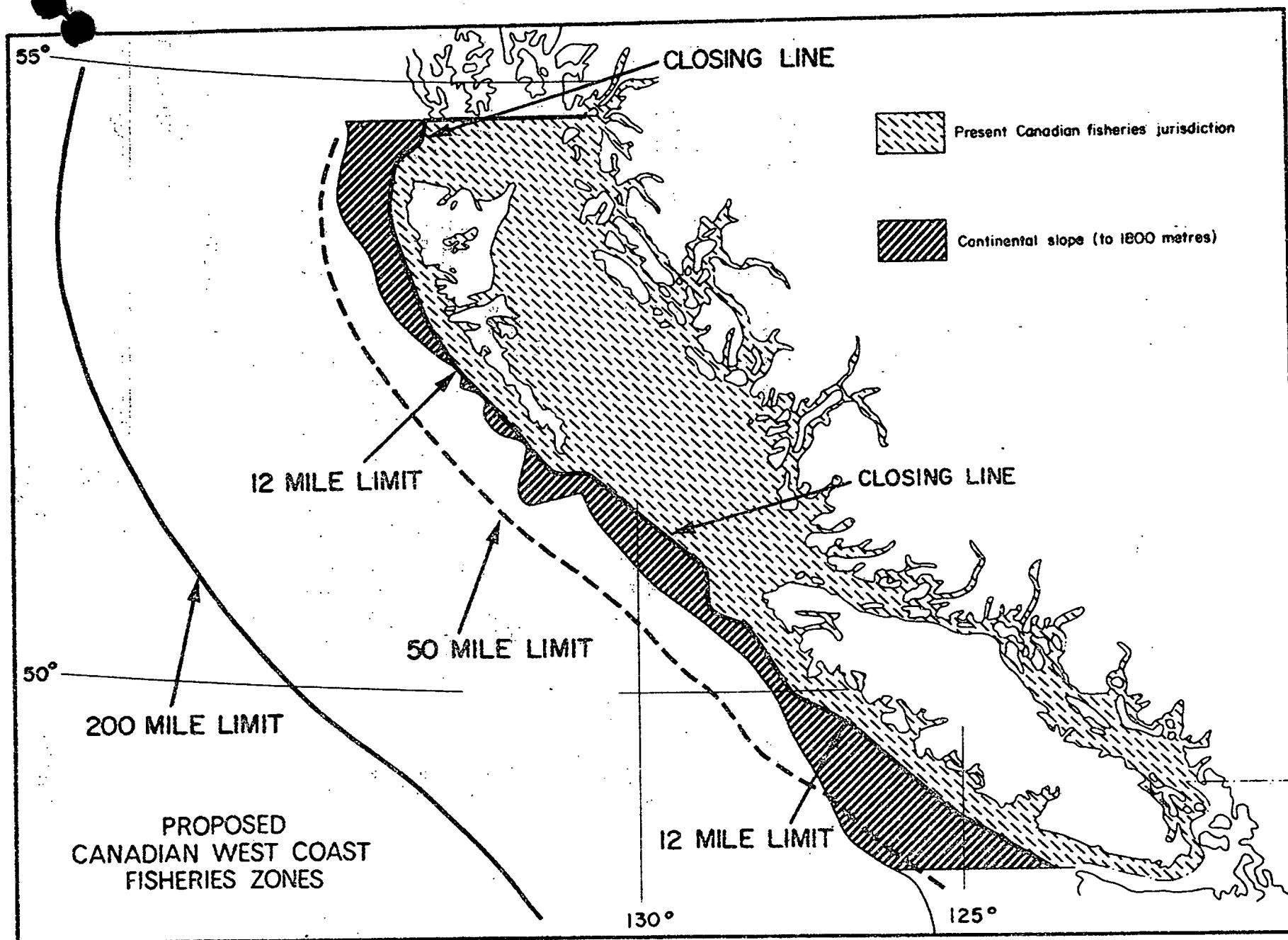
This is in reply to your letter in which you advocate a Canadian commercial fishery in the Stikine River in 1973.

As you are aware, a government test fishery was conducted on the Stikine in 1965. In carrying out this operation, we established that Canadian fishing vessels have unencumbered access to the Stikine through Alaska waters, but we also determined that a commercial fishing venture on the Stikine is not an economically viable operation. Therefore, at present, the Fisheries and Marine Service does not feel that such a fishery should be promoted, but should actually be discouraged until additional test fisheries have been completed to further assess the feasibility of such a venture.

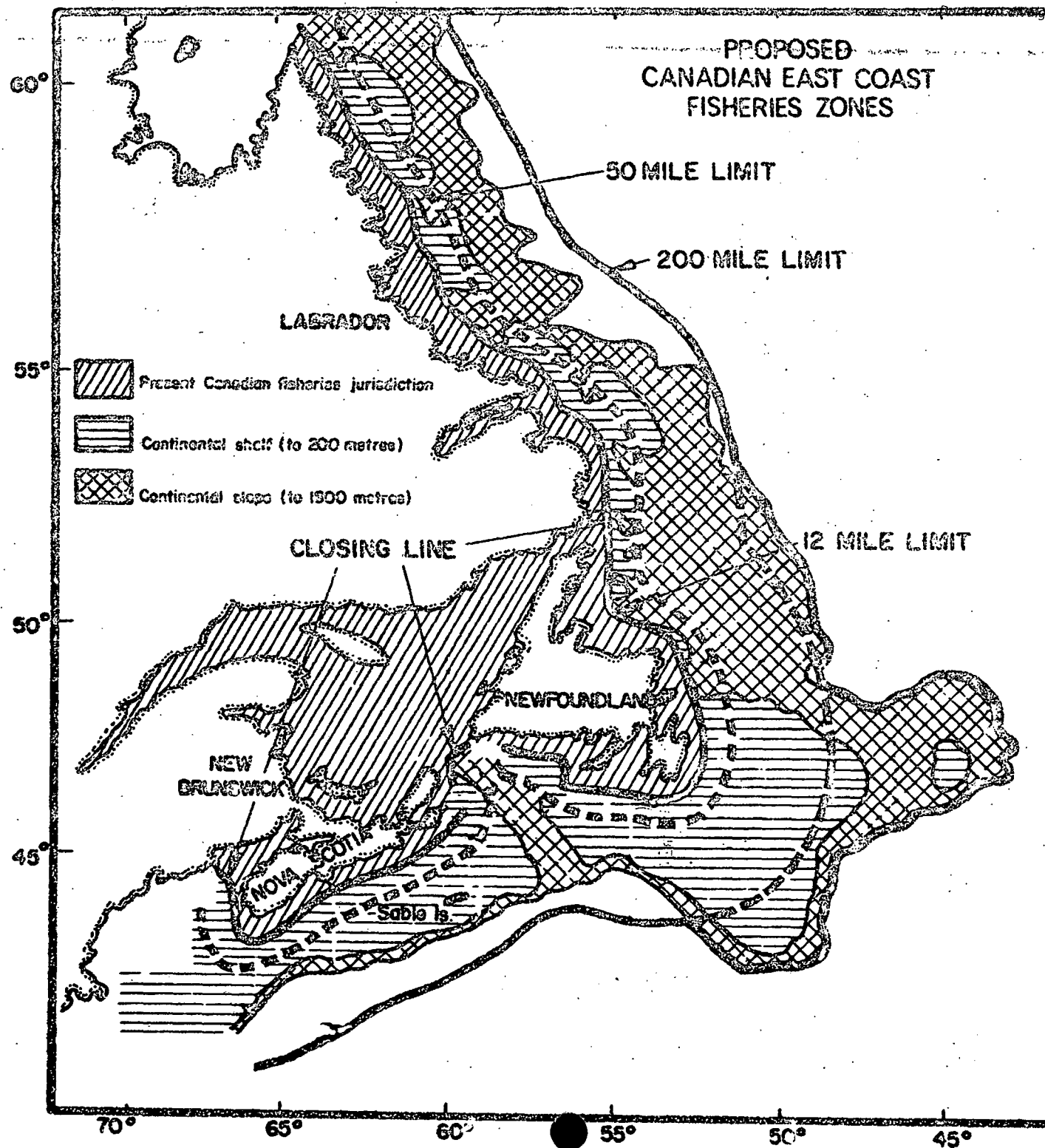
While I recognize your concern about Canada's right to harvest these stocks, I believe that the Yukon River fishery, the Indian subsistence fisheries on the Stikine and similar rivers and the Stikine test fishery confirm Canadian right of access and Canadian ownership of the salmon resource.

I trust that you concur with our stand on this issue. All facets of the matter have been carefully weighed before this decision was reached.











APPENDIX 15

Wire to: Honourable Jack Davis,  
Minister of the Environment,  
Parliament Building,  
Ottawa, Ont. - April 26, 1972

UFAWU deeply concerned with budget estimates announced by International Pacific Salmon Fisheries Commission which provides joint funding of development program for Fraser River. Budget now submitted to us and Canadian Government for approval and we reiterate our position that further U.S. participation financing of Fraser River fisheries projects prejudices Canada's position reciprocal rights negotiations. We remind you of your expressed agreement with this position and your unequivocal commitment to Union's Annual Convention "We don't intend as a matter of basic policy to have any additional outside money invested in facilities in Canada to encourage or allow monies to be invested on our rivers does in fact constitute a claim on our resources."

You stated further "We must never again allow a foreign government to build facilities or even go shares with us in the building of facilities in this country".

Delegates applauded your announced approval of fourteen million dollar program and statement "it would be a program funded by Canada".

We urge this commitment be fulfilled by rejection U.S. financial participation and a start forthwith on the development program funded exclusively by Canada.

Signed: H. Stevens, President, UFAWU  
J.H. Nichol, Secretary Treasurer, UFAWU  
Glenn McEachern, Business Agent, UFAWU



CONFIDENTIAL

25-5-7-2 Salmon-1  
July  
9 Aug 18/74  
Grappich

Talking Paper Handed by U.S. Department of State  
to Japanese Embassy in Washington on June 12, 1974

The Department of State desires to direct the attention of the Embassy of Japan to a violation by Japanese fishing vessels of the voluntary undertaking by the Japanese salmon industry of measures to preserve Bristol Bay salmon as stated in a talking paper presented to Assistant Secretary Ingersoll by Ambassador Yasukawa on May 14.

On June 8, 1974, a U.S. Coast Guard aircraft observed eight Japanese salmon gillnet vessels fishing within the area in which such vessels were to refrain from fishing during the period May 15 - June 20. The eight vessels observed fishing in violation, ranging from 5 to 28 miles south of 56 degrees north, were: HK2-11371; HK2-12000; HK2-13502; HK2-13547; HK2-13577; HK2-13567; HK2-13864; and HK2-13940. Two additional vessels, HK2-13696 and HK2-13951, were observed underway in the prohibited area, but not fishing. The Japanese Fisheries Agency patrol vessel TOYO MARU was notified by the Coast Guard of the observed violation.

On June 9, a Coast Guard vessel conducted a courtesy boarding of the salmon mothership JINYO MARU and discussed the incident. The Fleet Commander stated that he was fully aware of the terms of the voluntary undertaking concerning the prohibited area.

The United States Government views with great concern the failure of the Japanese salmon fishing industry to abide by the terms of its voluntary conservation measures to protect the seriously depleted Bristol Bay salmon. The observation of the violation by the second United States surveillance flight raises serious questions as to the intent of the Japanese fishing industry to adhere to the measures which they profess to have adopted.

The violation of the voluntary conservation measures, which are considerably less than had been sought by the United States, is viewed as seriously detracting from the credibility of the Japanese salmon fishing industry.

CONFIDENTIAL

000835



Environment Canada Environnement Canada

MORANDUM NOTE DE SERVICE

DATE

July 12, 1974

FROM: ACTING DIRECTOR-GENERAL,  
DE: INTERNATIONAL FISHERIES & MARINE  
DIRECTORATE.

TO: MR. K.C. LUCAS  
A:

SUBJECT: SALMON COMMISSION AND INDIAN RIGHTS  
SUJET: IN THE UNITED STATES

25-57-2-Salmon-1	
12	File

Jul 19/74  
B. Applebaum

On February 12, 1974, the United States District Court in Washington State handed down a judgment that included the provision that "...non-treaty fishermen shall have the opportunity to take up to 50% of the harvestable number of fish that may be taken by all fishermen at usual and accustomed grounds and stations and treaty right fishermen shall have the opportunity to take up to the same percentage of harvestable fish...". This judgment essentially gives treaty Indians the right to take 50% of the commercial catch in Washington State. I understand that Washington State has obtained a stay for a year or two for a portion of the decree requiring equal sharing but still the decree has serious implications for U.S. participation in the International Pacific Salmon Fisheries Commission (IPSFC).

Stuart Blow of the U.S. State Department telephoned me today to say that at the Salmon Commission meeting scheduled to be held in Bellingham at 10:00 a.m. this morning the U.S. would be proposing some changes in the Salmon Commission regulations to permit the Indians to take a higher share of the U.S. catch. He said that such recommendations would not effect the 50-50 United States-Canada sharing arrangement and would merely represent an adjustment within the U.S. fishery. He called me in order to enlist our sympathy in dealing with the severe domestic problems faced by the U.S. I telephoned Rod Hourston who had not received any advance information on the specific proposals that would be made by the U.S. Rod stated that this issue had arisen in the past, even before the U.S. Court decision. The U.S. had requested special consideration for Indian fisheries. As I understand it, the Makaw Indians fishing in outer Juan de Fuca Strait were threatening to fish in violation of U.S. regulations based on IPSFC proposals and the U.S. was proposing altering these regulations to accommodate the Indian demands. Rod refused to go along with the U.S. request for a change in the



- 2 -

Commission's recommendation. Rod has consistently resisted such special pleading by the United States on behalf of their Indians because it disrupts the management program of the Commission even if it may not effect the 50-50 sharing arrangement. For example, the proposed concession to the Makaws would increase fishing in the Juan de Fuca Strait area where our fishermen operate as well, requiring adjustments in other Convention Area fisheries. One can see the difficulties that would be created if United States Indian fishermen were allowed, within limits dictated by conservation requirements and an upper limit of 50% of the total allowable United States catch, to fish wherever and whenever they pleased. Such a situation would make it practically impossible for the Commission to provide a basis for orderly conduct of the international fishery. Rod has been particularly concerned about these long-term implications and, in my view, was completely right in resisting United States initiatives for special regulations for the United States Indian fishery. As you know, Commission decisions on regulations are voted on, with each Commissioner having an individual vote.

NOYI . In the past, U.S. proposals for special consideration of the Indians have been voted on with all three Canadian Commissioners voting no and all three U.S. Commissioners voting yes. The U.S. people were then able to go back to their Indian constituents and tell them that they had tried to get special consideration for Indian fishermen's needs but had been voted down by Canada. This puts our Commissioners in a very difficult position which is now worsened because the Indians have obtained, at least on a pro tem basis, special rights which must be honoured under United States domestic law. Thus our Canadian Commissioners are being used as whipping boys and levers in the middle of a domestic United States controversy. I expressed the view to Rod that it was improper for the Commission to become involved in a domestic United States issue such as Indian rights and that if they continued to insist on recognition of these rights in the course of development of Commission regulations, it would be desirable to pursue the matter on a Government-to-Government basis. Such talks seem necessary to provide the Commission with policy direction on how to handle such problems. Rod agreed to look at the U.S. proposals at the Bellingham meeting and if they would not result in undue disruption of the Commission's regulatory pattern, would not have implication for future disruption and were not explicitly noted as accommodations of Indian fishing demands that he might be prepared to go along with them. However, if he was convinced that the proposals would have an immediate or potential disruptive effect or other undesirable long-term



- 3 -

implications that he would take the view that the problem would have to be resolved by Governments.

I conveyed these sentiments to Stuart Blow in a return telephone call and stated that if the matter could not be resolved satisfactorily in the Commission and if the U.S. still felt that special action was required during the current season that we would be prepared to talk to them on a Government-to-Government basis to explore the problem and search for a mutually agreeable solution. I anticipate that the problem will not be resolved within the Commission and that Stuart Blow will be telephoning me on Monday to arrange an early meeting.

Aside from the disruptive effects within the Commission, I am very concerned about the implications that special consideration of United States Indian rights would have on our own domestic policies regarding Canadian native peoples. If the Commission were to make special provisions for United States natives, our Indians might request the same, rapidly bringing into focus our own domestic Indian problems. Whereas I believe that the Department should on an urgent basis be considering the likely future demands of our Indians, I would not like to see the problem surface so soon in the context of the United States' inspired actions within the Salmon Commission. In the event that Government-to-Government talks are required as a result of Stuart Blow's anticipated telephone call on Monday, I believe we should enter immediately into consultations with External Affairs, Indian Affairs and Justice to develop our position. I would appreciate an opportunity of receiving your guidance on this matter at your earliest convenience.

