

## CHAPTER I. FISHERY TREATIES AND SUPPLEMENTARY LEGISLATION

### I. North Sea fisheries

(a) CONVENTION FOR REGULATING THE POLICE OF THE NORTH SEA FISHERIES

*Signed at The Hague, 6 May 1882. Entered into force 14 May 1884. Ratified by Belgium, Denmark, France, Germany, Netherlands and the United Kingdom. "British and Foreign State Papers", vol. 73, p. 39; Martens, "Nouveau Recueil général des Traités", 2nd series, vol. 9, p. 556. Translation from First Schedule to 46 & 47 Vict., c. 22; Great Britain, "The Statutes" (2nd edition, 1900), vol. 15, p. 728.*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; His Majesty the Emperor of Germany, King of Prussia; His Majesty the King of the Belgians; His Majesty the King of Denmark; the President of the French Republic; and His Majesty the King of the Netherlands, having recognized the necessity of regulating the police of the fisheries in the North Sea, outside territorial waters, have resolved to conclude for this purpose a Convention, and have named their Plenipotentiaries ...

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

*Article I.* The provisions of the present Convention, the object of which is to regulate the police of the fisheries in the North Sea outside territorial waters, shall apply to the subjects of the high contracting parties.

*Article II.* The fishermen of each country shall enjoy the exclusive right of fishery within the distance of three miles from low water mark along the whole extent of the coasts of their respective countries, as well as of the dependent islands and banks.

As regards bays, the distance of three miles shall be measured from a straight line drawn across the bay, in the part nearest the entrance, at the first point where the width does not exceed ten miles.

The present article shall not in any way prejudice the freedom of navigation and anchorage in territorial waters accorded to fishing boats, provided they conform to the special police regulations enacted by the Powers to whom the shore belongs.

*Article III.* The miles mentioned in the preceding article are geographical miles, whereof sixty make a degree of latitude.

*Article IV.* For the purpose of applying the provisions of the present Convention, the limits of the North Sea shall be fixed as follows:

1. On the north by the parallel of the 61st degree of latitude;
2. On the east and south:
  - (1) By the coasts of Norway between the parallel of the 61st degree of latitude and Lindesnaes Lighthouse (Norway);

- (2) By a straight line drawn from Lindesnaes Lighthouse (Norway) to Hanstholm Lighthouse (Denmark);
  - (3) By the coasts of Denmark, Germany, the Netherlands, Belgium, and France, as far as Gris Nez Lighthouse;
3. On the west:
- (1) By a straight line drawn from Gris Nez Lighthouse (France) to the easternmost lighthouse at South Foreland (England);
  - (2) By the eastern coasts of England and Scotland;
  - (3) By a straight line joining Duncansby Head (Scotland) and the southern point of South Ronaldsha (Orkney Islands);
  - (4) By the eastern coasts of the Orkney Islands;
  - (5) By a straight line joining North Ronaldsha Lighthouse (Orkney Islands) and Sumburgh Head Lighthouse (Shetland Islands);
  - (6) By the eastern coasts of the Shetland Islands;
  - (7) By the meridian of North Unst Lighthouse (Shetland Islands) as far as the parallel of the 61st degree of latitude.

*Article V.* The fishing boats of the high contracting parties shall be registered in accordance with the administrative regulations of each country. For each port there shall be a consecutive series of numbers, preceded by one or more initial letters, which shall be specified by the superior competent authority.

Each government shall draw up a list showing these initial letters.

This list, together with all modifications which may subsequently be made in it, shall be notified to the other contracting Powers.

*Article VI.* Fishing boats shall bear the initial letter or letters of the port to which they belong, and the registry number in the series of numbers for that port.

*Article VII.* The name of each fishing boat, and that of the port to which she belongs, shall be painted in white oil colour on a black ground on the stern of the boat, in letters which shall be at least eight centimetres in height and twelve millimetres in breadth.

*Article VIII.* The letter or letters and numbers shall be placed on each bow of the boat, eight or ten centimetres below the gunwale, and so as to be clearly visible. They shall be painted in white oil colour on a black ground.

The distance above mentioned shall not, however, be obligatory for boats of small burden, which may not have sufficient space below the gunwale.

For boats of fifteen tons burden and upwards the dimensions of the letters and numbers shall be forty-five centimetres in height and six centimetres in breadth.

For boats of less than fifteen tons burden the dimensions shall be twenty-five centimetres in height and four centimetres in breadth.

The same letter or letters and numbers shall also be painted on each side of the mainsail of the boat, immediately above the close reef, in

black oil colour on white or tanned sails, and in white oil colour on black sails. \*

The letter or letters and numbers on the sails shall be one-third larger in every way than those placed on the bows of the boat.

