

No. 264

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

Excellency:

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

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

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

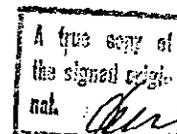
Accept, Excellency, the renewed assurances of my highest consideration.


Charge d'Affaires ad interim

Enclosures:

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

His Excellency
Pierre Pettigrew,
Minister of Foreign Affairs and International Trade
of Canada,
Ottawa.





Excellency,

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

"Excellency,

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

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

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

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

Charge d'Affaires ad interim

Enclosures:

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

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

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

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

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



Legal Adviser

Ottawa, June 17, 2005

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

Stikine River sockeye salmon:

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

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

Stikine River coho salmon:

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

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

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

Stikine River Chinook salmon:

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

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

- (vi) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 125 Chinook salmon to be taken between May 15 and June 20. For this fishery:
 - a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.
 - b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.
 - c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.
 - d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral TBR Panel and approved by the Pacific Salmon Commission.

- (vii) Management of Stikine River Chinook salmon will take into account the conservation of specific stocks or conservation units when planning and prosecuting their respective fisheries. To avoid over-harvesting of specific components of the run, weekly guideline harvests will be developed by the Parties by apportioning their allowable harvest over the total Chinook season based on historical weekly run timing.

- (viii) By 2008, the Parties agree to develop and implement through the Committee an agreed Chinook stock identification program to assist the management of Stikine Chinook salmon.

- (ix) The current MSY escapement goal point estimate (N_{MSY}) for above-border Stikine River Chinook salmon is 17,400 fish (greater than 659 mm mid-eye to fork length) with a range of 14,000 to 28,000 fish. This goal is subject to periodic review by the Parties.

- (x) A preseason forecast of the Stikine River Chinook salmon terminal run¹ size will be made by the Committee by February 1 of each year.

- (xi) In 2005 and 2006, directed fisheries may be implemented based on preseason forecasts only if the preseason forecast terminal run size equals or exceeds the upper end of the MSY escapement goal range plus the combined Canada, U.S. and test fishery base level catches (BLCs) of Stikine River Chinook salmon. The preseason forecast will only be used for management until inseason projections become available.

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

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

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

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

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

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

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

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

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

Taku River Chinook salmon:

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

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

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

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

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

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

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

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

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

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

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

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

Alsek River:

Annex IV, Chapter 1, Paragraph 3(c)

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

- (ii) The Committee will develop an annual pre-season fishery management plan for Alsek River fisheries by May 1.

- (iii) Chinook salmon:
 - a. The Parties agree that new directed fisheries on Alsek River Chinook salmon will not occur without the consent of both Parties and an agreed abundance-based management regime has been developed.
 - b. In 2005 through 2008, the Parties agree to conduct an assessment test fishery to be administered by the U.S. under terms to be developed by the Committee. The test fishery will be conducted over the duration of the run. The overall Chinook catch in the test fishery will not exceed 500 fish. All fish caught will be sampled for length, age, sex and tissue (for genetic stock ID).
 - c. In 2005 through 2008, the Committee will develop in-river abundance estimates of Alsek Chinook salmon and a stock identification program.

- (iv) Sockeye salmon:
 - a. In 2005 through 2008, the Committee will refine and implement inseason abundance-based management. The Parties will endeavour to continue to explore methods for determining inriver abundance (such as genetic stock ID).
 - b. In 2005 through 2008, weekly tissue samples will be collected from the Dry Bay commercial fishery in addition to the normal sampling program.

- (v) Coho salmon:
 - a. The Parties agree to develop an abundance-based management regime.

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

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

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

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

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

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