M.P. SHEPARD



Senior Assistant Deputy Minister  
Environment Canada

Sous-ministre adjoint principal  
Environnement Canada

MEMORANDUM

NOTE DE SERVICE

255-7-2.	
-Salmon-1	
12	File
JUL 12 1974	

July 12, 1974

*B. Appleton*

TO: The Minister  
FROM: K. C. Lucas

Re: Indian Fishing Rights in Inter-  
national Pacific Salmon Fisheries  
Convention Area

1. As indicated in the attached memorandum, the United States, in the face of strong demands from Washington State Indians, is proposing to the Salmon Commission today that the Indians be given special consideration in promulgation of regulations for salmon fishing within the IPSF Convention Area this season. Although these proposals would not affect the present 50:50 USA-Canada sharing arrangements, such special consideration could disrupt the Commission's regulatory program and, if Canada supported such proposals, result in our own native people making similar demands.
2. Rod Hourston, Senior Canadian Commissioner of IPSFC, will almost certainly oppose such proposals on the part of the United States (unless the proposals do not cause disruption, either now or in the future, nor are obviously designed to meet Indian demands explicitly) and government to government talks may be necessary in the near future to resolve the problem.
3. We expect to have a report on the IPSFC meeting on Monday and will advise you then. We expect that a government to government meeting will be required and if so we will enter into consultation with officials of External Affairs, Indian Affairs and Justice, to develop a position for your consideration.

*K. C. Lucas*  
K. C. Lucas.



Environment Canada Environnement Canada

MEMORANDUM NOTE DE SERVICE

DATE

July 12, 1974

Our file Notre référence

FROM: ACTING DIRECTOR-GENERAL,  
DE: INTERNATIONAL FISHERIES & MARINE  
DIRECTORATE.

TO: MR. K.C. LUCAS  
A:

Your file Votre référence

SUBJECT: SALMON COMMISSION AND INDIAN RIGHTS  
SUJET: IN THE UNITED STATES

On February 12, 1974, the United States District Court in Washington State handed down a judgment that included the provision that "...non-treaty fishermen shall have the opportunity to take up to 50% of the harvestable number of fish that may be taken by all fishermen at usual and accustomed grounds and stations and treaty right fishermen shall have the opportunity to take up to the same percentage of harvestable fish...". This judgment essentially gives treaty Indians the right to take 50% of the commercial catch in Washington State. I understand that Washington State has obtained a stay for a year or two for a portion of the decree requiring equal sharing but still the decree has serious implications for U.S. participation in the International Pacific Salmon Fisheries Commission (IPSFC).

Stuart Blow of the U.S. State Department telephoned me today to say that at the Salmon Commission meeting scheduled to be held in Bellingham at 10:00 a.m. this morning the U.S. would be proposing some changes in the Salmon Commission regulations to permit the Indians to take a higher share of the U.S. catch. He said that such recommendations would not effect the 50-50 United States-Canada sharing arrangement and would merely represent an adjustment within the U.S. fishery. He called me in order to enlist our sympathy in dealing with the severe domestic problems faced by the U.S. I telephoned Rod Hourston who had not received any advance information on the specific proposals that would be made by the U.S. Rod stated that this issue had arisen in the past, even before the U.S. Court decision. The U.S. had requested special consideration for Indian fisheries. As I understand it, the Makaw Indians fishing in outer Juan de Fuca Strait were threatening to fish in violation of U.S. regulations based on IPSFC proposals and the U.S. was proposing altering these regulations to accommodate the Indian demands. Rod refused to go along with the U.S. request for a change in the



- 2 -

Commission's recommendation. Rod has consistently resisted such special pleading by the United States on behalf of their Indians because it disrupts the management program of the Commission even if it may not effect the 50-50 sharing arrangement. For example, the proposed concession to the Makaws would increase fishing in the Juan de Fuca Strait area where our fishermen operate as well, requiring adjustments in other Convention Area fisheries. One can see the difficulties that would be created if United States Indian fishermen were allowed, within limits dictated by conservation requirements and an upper limit of 50% of the total allowable United States catch, to fish wherever and whenever they pleased. Such a situation would make it practically impossible for the Commission to provide a basis for orderly conduct of the international fishery. Rod has been particularly concerned about these long-term implications and, in my view, was completely right in resisting United States initiatives for special regulations for the United States Indian fishery. As you know, Commission decisions on regulations are voted on, with each Commissioner having an individual vote.

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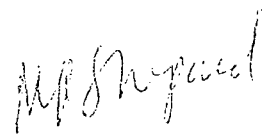


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M.P. SHEPARD



MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ	
	LIEU	MINISTÈRE	N° D'ORIG.		25-5-7-2-SALMON-1		
	OTT	EXTER	FLO-844	16 JULY 74	12	RESTD	
TO/A WSHDC						PRECEDENCE	
						JUL 16	TOR/TOD CONCENTRE EXTERNAL AFFAIRS
						20	
						22 '74	
INFO ENVOTT/SHEPARD							

DISTR. GWU

REF

SUB/SUJ

VISIT OF CDN OFFICIALS

FOR YOUR INFO, DOE OFFICIALS AND B.APPLEBAUM FLO IN WSHDC JULY 17-18  
FOR INFORMAL MTG WITH US OFFICIALS HEADED BY D.H.WALLACE, MOAA +  
INCLUDING S. BLOW, STATE DEPT. MTG CONCERN<sup>5</sup> EFFECTS ON FRASER RIVER  
SALMON COMMISSION OF RECENT DECISION OF US DISTRICT COURT IN WSHDC  
REGARDING INDIAN RIGHTS. DOE OFFICIALS INCLUDE DR.M.P.SHEPARD,  
R.HOUSTON, I.TODD, M.HUNTER. EMBASSY ASSISTANCE NOT/NOT REQUIRED.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG

B. Applebaum/dah

FLO

2-6692

SG

D.M. Miller/Director



(Dictated to DOE for memorandum  
Lucas, July 19, 1974)

Our File: 25-5-7-2-SALMON-1

s.23

Summary Description of Results of Discussions  
between Canadian and U.S. officials,  
Washington, D.C., July 18,  
on the effect on the operations of the IPSFC  
of the recent U.S. District Court decision  
on Indian Fishing Rights

A.

B.

*B. Applebaum*

July 19, 1974

B. Applebaum  
Legal Operations Division



Environment Canada Environnement Canada

MEMORANDUM NOTE DE SERVICE

FROM:  
DE:

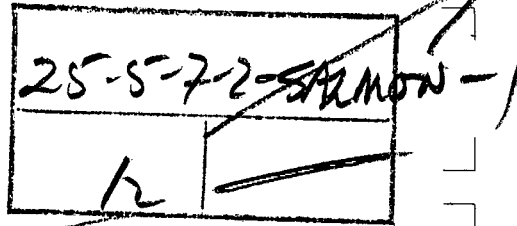
M.P. SHEPARD

TO:  
À:

Mr. R. Roberts

SUBJECT:  
SUJET:

TELEPHONE CALL FROM ROD HOURSTON ON WASHINGTON INDIAN FISHING RIGHTS



- ① File
- ② IPSFC B.B.
- ③ copy to hand to Appleton
- ④ copy for Hourston

DATE July 24, 1974

Our file Notre référence

*D. Matter to me & file*

Your file Votre référence

*25-5-7-2 Salmon*

*PS Appleton  
Jul 26/74*

Rod informed me that Don Johnson met earlier this week with Thor Tollefson and representatives of the Indian bands and other organizations involved in Judge Boldt's decision. Johnson apparently proposed the establishment of specific areas which would be for Indian fishing only. Strangely the Indians resisted this proposal fearing a reaction from white fishermen. The Indians preferred the original U.S. approach of adding two extra days fishing for Indians only at Lummi Island and in the Makah's fishing area. Johnson suggested to Hourston that the Commission again consider the U.S. extra fishing day proposal.

2. Hourston reiterated the Canadian understanding of the results of the Washington meeting, namely that the Commission would not consider further U.S. proposals until such proposals had been reviewed by the Canadian government.

3. Hourston and I discussed next steps and decided that:

- (a) I would immediately send him a copy of our preliminary record of the meeting by telex and also would provide Stuart Blow with a telecopied version of the last paragraphs dealing with understandings reached at the meeting.
- (b) Hourston would advise Don Johnson that any U.S. proposals should be submitted simultaneously to the Canadian government and to the Commission, but that official review by the Commission of the proposals would have to await Canadian government agreement to conduct such a review.

. . . 2



- 2 -

- (c) Hourston would also advise Johnson that the addition of two extra fishing days for Indians would not likely meet with Canadian government approval and would urge the U.S. to consider the possibility of allowing "Indian only" fishing times at the beginning of each fishing week. In this way if the total U.S. catch during the week was not reaching levels predicted by Commission staff in advance of the season, the Commission, in its usual way, could extend U.S. fishing time so that the desirable catch levels were met. In this way the normal operating practice of the Commission would be followed.

4. Hourston pointed out the danger of allowing special Indian only fishing at the end of each fishing week. In the event that the runs were less than predicted (as appears to be the case for the Chilco run during the current week) and the Commission was forced to cut down on U.S. fishing times, the Indians would be automatically done out of their special allowance.

5. Hourston will keep us advised of his discussions with the U.S.



M.P. SHEPARD



25-5-7-2 salmon-1  
File (Jul 21/74)  
12 DIST  
Mr. [unclear]  
cc Mr. Smith  
Mr. Miller  
destroy

UNCLASSIFIED

FM WSHDC 2259 JUL26/74

TO EXTOTT GWU

INFO SEATL PCOTT/BELEC ENVOTT/ROBINSON/LEGAULT JUSTICEOTT/JEWETT  
FINOTT/BARRY EMROTT/HUMPHREYS

DISTR GWP FLP/FLO FCO

---FPC HEARINGS WSHDC

JUL24 CROSSEXAMINATION OF ENGMAN CONTINUED WITH SCL COUNSEL  
QUESTIONING ENGMANS ESTIMATES OF VALUE OF SPORT FISHERY. ENGMAN  
CONCEDED THAT FIGURES WERE NOT/NOT ABSOLUTE. JUDGE LANDE MADE  
FOLLOWING COMMENT: QUOTE I DO NOT/NOT TAKE THIS TESTIMONY TOO  
SERIOUSLY. WE LIKE TO HAVE INFO THAT FISHING IS A VALUABLE RESOURCE.  
WE CANNOT/NOT REALLY PLACE A DLR VALUE ON IT. UNQUOTE.

2. JUL24-25 LQ PHINNEY, RF ORRELL AND RC JOHNSON, BIOLOGISTS WITH  
STATE OF WASHINGTON DEPT OF FISHERIES TESTIFIED PRIMARILY WITH  
REGARD TO SKAGIT AS A SOURCE OF SALMON. SKAGIT BELOW THE GORGE AND  
ROSS DAMS IS QUOTE A MAJOR SALMON PRODUCER AND ONLY RIVER SYSTEM  
WITHIN STATE OF WASHINGTON WITH A MAJOR RUN OF ALL FIVE SPECIES  
OF PACIFIC SALMON INDIGENOUS TO NORTH AMERICA. FLUCTUATIONS IN RIVER  
LEVELS CAUSED BY DISCHARGE PATTERN FROM EXISTING DAMS RESULTS IN  
STRANDING AND DESTRUCTION OF THOUSANDS OF SALMON FRY. FISHERMAN  
BIOLOGISTS EXPRESSED CONCERN OVER TEMPERATURE CHANGE PROBLEM THAT  
WOULD BE CAUSED BY RAISING ROSS DAM. HOWEVER, STATE DEPT OF FISHERIES  
WOULD WITHDRAW ITS OPPOSITION TO HIGH ROSS IF TEMPERATURE CHANGE  
AND STRANDING PROBLEMS WERE ADEQUATELY DEALT WITH BY SCL THROUGH

...2



PAGE TWO 2259 UNCLAS

REMEDIAL MEASURES SUCH AS MULTILATERAL OUTLETS. WASHING DEPT OF FISHERIES IS CONCERNED PRIMARILY WITH SALMON WHICH IS SOLELY A USA RESOURCE; DEPT IS LESS CONCERNED WITH TROUT AND OTHER FRESH WATER FISH WHICH ARE A JOINT USA-CDA RESOURCE.

3. ORDER OF FUTURE WITNESSES IS AS FOLLOWS:

(A) DUNCAN FROM GLANEY CONSULTING CO;

(B) 4 WITNESSES ON GAME AND WILDLIFE;

(C) 4 WITNESSES ON RECREATION;

(D) 4 WITNESSES ON DISSOLVED GAS PROBLEM;

(E) JONES, ECONOMIST WHO TESTIFIED PREVIOUSLY FOR SCL WILL BE RECALLED.

261538Z 380



MEMORANDUM

NOTE DE SERVICE

TO: Mr. E. B. Young, International Fisheries and Marine Service, DOE

FROM:

RE: Mr. W. R. Hourston, Regional Director of Fisheries, Pacific Region

SUBJECT:

SUBJ:

Tuesday, August 6, 1974 - 11:30 A.M.

Mr. Al Cooper, Director of the International Pacific Salmon Fisheries Commission, contacted the undersigned by telephone. He advised that he had received reports that the Swinomish Indian Band had been salmon fishing on Sunday and Monday, August 4 and 5, 1974. Reports indicated that two boats had fished on the evening of the 4th and four boats on the evening of the 5th. He had verified these reports through Mr. Tollefson's office. Mr. Tollefson had advised that the Indians had been fishing large mesh nets and that their catch was 16 chinook salmon and one sockeye salmon. Mr. Tollefson, because of the legal situation, had not taken action to prosecute the Indians although the fishery had been under close observation by Washington State patrol staff. Mr. Cooper had also checked with Mr. Johnson who advised him that from the Federal point of view they were not sure what their legal position was and this was being explored with his legal staff. He indicated that he wished to discuss this matter at the Commission meeting which will be held in Bellingham on Wednesday, August 7.

Mr. Cooper and I discussed the matter. I pointed out that I considered this action to be contrary to the understanding that we had reached at our Washington meeting. We also agreed that it was contrary to Commission regulations because: (1) the area was closed to salmon net fishing, and (2) even if they were only fishing large mesh nets the State had not discussed the matter of mesh size with the Commission as required.

I also made reference to the fact that in Canada when we use large mesh nets in the Fraser River it is only during daylight hours



- 2 -


because of the problem of enforcing against the use of small mesh nets. I also pointed out that in certain times when the pink or sockeye runs are passing up the river, fishing with large mesh nets is prohibited.

I advised Mr. Cooper that I was going to notify my Department in Ottawa of the development with the recommendation that Canada officially advise United States that we consider this to be contrary to our understanding and contrary to the Convention.

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me  
three  
- limit*

Tuesday, August 6, 1974 - 11:45 A.M.

I contacted Mr. Dick Roberts by telephone and advised him of the above development. He indicated he would discuss this immediately with Mr. Applebaum, External Affairs, and suggested that Mr. Applebaum would prepare an official note for transmission to the United States State Department. We also discussed the possibility of sending the note to Mr. Stuart Blow. We agreed that this would be discussed with Mr. Applebaum for a policy decision.