*Article IX.* Fishing boats may not have, either on their outside or on their sails, any names, letters, or numbers other than those prescribed by articles VI, VII, and VIII of the present Convention.

*Article X.* The names, letters, and numbers placed on the boats and on their sails shall not be effaced, altered, made illegible, covered, or concealed in any manner whatsoever.

*Article XI.* All the small boats, buoys, principal floats, trawls, grapnels, anchors, and generally all fishing implements, shall be marked with the letter or letters and numbers of the boats to which they belong.

These letters and numbers shall be large enough to be easily distinguished. The owners of the nets or other fishing implements may further distinguish them by any private marks they think proper.

*Article XII.* The master of each boat must have with him an official document, issued by the proper authority in his own country, for the purpose of enabling him to establish the nationality of the boat.

This document must always give the letter or letters and number of the boat, as well as her description and the name or names of the owner or the name of the firm or association to which she belongs.

*Article XIII.* The nationality of a boat must not be concealed in any manner whatsoever.

*Article XIV.* No fishing boat shall anchor, between sunset and sunrise, on grounds where drift-net fishing is actually going on.

This prohibition shall not, however, apply to anchorings which may take place in consequence of accidents or of any other compulsory circumstances.

*Article XV.* Boats arriving on the fishing grounds shall not either place themselves or shoot their nets in such a way as to injure each other, or as to interfere with fishermen who have already commenced their operations.

*Article XVI.* Whenever, with a view of drift-net fishing, decked boats and undecked boats commence shooting their nets at the same time, the undecked boats shall shoot their nets to windward of the decked boats.

The decked boats, on their part, shall shoot their nets to leeward of the undecked boats.

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\* A Declaration signed at The Hague on 1 February 1889 replaced paragraph 5 of article VIII of the Convention by the following provision:

"The same letters and numbers shall also be painted in oil colour on each side of the main-sail of the boat, immediately above the close reef, and in such a manner as to be plainly visible; they shall be painted, on white sails in black, on black sails in white, and on sails of an intermediate shade in black or in white, as the superior competent authority shall deem the more effective." For the text of this Declaration, see Martens, *Nouveau Recueil Général*, 2nd series, vol. 15, p. 568; for an English translation, see Hertslet's *Commercial Treaties*, vol. 18, p. 931.

As a rule, if decked boats shoot their nets to windward of undecked boats which have begun fishing, or if undecked boats shoot their nets to leeward of decked boats which have begun fishing, the responsibility as regards any damages to nets which may result shall rest with the boats which last began fishing, unless they can prove that they were under stress of compulsory circumstances, or that the damage was not caused by their fault.

*Article XVII.* No net or any other fishing engine shall be set or anchored on grounds where drift-net fishing is actually going on.

*Article XVIII.* No fisherman shall make fast or hold on his boat to the nets, buoys, floats, or any other part of the fishing tackle of another fisherman.

*Article XIX.* When trawl fishermen are in sight of drift-net or of long-line fishermen, they shall take all necessary steps in order to avoid doing injury to the latter. Where damage is caused, the responsibility shall lie on the trawlers, unless they can prove that they were under stress of compulsory circumstances, or that the loss sustained did not result from their fault.

*Article XX.* When nets belonging to different fishermen get foul of each other, they shall not be cut without the consent of both parties.

All responsibility shall cease if the impossibility of disengaging the nets by any other means is proved.

*Article XXI.* When a boat fishing with long lines entangles her lines in those of another boat, the person who hauls up the lines shall not cut them except under stress of compulsory circumstances, in which case any line which may be cut shall be immediately joined together again.

*Article XXII.* Except in cases of salvage and the cases to which the two preceding articles relate, no fisherman shall, under any pretext whatever, cut, hook, or lift up nets, lines, or other gear not belonging to him.

*Article XXIII.* The use of any instrument or engine which serves only to cut or destroy nets is forbidden.

The presence of any such engine on board a boat is also forbidden.

The high contracting parties engage to take the necessary measures for preventing the embarkation of such engines on board fishing boats.

*Article XXIV.* Fishing boats shall conform to the general rules respecting lights which have been, or may be, adopted by mutual arrangement between the high contracting parties with the view of preventing collisions at sea.

*Article XXV.* All fishing boats, all their small boats, all rigging gear or other appurtenances of fishing boats, all nets, lines, buoys, floats, or other fishing implements whatsoever found or picked up at sea, whether marked or unmarked, shall as soon as possible be delivered to the competent authority of the first port to which the salvaging boat returns or puts in.

