

JAPAN-PEOPLE'S REPUBLIC OF CHINA-REPUBLIC OF KOREA-
REPUBLIC OF POLAND-RUSSIAN FEDERATION-UNITED STATES: CONVENTION ON
THE CONSERVATION AND MANAGEMENT OF POLLOCK RESOURCES
IN THE CENTRAL BERING SEA*
[Done at Washington, June 16, 1994]
+Cite as 34 I.L.M. 67 (1994)+

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*[Reproduced from U.S. Congress, Senate, Committee on Foreign Relations, 103rd Cong., 2d Sess., 1994, Treaty Doc. 103-27, pp. 7-28. The following States have signed the Convention: The People's Republic of China, the Republic of Korea, the Russian Federation and the United States (June 16, 1994); Japan (August 4, 1994); Poland (August 25, 1994). As of January, 1995, the Convention had not been ratified by any of the parties. General Assembly Resolution 48/263, relating the Agreement to Implement Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, appears at 33 I.L.M. 1309 (1994). The United Nations Convention on the Law of the Sea of 10 December 1982 can be found at 21 I.L.M. 1261 (1982).

[Future information concerning the status of this agreement (e.g., ratification) may be obtained from: The U.S. Department of State, Office of Treaty Affairs, Room 5420, 2201 C St. NW, Washington, DC 20520 (tel: (1) 202 6471345).]

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CONVENTION
ON THE CONSERVATION AND MANAGEMENT OF
POLLOCK RESOURCES IN THE CENTRAL
BERING SEA

The Parties to this Convention,

Recognizing the urgent necessity to cooperate in taking measures for the conservation and management of pollock resources in the central Bering Sea consistent with international law, and

Noting the adoption of the United Nations Convention on the Law of the Sea in 1982,

Have agreed as follows:

ARTICLE I

This Convention applies to the high seas area of the Bering Sea beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of the coastal States of the Bering Sea is measured (hereinafter referred to as "the Convention Area"), except as otherwise provided in this Convention. Activities under this Convention, for scientific purposes, may extend beyond the Convention Area within the Bering Sea.

ARTICLE II

The objectives of this Convention shall be:

1. to establish an international regime for conservation, management, and optimum utilization of pollock resources in the Convention Area;

2. to restore and maintain the pollock resources in the Bering Sea at levels which will permit their maximum sustainable yield;

3. to cooperate in the gathering and examining of factual information concerning pollock and other living marine resources in the Bering Sea; and

4. to provide, if the Parties agree, a forum in which to consider the establishment of necessary conservation and management measures for living marine resources other than pollock in the Convention Area as may be required in the future.

ARTICLE III

1. To achieve the objectives of this Convention, the Parties agree to:

- (a) convene an Annual Conference of the Parties; and
- (b) establish a Scientific and Technical Committee.

2. The Parties shall adopt and amend as necessary rules of procedure both for the Annual Conferences and the Scientific and Technical Committee.

ARTICLE IV

1. The functions of the Annual Conference shall be:

- (a) to establish the allowable harvest level for pollock in the Convention Area (hereinafter referred to as "the AHL") for the succeeding year;
- (b) to establish an individual national quota of pollock in the Convention Area (hereinafter referred to as "the INQ") for the succeeding year for each Party;

(c) to adopt other appropriate conservation and management measures for the pollock resources in the Convention Area;

(d) to establish a plan of work for the Scientific and Technical Committee (hereinafter referred to as "the Plan of Work");

(e) to receive reports from each Party relating to measures taken to investigate and penalize violations of provisions of this Convention and measures adopted pursuant thereto;

(f) to establish the terms and conditions for any trial fishing operations for pollock in the Convention Area and to determine the scope of any cooperative scientific research on living marine resources other than pollock covered by this Convention;

(g) to discuss cooperative enforcement measures;

(h) to consider the effectiveness of the Central Bering Sea Observer Program established pursuant to Article XI and to adopt a manual of the procedures for boarding and inspection referred to in Article XI;

(i) to consider matters related to the conservation and management of living marine resources other than pollock in the Convention Area;

(j) to discuss scientific data and conservation measures of the coastal States of the Bering Sea related to pollock fishing in the Bering Sea;

(k) to discuss fishery support operations in the Convention Area, including the environmental impact of such operations;

(l) to adopt amendments to the Annex to this Convention; and

(m) to perform other functions as follow from provisions of this Convention or as are necessary to attain the objectives of this Convention.

