

N° 4255.

ÉTATS-UNIS D'AMÉRIQUE
ET CANADA

Convention en vue de la protection,
de la conservation et de l'expansion
de la pêche du saumon
sockeye dans les eaux du fleuve
Fraser, signée à Washington, le
26 mai 1930, et protocole relatif
à l'échange des ratifications, signé
à Washington, le 28 juillet 1937.

UNITED STATES OF AMERICA
AND CANADA

Convention for the Protection, Pre-
servation and Extension of the
Sockeye Salmon Fisheries of the
Fraser River System, signed at
Washington, May 26th, 1930,
and Protocol relating to the
Exchange of Ratifications, signed
at Washington, July 28th, 1937.

No. 4255. — CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PROTECTION, PRESERVATION AND EXTENSION OF THE SOCKEYE SALMON FISHERIES OF THE FRASER RIVER SYSTEM. SIGNED AT WASHINGTON, MAY 26TH, 1930.

English official text communicated by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Berne and by the Canadian Advisory Officer to the League of Nations. The registration of this Convention took place January 7th, 1938.

THE PRESIDENT OF THE UNITED STATES OF AMERICA and HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, in respect of THE DOMINION OF CANADA, recognizing that the protection, preservation and extension of the sockeye salmon fisheries in the Fraser River system are of common concern to the United States of America and the Dominion of Canada ; that the supply of this fish in recent years has been greatly depleted and that it is of importance in the mutual interest of both countries that this source of wealth should be restored and maintained, have resolved to conclude a Convention and to that end have named as their respective Plenipotentiaries :

THE PRESIDENT OF THE UNITED STATES OF AMERICA :

Mr. Henry L. STIMSON, Secretary of State of the United States of America ; and

HIS MAJESTY, FOR THE DOMINION OF CANADA :

The Honorable Vincent MASSEY, a member of His Majesty's Privy Council for Canada and His Envoy Extraordinary and Minister Plenipotentiary for Canada at Washington ;

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

Article I.

The provisions of this Convention and the orders and regulations issued under the authority thereof shall apply, in the manner and to the extent hereinafter provided in this Convention, to the following waters :

1. The territorial waters and the high seas westward from the western coast of the United States of America and the Dominion of Canada and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse on Tatoosh Island, Washington, — which line marks the entrance to Juan de Fuca Strait — and embraced between

¹ The exchange of ratifications took place at Washington, July 28th, 1937.

48 and 49 degrees north latitude, excepting therefrom, however, all the waters of Barklay Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

2. The waters included within the following boundaries :

Beginning at Bonilla Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph numbered 1 of this Article, thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula, thence in a straight line to Point Partridge on Whidbey Island, thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway, thence northerly following the shore line of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, thence westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shore line to Welcome Point on Sechart Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island to the starting point at Bonilla Point, as shown on the United States Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, and on the British Admiralty Chart Number 579, copies of which are annexed¹ to this Convention and made a part thereof.

3. The Fraser River and the streams and lakes tributary thereto.

The High Contracting Parties engage to have prepared as soon as practicable charts of the waters described in this Article, with the above described boundaries thereof and the international boundary indicated thereon. Such charts, when approved by the appropriate authorities of the Governments of the United States of America and the Dominion of Canada, shall be considered to have been substituted for the charts annexed¹ to this Convention and shall be authentic for the purposes of the Convention.

The High Contracting Parties further agree to establish within the territory of the United States of America and the territory of the Dominion of Canada such buoys and marks for the purposes of this Convention as may be recommended by the Commission hereinafter authorized to be established, and to refer such recommendations as the Commission may make as relate to the establishment of buoys or marks at points on the international boundary to the International Boundary Commission, United States-Alaska and Canada, for action pursuant to the provisions of the Treaty² between the United States of America and His Majesty, in respect of Canada, respecting the boundary between the United States of America and the Dominion of Canada, signed February 24, 1925.

Article II.

The High Contracting Parties agree to establish and maintain a Commission to be known as the International Pacific Salmon Fisheries Commission, hereinafter called the Commission, consisting of six members, three on the part of the United States of America and three on the part of the Dominion of Canada.

The Commissioners on the part of the United States of America shall be appointed by the President of the United States of America. The Commissioners on the part of the Dominion of Canada shall be appointed by His Majesty on the recommendation of the Governor General in Council.

The Commissioners appointed by each of the High Contracting Parties shall hold office during the pleasure of the High Contracting Party by which they were appointed.

¹ Not reproduced.