Such authority shall inform the consul or consular agent of the country to which the boat of the salvor belongs, and of the nation of the owner of the articles found. They [the same authority] shall restore

the articles to the owners thereof or to their representatives, as soon as such articles are claimed and the interests of the salvors have been properly guaranteed.

The administrative or judicial authorities, according as the laws of the different countries may provide, shall fix the amount which the owners shall pay to the salvors.

It is, however, agreed that this provision shall not in any way prejudice such conventions respecting this matter as are already in force, and that the high contracting parties reserve the right of regulating, by special arrangements between themselves, the amount of salvage at a fixed rate per net salvaged.

Fishing implements of any kind found unmarked shall be treated as wreck.

*Article XXVI.* The superintendence of the fisheries shall be exercised by vessels belonging to the national navies of the high contracting parties. In the case of Belgium, such vessels may be vessels belonging to the State, commanded by captains who hold commissions.

*Article XXVII.* The execution of the regulations respecting the document establishing nationality, the marking and numbering of boats, etc., and of fishing implements, as well as the presence on board of instruments which are forbidden (articles VI, VII, VIII, IX, X, XI, XII, XIII, and XXIII, section 2), is placed under the exclusive superintendence of the cruisers of the nation of each fishing boat.

Nevertheless, the commanders of cruisers shall acquaint each other with any infractions of the above-mentioned regulations committed by the fishermen of another nation.

*Article XXVIII.* The cruisers of all the high contracting parties shall be competent to authenticate all infractions of the regulations prescribed by the present convention, other than those referred to in article XXVII, and all offences relating to fishing operations, whichever may be the nation to which the fishermen guilty of such infractions may belong.

*Article XXIX.* When the commanders of cruisers have reason to believe that an infraction of the provisions of the present convention has been committed, they may require the master of the boat inculpated to exhibit the official document establishing her nationality. The fact of such document having been exhibited shall then be endorsed upon it immediately.

The commanders of cruisers shall not pursue further their visit or search on board a fishing boat which is not of their own nationality, unless it should be necessary for the purpose of obtaining proof of an offence or of a contravention of regulations respecting the police of the fisheries.

*Article XXX.* The commanders of the cruisers of the Signatory Powers shall exercise their judgment as to the gravity of facts brought to their knowledge, and of which they are empowered to take cognizance, and shall verify the damage, from whatever cause arising, which may be sustained by fishing boats of the nationalities of the high contracting parties.

They shall draw up, if there is occasion for it, a formal statement of the verification of the facts as elicited both from the declarations of the parties interested and from the testimony of those present.

The commander of the cruiser may, if the case appears to him sufficiently serious to justify the step, take the offending boat into a port of the nation to which the fishermen belong. He may even take on board the cruiser a part of the crew of the fishing boat in order to hand them over to the authorities of her nation.

*Article XXXI.* The formal statement referred to in the preceding article shall be drawn up in the language of the commander of the cruiser, and according to the forms in use in his country.

The accused and the witnesses shall be entitled to add, or to have added, to such statement, in their own language, any observations or evidence which they make think suitable. Such declarations must be duly signed.

*Article XXXII.* Resistance to the directions of commanders of cruisers charged with the police of the fisheries, or of those who act under their orders, shall, without taking into account the nationality of the cruiser, be considered as resistance to the authority of the nation of the fishing boat.

*Article XXXIII.* When the act alleged is not of a serious character, but has nevertheless caused damage to any fisherman, the commanders of cruisers shall be at liberty, should the parties concerned agree to it, to arbitrate at sea between them, and to fix the compensation to be paid.

Where one of the parties is not in a position to settle the matter at once, the commanders shall cause the parties concerned to sign in duplicate a formal document specifying the compensation to be paid.

One copy of this document shall remain on board the cruiser, and the other shall be handed to the master of the boat to which compensation is due, in order that he may, if necessary, be able to make use of it before the courts of the country to which the debtor belongs.

Where, on the contrary, the parties do not consent to arbitration, the commanders shall act in accordance with the provisions of article XXX.

*Article XXXIV.* The prosecutions for offences against, or contraventions of, the present convention shall be instituted by, or in the name of, the State.

*Article XXXV.* The high contracting parties engage to propose to their respective legislatures the necessary measures for ensuring the execution of the present convention, and particularly for the punishment by either fine or imprisonment, or by both, of persons who may contravene the provisions of articles VI to XXIII inclusive.

*Article XXXVI.* In all cases of assault committed, or of wilful damage or loss inflicted, by fishermen of one of the contracting countries upon fishermen of another nationality, the courts of the country to which the boats of the offenders belong shall be empowered to try them.