2. The Party that hosts the Annual Conference shall publish and maintain a record of all conservation and management measures in force in the Convention Area.

3. In exercising its functions under paragraph 1 above, the Annual Conference shall take full account of the reports and recommendations of the Scientific and Technical Committee.

ARTICLE V

1. Each Party has one vote in making decisions at the Annual Conference.

2. Except as provided elsewhere in this Convention, decisions of the Annual Conference on matters of substance shall be taken by consensus. A matter shall be deemed to be of substance if any Party considers it to be of substance.

3. Decisions on matters other than those referred to in paragraph 2 above shall be taken by a simple majority of the votes of all Parties casting affirmative or negative votes.

ARTICLE VI

1. The Annual Conferences shall be held in rotation among the Parties.

2. The site of the next Annual Conference shall be decided by the previous Annual Conference.

3. The Parties shall at the end of each Annual Conference elect a Chairperson and a Vice-Chairperson who shall serve until the end of the next Annual Conference.

ARTICLE VII

1. The Annual Conference shall establish by consensus the AHL for the succeeding year, based upon an assessment of the Aleutian Basin pollock biomass by the Scientific and Technical Committee.

2. If every effort to achieve consensus has failed, the AHL shall be determined in accordance with the provisions of Part 1 of the Annex.

ARTICLE VIII

1. The Annual Conference shall establish by consensus the INQ for the succeeding year for each Party, the total of which shall not exceed the AHL, with the understanding that an INQ shall not be transferred to any other Party or non-Party to this Convention.

2. If every effort to achieve consensus has failed, the Parties agree that fishing for pollock in the Convention Area shall take place pursuant to the provisions of Part 2 of the Annex.

ARTICLE IX

1. The Scientific and Technical Committee, which shall be comprised of at least one representative from each Party, shall compile, exchange, and analyze information on fisheries harvests, and pollock and other living marine resources covered

by this Convention in accordance with the Plan of Work established by the Annual Conference, and shall investigate other scientific matters as may be referred to it by the Annual Conference. It shall also establish forms and procedures for the Parties to submit fisheries data as required by Article X.

2. The Scientific and Technical Committee shall hold a meeting prior to the Annual Conference and shall report to the Annual Conference the results of its meeting.

3. The Scientific and Technical Committee shall strive to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall include the differing views of the representatives of the Parties to the Scientific and Technical Committee.

4. The Scientific and Technical Committee shall make recommendations to the Annual Conference with respect to the conservation and management of pollock, including the AHL for the succeeding year.

5. The Scientific and Technical Committee may perform such functions as follow from other provisions of this Convention or as the Annual Conference may determine.

ARTICLE X

1. The Parties shall cooperate in the conduct of scientific research on the pollock resources and, as may be determined by the Annual Conference, on other living marine resources covered by this Convention, including research on the determination of migratory patterns of pollock within and beyond the Convention Area. The Parties shall also cooperate in exchanging scientific data on these resources and in

adopting standardized methodologies for such scientific research.

2. The Parties shall annually submit fisheries data to the Scientific and Technical Committee including catch and effort statistics, time and area of fishing operations, incidental taking of anadromous species or other living marine resources, or other biological and technical data as may be required to meet the objectives of this Convention.

3. Each Party shall, at the request of any other Party, consult bilaterally for the purpose of accommodating scientific observers from the requesting Party on board any fishing vessel of the requested Party in the Convention Area.