  
W. R. Houston



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

*EH File ey*

TO  
À

FLP

s.23

FROM  
De

FLO

REFERENCE  
Référence

SUBJECT  
Sujet

Meeting with U.S. officials on  
IPSFC Indian Rights Problem

SECURITY  
Sécurité

RESTRICTED

DATE

August 8, 1974

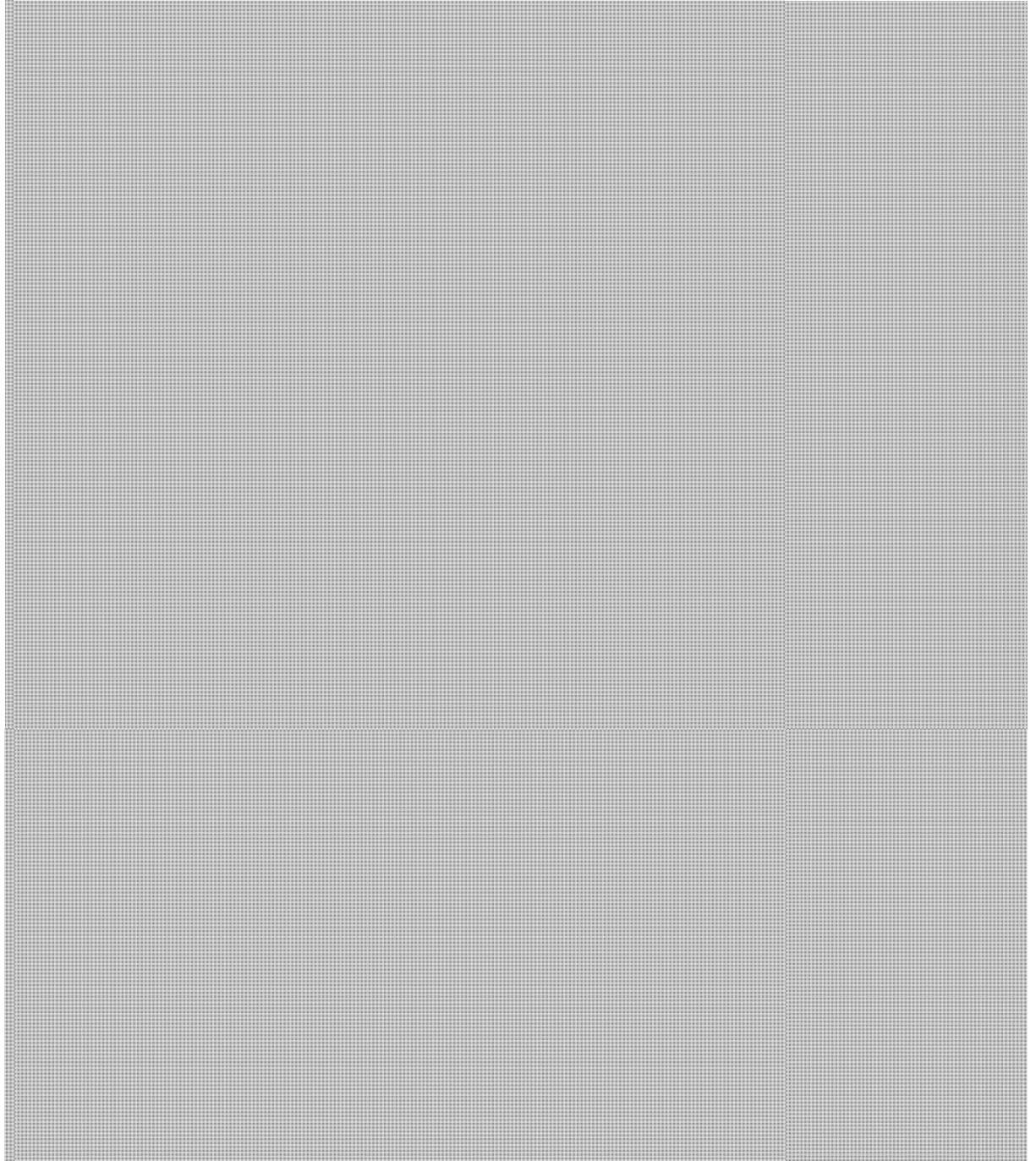
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OTTAWA	25-5-7-2-SALMON-1
MISSION	121

ENCLOSURES  
Annexes

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Shepard



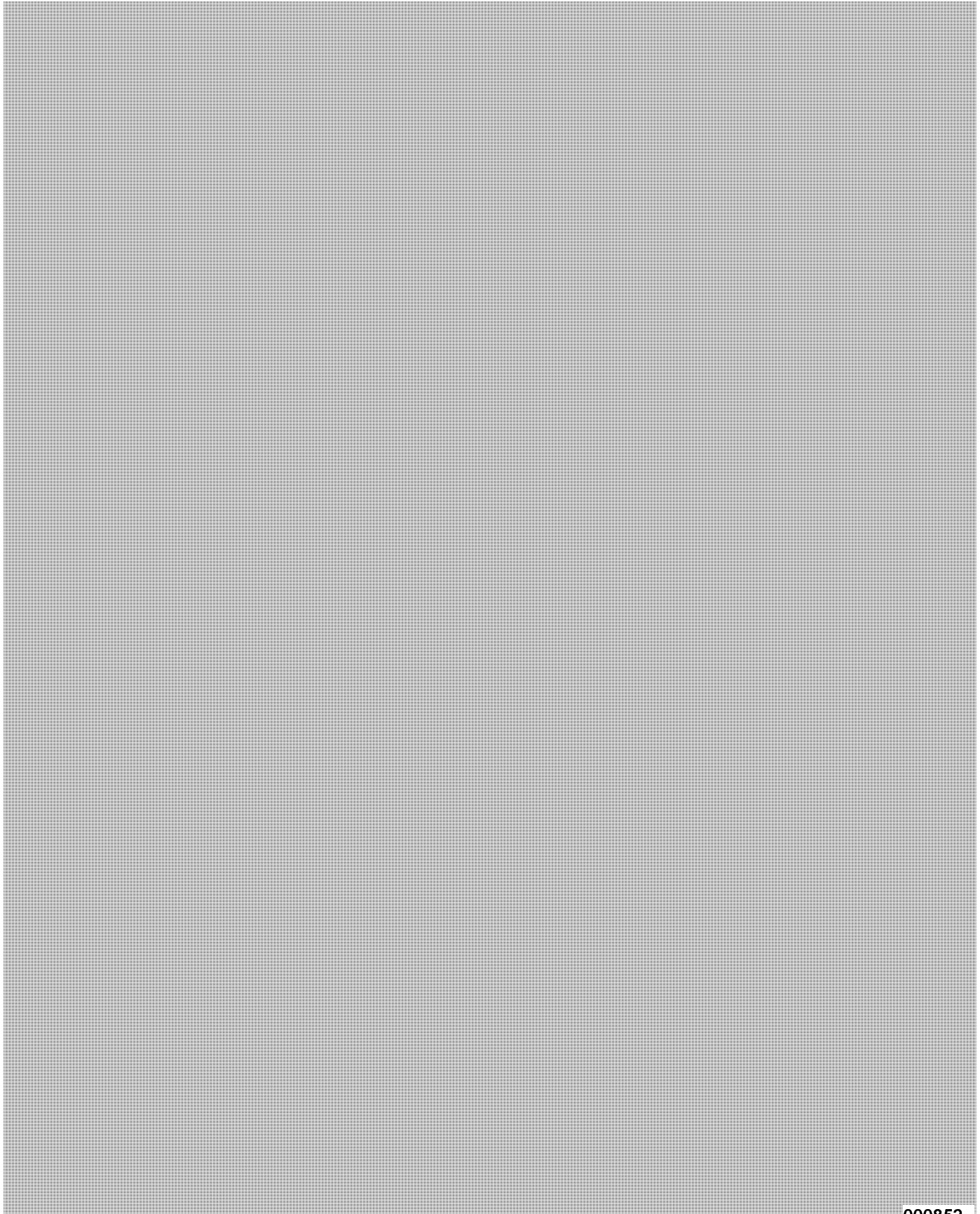




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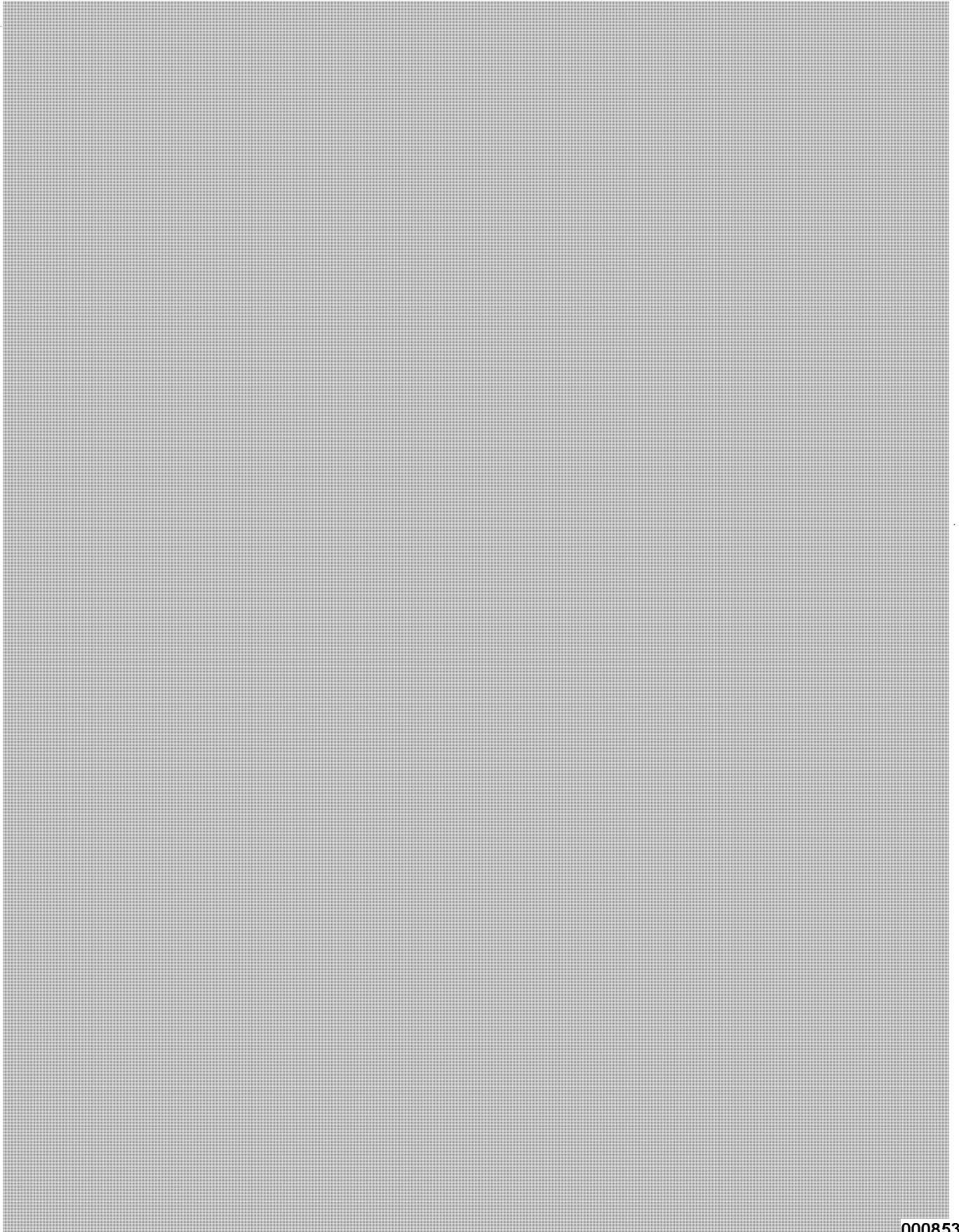
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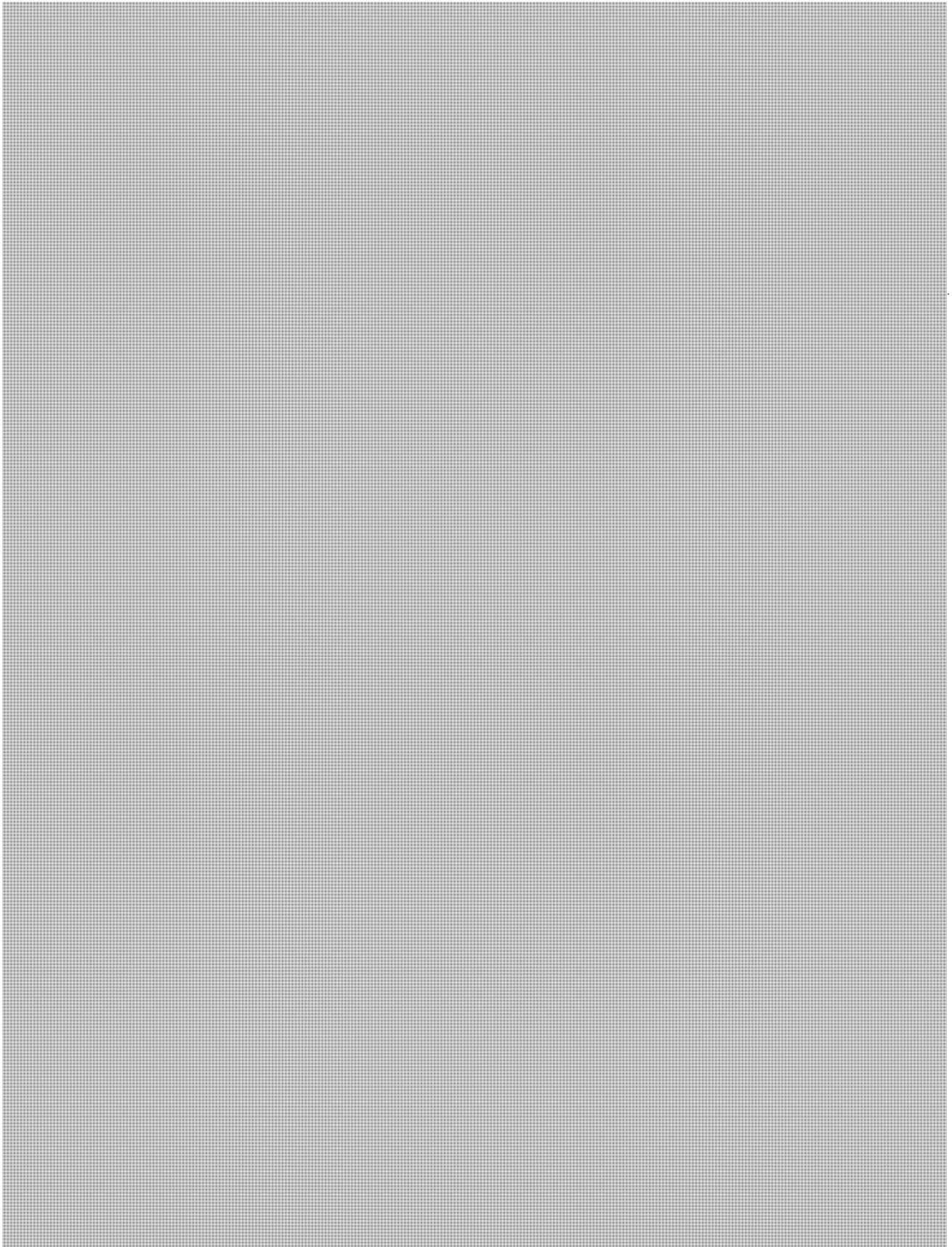
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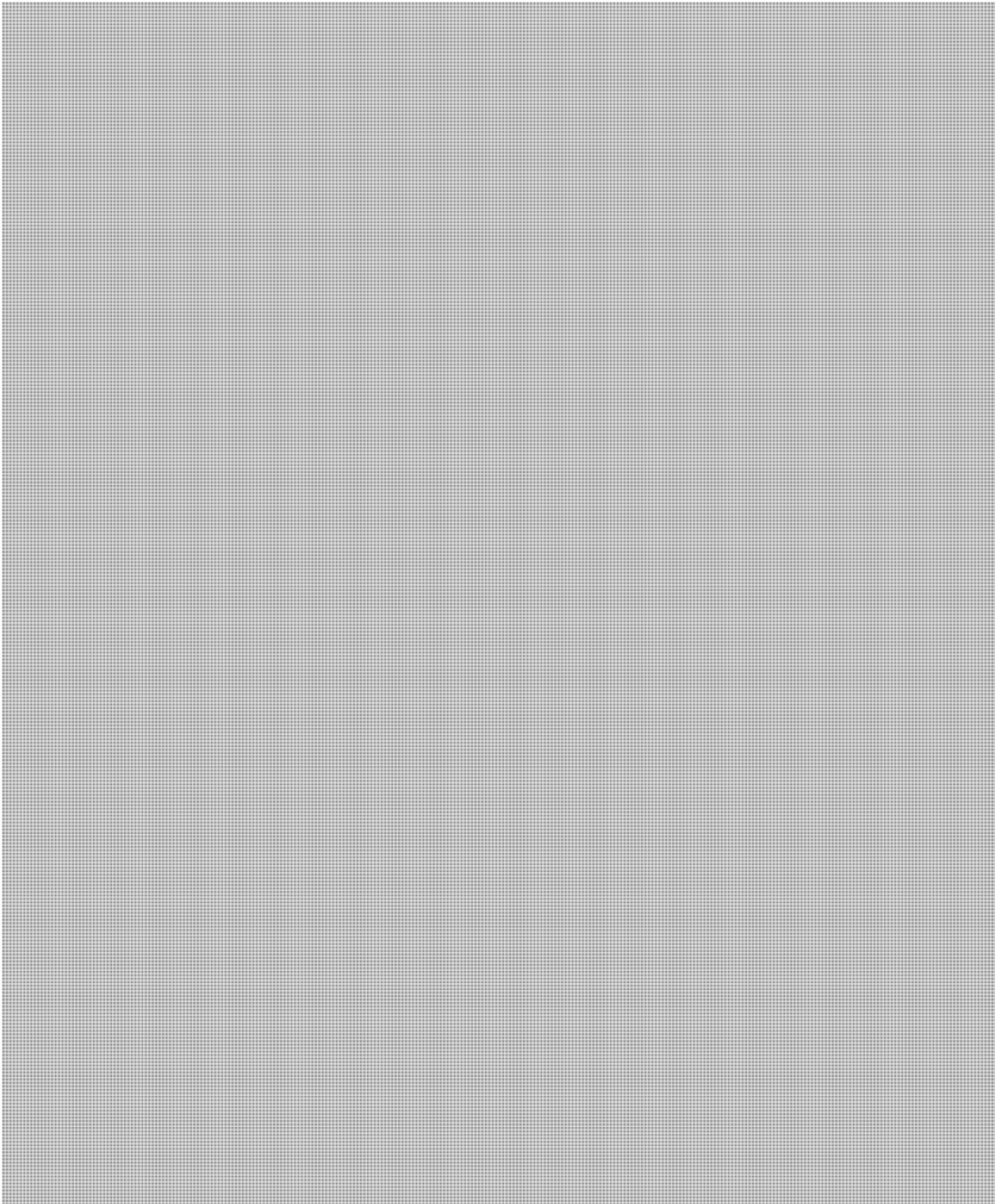