The same rule shall apply with regard to offences against, and contraventions of, the present convention.

*Article XXXVII.* The proceedings and trial in cases of infraction of the provisions of the present convention shall take place as summarily as the laws and regulations in force will permit.

*Article XXXVIII.* The present convention shall be ratified. The ratifications shall be exchanged at The Hague as soon as possible.

*Article XXXIX.* The present convention shall be brought into force from and after a day to be agreed upon by the high contracting parties.

The convention shall continue in operation for five years from the above day; and, unless one of the high contracting parties shall, twelve months before the expiration of the said period of five years, give notice of intention to terminate its operation, shall continue in force one year longer, and so on from year to year. If, however, one of the Signatory Powers should give notice to terminate the convention, the same shall be maintained between the other contracting parties, unless they give a similar notice.

*Note.* This Convention was prepared at conferences held at The Hague in October 1881 and May 1882, the *procès-verbaux* of which are published in Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 9, pp. 503-556. The International Fisheries Conference, held at London in October 1943, drafted a new convention intended to replace the Convention of 1882; for the text of that draft, see *British Parliamentary Papers*, Misc. No. 5 (1943), Cmd. 6496, p. 6.

Article 272 of the Treaty of Versailles of 28 June 1919 provided that: "Germany agrees that, notwithstanding any stipulation to the contrary contained in the Conventions relating to the North Sea fisheries and liquor traffic, all rights of inspection and police shall, in the case of fishing-boats of the Allied Powers, be exercised solely by ships belonging to those Powers."

Laws of Belgium and the United Kingdom, enacted under article 35 of this Convention, are reproduced below. In other States parties to the 1882 Convention the relevant laws and regulations follow quite closely the text of the Convention. With respect to Denmark, see, for instance, Act No. 114, of 27 April 1883, as amended by Act No. 36 of 22 March 1890, and Royal Order No. 26 of 29 March 1884, as amended by Order No. 22 of 12 February 1890. (*Danmarks Lov, 1665-1946*, p. 313; *Lovtidende, 1884*, p. 77; *idem*, 1890, p. 42). With respect to France, see Act of 15 January 1884 (*Journal officiel*, 17 January 1884; *Bulletin des lois, 1884*, p. 441).

#### (b) BELGIUM

*Act concerning the punishment of violations of the provisions of the Convention on the North Sea fisheries, 4 September 1891. "Moniteur belge", 6 September 1891; J. Servais and E. Mechelynck, "Les codes et les lois spéciales les plus usuelles en vigueur en Belgique", 27th edition (1947), p. 1764. Translation by the Secretariat of the United Nations*

*Article 1.* Apart from the officers of the judicial police responsible for detecting and reporting offences against common law, maritime commissaries and their agents, customs officials, commissioned captains commanding State vessels and officers commanding foreign cruising vessels, the latter within the limits laid down in the Convention, shall be responsible for reporting infringements of the provisions of the International Convention of 6 May 1882 for Regulating the Police of the North Sea

Fisheries, as modified by the International Declaration of 1 February 1889.

The reports of the commanding officers of foreign cruising vessels shall be evidence until the contrary is proved.

*Article 2.* Infringements of the provisions of articles 6 to 13 of the Convention and of article 1, paragraph 2, of the international declaration of 1 February 1889 shall be punishable by imprisonment for not less than one nor more than seven days and by a fine of not less than one nor more than twenty-five francs, or by one of these penalties only.

*Article 3.* Infringements of the provisions of articles 14 to 22 of the Convention shall be punishable by imprisonment for not less than eight nor more than fifteen days and by a fine of not less than twenty-six nor more than fifty francs, or by one of these penalties only.

*Article 4.* Any person resisting the orders of the commanding officers of registered vessels of the fishing police or of persons acting on their instructions shall be punished in accordance with article 3, without prejudice to the disciplinary penalties laid down in the Penal Code in cases of resistance to public authorities.

*Article 5.* In the case of a repeated offence, the judge shall pass the maximum sentence of imprisonment in addition to the fine.

A repetition of the offence shall be deemed to have occurred if the offender has already been sentenced within the preceding two years for any of the offences covered by this Act or by the Act of 27 March 1882.

*Article 6.* Masters sentenced for the offences covered by article 3, if damage has resulted therefrom, and by article 4, and also masters sentenced under the Act of 27 March 1882, may, in addition, be forbidden to command any fishing vessel for a period of not less than three months nor more than two years and, in the case of a repeated offence, for a period of not less than two nor more than five years, from the date when the sentence was passed.

. . .