4. For any year in which the AHL is zero, the Annual Conference may authorize trial fishing operations for pollock in the Convention Area to be conducted by the fishing vessels of the Parties in accordance with a research plan that is submitted by any Party concerned and is approved by the Annual Conference, based upon the recommendations of the Scientific and Technical Committee. The terms and conditions for such operations shall be established by the Annual Conference.

ARTICLE XI

1. Each Party shall take all necessary measures to ensure that its nationals and fishing vessels flying its flag comply with the provisions of this Convention and measures adopted pursuant thereto. For purposes of this Convention, "fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of living marine

resources, including mother ships and any other vessels directly engaged in such fishing operations.

2. Each Party shall:

- (a) ensure that its fishing vessels fish for pollock in the Convention Area only pursuant to specific authorization issued by that Party; and
- (b) ensure that fishing operations for pollock by its fishing vessels undertaken in violation of the provisions of this Convention or of such authorization constitute an offense under its national legislation.

3. Each Party shall require its fishing vessels that fish for pollock in the Convention Area:

- (a) to use real-time satellite position-fixing transmitters while in the Bering Sea;
- (b) to notify the other Parties of their intention to enter the Convention Area 48 hours prior to such entry, the procedures for which shall be established by the Annual Conference; and
- (c) to notify the other Parties of the location of any transshipments of fish and fish products to transport vessels 24 hours prior to such transshipment.

4. The Parties shall exchange:

- (a) information collected by real-time satellite position-fixing transmitters on a real-time basis through bilateral channels; and
- (b) catch data on a sufficiently regular basis, established by the Annual Conference, to ensure effective implementation of the relevant conservation and management measures.

5. The Parties shall establish a Central Bering Sea Observer Program in accordance with the following principles:

- (a) Each fishing vessel of the Parties that fishes for pollock in the Convention Area shall accept one observer of a Party other than its flag-State Party, upon request of such Party, under conditions established bilaterally sufficiently in advance by the Parties concerned. If such an observer is not available, the fishing vessel shall have on board one observer from its flag-State Party.
- (b) The observers shall be trained and certified in accordance with the procedures to be included in the Program.
- (c) The Program shall have as its objective a significant level of coverage by observers sent by non-flag-State Parties.
- (d) With respect to observers sent by non-flag-State Parties, each Party shall require its fishing vessels to bear the costs of meals and accommodation of such observers. Other matters relating to costs shall be arranged between the Parties concerned.
- (e) The activities of observers shall include monitoring the implementation of conservation and management measures adopted pursuant to this Convention (e.g., measures relating to fishing activities, location thereof, incidental catch, and fishing gear) and reporting of their findings to the flag-State Party and observer's Party.

6. Each Party may enforce the provisions of this Convention within the Convention Area in accordance with the following:

- (a) Each Party consents to the boarding and inspection of fishing vessels flying its flag and located in the Convention Area by duly authorized officials of any other Party for compliance with this Convention or measures adopted pursuant thereto.
- (b) Such officials may inspect the vessel (other than crew quarters and engineering spaces), catch, fishing gear, and relevant documents and logbooks, and question the master, the fishing master, and other officers on board.
- (c) When conducting inspections, such officials shall present credentials issued by their Governments, minimize interference with and inconvenience to the operations of the fishing vessel undertaken pursuant to this Convention, and follow procedures set forth in a manual adopted by the Annual Conference.

7. Where an inspection of a fishing vessel undertaken under paragraph 6 above reveals evidence of a violation of the provisions of this Convention or of measures adopted pursuant thereto:

- (a) The flag-State Party shall be notified promptly of alleged violations. The flag-State Party shall take appropriate measures in accordance with its national laws and regulations, including prompt investigation. The flag-State Party shall order the

fishing vessel to cease operations in violation of the provisions of this Convention or of measures adopted pursuant thereto and, in appropriate cases, shall order the fishing vessel to leave the Convention Area immediately.