² Vol. XLIII, page 239; and Vol. CIV, page 502, of this Series.

The Commission shall continue in existence so long as this Convention shall continue in force, and each High Contracting Party shall have power to fill and shall fill from time to time vacancies which may occur in its representation on the Commission in the same manner as the original appointments are made. Each High Contracting Party shall pay the salaries and expenses of its own Commissioners, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

Article III.

The Commission shall make a thorough investigation into the natural history of the Fraser River sockeye salmon, into hatchery methods, spawning ground conditions and other related matters. It 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 to that end it shall have power to improve spawning grounds, construct, and maintain hatcheries, rearing ponds and other such facilities as it may determine to be necessary for the propagation of sockeye salmon in any of the waters covered by this Convention, and to stock any such waters with sockeye salmon by such methods as it may determine to be most advisable. The Commission shall also have authority to recommend to the Governments of the High Contracting Parties removing or otherwise overcoming obstructions to the ascent of sockeye salmon, that may now exist or may from time to time occur, in any of the waters covered by this Convention, where investigation may show such removal of or other action to overcome obstructions to be desirable. The Commission shall make an annual report to the two Governments as to the investigations which it has made and other action which it has taken in execution of the provisions of this Article, or of other Articles of this Convention.

The cost of all work done pursuant to the provisions of this Article, or of other Articles of this Convention, including removing or otherwise overcoming obstructions that may be approved, shall be borne equally by the two Governments, and the said Governments agree to appropriate annually such money as each may deem desirable for such work in the light of the reports of the Commission.

Article IV.

The Commission is hereby empowered to limit or prohibit taking sockeye salmon in respect of all or any of the waters described in Article I of this Convention, provided that when any order is adopted by the Commission limiting or prohibiting taking sockeye salmon in any of the territorial waters or on the High Seas described in paragraph numbered 1 of Article I, such order shall extend to all such territorial waters and High Seas, and, similarly, when in any of the waters of the United States of America embraced in paragraph numbered 2 of Article I, such order shall extend to all such waters of the United States of America, and when in any of the Canadian waters embraced in paragraphs numbered 2 and 3 of Article I, such order shall extend to all such Canadian waters, and provided further, that no order limiting or prohibiting taking sockeye salmon adopted by the Commission shall be construed to suspend or otherwise affect the requirements of the laws of the State of Washington or of the Dominion of Canada as to the procuring of a license to fish in the waters on their respective sides of the boundary, or in their respective territorial waters embraced in paragraph numbered 1 of Article I of this Convention, and provided further that any order adopted by the Commission limiting or prohibiting taking sockeye salmon on the High Seas embraced in paragraph numbered 1 of Article I of this Convention shall apply only to nationals and inhabitants and vessels and boats of the United States of America and the Dominion of Canada.

Any order adopted by the Commission limiting or prohibiting taking sockeye salmon in the waters covered by this Convention, or any part thereof, shall remain in full force and effect unless and until the same be modified or set aside by the Commission. Taking sockeye salmon in said waters in violation of an order of the Commission shall be prohibited.

Article V.

In order to secure a proper escapement of sockeye salmon during the spring or chinook salmon fishing season, the Commission may prescribe the size of the meshes in all fishing gear and appliances that may be operated during said season in the waters of the United States of America and or the Canadian waters described in Article I of this Convention. At all seasons of the year the Commission may prescribe the size of the meshes in all salmon fishing gear and appliances that may be operated on the High Seas embraced in paragraph numbered 1 of Article I of this Convention, provided, however, that in so far as concerns the High Seas, requirements prescribed by the Commission under the authority of this paragraph shall apply only to nationals and inhabitants and vessels and boats of the United States of America and the Dominion of Canada.

Whenever, at any other time than the spring or chinook salmon fishing season, the taking of sockeye salmon in waters of the United States of America or in Canadian waters is not prohibited under an order adopted by the Commission, any fishing gear or appliance authorized by the State of Washington may be used in waters of the United States of America by any person thereunto authorized by the State of Washington, and any fishing gear or appliance authorized by the laws of the Dominion of Canada may be used in Canadian waters by any person thereunto duly authorized. Whenever the taking of sockeye salmon on the High Seas embraced in paragraph numbered 1 of Article I of this Convention is not prohibited, under an order adopted by the Commission, to the nationals or inhabitants or vessels or boats of the United States of America or the Dominion of Canada, only such salmon fishing gear and appliances as may have been approved by the Commission may be used on such High Seas by said nationals, inhabitants, vessels or boats.

Article VI.

