

**Protocol Between The Government Of The United States Of America And The  
Government Of Canada Amending The 1916 Convention Between The United  
Kingdom And The United States Of America For The Protection Of  
Migratory Birds In Canada And The United States**

The Government of the United States of America and the Government of Canada

REAFFIRMING their commitment to achieving the purposes and objectives of the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States;

DESIRING to amend and update the Convention to enable effective actions to be taken to improve the convention of migratory birds;

COMMITTED to the long-term conservation of shared species of migratory birds for their nutritional, social, cultural, spiritual, ecological, economic, and aesthetic values through a more comprehensive international framework that involves working together to cooperatively manage their populations regulate their take, protect the lands and waters on which they depend, and share research and survey information;

AWARE that changes to the Convention are required to ensure conformity with the aboriginal and treaty rights of the Aboriginal people of Canada:

ACKNOWLEDGING the intent of the United States to provide for the customary and traditional taking of certain species of migratory birds and their eggs for subsistence use by indigenous inhabitants of Alaska; and

AFFIRMING that it is not the intent of this Protocol to cause significant increases in the take of species of migratory birds relative to their continental population sizes;

HAVE AGREED as follows:

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**ARTICLE I**

In order to update the listing of migratory birds included in the terms of this Convention in a manner consistent with their current taxonomic (Family and Subfamily) status, Article I of the Convention is deleted and replaced by the following:

The High Contracting Powers declare that the migratory birds included in the terms of this Convention shall be as follows:

1. Migratory Game Birds:

Anatidae, or waterfowl (ducks, geese and swans);

Gruidae, or cranes (greater and lesser sandhill and whooping cranes);

Rallidae, or rails (coots, gallinules and rails);

Charadriidae, Haematopodidae, Recurvirostridae, and Scolopacidae, or shorebirds (including plovers and lapwings, oystercatchers, stilts and avocets, and sandpipers and allies);

and Columbidae (doves and wild pigeons)

## 2 Migratory Insectivorous Birds

Aegithalidae (long-tailed tits and bushtits);

Alaudidae (larks);

Apodidae (swifts);

Bombycillidae (waxwings);

Caprimulgidae (goatsuckers);

Certhiidae (creepers);

Cinclidae (dippers);

Cuculidae (cuckoos); Emberizidae (including the emberizid sparrows, wood-warblers, tanagers, cardinals and grosbeaks and allies, bobolinks, meadowlarks, and orioles, but not including blackbirds);

Fringillidae (including the finches and grosbeaks); Hirundinidae (swallows);

Laniidae (shrikes);

Mimidae (catbirds, mockingbirds, thrashers, and allies);

Motacillidae (wagtails and pipits);

Muscicapidae (including the kinglets, gnatcatchers, robins, and thrushes);

Paridae (titmice);

Picidae (woodpeckers and allies);

Sittidae (nuthatches);

Trochilidae (hummingbirds);

Troglodytidae (wrens);

Tyrannidae (tyrant flycatchers);

and Vireonidae (vireos)

### 3 Other Migratory Nongame Birds

Alcidae (auks, auklets, guillemots, murrelets and puffins);

Ardeidae (bitterns and herons);

Hydrobatidae (storm petrels);

Procellariidae (petrels and shearwaters);

Sulidae (gannets); Podicipedidae (grebes);

Laridae (gulls, jaegers, and terns);

and Gaviidae (loons)

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## ARTICLE II

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### **Article II of the Convention is deleted and replaced by the following:**

The High Contracting Powers agree that to ensure the long-term conservation of migratory birds, migratory bird populations shall be managed in accord with the following conservation principles.

To manage migratory birds internationally:

To ensure a variety of sustainable uses:

To sustain healthy migratory bird populations for harvesting needs;

To provide for and protect habitat necessary for the conservation of migratory birds; and

To restore depleted populations of migratory birds

Means to pursue these principles may include, but are not limited to

Monitoring, regulation, enforcement and compliance;

Co-operation and partnership;

Education and information;

Incentives for effective stewardship;

Protection of incubating birds;

Designation of harvest areas;

Management of migratory birds on a population basis;

Use of aboriginal and indigenous knowledge, institutions, and practices: and

Development, sharing and use of best scientific information.