(b) In any case in which the fishing vessel has:

. engaged in fishing for pollock, other than authorized trial fishing, in the Convention Area in any year:

(1) in which the AHL is zero;

(2) while fishing for pollock is not allowed in accordance with the provisions of this Convention;

(3) after the total catch of pollock of the fishing vessel's Party has reached the INQ of that Party;

ii. operated in the Convention Area without specific authorization from the flag-State Party; or

iii. operated in the Convention Area without an observer or without an operable real-time satellite position-fixing transmitter, in circumstances set forth in a manual adopted by the Annual Conference;

and the flag-State Party is not in a position to take immediate control of or otherwise carry out its responsibility for the operation of the fishing vessel, the officials of the boarding Party may continue the boarding initiated under paragraph 6

above until officials of the flag-State Party board the fishing vessel or the flag-State Party otherwise carries out its responsibility for the operation of the fishing vessel. In such circumstances, the Parties concerned shall cooperate to ensure full compliance with this Convention and with conservation and management measures adopted pursuant thereto. In particular, the Parties concerned shall consult and take such practical steps as may be necessary to ensure such compliance.

(c) Only the authorities of the flag-State Party may try the offense and impose penalties therefor. The evidence necessary for establishing the offense, insofar as it is under the control of any of the Parties, shall be furnished, in accordance with the respective laws and regulations of the Parties, as promptly as possible to the Party having jurisdiction to try the offense and shall be taken into account, and utilized as appropriate, by the relevant authorities of that Party.

(d) Penalties provided for in the relevant laws and regulations of the Parties shall reflect the seriousness of the infractions.

ARTICLE XII

1. The Parties agree to invite the attention of any non-Party to this Convention to any matter relating to the fishing operations of its nationals, residents, or vessels flying its flag that could affect adversely the attainment of the objectives of this Convention.

2. The Parties shall, consistent with international law, encourage any non-Party to respect the provisions of this Convention and any conservation and management measures adopted pursuant thereto.

3. If fishing operations by nationals, residents, or vessels of any non-Party could affect adversely the attainment of the objectives of this Convention, the Parties shall take measures, individually or collectively, which are consistent with international law, and which they deem necessary and appropriate, to deter such operations.

4. Each Party shall take appropriate measures aimed at preventing fishing vessels registered under its laws and regulations from transferring their registration for the purpose of avoiding compliance with the provisions of this Convention or conservation and management measures adopted pursuant thereto.

5. The Parties may, by unanimous agreement, invite the representative of any non-Party to participate as an observer at the Annual Conferences.

ARTICLE XIII

If any dispute arises between two or more of the Parties concerning the interpretation or application of this Convention, those Parties shall consult among themselves with a view to having the dispute resolved by available peaceful means of their own choice.

ARTICLE XIV

1. The Annex to this Convention shall form an integral part of this Convention. All references to this Convention

shall be understood as including the Annex.

2. The Annex to this Convention shall be considered amended upon the acceptance by the Governments of all Parties of a proposed amendment to the Annex adopted by the Annual Conference in accordance with the provisions of subparagraph 1(1) of Article IV. An amendment to the Annex shall enter into force on the date upon which the Depositary receives notification in writing from all Parties of their acceptance of the amendment.

3. The Depositary shall notify all Parties of the date of receipt of each notification of acceptance of an amendment to the Annex.

ARTICLE XV

The official language of the Annual Conference and the Scientific and Technical Committee shall be English.

ARTICLE XVI

1. This Convention shall be open for signature at Washington by the People's Republic of China, Japan, the Republic of Korea, the Republic of Poland, the Russian Federation, and the United States of America.

2. This Convention shall enter into force on the thirtieth day following the date on which at least four signatory States, including the Russian Federation and the United States of America, which are the coastal States of the Bering Sea, have deposited their instrument of ratification, acceptance, or approval with the Depositary.

3. This Convention shall enter into force for each of the other signatory States on the thirtieth day following the date

of deposit of that State's instrument of ratification, acceptance, or approval.