No action taken by the Commission under the authority of this Convention shall be effective unless it is affirmatively voted for by at least two of the Commissioners of each High Contracting Party.

Article VII.

Inasmuch as the purpose of this Convention is to establish for the High Contracting Parties, by their joint effort and expense, a fishery that is now largely nonexistent, it is agreed by the High Contracting Parties that they should share equally in the fishery. The Commission shall, consequently, regulate the fishery with a view to allowing, as nearly as may be practicable, an equal portion of the fish that may be caught each year to be taken by the fishermen of each High Contracting Party.

Article VIII.

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.

Except as hereinafter provided in Article IX of this Convention, each High Contracting Party shall be responsible, in respect of its own nationals and inhabitants and vessels and boats, for the enforcement of the orders and regulations adopted by the Commission, under the authority of this Convention, on the High Seas embraced in paragraph numbered 1 of Article I of the Convention.

Each High Contracting Party shall acquire and place at the disposition of the Commission any land within its territory required for the construction and maintenance of hatcheries, rearing ponds, and other such facilities as set forth in Article III.

Article IX.

Every national or inhabitant, vessel or boat of the United States of America or of the Dominion of Canada, that engages in sockeye salmon fishing on the High Seas embraced in paragraph numbered 1 of Article I of this Convention, in violation of an order or regulation adopted by the Commission, under the authority of this Convention, may be seized and detained by the duly authorized officers of either High Contracting Party, and when so seized and detained shall be delivered by the said officers, as soon as practicable, to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon with the competent authorities. The authorities of the country to which a person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of any order or regulation, adopted by the Commission in respect of fishing for sockeye salmon on the High Seas embraced in paragraph numbered 1 of Article I of this Convention, or of any law or regulation which either High Contracting Party may have made to carry such order or regulation of the Commission into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Article X.

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

Article XI.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty in accordance with constitutional practice, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible and shall continue in force for a period of sixteen years, and thereafter until one year from the day on which either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the present Convention, and have affixed their seals thereto.

Done in duplicate at Washington on the twenty-sixth day of May, one thousand nine hundred and thirty.

(Seal) Henry L. STIMSON.

(Seal) Vincent MASSEY.

Certified to be a true and complete textual copy of the original Convention in the sole language in which it was signed, as well as true reproductions of the Charts annexed thereto.

For the Secretary of State
of the United States of America :

Edward Yardley,
*Chief Clerk
and Administrative Assistant.*

Certified to be a true copy of the Convention between Canada and the United States for the protection, preservation and extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on the 26th day of May, 1930.

Dated this 16th day of February, A. D. 1938.

O. D. Skelton,
Under-Secretary of State for External Affairs.

PROTOCOL OF EXCHANGE.

English official text communicated by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Berne. The registration of this Protocol took place January 7th, 1938.

The undersigned the Secretary of State of the United States of America and the Canadian Minister at Washington met this day for the purpose of exchanging ratifications of the Convention between the United States of America and Canada for the protection, preservation and extension of the sockeye salmon fisheries of the Fraser River System, signed at Washington on May 26, 1930.

The Secretary of State of the United States of America stated that the Convention is ratified on the part of the United States of America subject to the three understandings contained in the resolution of the Senate of the United States of America advising and consenting to ratification, a copy of which resolution was communicated to the Secretary of State for External Affairs of Canada by the Minister of the United States of America at Ottawa in his note of July 7, 1936. These three understandings are as follows :

(1) That the International Pacific Salmon Fisheries Commission shall have no power to authorize any type of fishing gear contrary to the laws of the State of Washington or the Dominion of Canada ;

(2) That the Commission shall not promulgate or enforce regulations until the scientific investigations provided for in the Convention have been made, covering two cycles of Sockeye Salmon runs, or eight years ; and

(3) That the Commission shall set up an Advisory Committee composed of five persons from each country who shall be representatives of the various branches of the industry (purse seine, gill net, troll, sport fishing, and one other), which Advisory Committee shall be invited to all non-executive meetings of the Commission and shall be given full opportunity to examine and to be heard on all proposed orders, regulations or recommendations.

The Canadian Minister stated that he was authorized by his Government to state that it accepted the foregoing understandings.

The exchange then took place in the usual manner.

In witness whereof they have signed the present Protocol and have affixed their seals hereto.

Done at Washington this twenty-eighth day of July, 1937.

(Seal) Cordell HULL,
*Secretary of State
of the United States of America.*

(Seal) Herbert M. MARLER,
Canadian Minister.