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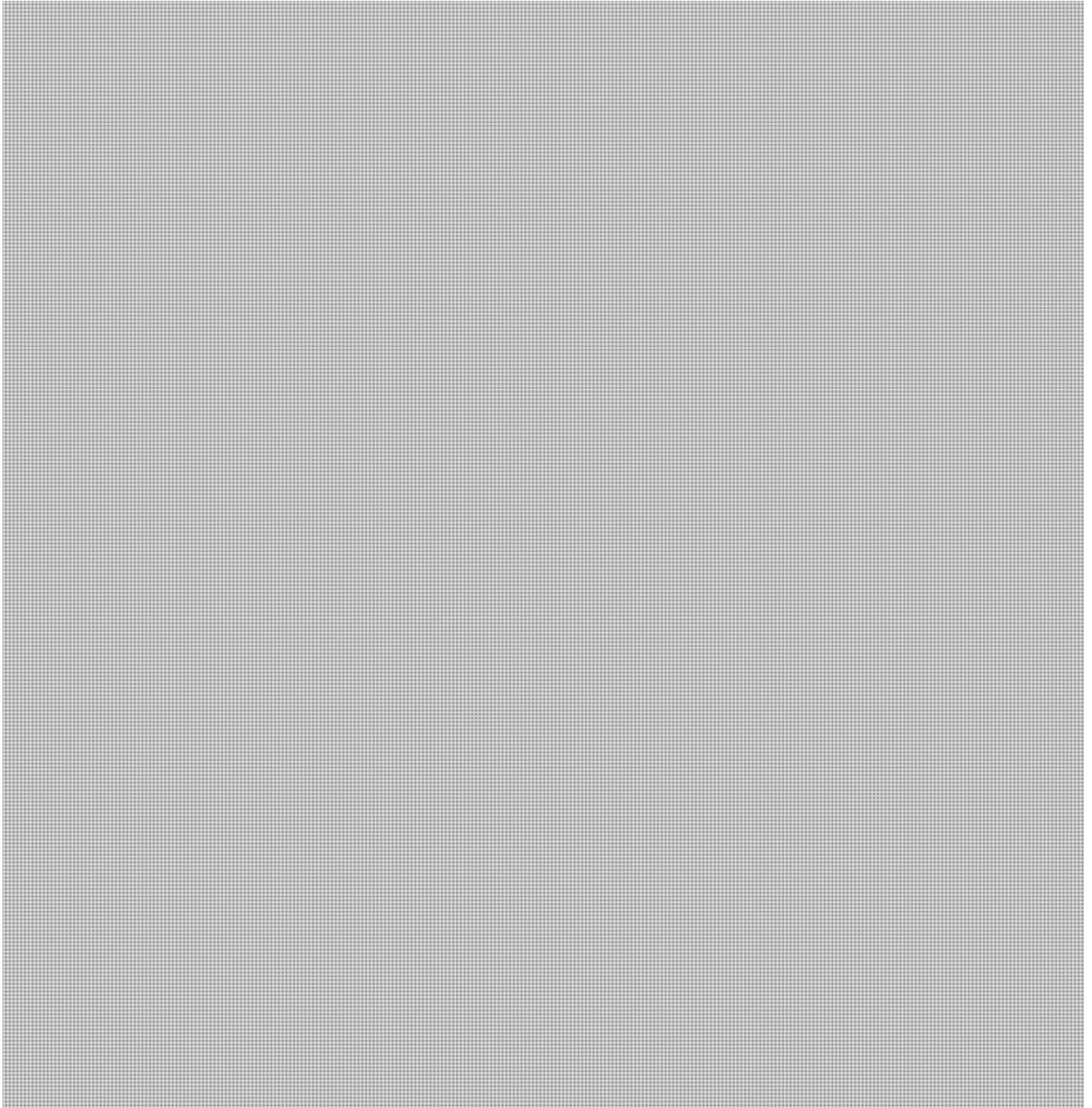
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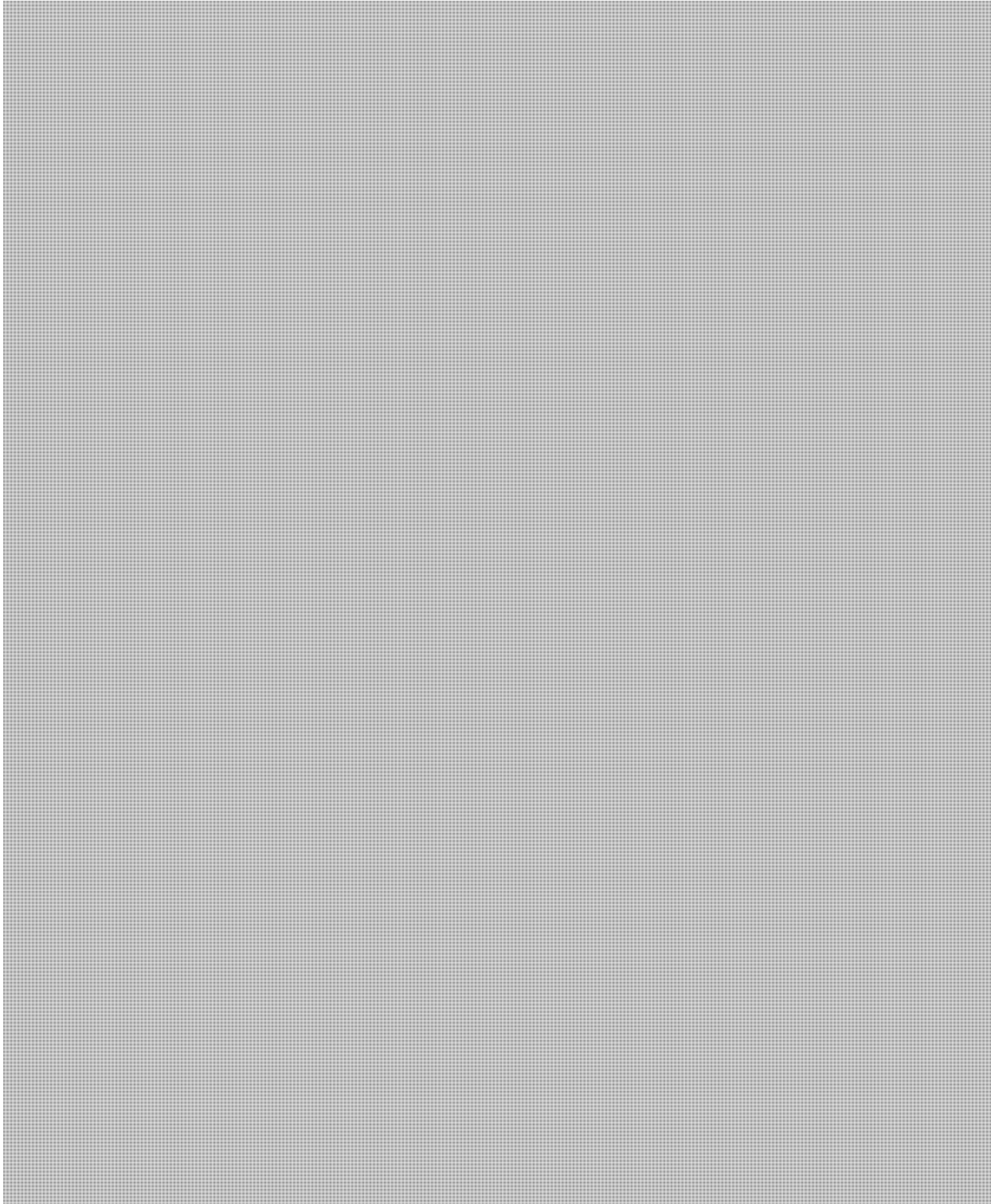
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RESTRICTED



... 8



s.23

RESTRICTED



A handwritten signature in black ink, appearing to read 'J. M. Miller', is written above the typed name.

Legal Operations Division.





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

Ottawa, Ontario, Canada,  
K1A 0H3.  
August 9, 1974.

Your file    Votre référence

5-5-7-2 Salmon-1	
9	File Aug 22/74 B Appleton

Mr. Stuart Blow,  
Acting Coordinator of Ocean  
Affairs,  
Department of State,  
Washington, D.C. 20520,  
U.S.A.

Dear Mr. Blow:

In Dr. Shepard's absence in Caracas, I have referred the Draft Summary Record of the July 18 meeting attached to your letter of July 29, 1974 to other officials in attendance. On the basis of these consultations, I wish to advise that we have no additional comments and would suggest that the Summary Record form a basis for our understanding.

Yours sincerely,

E.B. Young,  
Acting Director,  
International Fisheries Policy,  
International Fisheries and Marine  
Directorate.

RECEIVED

AUG 22 1974

In Legal Operations Division  
Department of External Affairs

Ottawa K1A 0H3





DEPARTMENT OF STATE

Washington, D.C. 20520

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

CANADA

AUG 6 1974

721-19-2  
FISHERIES  
SERVICE

July 29, 1974

Dr. M. P. Shepard  
Director, International Fisheries  
Fisheries and Marine Service  
Department of the Environment  
Ottawa, Ontario, Canada K1A 0H3

Dear Mike:

I am enclosing two copies of a Draft Summary Record  
of our meeting on July 18 regarding the Indian fishing  
problem.

As you will see, the paper is very similar to that  
which you provided us several days ago. We would  
appreciate any comments you might have.

Sincerely,

Stuart Blow  
Acting Coordinator  
of Ocean Affairs

Enclosure:

As stated

Pls copy for  
IPSFC B.B.  
Applebaum



## SUMMARY RECORD

Meeting of United States and Canadian Representatives on Problems  
Posed by Special Treaty Fishing Rights of Certain U.S. Indian Tribes.

Washington, D.C. July 18, 1974.

United States and Canadian officials met in Washington on July 18, 1974, to review certain considerations related to (1) U.S. law, as set forth in U.S. v. Washington, which calls for steps to increase fishing opportunities for U.S. Indians, and (2) the implications of U.S. v. Washington for the fisheries management arrangements of the International Pacific Salmon Fisheries Commission.

The meeting was attended by: United States - Mr. Wallace, NOAA; Mr. Schoning, NMFS; Mr. Beasley, NMFS; Mr. Blow, Department of State; Mr. Sullivan, Department of State; Mr. Burton, Department of State; Mr. Johnson, NMFS; Mr. Powell, NOAA; Mr. Brennan, NOAA; Dr. Henry, NMFS; Dr. Smith, NOAA; Mr. MacKenzie, NMFS. Canada - Dr. Shepard, Department of the Environment; Mr. Hourston, Department of the Environment, IPSFC Commissioner; Mr. Nelson, IPSFC Commissioner; Mr. Todd, Department of the Environment; Mr. Applebaum, Department of External Affairs; Mr. Hunter, Department of the Environment. IPSFC - Mr. Roos

The conclusions reached at the meeting were as follows:



(1) For 1974, Canada will consider proposals by the United States for adjustments in Salmon Commission regulations which might be required as a result of changes in Washington State domestic regulations apportioning the U.S. share of Convention Area sockeye and pink salmon catches among Indians and non-Indians. Such U.S. proposals would be submitted simultaneously to the Canadian Government and Salmon Commission staff. Canadian authorities will examine U.S. proposals promptly upon their receipt and, if in their judgement the proposed alterations were likely to meet the criteria outlined below, the proposal would be referred promptly to the Salmon Commission for official review and decision. It was noted that, because the 1974 season is already underway and because there would be a limited period of time to generate background data for the evaluation of U.S. proposals, Canadian authorities would apply strict criteria to their decision on whether or not to approve the proposal for further study by the Commission.

(2) For 1975, the United States authorities will advise the Salmon Commission at an early date as to U.S. aspirations for its Indian fishermen, i.e. what domestic measures the United States intends to take to alter the balance of the United States catch between the different groups involved. The Commission staff will examine this information,



along with other information available to it, and will produce proposed regulations for 1975 taking the United States requirements into account as much as possible. These regulations will provide fishing time by gear and area in the usual way, i.e. not dealing with allocation between groups of fishermen fishing the same gear within each country.

This latter allocation will be accomplished by separate United States domestic regulation. Canadian IPSFC Commissioners will examine the proposals in the light of the criteria outlined below and, on the basis of their judgement on the suitability of the recommendations, take appropriate action within the Commission.

(3) Concerning the IPSFC Advisory Committee, the question of whether to make provisions for a United States observer representing Indian interests will be dealt with by the Commission at an early date.

#### CRITERIA

- (i) The changes would not reduce the regulatory options available to the Commission to meet the needs of Canadian fisheries (e.g. action on the United States side to accommodate the Indians would not require disadvantageous adjustments in Canadian fishing times and areas).
- (ii) The changes would not significantly decrease the ability of the Commission to achieve escapement goals for individual sockeye and pink races, and to maintain the Canadian share of the Convention Area catch of 50%.



- (iii) The Changes would not require the Commission to recommend specific regulatory action for Indians alone. Division of catch among Indian and non-Indian fishermen in the United States should be achieved by supplementary regulations or other measures by the United States outside of, but consistent with, the Commission regulations.



# MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.		25-5-7-2-Salmon-1	
FM/DE	OTT	EXTER	FLO-1010	AUG 21/74	RESTRICTED
					PRECEDENCE
TO/A WASHDC					AUG 1 20 3 2 74 FOR/TOP CONCENTRE EXTERNAL AFFAIRS
INFO ENVOTT/ROBERTS					

DISTR. FLP FLA GWP GWU

REF OUR MEMO AUG 8/74

SUB/SUBJ FRASER RIVER SALMON CONVENTION - INDIAN RIGHTS PBLEM

COPY REF MEMO REFERRED TO YOU PROVIDES BACKGROUND TO THIS MATTER.

2. PBLEM CONCERNS FEB/74 DECISION BY USA DISTRICT CT JUDGE BOLDT IN TACOMA WASH INTERPRETING CERTAIN TREATIES BETWEEN INDIAN TRIBES AND USA GOVT AS INTER ALIA ENTITLING INDIANS TO TAKE 50 PERCENT OF FISH AVAILABLE TO WASHINGTON STATE FISHERMEN. AS MEMO INDICATES, WASH DC MTG JUL 18/74 WAS HELD AS RESULT OF USA REQUESTS TO SALMON COMMISSION TO AMEND REGULATIONS TO ENABLE USA TO PROVIDE MORE FISH FOR INDIANS, AND DISAGREEMENT OF CDN COMMISSIONERS.

3. REPORTS RECEIVED AND VERIFIED BY OFFICE OF THOR TOLLEFSEN WASHINGTON STATE FISHERIES AUTHORITY THAT USA INDIAN BAND, SWINOMISH, FISHED FOR SALMON ON SUN EVG AUG 4 (2 BOATS) AND MON EVG AUG 5 (4 BOATS) IN WEST BEACH AREA OF <sup>WHIDBY</sup> ~~WHIDBY~~ ISLAND IN WASHINGTON STATE AREA NUMBER 1, CONTRARY TO SALMON COMMISSION REGULATIONS UNDER WHICH ENTIRE USA PART OF CONVENTION AREA WAS CLOSED TO SALMON NET FISHING AT THAT TIME. CATCH WAS SMALL, 16 CHINOOKS AND ONE SOCKEYE, BUT BREACH OF REGULATIONS

.../2

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG... <i>B. Applebaum</i> B. Applebaum/mw	FLO	2-6692	SG... <i>J. M. Miller</i> D.M. Miller, Director



FLO-1010

- 2 -

RESTRICTED

REQUIRED PROSECUTION BY USA AUTHORITIES. HOWEVER NO ACTION WAS TAKEN TO PROSECUTE THE INDIANS, REASON GIVEN AS LEGAL SITUATION CREATED BY BOLDT DECISION.