*Article 8.* The court of summary jurisdiction of the district or the police court of the canton where the home port of the accused person's vessel is situated shall be competent, according to the case, to pass judgment on offences punishable under this Act.

(c) UNITED KINGDOM

*Sea Fisheries Act, 2 August 1883. 46 & 47 Vict. c. 22; "Halsbury's Statutes of England", 2nd edition, vol. 10, pp. 200-213*

*Preliminary*

1. *Short title.* This Act may be cited as the Sea Fisheries Act, 1883.

*Confirmation of Convention*

2. *Confirmation of Convention.* The Convention set out in the first schedule to this Act (referred to in this Act as the Convention) is hereby confirmed, and the articles thereof shall be of the same force as if they were enacted in the body of this Act.



*Fishery regulations*

3. *Power to make regulations.* It shall be lawful for Her Majesty from time to time, by Order in Council, to make, alter, and revoke regulations for carrying into execution this Act, and the intent and object thereof, and for the maintenance of good order among sea-fishing boats, and the persons belonging thereto, and to impose fines not exceeding ten pounds for the breach of such regulations.

4. *Punishment for violation of articles 13 to 22 of Convention, and for other offences.* If within the exclusive fishery limits of the British Islands any person, or if outside those limits any person belonging to a British sea-fishing boat,

(a) Acts in contravention of articles 13 to 22 (both inclusive) of the first schedule to this Act, or any of them; or

(b) Causes injury to any person in any one or more of the following ways, namely, by assaulting anyone belonging to another sea-fishing boat, or by causing damage to another sea-fishing boat, or to any property on board thereof, or belonging thereto; or

(c) Fishes for oysters or has on board his boat any oyster dredge within any seas and during any time within and during which oyster fishing is prohibited by law, or by any convention, treaty, or arrangement to which this Act may be hereafter applied; such person shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour.

5. *Punishment for violation of article 23 of Convention.* If within the exclusive fishery limits of the British Islands, any person, or if outside those limits any person belonging to a British sea-fishing boat,

(a) Uses any instrument for the purpose of damaging or destroying, by cutting or otherwise, any fishing implement belonging to another sea-fishing boat, except in the cases provided for by articles 20 and 21 of the first schedule to this Act; or

(b) Takes on board or has on board such boat any instrument serving only or intended to damage or destroy fishing implements, by cutting or otherwise;

such person shall be liable on summary conviction to a fine not exceeding fifty pounds, or in the discretion of the court to imprisonment for a term not exceeding three months, with or without hard labour, and the instrument shall be liable to be forfeited.

6. *Regulations as to lights for sea-fishing boats.* The regulations respecting lights for the time being in force under the Acts relating to merchant shipping shall, so far as they relate to sea-fishing boats, be deemed to be provisions of this Act, and may be enforced accordingly, and a sea-fishery officer shall for that purpose, in addition to his powers under this Act, have the same powers as are given to any officer by the said Acts relating to merchant shipping.

*Exclusive fishery limits*

7. *Regulations as to foreign sea-fishing boats within exclusive fishery limits.* (1) A foreign sea-fishing boat shall not enter within the exclusive fishery limits of the British Islands, except for purposes recognized by international law, or by any convention, treaty, or arrangement for the time

being in force between Her Majesty and any foreign State, or for any lawful purpose.

(2) If a foreign sea-fishing boat enters the exclusive fishery limits of the British Islands,

(a) The boat shall return outside of the said limits so soon as the purpose for which it entered has been answered;

(b) No person on board the boat shall fish or attempt to fish while the boat remains within the said limits;

(c) Such regulations as Her Majesty may from time to time prescribe by Order in Council shall be duly observed.

(3) In the event of any contravention of this section on the part of any foreign sea-fishing boat, or of any person belonging thereto, the master or person for the time being in charge of such boat shall be liable on summary conviction to a fine not exceeding, in the case of the first offence, [fifty] pounds, and in the case of a second or any subsequent offence, [one hundred] pounds.

8. (*Repealed by the Merchant Shipping Act, 1894 (c.60), s. 745 and twenty-second schedule.*)

#### *Miscellaneous*

9. *Prohibition of manufacture and sale of instruments for destroying fishing implements.* (1) There shall not be manufactured or sold or exposed for sale at any place within the British Islands, any instrument serving only or intended to damage or destroy fishing implements, by cutting or otherwise.

(2) In the event of any contravention of this section a person guilty thereof shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour, and the instrument shall be liable to be forfeited.

10. *Provision as to wreck (article 25 of Convention).* The boats and things specified in article 25 of the first schedule to this Act shall be deemed to be "wreck" within the meaning of any Acts relating to merchant shipping, so, however, that the provisions of the said article shall be duly observed.