4. After the entry into force of this Convention, the Parties may, by unanimous agreement, invite other States whose nationals and fishing vessels wish to conduct fishing for pollock in the Convention Area to become Parties to this Convention. This Convention shall enter into force for any such other State on the thirtieth day following the date of deposit of the State's instrument of accession.

ARTICLE XVII

1. Any Party may at any time propose an amendment to this Convention other than the Annex by providing the text of such a proposal to the Depositary. The Depositary shall promptly circulate any such proposals to all Parties.

2. If one-half of the Parties request a meeting to discuss a proposed amendment, the Depositary shall call such a meeting, which shall take place no sooner than sixty days following the date of circulation of the proposal pursuant to paragraph 1 above.

3. An amendment shall enter into force when the Depositary has received instruments of ratification, acceptance, or approval thereof from all Parties.

ARTICLE XVIII

After three years from entry into force of this Convention, any Party may withdraw from this Convention twelve months after the date on which it notifies the Depositary in writing of its intention to withdraw.

ARTICLE XIX

Nothing in this Convention nor any measures adopted pursuant thereto shall be deemed to prejudice the positions or views of any Party with respect to its rights and obligations under treaties and other international agreements to which it is Party or its positions or views with respect to the law of the sea.

ARTICLE XX

The original of this Convention shall be deposited with the Government of the United States of America, which shall be Depositary. The Depositary shall transmit certified copies thereof to all other signatory States and acceding States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE AT Washington this sixteenth day of June, 1994, in a single original, in the English language.

ANNEX

PART 1

Pursuant to paragraph 2 of Article VII, the AHL shall be determined as follows:

(a) Based on scientific and technical information reviewed by the Scientific and Technical Committee, one institution each designated by the Russian Federation and the United States of America, as the coastal States of the Bering Sea, shall jointly establish the Aleutian Basin pollock biomass.

(b) If there is insufficient scientific and technical information available to allow the two institutions designated pursuant to paragraph (a) above to establish the Aleutian Basin pollock biomass, the Parties agree that, for the purpose of this Convention, the pollock biomass for the Specific Area (note) as determined by the United States institution designated pursuant to paragraph (a) above shall be deemed to represent 60 percent of the Aleutian Basin pollock biomass.

(c) If the Aleutian Basin pollock biomass is less than 1.67 million metric tons, the AHL shall be zero and, therefore, there shall be no directed fishing on the Aleutian Basin pollock stock.

Note: The Specific Area is the area south of a straight line between a point at 55°46'N. and 170°00'W. and a point at 54°30'N. and 167°00'W., and between the meridian 167°00'W. and the meridian 170°00'W., and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed:

- 52°49.2'N. 169°40.4'W.,
- 52°49.8'N. 169°06.3'W.,
- 53°23.8'N. 167°50.1'W.,
- 53°18.7'N. 167°51.4'W.

(d) If the Aleutian Basin pollock biomass is equal to or above 1.67 million metric tons, the AHL shall be determined in accordance with the following table:

<u>Aleutian Basin pollock biomass</u>	<u>AHL</u>
<u>1.67 million metric tons or more but less than 2.0 million metric tons</u>	<u>130,000 metric tons</u>
<u>2.0 million metric tons or more but less than 2.5 million metric tons</u>	<u>190,000 metric tons</u>
<u>2.5 million metric tons or more</u>	<u>Determined by consensus at the Annual Conference</u>

PART 2

Pursuant to paragraph 2 of Article VIII, the Annual Conference shall, by consensus, establish an effective management system for the pollock fishery in the Convention Area. The management system:

- (a) shall be based upon the recommendations of the Scientific and Technical Committee;
- (b) shall take full account of the applicable fishing effort of each Party, the harvesting and processing capacity of the fishing vessels that may be involved, and their relative efficiency;
- (c) shall not prejudice the opportunity for the fishing vessels of all Parties to participate in the fishery; and
- (d) shall include a starting date for the fishery, a program for effectively monitoring catch, procedures for closing the fishery, and, where appropriate, other specific conservation and management measures.