4. THIS INACTION BY USA AUTHORITIES IS CONTRARY TO ASSURANCE GIVEN BY USA SIDE IN COURSE OF WASH DC MTG JUNE (SEE REF MEMO PARA 4) TO EFFECT THAT USA COURTS ARE BOUND BY SALMON CONVENTION AND ACCORDINGLY NO IMPEDIMENT TO PROSECUTION UNDER USA LAW AGAINST INDIANS FOR BREACHES OF SALMON COMMISSION REGULATIONS. USA INACTION WLD APPEAR TO BE BREACH OF CONVENTION RELEVANT SECTION OF WHICH, ART VII STATES: QUOTE EACH HIGH CONTRACTING PARTY SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF THE ORDERS AND REGULATIONS ADOPTED BY THE COMMISSION UNDER THE AUTHORITY OF THIS CONVENTION, IN THE PORTION OF ITS WATERS COVERED BY THE CONVENTION UNQUOTE

5. GRATEFUL YOU APPROACH USA AUTHORITIES ASAP AT LEVEL ABOVE STUART BLOW (WE ASSUME MR BLOW WILL BE AT ANY MTG ARRANGED TO DISCUSS THIS SUBJECT) AND DISCUSS THIS PBLEM, REFERRING SPECIFICALLY TO PARAS 3 AND 4 ABOVE. WOULD PREFER NOT TO PRESENT FORMAL NOTE OR AIDE MEMOIRE AT THIS STAGE, BUT YOU SHOULD EXPRESS CONCERN OF CDN GOVT THAT USA ~~CONFEE~~ <sup>ENFORCE</sup> SALMON COMMISSION REGULATIONS IN ACCORDANCE WITH ITS OBLIGATIONS <sup>UNDER</sup> TERMS OF SALMON CONVENTION.



UNCLASSIFIED

FM WSHDC *Washington* 2544 AUG28/74

TO EXTOTT FLO

INFO ENVOTT/ROBERTS

DISTR FLP FLA GWP GWU

REF YOURTEL FLO1010 AUG21

---FRASER RIVER SALMON CONVENTION

BECAUSE OF ABSENCES ON VACATION AND STATE DEPT STAFF CHANGES,  
WE PROVIDED ACTING DIRECTOR OF CDN AFFAIRS, KRUSE, WITH BOUT DE  
PAPIER BASED ON REFTTEL. HE UNDERTOOK TO LOOK INTO MATTER AND GET  
BACK TO US IN NEAR FUTURE.

END291 282116Z 00100

①

25-5-7-2-SALMON-1	
12	20

*Appelbaum*  
*ce me melle*  
*25-5-7-2*

*Salmon*

*File*  
*Aug 29/74*  
*Appelbaum*



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES 1974

TO Under Secretary of State  
A For External Affairs (GWU), Ottawa

FROM  
De Consulate General, Seattle

REFERENCE  
Référence

SUBJECT  
Sujet Pacific Salmon Fisheries

DATE September 4th, 1974

NUMBER  
Numéro 288

FILE	DOSSIER
OTTAWA	
25-5-7-2-5111000	
MISSION	35-11 28

ENCLOSURES  
Annexes  
1

DISTRIBUTION

*FKU to see  
and file  
cc.*

*File  
Sept 24  
P. Anderson*

U.S.A. DIV...	
1	
BW	PC
2	2
3	3
4	4
5	5

The attached article reports on recent allegations before the International Pacific Salmon Fisheries Commission concerning violations of fishing limits and insufficient patrolling.

*[Signature]*

R. C. Anderson,  
Consul General

SEP 11 1974

RECEIVED

SEP 30 1974

In Legal Operations Division  
Department of External Affairs



DEPARTMENT OF EXTERNAL AFFAIRS

Subject FISHERIES

Date September 1st, 1974 Publication SEATTLE POST-INTELLIGENCER

## Fish Panel Hits U.S., Canada Water Patrols

BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL

VANCOUVER, B.C. (AP) — The International Pacific Salmon Fisheries Commission has complained that the United States and Canada are not providing adequate patrols of salmon fishing waters.

The commission dealt at its weekly meeting Friday with allegations that a large number of Canadian seiners were fishing illegally Wednesday by encroaching on U.S. waters and fishing in closed Canadian waters.

Commission director Al Cooper said the six-member commission voted unanimously to send letters protesting a lack of patrols to Canada's Fisheries Department and to the National Marine Fisheries Service in the U.S.

A statement issued by Commission Chairman Rod Hourston in connection with the commission's action described Wednesday's illegal activities and the insufficient patrolling as a deplorable situation.

It was also disclosed that charges are being considered by authorities of both countries for what was described by international officials as apparent wholesale infractions of fishing limits by seiners who were allowed a 24-hour season Wednesday in Area 18 between the Gulf Islands and Vancouver Island.

The special season was cut to 12 hours after huge catches were made by the seiners.

U.S. aerial surveillance reported seeing 85 Canadian vessels in U.S. waters at 10 a.m. By the time U.S. surface patrols reached the scene about 35 Canadian boats were still in American waters.

Charges are expected against 18 vessels, 13 identified specifically inside U.S. waters and five others checked by Canadian patrols for violating restrictions in closed Canadian waters.

John Polonio, a director of the British Columbia Fishing Vessel Owners Association, said the Canadian vessels moved into the

gulf for the Wednesday 24-hour opening under the impression that another area besides Area 18 was open to fishing.

"When we learned otherwise, we asked the Canadian patrols that were there to patrol the Area 18 boundary line so that we would know where the boundary was," he said.

"Where the vessels were fishing was in some cases seven or eight miles offshore and it is difficult to determine exactly where a line is that far out," said Polonio.

He said the response of the Canadian patrol officials was "they could care less" about the boundary between U.S. and Canadian waters.





Environment Canada  
Environnement Canada  
Fisheries and Marine  
Pêches et sciences de la mer

September 4, 1974

25-5-7-2 Salmon-1

Mr. D.M. Miller  
Director  
Legal Operations Division  
External Affairs Department  
Lester B. Pearson Building  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

Your file Votre référence

Our file Notre référence	
25-5-7-2-Salmon-1	
38	

File  
Sept 24/74  
B. Appleton

Dear Mr. Miller:

The attached memorandum describes an incident about which the Department of External Affairs will likely receive a communication from the U.S. Department of State.

If such a communication is received, we would appreciate being consulted concerning the reply.

Yours truly,

M.P. Shepard

M.P. Shepard  
Director  
International Fisheries Branch

Attach.

RECEIVED  
SEP 6 1974  
In Legal Operations Division  
Department of External Affairs



MEMORANDUM NOTE DE SERVICE

DATE September 4, 1974

Our file Notre référence

FROM: Director-General,  
DE: Operations Directorate

Your file Votre référence

TO: Mr. K.C. Lucas,  
A: Senior Assistant Deputy Minister,  
Fisheries and Marine Service

SUBJECT:  
SUJET:

This is to apprise you of a situation which arose on the West Coast last week and which may result in a note of protest coming to Canada from the United States Government.

The International Pacific Salmon Fisheries Commission last Wednesday, August 28, opened the waters of Area 18 to salmon net fishing for a 24-hour period. District 1, i.e., Howe Sound, the Fraser River and the waters of the Gulf of Georgia off the mouth of the Fraser River, was not opened, nor was Area 17. The attached statistical map shows the area which was opened to salmon fishing. The purpose of the opening was, of course, to allow a take of Adams River sockeye by Canadian fishermen in the Gulf area.

At opening time on Wednesday there were 155 purse seines in Area 18. Obviously, in such a confined area such a large number of vessels would create problems, and in anticipation our people had two patrol vessels on the scene to ensure that none of the purse seines operated in District 1 or in Area 17. They were largely successful, and in spite of some difficulty early in the day, there will be only five prosecutions for violations of the boundaries of the closed area.

However, about 100 Canadian purse seiners crossed to the U.S. side of the international boundary, which was also closed to salmon net fishing at the time. Several captains of these vessels asked our patrol boats whether they (the patrol boats) would take action. Of course, we have no jurisdiction in U.S. waters and our people informed the purse seiners accordingly but warned them that they would be subject to apprehension and seizure by U.S. authorities. Unfortunately, the State of Washington had no patrol boat on duty that day and it was not until several hours later that they got a helicopter to the scene. The helicopter was very poorly equipped from a navigational standpoint and reported back that the vessels appeared to be on the Canadian side, a fact that our patrol vessels knew to be completely untrue.

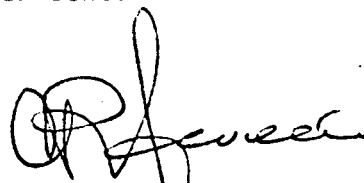


-2-

Finally the Washington State people sent a 23-foot patrol vessel to the scene. This vessel, of course, determined that large numbers of Canadian vessels were in U.S. territorial waters and did board several. However, the crew of the patrol vessel made no arrests since they felt that they were not able to cope with the situation, something which I personally find amazing. I know that in a similar situation any of our officers would have made a determined effort to apprehend as large a number of violators as possible.

At a meeting of the Salmon Commission last Friday, the American commissioners were very critical of the enforcement effort by Canadians. Hourston and the Canadian commissioners, of course, pointed out that there was a very good enforcement effort on the Canadian side and that the violations had all occurred in U.S. waters. Since the meeting, Thor Tollefson, the Director of Fisheries for the State of Washington, has been in touch with Rod Hourston to inform him that we can expect a note of protest over the actions of the Canadian fishermen. Certainly we cannot condone the actions of our fishermen; on the other hand, the lack of enforcement on the U.S. side was deplorable.

We have to, of course, bring to the attention of the representatives of the purse seiners that actions of this sort cannot be tolerated and Rod Hourston has this in hand. I don't see the need for any further action on our part, at least not until we receive the note from the U.S.A., if indeed one is ever sent.

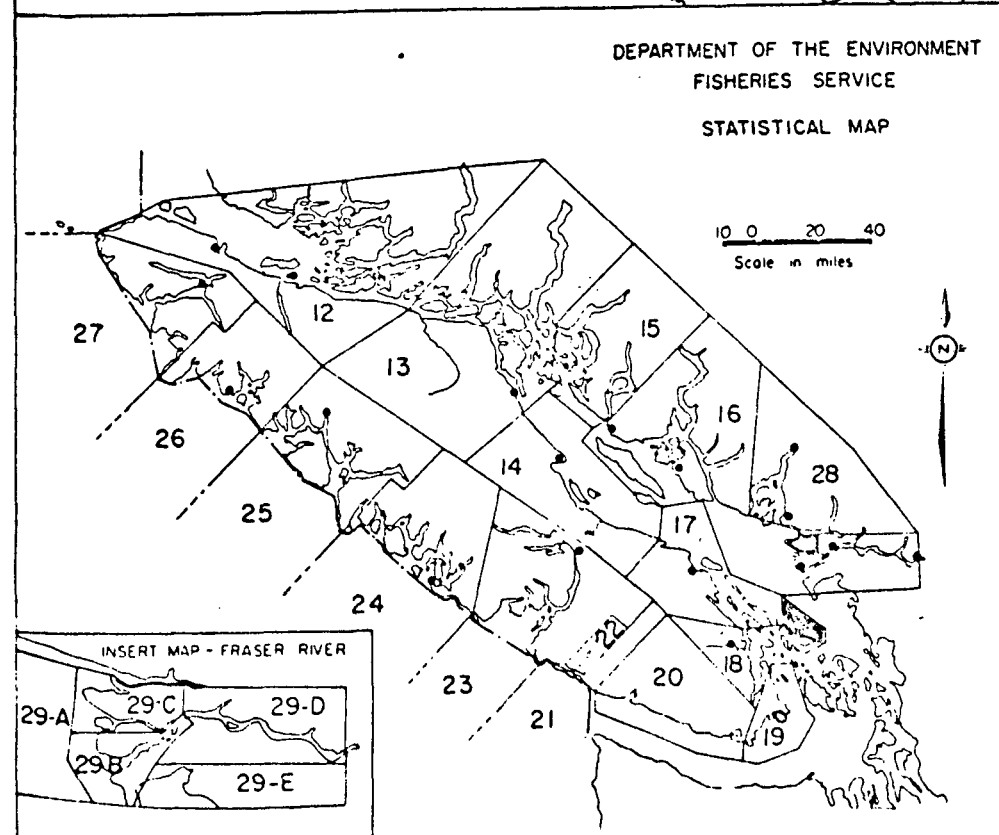
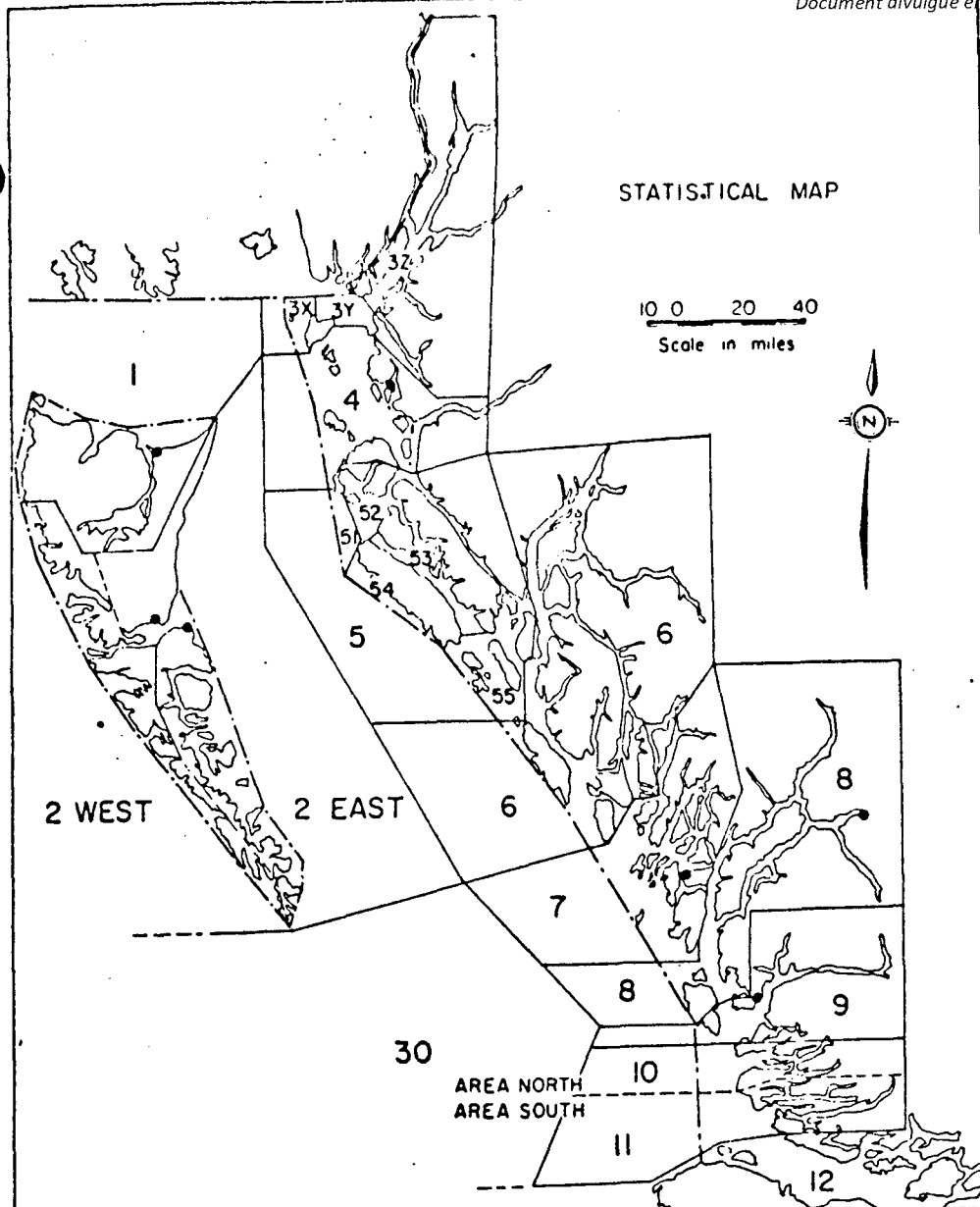


C.R. Leveiton

Att.

c.c. Mr. J.W. Carroll  
Mr. L.H.J. Legault ✓







EXTERNAL AFFAIRS



AFFAIRES EXTERIEURES

*G. S. Shortliffe*  
*Applebaum*

MEMORANDUM

RECEIVED

SECURITY  
Sécurité

RESTRICTED

TO  
A

FILE

DATE

September 13, 1974

FROM  
De

G. S. Shortliffe

SEP 16 1974

NUMBER  
Numéro

REFERENCE  
Référence

In Legal Operations Division  
Department of External Affairs

SUBJECT  
Sujet

Seizure of Canadian Fishing Boats by U.S. Authorities

FILE	DOSSIER
OTTAWA	25-5-7-2 Salem-1
MISSION	38/-

ENCLOSURES  
Annexes

DISTRIBUTION

PDQ  
FLO ✓  
FPR  
CRP  
CRR  
(Roger)

Our Consul General in Seattle, Mr. Anderson, called this morning to inform us that he had been advised by the U.S. Coast Guard that five Canadian fishing vessels were arrested today for illegally fishing in U.S. territorial waters off Point Roberts. The vessels -- Wendy Marine and Arlene were arrested at 4:30 a.m. The vessels Silver Ann, Dixie and Debbie Mac were arrested at 7:00 a.m. The U.S. Coast Guard escorted the vessels to Bellingham, Washington, where they were due to arrive at approximately 10:30 a.m. local time.