#### *Enforcement of Act*

11. *Who are to be British and foreign sea-fishery officers.* (1) The provisions of this Act and of any Order in Council under this Act or under the sections of the Sea Fisheries Act, 1868, amended by this Act shall be enforced by sea-fishery officers, either British or foreign.

(2) The following persons shall be British sea-fishery officers; that is to say, every officer of or appointed by the Board of Trade, every commissioned officer of any of Her Majesty's ships on full pay, every officer authorized in that behalf by the Admiralty, every British consular officer, every collector and principal officer of customs in any place in the British Islands, and every officer of customs in the British Islands authorized in that behalf by the Commissioners of Customs, every divisional officer of the coastguard, and every principal officer of a coastguard station.

(3) The following persons shall be foreign sea-fishery officers, that is to say, the commander of any vessel belonging to the government of any foreign State bound by the Convention, and any officer appointed by a

foreign State for the purpose of enforcing the Convention, or otherwise recognized by Her Majesty as a sea-fishery officer of a foreign State.

12. *Powers of British sea-fishery officers.* For the purpose of enforcing the provisions of this Act and of any Order in Council under this Act or under the Sea Fisheries Act, 1868, as amended by this Act, a British sea-fishery officer may with respect to any sea-fishing boat within the exclusive limits of the British Islands and with respect to any British sea-fishing boat outside of those limits, exercise the following powers:

- (1) He may go on board it;
- (2) He may require the owner, master, and crew, or any of them, to produce any certificates of registry, licences, official logbooks, official papers, article of agreement, muster rolls, and other documents relating to the boat, or to the crew, or to any member thereof, or to any person on board the boat, which are in their respective possession or control on board the boat, and may take copies thereof or of any part thereof;
- (3) He may muster the crew of the boat;
- (4) He may require the master to appear and give any explanation concerning his boat and her crew, and any person on board his boat, and the said certificates of registry, licences, official logbooks, official papers, articles of agreement, muster rolls, and other documents, or any of them;
- (5) He may examine all sails, lights, small boats, anchors, grapnels, and fishing implements belonging to the boat;
- (6) He may seize any instrument serving only or intended to damage or destroy fishing implements, by cutting or otherwise, which is found on board the boat or in the possession of any person belonging to the boat;
- (7) He may make any examination or inquiry which he deems necessary to ascertain whether any contravention of the provisions of this Act, or of any such Order of Council as aforesaid has been committed, or to fix the amount of compensation due for any damage done to another sea-fishing boat, or to any person or property on board thereof or belonging thereto, and may administer an oath for such purpose; and
- (8) In the case of any person who appears to him to have committed any such contravention he may, without summons, warrant, or other process, both take the offender and the boat to which he belongs and the crew thereof to the nearest or most convenient port, and bring him or them before a competent court, and detain him, it, and them in the port until the alleged contravention has been adjudicated upon.

13. *Powers of British and foreign sea-fishery officers.* For the purpose of carrying into effect the Convention, and of exercising and performing the powers and duties thereby vested in and imposed on cruisers and commanders of cruisers, a foreign sea-fishery officer may, with respect to any British sea-fishing boat, and any sea-fishery officer, whether British or foreign, may, with respect to any foreign sea-fishing boat to which this Act for the time being applies, exercise any of the powers conferred by this Act on British sea-fishery officers.

Provided that:

- (a) Nothing in this section shall authorize a sea-fishery officer to do anything not authorized by the Convention; and
- (b) The port to which any sea-fishing boat or any person belonging thereto is taken shall, except where the nationality of such boat is not

evidenced by official papers, be a port of the State to which such boat belongs.

14. *Protection of and punishment for obstructing sea-fishery officers.* (1) A sea-fishery officer shall be entitled to the same protection in respect of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under this Act, as is given to any officer of customs by the Customs Consolidation Act, 1876, or any Act amending the same, and (with reference to the seizure or detention of any ship) by any Act relating to the registry of British ships.

(2) If any person obstructs any sea-fishery officer in acting under the powers conferred by this Act, or refuses or neglects to comply with any requisition or direction lawfully made or given by, or to answer any question lawfully asked by, any sea-fishery officer in pursuance of this Act, such person shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

#### *Legal proceedings*

15. *Compensation for damage caused by offence.* (1) Where on the conviction of any person under this Act for an offence it appears to the court that any injury to person or property has been caused by the offence, the court may by such conviction adjudge the person convicted to pay in addition to any fine a reasonable sum as compensation for such injury, and such sum may be recovered as a fine under this Act and when recovered shall be paid to the person injured.