1. Except as provided for below, there shall be established the following close seasons during which no hunting shall be done

(a) The close- season on migratory game birds shall be between March 10 and September 1, and the season for hunting shall be further restricted to such periods not exceeding three and one-half months as the High Contracting Powers may severally deem appropriate and define by law or regulation; and

(b) The close season on migratory insectivorous birds and other migratory nongame birds shall continue throughout the year

2. Except as provided for below migratory birds, their nests, or eggs shall not be sold or offered for sale

3. Subject to laws, decrees or regulations to be specified by the proper authorities, the taking of migratory birds may be allowed at any time of the year for scientific, educational, propagative, or other specific purposes consistent with the conservation principles of this Convention

4. Notwithstanding the close season provisions in paragraph I and the prohibition on the taking of eggs in Article V, and respecting aboriginal and indigenous knowledge and institutions

(a) In the case of Canada, subject to existing aboriginal and treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982, and the regulatory and conservation regimes defined in the relevant treaties, land claims agreements self-government agreements, and co-management agreements with Aboriginal peoples of Canada.

(i) Migratory birds and their eggs may be harvested throughout the year by Aboriginal peoples of Canada having aboriginal or treaty rights, and down and inedible by-products may be sold, but the birds and eggs so taken shall be offered for barter, exchange, trade or sale, only within or between Aboriginal communities as provided for in the relevant treaties, land claims agreements, self-government agreements, or co-management agreements made with Aboriginal peoples of Canada; and

(ii) Migratory game and non-game birds and their eggs may be taken throughout the year for food by qualified non-aboriginal residents in areas of northern Canada where the relevant treaties land claims agreements, self-government agreements, or co-management agreements made with Aboriginal peoples of Canada recognize that the Aboriginal peoples may so permit. The dates of the fall season for the taking of migratory birds by qualified residents of Yukon and the Northwest Territories may be varied by law or regulation by the proper

authorities. The birds or eggs taken pursuant to this sub-paragraph (ii) shall not be sold or offered for sale

(b) In the case of the United States

(i) Migratory birds and their eggs may be harvested by the indigenous inhabitants of the State of Alaska. Seasons and other regulations implementing the non-Wasteful taking of migratory birds and the collection of their eggs by indigenous inhabitants of the State of Alaska shall be consistent with the customary and traditional uses by such indigenous inhabitants for their own nutritional and other essential needs.

(ii) Indigenous inhabitants of the State of Alaska shall be afforded an effective and meaningful role in the conservation of migratory birds including the development and implementation of regulations affecting the non-wasteful taking of migratory birds and the collection of their eggs by participating on relevant management bodies.

5. Murres may be taken by non-aboriginal residents of the province of Newfoundland And Labrador for food, subject to regulation during the period from September 1 to March 10 but the murrens so taken shall not be sold or offered for sale. The season for murre hunting shall be further restricted to such period not exceeding three and one-half months as the proper authority may deem appropriate by law or regulation

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## ARTICLE III

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### **Article III of the Convention is deleted and replaced by the following:**

The High Contracting Powers agree to meet regularly to review progress in implementing the Convention. The review shall address issues important to the conservation of migratory birds, including the status of migratory bird populations, the status of important migratory bird habitats, the effectiveness of management and regulatory systems and other issues deemed important by either High Contracting Power. The High Contracting Powers agree to work cooperatively to resolve identified problems in a manner consistent with the principles underlying the Convention and, if the need arises, to conclude special arrangements to conserve and protect species of concern.

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## ARTICLE IV

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### **Article IV of the Convention is deleted and replaced by the following:**

Each High Contracting Power shall use its authority to take appropriate measures to preserve and enhance the environment of migratory birds. In particular, it shall, within its constitutional authority

(a) seek means to prevent damage to such birds and their environments, including damage resulting from pollution;

(b) endeavor to take such measures as may be necessary to control the importation of live animals and plants which it determines to be hazardous to the preservation of such birds;

(c) endeavor to take such measures as may be necessary to control the introduction of live animals and plants which could disturb the ecological balance of unique island environments; and

(d) pursue cooperative arrangements to conserve habitats essential to migratory bird populations

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## **ARTICLE V**

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### **Article V of the Convention is deleted and replaced by the following:**

The taking of nests or eggs of migratory game or insectivorous or nongame birds shall be prohibited except for scientific educational propagating or other specific purposes consistent with the principles of this Convention under such laws or regulations as the High Contracting Powers may severally deem appropriate or as provided for under Article 11, paragraph 4.

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## **ARTICLE VI**

This Protocol is subject to ratification. This Protocol shall enter into force on the date the Parties exchange instruments of ratification, shall continue to remain in force for the duration of the Convention and shall be considered an integral part of the Convention particularly for the purpose of its interpretation

IN WITNESS WHEREOF the undersigned representatives, being duly authorized by their respective Governments have signed the present Protocol DONE at Washington, this 14th day of December, 1995, in duplicate in the English and French languages, both texts being equally authentic