2. Virtually, simultaneously our Embassy in Washington informed us that Canadian press had the story and that enquiries were being made as to whether Canada would lodge a "protest".

3. We asked our Consul General to follow developments closely and report as appropriate. Of course, should the consulate be asked to intervene, they would respond immediately.

4. Following discussion with CRP, PDQ and FLO, we informed our Embassy and FPR that they might respond to the press by indicating that we are following developments with a view to establishing what happened.

5. Assuming that the Canadian fishing vessels were within U.S. territorial waters, and assuming that no special provision of any of our fishing agreements with the USA are involved, there was a general consensus that the normal processes of law should be allowed to unfold. According to our consulate in Seattle and the U.S. Embassy in Ottawa, these would be that the fishing boats would post bond and probably at a later date fined. Once bond is posted or a fine paid, whichever is first, the boats will be allowed to return to sea.

*File*  
*Sept 20/74*  
*[Signature]*

...2

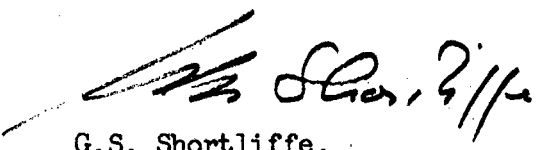


- 2 -

RESTRICTED

6. FLO is examining whether any fishing agreements with the USA would be applicable in this case. The consulate in Seattle would report additional detail as to exactly what happened as it becomes available.

7. The U.S. Embassy touched base with us to indicate that they are aware of the problem and that it is their understanding that our boats were well within U.S. territorial waters. I indicated to the Embassy that we were following developments and that our general approach to the press at this stage was low key.

  
G.S. Shortliffe,  
Director,  
U.S.A. Division.



FILE  
CIRC.  
DIARY  
MIN  
PDM  
FPR  
PAG  
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CRP

RECEIVED

SEP 18 1974

In Legal Operations Division  
Department of External Affairs  
Department of External Affairs

UNCLASSIFIED

25-5-7-2 Salmon  
File  
Sept 20/74  
B. G. G. G.

BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL

September 16, 1974.

MEMORANDUM FOR THE MINISTER

25-5-7-2-Salmon-1	
38	

Seizure of Canadian Trawlers on the West Coast

Our Consul General in Seattle reported this afternoon that the captains and crews of the five trawlers arrested and seized on Friday last were released on their own recognisance for the weekend. The boats are still under arrest at Bellingham, Washington. The Consul General said that a hearing is scheduled for tomorrow, at which time it is expected fines will be levied and the boats will be released to return to fishing.

A. E. RITCHIE

A.E.R.

BEST ORIGINAL AVAILABLE  
MEILLEUR ORIGINAL





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

BY HAND

December 9, 1974

*file*

Mr. D.M. Miller  
Director  
Legal Operations Division  
Department of External Affairs  
4th Floor, Tower A  
Lester B. Pearson Building  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

Your file    Votre référence

25-5-7-2 Salmon 1

Our file    Notre référence

25-5-7-2-SALMON-	
3B.	20

*Leger 30/12*

Dear Mr. Miller:

I am writing with regard to the Canada-U.S.A. salmon talks, which are to resume at a meeting in Vancouver in March 1975.

Preparations for these talks are now in hand, and a meeting will be held of Canadian officials and advisors in Vancouver December 16 and 17, 1974, to discuss the position to be taken by Canada at the talks.

As your Department has been actively involved in these discussions, we should think it would be useful from the point of view of both our departments to have Mr. Leger of your office attend this meeting in Vancouver. For your further information, the meeting on Monday, December 16 is scheduled for 1:30 p.m. at the Environment offices at 1090 West Pender Street, Vancouver, on the 10th floor. This will be an in-house meeting of Canadian officials. The meeting on Tuesday, December 17 will be in the same place and will commence at 9:30 a.m. For any further information Mr. Leger may wish to contact Mr. Applebaum of this office at 997-3135.

Yours sincerely,

*M.P. Shepard*

RECEIVED

DEC 13 1974

M.P. Shepard  
Director

Legal Operations Division  
International Fisheries Policy  
International Fisheries  
and Marine Directorate

Ottawa K1A 0H3



**ACTION**

C O N F I D E N T I A L

FM TOKYO 3706 DEC18/74

TO EXTOTT FLO

INFO TT ITCOTT/49/28 WSHDC DE OTT VIENN DE LDN

BH ENVOTT/LUCAS/LEVELTON/SHEPARD/HUNTER DE OTT

BAG MOSCO PEKIN GENEV DE OTT SEOUL DE TOKYO

DISTR FLP GPP GPO GWU GPL GEA ECL ECS SRB

REF OURTEL 3673 DEC16

---NORTH PACIFIC FISHERIES-USA/JPN BILATERAL TALKS

REFTEL REPORTED ON USA/JPN BILATERAL TALKS CONCLUDED ON DEC13.

WE HAVE NOW HAD OPPORTUNITY TO REVIEW RESULTS OF TALKS WITH ATKINSON, ACTING USA FISHERIES ATTACHE USA EMB, WHO HAS PROVIDED US WITH FURTHER INFO ON AGREEMENTS REACHED.

2. ATKINSON DESCRIBED TALKS AS BEING EXTREMELY TOUGH PARTICULARLY ON ISSUE OF CRABS WHERE USA SIDE HAD REQUESTED TERMINATION OF JPNSE KING AND TANNER CRAB FISHERY BEGINNING IN 1975. IN END, JPNSE AGREED PRIVATELY, BUT NOT/NOT PUBLICLY, TO HALT KING CRAB FISHING COMPLETELY AS OF 1975 WHILE MAINTAINING ESSENTIALLY SAME LEVELS AS LAST YEAR ON TANNER CRABS. ONCE AGREEMENT ON CRAB HAD BEEN REACHED, REMAINDER OF NEGOTIATIONS WERE COMPLETED RELATIVELY QUICKLY. ATKINSON SAID ON WHOLE USA SIDE WAS SATISFIED WITH RESULTS OF TALKS WHICH HAD GONE LONG WAY IN MEETING USA DEMANDS. HE TOLD US THAT BREAKDOWN OF TALKS DEC6 HAD BEEN RESULT OF MISUNDERSTANDING BETWEEN MATSUURA (CHIEF JPNSE DEL) AND JPNSE FISHING INDUSTRY ON CRAB ISSUE. AS RESULT USA MADE CONCESSIONS

...2

**CONFIDENTIAL**

cc. 25-5-7-2-SALMON-1  
25-5-7-2-N.PAC.

38



PAGE TWO 3706 CONF

TO JPNSE BY INCREASING PREVIOUSLY AGREED TO QUOTA ON TANNER CRAB FROM 11 MILLION CRABS TO 13.5 MILLION--BILLED TO US AS QUOTE FAVOUR UNQUOTE TO MATSUURA SO HE WOULD NOT/NOT GET INTO ANY FURTHER TROUBLE WITH HIS INDUSTRY CIRCLES FOR FEAR HE MIGHT LOSE JOB. ATKINSON COMMENTED THAT MATSUURA SEEMED TO BE ONE OF FEW JPNSE WHO QUOTE COULD SEE WRITING ON WALL UNQUOTE FOR JPNSE AND WAS READY TO FACE REALITIES. IN ANY EVENT USA SIDE FELT THAT UNLIKE KING CRABS, TANNER CRABS WERE NOT/NOT IN DANGER FM CONSERVATION VIEWPOINT AND HENCE USA COULD AFFORD TO MAKE CONCESSIONS THIS TIME.

3. AT JPNSE REQUEST, COMPLETE TERMS OF AGREEMENT WERE NOT/NOT MADE PUBLIC BECAUSE OF IMPACT THEY MIGHT HAVE ON JPNSE POSITION IN UPCOMING FISHERIES TALKS WITH USSR AND AT LOS CONF. IN EXCHANGE OF CONF LETS, JPNSE AGREED TO CEASE KING CRAB FISHERY AS OF 1975 DESPITE QUOTA OF 300,000 PUT IN PUBLIC AGREEMENT. TO EXPLAIN TERMINATION TO PUBLIC, JPNSE FISHERIES INDUSTRY HAS PROPOSED FACE-SAVING DEVICE WHEREBY THEY WILL ANNOUNCE IN DUE COURSE CANCELLATION OF KING CRAB FISHERY FOR QUOTE ECONOMIC REASONS UNQUOTE BECAUSE OF REDUCTION OF QUOTA.

4. ON QUESTION OF WHETHER CRABS FORM PART OF CONTINENTAL RESOURCE, BOTH SIDES EXCHANGED NOTES SETTING OUT RESPECTIVE POSITIONS SO AS NOT/NOT TO PREJUDICE POSITIONS AT LOS CONF.

5. IN OTHER CONF EXCHANGES OF LETS, JPNSE ALSO AGREED TO STRICTER

...3



PAGE THREE 3706 CONFD

ENFORCEMENT MEASURES BY USA OBSERVERS ON JPNSE BOATS IN REPLY TO USA COMPLAINTS THAT JPNSE HAD VIOLATED PAST AGREEMENTS; AND AS IN PAST YEARS JPNSE ALSO UNDERTOOK COMMITMENT IN PRINCIPLE TO RESTRICT SALMON CATCH IN YRS WHEN STOCKS ARE LOW.

6. ATKINSON TOLD US CLINGAN HAD MET SEPARATELY WITH OGISO, HEAD OF JPNSE LOS DEL, APROX EIGHT TIMES IN ORDER TO DISCUSS LOS ISSUES, ALTHOUGH HE WAS NOT/NOT PRESENT DURING TALKS HIMSELF, ATKINSON TOLD US PRIMARY TOPIC OF CONVERSATION SEEMS TO HAVE BEEN USA HOPE FOR DEAL ON ANADROMOUS FISH IN WHICH USA SOUGHT JPNSE SUPPORT FOR PRINCIPLE OF COASTAL STATE RIGHTS TO ANADROMOUS SPECIES IN RETURN FOR POSSIBLE CONCESSIONS BY USA IN FUTURE TALKS ON POLLOCK QUOTAS, ETC. USA HOPES THAT IF JPN CAN BE PERSUADED TO AGREE, THEN AFRICAN BLOC MIGHT ALSO FALL INTO LINE ENABLING USA TO WIN ADOPTION OF ITS POSITION AT LOS CONF. HOWEVER, HE NOTED USA IS WORRIED THAT RECENT PASSAGE IN SENATE CTTEE OF MAGNUSON BILL ON 200 MILE ECONOMIC ZONE MIGHT WEAKEN USA POSITION BY GIVING IT LESS TO BARGAIN WITH. APPARENTLY MS WEST, LEACL OFFICER OF STATE DEPT WSHDC, SAT IN ON SOME OF TALKS BETWEEN CLINGAN AND OGISO AND MAY BE ABLE TO PROVIDE FURTHER DETAILS. (DEAL OF SORT SKETCHED ABOVE RE ANADROMOUS QUESTION COULD OF COURSE HAVE IMPT BEARING ON SUCCESS OF CDAS OWN CLAIMS IN THIS AREA).

7. WILL MEET MATSUURA ON FRI TO DISCUSS JPNSE ASSESSMENT OF TALKS.

8. PLSE PROTECT SOURCE OF ABOVE.

END/016 180940Z 00650





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

December 20, 1974

Mr. D.M. Miller  
Director  
Legal Operations Division (FLO)  
Department of External Affairs  
Lester B. Pearson Building  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

C.C. 25-5-5-CDA-USA

Your file Votre référence

25-5-7-2 Salmon-1

Our file Notre référence

25-5-7-2-SALMON-1  
38 20

Dear Mr. Miller:

Further to my letter of December 20, 1974, on the subject of the Canada-U.S.A. salmon discussions, I am writing to request your assistance with regard to another question which has been raised during the course of preparing for the next meeting with the U.S.A. in March, 1975.

As you know, one of the basic subjects of discussion during the Canada-U.S.A. salmon talks is the Fraser River Convention, signed in 1930 and in force from 1937 and the 1956 Protocol, in force from 1957, adding pink salmon to the Convention. The question which has often been raised by some elements of the Canadian industry and which continues to be raised is whether or not the Convention allows the Canadian Government to make independent investments in sockeye and pink salmon production on the Fraser River as an alternative to proceeding jointly with the U.S.A. as provided by the Convention. The relevant articles would appear to be Article III of the Convention and particularly sentence 2 which states the Commission "shall conduct the sockeye salmon fish cultural operations in the waters described in paragraphs numbered 2 and 3 of Article I of this Convention, ..." and Article I, paragraph 3, which includes as waters within the scope of the Convention "the Fraser River and the streams and lakes tributary thereto".

It is our understanding that a formal opinion on this question was prepared in the legal bureau sometime prior to 1972. We should be grateful if this opinion could be obtained and reviewed, and for your consequent comments on the question which has been raised.

Yours sincerely,

*M. H. Shepard*  
for  
L.H. Legault  
Director-General  
International Fisheries  
and Marine Directorate

Ottawa K1A 0H3





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

RESTRICTED

December 20, 1974

Mr. D.M. Miller  
Director  
Legal Operations Division (FLO)  
Department of External Affairs  
Lester B. Pearson Building  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

Your file    Votre référence

25-5-7-2 Salmon-1

Our file    Notre référence

25-5-7-2-SALMON-1	
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*Handwritten: 15/1*

Dear Mr. Miller:

As you know discussions with the U.S.A. have been taking place for many years on the subject of salmon, and, more particularly, since the late 1960's on the subject of the regulation of interceptions by each country of salmon bound for their rivers of origin in the other country. The last formal negotiation took place in February, 1974, and the next meeting is to take place in Vancouver from March 3 to March 7. Mr. Leger of your office attended the preparatory meeting which took place in Vancouver on December 16 and 17, 1974.

During the course of the discussions which have taken place with the U.S.A., and during the course of various preparatory discussions on the part of the Canadian delegation the question has often been raised as to whether the Canadian Government would be prepared to support the Canadian salmon position by bringing pressures to bear on the U.S.A. in areas unrelated to salmon in particular or to fisheries in general. The question of recourse to "outside" areas of pressure has been raised because of the difficulties inherent in the Canadian bargaining position if restricted entirely to fisheries. Briefly, dealing with the salmon position alone, any pressures we could bring to bear by increasing the interception of U.S. salmon by Canadian fishermen or decreasing the interception of Canadian salmon by U.S. fishermen could result in severe economic disruption on both sides, with the additional possibility of restrictions by the U.S. government on the sale of Canadian fish to the U.S.A. Further, any confrontation on salmon would be likely to escalate into a more general fisheries confrontation which could result in the exclusion of Canadian fishermen from the economic zone of the U.S.A. which is likely to be in place in the very near future, and which would result in losses to present and future earnings of Canadian fishermen far in excess of the losses which would be incurred by U.S. fishermen by being excluded from any equivalent Canadian economic zone.

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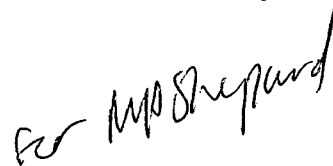
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- 2 -

The lack of Canadian power to bring about a conclusion to the salmon discussions has led to these discussions being drawn out over a period of years, with the end not yet in sight, consequent delays in the commencement of Canadian projects to increase the availability of Canadian salmon to Canadian fishermen and increasing frustration on the part of the Canadian negotiators and the industry in general. These conditions have led some elements in the fishing industry to search for leverage outside the fisheries context and I am writing this letter to obtain your assistance in this regard. I should be very grateful if this question could be raised with the appropriate divisions in your Department, including presumably United States Division and Commercial Policy Division and if at least a general response including, if appropriate, a survey of the possibilities could be prepared in advance of the next meeting we are to have with our advisors from January 23 to 24, 1975.