(2) Any compensation specified in a document signed in accordance with article 33 of the first schedule to this Act or fixed by a sea-fishery officer in accordance with any submission to arbitration may be recovered as a simple contract debt, and in England may also be recovered as a civil debt before a court of summary jurisdiction.

(3) In a proceeding against any person for the recovery of such last-mentioned compensation, the formal document referred to in the said article, or an award of a sea-fishery officer in pursuance of a submission to arbitration signed by the person liable to pay such compensation, shall be sufficient evidence that such person is liable to pay the compensation specified in such document or award.

16. *Summary prosecution of offences and recovery of fines.* (1) Offences under this Act may (save as otherwise provided) be prosecuted, and fines under this Act may be recovered in a summary manner; that is to say:

(a) In England before a justice or justices, in manner provided by the Summary Jurisdiction (English) Acts;

(b) In Scotland in manner provided by the Summary Jurisdiction (Scotland) Acts, 1864 and 1881;

(c) In Ireland within the police district of Dublin metropolis in manner provided by the Acts regulating the powers and duties of the justices of the peace of such district, or of the police of such district, and elsewhere in Ireland in manner provided by the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same;

(d) In the Isle of Man, and the Islands of Guernsey, Jersey, Alderney, and Sark respectively, before any court, governor, deputy governor, deemster, jurat, or other magistrate, in the manner in which the like

offences and fines are by law prosecuted and recovered, or as near thereto as circumstances admit.

(2) If any person feels aggrieved by any conviction under this Act by a court of summary jurisdiction, or by any determination or adjudication of such court with respect to any compensation under this Act, he may, where imprisonment is awarded without the option of a fine, or the sum adjudged to be paid exceeds five pounds, appeal therefrom as follows:

(a) In England the appeal shall be to quarter sessions in manner provided by the Summary Jurisdiction (English) Acts;

(b) In Ireland the appeal shall be to the court of quarter sessions in manner directed by the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same;

(c) In Scotland, the Isle of Man, and the Islands of Guernsey, Jersey, Alderney, and Sark, the appeal shall be to the court and in the manner in which appeals from the like convictions and determinations and adjudications are made.

17. *Evidence.* (1) Any document drawn up in pursuance of the first schedule to this Act shall be admissible in any proceeding, civil or criminal, as evidence of the facts or matters therein stated.

(2) If evidence contained in any such document was taken on oath in the presence of the person charged in such evidence, and such person had an opportunity of cross-examining the person giving such evidence and of making his reply to such evidence, the sea-fishery officer drawing up such document may certify the said facts, or any of them.

(3) Any document or certificate in this section mentioned purporting to be signed by a sea-fishery officer shall be admissible in evidence without proof of such signature, and, if purporting to be signed by any other person, shall, if certified by a sea-fishery officer to have been so signed, be deemed until the contrary is proved to have been signed by such other person.

(4) If any person forges the signature of a sea-fishery officer to any such document as above mentioned, or makes use of any such document knowing the signature thereto to be forged such person shall be liable on summary conviction to imprisonment for a term not exceeding three months with or without hard labour ...

18. *Jurisdiction of courts.* For the purpose of giving jurisdiction to courts under this Act, a sea-fishing boat shall be deemed to be a ship within the meaning of any Act relating to offences committed on board a ship, and every court shall have the same jurisdiction over a foreign sea-fishing boat within the exclusive fishery limits of the British Islands, and persons belonging thereto, as such court would have if such boat were a British sea-fishing boat.

19. *Service to be good if made personally or on board ship.* Service of any summons or other matter in any legal proceeding under this Act shall be good service if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any sea-fishing boat to which he may belong, with the person being or appearing to be in command or charge of such boat.

20. *Masters of boats liable to fines imposed.* (1) Where any offence against this Act has been committed by some person belonging to a sea-fishing boat, the master or person for the time being in charge of such boat

shall in every case be liable to be deemed guilty of such offence; provided that if he proves that he issued proper orders for the observance, and used due diligence to enforce the observance, of this Act, and that the offence in question was actually committed by some other person without his connivance, and that the actual offender has been convicted, or that he has taken all practicable means in his power to prosecute such offender (if alive) to conviction, he shall not be liable to any further punishment than payment of compensation for any injury caused by the offence.

(2) Any fine or compensation adjudged under this Act may be recovered in the ordinary way, or, if the court think fit so to order, by distress or pounding and sale of the sea-fishing boat to which the offender belongs, and her tackle, apparel, and furniture and any property on board thereof or belonging thereto, or any part thereof; provided that, where the boat is a foreign sea-fishing boat, the court may order that in lieu of any such distress the boat may be detained in some port in the British Islands for a period not exceeding three months from the date of the conviction, and the boat may be detained accordingly, and in such case shall not be distrained.