Yours sincerely,



L.H. Legault  
Director-General  
International Fisheries  
and Marine Directorate



## EXTERNAL AFFAIRS



## AFFAIRES EXTÉRIEURES

TO  
A FILESECURITY  
SécuritéRESTRICTEDFROM  
De G.A. Léger

DATE December 30, 1974

REFERENCE  
RéférenceNUMBER  
NuméroSUBJECT  
Sujet Canada-U.S.A. Salmon Talks

FILE	DOSSIER
OTTAWA	
25-5-7-2-SALMON-1	
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ENCLOSURES  
Annexes

## DISTRIBUTION

Mr. Miller  
Mr. Lapointe  
Mr. Phillips  
FLP

Formal negotiations with the USA on the complex question of the regulation of salmon interceptions on the West coast will resume in Vancouver, March 3 to 7, 1975. The previous round of talks took place in February, 1974.

2. In preparation for these negotiations, a meeting of Canadian officials and advisors from industry and unions was held in Vancouver, December 16 and 17, which I attended for the Department. Messrs. Legault, Shepard, Applebaum and Hunter were present from the Department of the Environment's International Fisheries and Marine Directorate in Ottawa. A further (and final) preparatory meeting of officials and advisors is scheduled to be held in Vancouver, January 23-24, 1975 (dates subject to confirmation).

3. A DOE Working Party had prepared a discussion paper presenting the range of options open to Canadian negotiators. This paper was reviewed by officials at a half-day "in-house" session immediately preceding the advisory meeting. With minor editing changes, it was then presented to the advisors for their consideration. Substantive discussion on the options will await the January preparatory meeting.

4. In determining its proposed options, the Working Party had come to certain conclusions which limit the flexibility of the Canadian bargaining position. These can be summarized as follows:

- (a) the principles agreed in June 1971 on the basis of "equity" (an equitable balance in the value of interceptions) have not been conducive to final settlement, and in fact have constituted an obstacle to meaningful negotiation. "Equity" cannot be valued numerically, and is viewed quite differently by each side. The Canadian "interpretation", although strongly backed by the U.F.A.W.U., appears unacceptable to the USA, and vice versa;

... 2



- 2 -

RESTRICTED

- (b) bargaining pressure on the Canadian side is insufficient: relatively higher cards are held by the USA in both the harvesting and marketing fields. For this reason, there has been pressure from the U.F.A.W.U. to have Canada widen the leverage by threat of unrelated economic sanctions, and the advisory group requested External Affairs to provide an opinion on the feasibility of this approach. Officials attempted to discourage this attempt, which would only be unrealistic and counter-productive in the particular context of Canada-USA relations, where isolation of specific issues is almost always to our benefit. It was however agreed that a more formal reading of this question be provided by the responsible desks in External Affairs, if only to lay this argument to rest in future talks;
  - (c) the success of Canadian programs to enhance salmon runs are dependant to 50% on effective limits to US interceptions, whereas USA hatcheries are increasingly improving the availability to their own fishermen;
  - (d) the Canada-USA Reciprocal Fishing Privileges Agreement is of more direct benefit to Canada, especially on the Atlantic coast, and this favourable imbalance could be greater as other nations are phased out of protected areas. Salmon talks should not imperil this situation.
5. The Working Party recommended that the option based on the 1971 Principles should be abandoned in favour of a more practical approach mainly along the following lines:
- (a) continued negotiations on the basis of Canadian proposals during the February 1974 talks, which would provide full benefits to Canada from Canadian enhancement activity, by placing limits on interceptions. While this option may not bring about full "equity", it would provide for Canadian control of management and development of Fraser River salmon;
  - (b) negotiate on the most important issues only (US interceptions on the Fraser) as a preliminary step towards a more comprehensive arrangement in the post-LOS environment.

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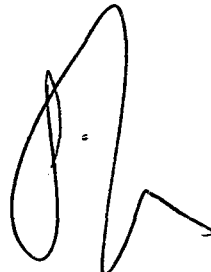


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6. Action by this Department before the next preparatory meeting (scheduled for January 23-24) is required on two issues:

- (i) DOE will need a survey of the possibilities which may exist for Canadian economic leverage outside the fisheries context (DOE letter dated December 20 to D.M. Miller). To be discussed with GWU and ECL;
- (ii) legal interpretation of Article III of the 1930 Pacific Salmon Fisheries Convention is required to determine to what extent independent Canadian enhancement investments are permissible on the Fraser River, and whether enhanced resources need be shared. An opinion will be prepared in conjunction with FLA.



G.A. Léger.



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

*Mr. Hart*  
*Pls do memo to FLO*  
*(check with Shannon +*  
*GWV). Presumably, must*  
*reject type of "leverage"*  
*contemplated*

s.23

TO  
 A ECL GWU

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DATE January 7, 1975

NUMBER  
 Numéro

*File*

FROM  
 De FLO

REFERENCE  
 Référence

SUBJECT  
 Sujet Extent of Economic Leverage available in  
 Canada-U.S.A. Salmon Talks

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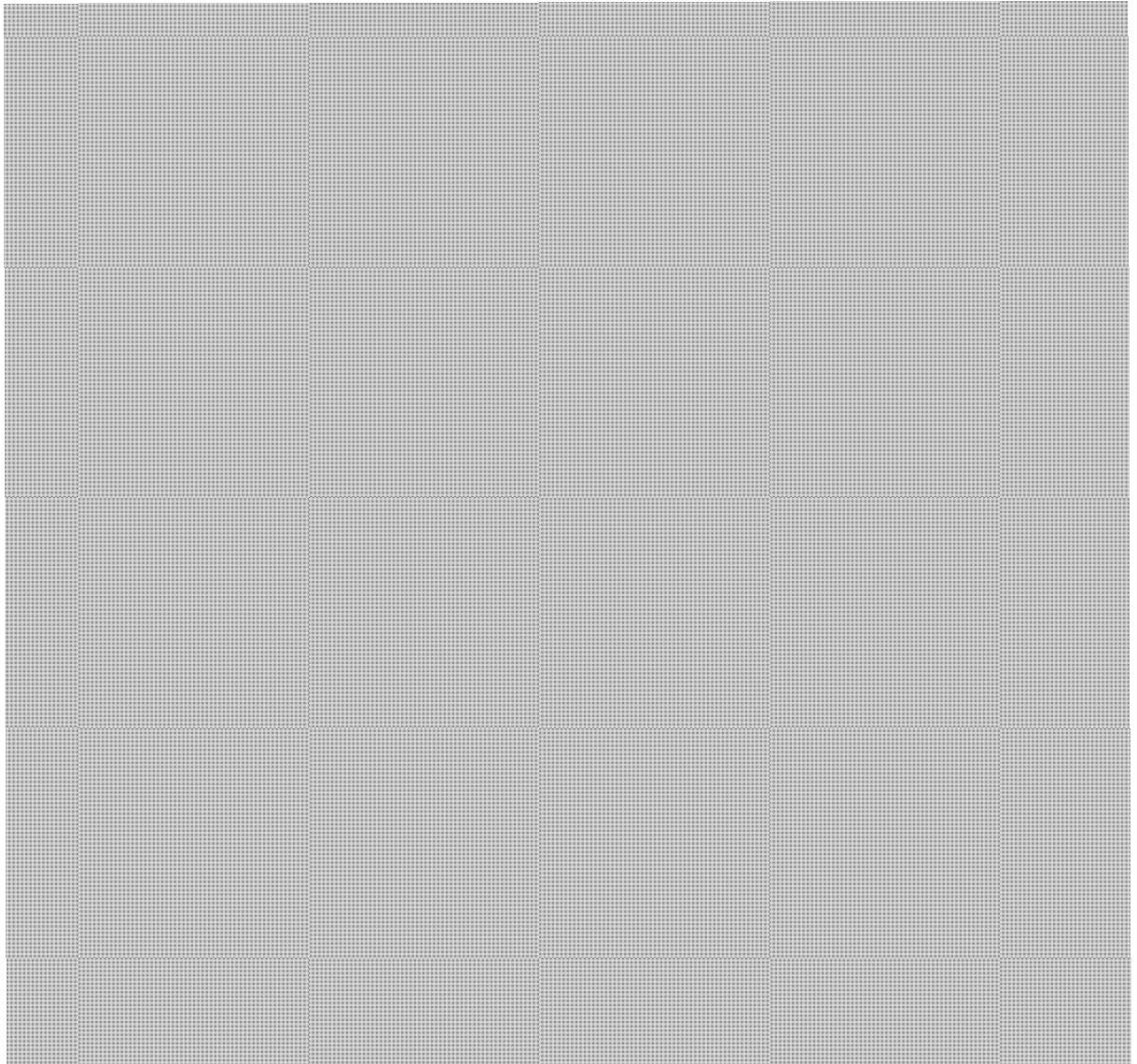
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ENCLOSURES  
 Annexes

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FLP  
 Mr. Lapointe  
 Mr. Phillips  
 DOE/Legault

...  
 ...



*J. M. Miller*

D.M. Miller,  
 Director,  
 Legal Operations Division.



FLC/G.A.Léger 2-6632/10h

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

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TO  
À FLA

FROM  
De FLO

REFERENCE  
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SUBJECT  
Sujet CDA/USA Convention on Fraser River Salmon

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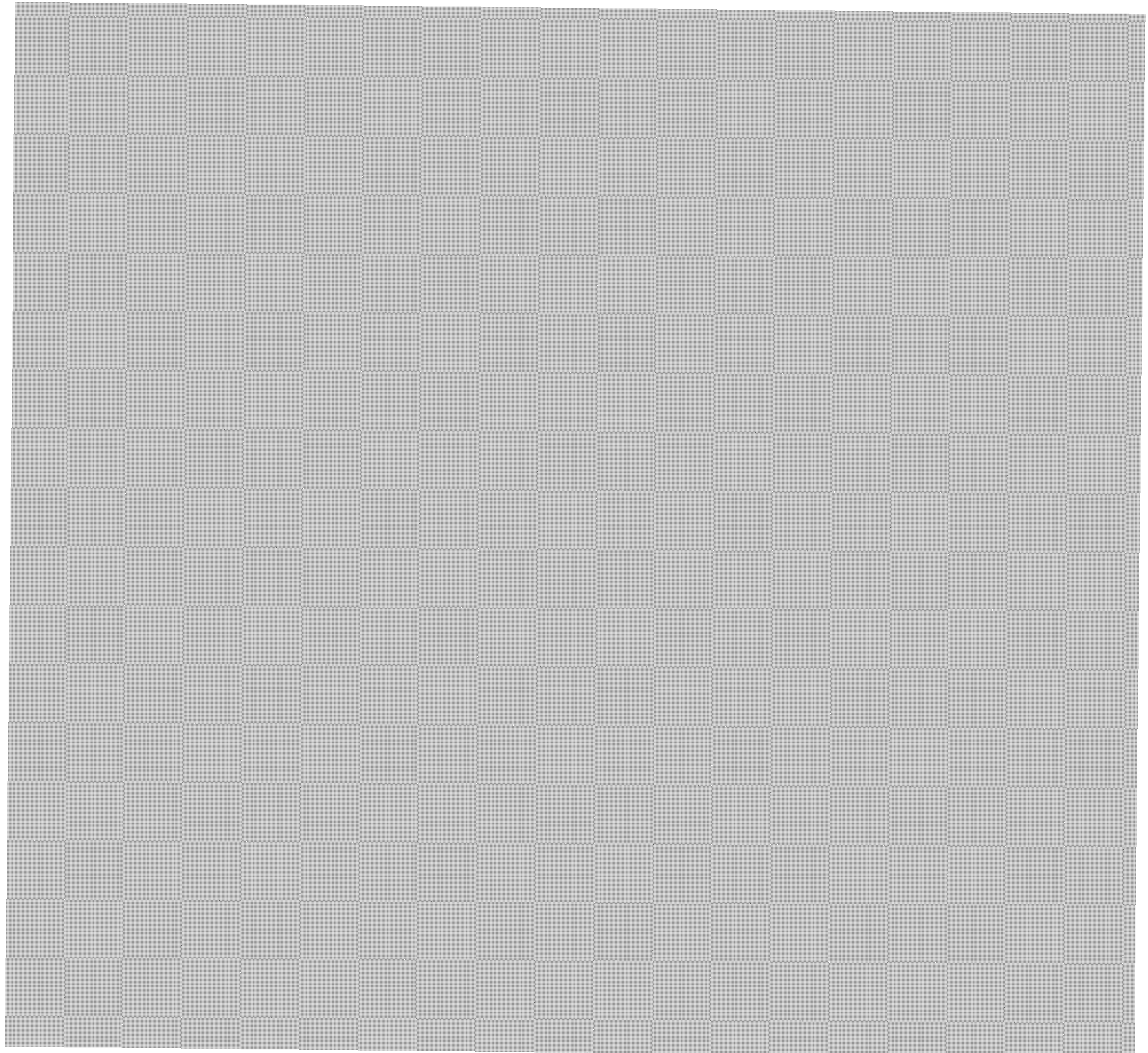
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D. M. MILLER

D.M. Miller,  
Director,  
Legal Operations Division.



FLO/G.A.Léger 2-6692/101

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Mr. Hege (FLO)

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DATE January 10, 1975

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CDA/USA Convention on Fraser River Salmon

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Department of External Affairs

*D.M. Miller*

D.M. Miller,  
Director,  
Legal Operations Division.



ECL/M.M. Hart/2-5421/sjt

EXTERNAL AFFAIRS

AFFAIRES EXTÉRIEURES



TO FLO  
À

FROM ECL  
De

REFERENCE  
Référence

SUBJECT Extent of Economic Leverage available in Canada/USA  
Sujet Salmon talks

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DATE January 15, 1975

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Annexes

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GWU

We appreciate that bargaining pressure on the Canadian side in the Canada/USA Salmon talks may be insufficient. We are aware of the attractiveness to non-governmental advisors of widening the scope of negotiation by adding the leverage of unrelated economic sanctions. We do not, however, consider this to be a wise policy.

2. We are opposed in principle to confusing one economic issue with another. In most instances the Canadian position has enough merit to stand by itself and would not be substantially improved by trade-offs between issues. We believe that the system of trade-offs among unrelated issues has more disadvantages than advantages and is to be avoided as much as possible. We understand that GWU agrees with this position. To introduce non-fisheries issues, therefore, into the salmon talks would probably not resolve the outstanding issues and are more likely to complicate and draw out the negotiations.

3. At the preparatory meeting to be held in Vancouver we hope you will be able to lay this argument to rest.

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JAN 15 1975

In Local Operations Division  
Department of External Affairs

Commercial Policy Division



EXTERNAL AFFAIRS



MAIRES EXTÉRIEURES

m.

MEMORANDUM

TO FLO  
À

FROM GWU  
De

REFERENCE Your Memorandum of January 7, 1975  
Référence

SUBJECT Extent of Economic Leverage Available in Canada-USA  
Sujet Salmon Talks

SECURITY RESTRICTED  
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DATE January 15, 1975.

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ECL  
GWP  
FLP  
PDQ

I am sure that you can anticipate our response to your memorandum under reference.

2. While we understand the problems posed to the Canadian side in the salmon talks because of insufficient bargaining pressure, we could not possibly agree with the idea of trying to add leverage by introducing unrelated economic issues. Indeed, we consider that this Department should resist such an approach with all the vigour at our command. In dealing with the myriad of subjects in play in Canada/USA relations it is a fundamental point of departure that Canadian national interests are best served by taking an issue-by-issue approach. Once we accept linkage between unrelated issues (something which we suspect the State Department would welcome) then, with respect to the total relationship, the disparity in our populations, our economic power and our international influence leads inevitably to the conclusion that, whatever the short-term benefits that may be gained, in the long run we can only lose. Just imagine! To help the salmon fishermen we threaten to further curtail oil exports. The U.S. responds by threatening to close the Portland to Montreal Pipeline. We respond by threatening to withdraw from NORAD. Sight would soon be lost of the needs and concerns of the salmon fishermen. Threats escalate and escalate again and, in sum, we are faced with the reality that U.S. capacity to do injury to Canada far outweighs our capacity to affect the U.S. This whole idea should be promptly and firmly squelched on foreign policy grounds and perhaps a very frank explanation might be given the fishermen if we can be assured of their discretion.

USA Division

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JAN 16 1974

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Department of External Affairs



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ECLDIARY  
CIRC  
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DOE/Applebaum

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BY HANDCONFIDENTIAL

Dept. of Environment

Ottawa, K1A 0G2  
January 17, 1975

Our File: 25-5-7-2-SALMON-1

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25-5-7-2-SALMON-1	
38	20

Mr. L.H.J. Legault,  
Director General,  
International Fisheries and  
Marine Directorate,  
Fisheries and Marine Service,  
Environment Canada,  
EMR Tower, 580 Booth Street,  
Ottawa, Ontario.  
K1A 0H3

Dear Leonard:

Re: Extent of economic leverage available  
in Canada/USA Salmon Talks

... 2



s.23

- 2 -

Yours sincerely,

D.M. Miller, <sup>D. M. MILLER</sup>  
Director,  
Legal Operations Division.





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

*File*  
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CONFIDENTIAL

Ottawa, Ontario,  
K1A 0H3.  
January 30, 1975.

Your file    Votre référence

Our file    Notre référence

TO:    Members of the Interdepartmental Committee  
         on Fishery Policy and Programs

25-5-7-2-SALMON-1	
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It is proposed to discuss the attached document at a meeting of the Interdepartmental Committee on Fishery Policy and Programs which has been scheduled for 2.30 p.m. on February 4, 1975, in the 11th Floor Board Room at 580 Booth Street.

If you are unable to attend you may wish to be represented by an alternate.

*Charles McGee*

Charles McGee  
Secretary.  
(5-2201).

Attach.



**CONFIDENTIAL**

Pacific Salmon  
Enhancement Program

SUMMARY

Canada's valuable Pacific salmon resource has declined to one-half of historic levels. Unless a comprehensive enhancement program is undertaken soon, this decline will continue and the option to fully realize the known wealth producing potential of this resource will be lost.

The cause of this decline is largely attributed to encroachment of industrial development and urban growth on the aquatic environment.

The Province of British Columbia has jurisdiction over land and water use rights required for enhancement. Cooperation of the Province is essential and their response has been positive. Cooperation implies a decision to forego competing uses of salmon producing waters if such uses are detrimental to salmon production.

This document seeks approval for the Fisheries and Marine Service in conjunction with other Services of the Department of the Environment to proceed with a two-year study to develop a comprehensive program to apply salmon enhancement techniques to double B.C.'s salmon resource. A ten-year construction period is contemplated at a total cost of \$250-\$300 million which will be fully recoverable through the levying of fees to be paid by the commercial and recreational beneficiaries.

Programme de mise en valeur  
du saumon du Pacifique

RESUME

L'importance ressource du Canada qu'est le saumon du Pacifique a diminué de la moitié des niveaux habituels. A moins que ne soit entrepris sans délai un programme exhaustif de mise en valeur, cette diminution continuera et nous perdrons toute possibilité de tirer pleinement profit des richesses que représente la ressource.

La cause de cette baisse est en grande partie attribuable à l'empiètement du développement industriel et de l'expansion urbaine sur l'environnement aquatique.

La Colombie-Britannique a autorité sur les droits d'usage de l'eau et du sol, nécessaires à la mise en valeur. La collaboration de la province est donc essentielle et, de fait, sa réponse a été positive. La collaboration sous-entend la décision de renoncer à certaines utilisations des eaux à saumon si ces utilisations nuisent à la reproduction.

Le présent document demande que le Service des pêches et de la mer, conjointement avec d'autres Services du ministère de l'Environnement, soit autorisé à entreprendre une étude de deux ans en vue d'établir un programme exhaustif d'application des techniques de mise en valeur du saumon, qui permettrait de doubler la ressource de la Colombie-Britannique. Il y aura probablement une période de construction de dix ans et une dépense totale de 250 à 300 millions de dollars, complètement récupérable grâce à des droits imposés aux bénéficiaires commerciaux et sportifs.



**CONFIDENTIAL**

Pacific Salmon  
Enhancement Program

Programme de mise en valeur  
du saumon du Pacifique

Problem

1. Canada's valuable Pacific salmon resource has declined to one-half of historic levels, largely because of commitment of land and water to competing uses. Unless a commitment to a comprehensive salmon enhancement program is made soon, the option of doubling the output of wealth by restoring salmon populations to historic levels of abundance will be lost and the resource will continue to diminish.

Objectives

2. The objective of this Memorandum is to seek approval for the Department of the Environment to:

a) Develop a comprehensive salmon enhancement program which will apply currently known and proven fish culture techniques to double the population of Canada's Pacific salmon resource; and,

b) Enter negotiations with the Government of the Province of British Columbia to develop a federal-provincial agreement which will, while retaining federal responsibility, ensure that attainment of the objective outlined in (a) will not be thwarted by provincial prerogatives (water rights, land use, etc.).

Factors

3. Salmon are anadromous (migratory) and occupy the freshwater systems, the estuaries, and the inshore and offshore ocean areas during varying stages of their life history. Quality changes in any one of these habitats can be critical for salmon and in extreme cases will result in total loss of affected stocks.

4.

a) Much of the decline in abundance of salmon is attributed to environmental degradation and partial or complete alienation of some freshwater systems and estuaries, caused by economic development of other natural resources, chiefly within the jurisdiction of the Province. These declines were halted in the 1960's by intensified protection, research and scientific management, including restoration of some stocks and habitats. However, with the rapid escalation of the rate of industrial development particularly in forest activities and construction of transportation facilities, there is again serious concern for the survival of salmon, despite intensification of habitat protection activities; and

b) This proposal does not envisage a total veto on the use of aquatic resources for other purposes. The salmon enhancement program, however, will constrain uses deleterious to production of salmon. In other cases, current enhancement techniques can be applied to compensate for expected losses in natural production caused by industrial development.



- 2 -

5. The British North America Act assigns to the Federal Government exclusive responsibility for all "sea-coast and inland fisheries". Canada has consistently undertaken research and development programs looking to applying new-found technology to increase fish stocks in general, and salmon stocks in particular. For instance, in the last quarter-century the Fisheries and Marine Service has implemented a number of fish cultural techniques (fishways, hatcheries, spawning channels, flow-control works, etc.) which have proved beyond doubt that Canada's Pacific salmon stocks can be enhanced at very favourable benefit-cost ratios.

6. Land and water use rights required for enhancement are largely within provincial jurisdiction. Unilateral enhancement of salmon will adversely affect those fisheries for which the Province is administratively responsible.

7. A major enhancement program will not only reverse the long-term downward trend in salmon abundance but also will double current production, for which there is strong demand.

8. In the last decade an average of 150 million pounds of Pacific salmon was produced each year, currently (1974) worth \$75 million landed value and \$180 million wholesale value. Each year, over one million user-days of recreational activity center on salt and fresh water sport fishing for salmon and coastal trout. Indians annually catch in excess of two million dollars (wholesale value) worth of salmon for home consumption and, also, derive cultural values of incalculable importance to their way of life. Additionally, there is widespread non-consumptive use and enjoyment of salmon and salmon-producing waters by the general public.

9. A comprehensive salmon enhancement program to apply the techniques outlined in (5) can add twenty-five million salmon to the catch, thereby forming the basis for a commercial fishing industry with an annual wholesale value of \$400 million (1974 dollars), a recreational fishery of three million user-days and an Indian foodfish fishery capable of serving the needs of this rapidly growing ethnic group. This doubling of the stocks will have the following additional benefits:

- a) increased direct employment and earnings opportunities in commercial fishing and processing of the product, as well as indirect benefits accruing to the support industries (boats, nets, gear, instruments, etc.);
- b) enhancement of the recreational fisheries, the benefits of which are difficult to assess in monetary terms, but which generate substantial revenue for motels, hotels, restaurants, guides, gear suppliers, etc.;
- c) strengthen the economic bases of small coastal communities whose populations, many of whom are native Indians, have few opportunities other than commercial fishing from which to earn their livelihoods;
- d) improve Canada's balance of payments in commodity trade through a doubling of the export of salmon products and the increased revenue generated by the tourism of non-resident anglers; and
- e) provide the opportunity to create resource rent to the people of Canada.

10. On the basis of experience to date, a comprehensive salmon enhancement program could call for an expenditure in the order of \$250 to \$300 million, of which more than two-thirds would be for capital costs of the enhancement facilities and the technical studies which would be required during the proposed 10-year construction period. The balance of the funds would defray operational expenses over the life of the project, which is estimated at 50 years. Both the commercial fishing fleet and the processing industry operate below potential capacity; therefore increasing the supply of salmon over a period of several years will not create significant dislocation within the fishing industry.



- 3 -

11. The costs associated with this program are recoverable through the levying of charges on those who benefit directly from the enhanced opportunities for commercial and recreational fishing. Whether or not these monies will be realized through imposition of a schedule of licence fees, entry fees, landing fees, etc. will be defined in the planning process. The users of the resource have clearly indicated that they are prepared to pay for these additional benefits, and there is no doubt that an equitable and workable cost recovery scheme will be developed.

12. The broad objective of a comprehensive salmon enhancement program is to double availability of the salmon resource to Indian foodfish fisheries, commercial fisheries and recreational purposes. The Fisheries and Marine Service in conjunction with other Services of the Department of the Environment will undertake planning studies which will define optimum biological and economic salmon population levels. These studies will result in a comprehensive Pacific salmon enhancement program for review by Cabinet, by March 1, 1977.

13. Note should be taken that there are potential difficulties, such as those associated with other nations possibly harvesting the salmon in international waters and the growing assertion of Indian rights to the resource. With regard to the former, Canada has consistently maintained at every opportunity, including the U.N.-sponsored (1974) Law of the Sea Conference, that salmon (both Pacific and Atlantic) are the property of their country of origin and should not be fished by other nations. These efforts are being rewarded by a growing recognition by other countries of the merits of this principle which will continue to be pursued (at future) Law of the Sea conferences. Furthermore, considerable progress is being attained in a continuing series of bilateral meetings with the United States for the purpose of developing the means of achieving an equitable balance of interceptions of each other's salmon. In this regard, the desires of both Canada and the United States to enhance salmon acts as a positive factor in furthering these negotiations. Insofar as native rights are concerned, it is firmly believed that appropriate accommodations can be developed to ensure adequate supplies of salmon not only for the Indian people, but also for the commercial and recreational fisheries. These problems, of course, will exist whether or not this program proceeds.

#### Alternatives

14. One alternative is to do nothing, but this approach will only ensure that the salmon stocks will continue to decline in numbers, at substantial cost to Canada because of the resultant losses in commercial and recreational fishing opportunities.

15. A second alternative calls for continuation of the salmon enhancement program at its current level of expenditure (averaging \$2 million per year) but, at best, such a program can only partially offset the anticipated losses stemming from continuing industrial development and urban growth. Such a modest program is therefore only a defensive measure which falls short of the approach which must be adopted if Canada is to seize the opportunity to double the size of the salmon resource, with the commensurate benefits which will accrue to the Canadian economy.

16. A third alternative is to persuade the Province of British Columbia to halt competing economic development which encroaches on the productivity of salmon waters and, concurrently, to strengthen federal legislation to protect the resource while intensifying enforcement. This approach might forestall the decline of the salmon resource but the cost would be in the same order of magnitude as that of the contemplated enhancement program. It would not provide the benefits accruing from a doubling of the salmon resource.

17. The recommended alternative is to proceed with a comprehensive salmon enhancement program as outlined in this document.



#### Financial Considerations

18. While the costs associated with the implementation of a comprehensive salmon enhancement program are currently estimated at \$250-\$300 million, the purpose of this Memorandum is to seek approval to initiate detailed studies to develop firm proposals and cost estimates. It is envisaged that these studies, which will be undertaken by biologists, engineers, economists, sociologists and research scientists will cost \$4 million and a modest increase in man-years for 1975-76, for which supplementary estimates will be requested. For 1976-77, \$6 million will be sought through the program forecast and budgeting process.

#### Federal-Provincial Relations Considerations

19. At the Western Economic Opportunities Conference Canada agreed to develop opportunities through aquaculture and related fisheries projects. This enhancement program will be a major contribution to fulfillment of this commitment. However, the question may be raised as to why the federal government should consider a major development program for Pacific salmon at a time when the Canadian groundfish industry is in severe economic difficulty. The federal government has embarked on a program leading to the rehabilitation of the groundfish sector of the Canadian fishing industry - located primarily in the Atlantic Provinces. Action to correct difficulties in one region should not preclude development of programs to realize on opportunities in another.

20. The interests of the Province of British Columbia in enhancement are wide ranging and substantial:

a) Land and water use rights required for enhancement are largely within provincial jurisdiction;

b) Commitment of salmon producing fresh water systems to optimum salmon production will impinge on the exercise of options to use these systems in other ways. Concurrence of the Province will imply a decision to forego opportunities generated by alternate use, in favour of the social and economic benefits generated by salmon enhancement; and

c) Steelhead and other coastal trout, for which the Province has administrative responsibility, can be adversely affected by salmon enhancement and increased harvesting activity unless the program is broadened to include these species.

21. Participation of the Province is essential. In discussions at the Ministerial and official levels, the Province has expressed considerable interest and a willingness to cooperate in this enhancement program.

22. Once the details of a comprehensive program have been developed, a Federal-Provincial agreement will be drawn up and signed to formalize the respective commitments, responsibilities and the nature and extent of financial contributions of the two governments.

#### Interdepartmental Consultations

23. Consultations with other departments have been in progress since a Government-Industry Seminar on Fisheries Resources Enhancement convened at Vancouver, British Columbia, in January 1974. Representatives from the Treasury Board Secretariat, Manpower and Immigration, Finance and Industry, Trade and Commerce participated in this seminar. Discussions with these and other departments will continue as the program develops.

External



- 5 -

#### Public Relations Considerations

24.

a) On several occasions, the former Minister of the Environment announced publicly that the salmon enhancement program outlined herein was on the "drawing boards". This message was enthusiastically received by the fish processing industry, the fishermen's unions and associations and the recreational fraternity;

b) Public response to the program proposal has been very favourable and expectations are high that the program will proceed. However, recently there have been some public expressions of concern that the government's position on the proposed enhancement program has not been further clarified; and

c) Maximum public impact can be achieved by the Minister of State for Fisheries announcing the government's intention concerning this program during a visit to British Columbia.

#### Liberal Party Policy Considerations

#### Caucus Consultation

#### Conclusions

27. The salmon resource of Canada's Pacific coast constitutes 75 per cent of British Columbia's valuable commercial fisheries. This resource is in peril of being eradicated as a result of encroachment of industrial development and urban growth on the aquatic environment.

28. Technology has now reached the stage where enhancement techniques can be applied to halt the long-term downward trend in the total number of salmon and to double production, with commensurate benefits accruing to the Indian foodfish, commercial and recreational fisheries and hence to the Canadian taxpayer.

29. While detailed cost estimates have not yet been confirmed, it is expected that a comprehensive program to apply known enhancement techniques will call for an expenditure in the order of \$250-\$300 million, on a cost recoverable basis.

30. This document seeks approval for the Fisheries and Marine Service in conjunction with other Services of the Department of the Environment to initiate detailed studies over a two-year period. The cost of these studies is expected to be \$4 million in 1975-76, and \$6 million in 1976-77.

31. Cooperation of the Province of British Columbia is essential and the Province has expressed interest in participating in the program.



- 6 -

Recommendations

32. It is recommended that Cabinet approval be granted for:

- a) The Fisheries and Marine Service in conjunction with other Services of the Department of the Environment to undertake detailed studies to develop a comprehensive salmon enhancement program for consideration by Cabinet by March 1977.
- b) The Minister of State for Fisheries to enter negotiations with the Government of British Columbia to develop a federal-provincial agreement which will formalize the respective commitments and responsibilities of the two governments.
- c) Public announcement of this program proposal by the Minister of State for Fisheries during a visit to British Columbia in the near future.

Recommandations

32. Il est recommandé que le Cabinet autorise:

- a) le Service des pêches et de la mer, conjointement avec d'autres Services du ministère de l'Environnement, à entreprendre des études détaillées en vue de l'établissement d'un programme exhaustif pour la mise en valeur du saumon, à soumettre au Cabinet d'ici mars 1977;
- b) le ministre d'Etat (Pêches) à entreprendre des négociations avec le gouvernement de la Colombie-Britannique pour élaborer un accord fédéral-provincial confirmant les tâches et engagements respectifs des deux gouvernements;
- c) l'annonce publique du projet de programme par le ministre d'Etat (Pêches) au cours d'une prochaine visite en Colombie-Britannique.



Date

APR 11 1978

CHECKLIST - PREPARATION OF SUBSTANTIVE FILES FOR MICROFILMING  
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File No./Dossier no

25-5-7-2-SALMON-1

Vol. No.

4

Subject/Sujet

Secularies - Water - High Seas - Fisheries - Int Pacific Salmon  
Fisheries Commission - Canada - USA

Date

From/De

74-01-01

Date  
To/À

75-01-31

CLERK/COMMIS

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000902



FORM "A"  
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..... Please take action on the attached items as indicated:  
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TITLE/TITRE


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