21. *Application of fines.* (1) The court adjudging any fine or forfeiture under this Act may, if it think fit, direct the whole or any part thereof to be applied in or towards payment of the expenses of the proceedings; and, subject to such direction, all fines and the proceeds of all forfeitures recovered under this Act shall, notwithstanding anything in any Act relating to municipal corporations or otherwise, be paid into the Exchequer in such manner as the ... Treasury may direct.

(2) Forfeitures may be destroyed, sold, and disposed of as the court adjudging the forfeiture may direct.

22. *Saving of liability and rights.* (1) Nothing in this Act shall prevent any person being liable under any other Act or otherwise to any indictment, proceeding, punishment, or penalty, other than is provided for any offence by this Act, so that no person be punished twice for the same offence.

(2) Nothing in this Act, or in any Order in Council made thereunder, nor any proceedings under such Act or Order with respect to any matter, shall alter the liability of any person in any action or suit with reference to the same matter, so that no person shall be required to pay compensation twice in respect of the same injury.

#### *Application of Act*

23. *Extension of Act by Order in Council.* If at any time after the commencement of this Act any convention, treaty, or arrangement respecting sea fisheries is made between Her Majesty and any foreign State, it shall be lawful for Her Majesty by Order in Council to direct that all or any of the provisions of this Act shall, and the same shall accordingly (subject to the exceptions, restrictions, and conditions, if any, in the Order mentioned) apply to the said convention, treaty, or arrangement, and have effect in like manner as if the said convention, treaty, or arrangement were set forth in the first schedule to this Act, and were part of that schedule and were the Convention referred to in this Act.

24. *Application of Act to seas between British Islands and France, and continuance of 6 & 7 Vict. c. 79, as to French Convention.* If the provisions of this Act are applied by Order in Council to any convention, treaty, or

arrangement made in substitution for the Convention set forth in the first schedule to the Sea Fisheries Act 1868 or for the Convention and articles set forth in the schedule to the Sea Fisheries Act, 1843, that last-mentioned Act shall, after the date fixed by the said Order for the application of this Act be repealed, but such last-mentioned Act shall, until the said date or any earlier date at which the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, comes into operation, continue in force so far as regards French sea-fishing boats and persons belonging thereto within the seas to which the said Convention and articles set forth in the schedule thereto apply, so far as those seas are outside the exclusive fishery limits of the British Islands, and are not within the North Sea as defined in the first schedule to this Act.

25. *General application of Act.* This Act, so far as it applies to foreign sea-fishing boats outside of the exclusive fishery limits of the British Islands, and persons belonging thereto, and to foreign sea-fishery officers, shall apply only within the North Sea as defined by article 4 of the first schedule to this Act, or within the seas specified in any convention, treaty, or arrangement to which this Act may be applied by Order in Council made in pursuance of this Act, and to the boats and officers of a foreign State bound by the Convention in the first schedule to this Act or by any convention, treaty, or arrangement to which this Act may be applied, but save as aforesaid this Act shall apply to the whole of the British Islands as defined by this Act, and to the seas surrounding the same, whether within or without the exclusive fishery limits of the British Islands, and the Royal Courts of Guernsey and Jersey shall register this Act in their respective courts.

#### *Supplemental*

26. *Publication of Orders in Council.* Orders in Council made in pursuance of this Act shall be published in the *London Gazette* or otherwise published in such manner as the Board of Trade may direct for such sufficient time before they come into force as to prevent inconvenience.

27. (*Amends the Sea Fisheries Act, 1868 (c. 45), s. 18 ...*)

28. *Definitions.* In this Act:

“Sea-fishing”: The expression “sea-fishing” shall not include fishing for salmon as defined by any Act relating to salmon but save as aforesaid means the fishing for every description both of fish, and shell fish found in the seas to which this Act applies; and the expression “sea-fisherman” and other expressions relating to sea-fishing shall be construed accordingly.

“Sea-fishing boat”: The expression “sea-fishing boat” includes every vessel of whatever size and in whatever way propelled which is used by any person in sea-fishing, or in carrying on the business of a sea-fisherman.

“Fishing implements”: The expression “fishing implement” means any net, line, float, barrel, buoy, or other instrument, engine, or implement used or intended to be used for the purpose of sea-fishing.

“British Islands”: The expression “British Islands” includes the United Kingdom of Great Britain and Ireland, the Isle of Man, the Islands of Guernsey, Jersey, Alderney, and Sark, and their dependencies.

“Exclusive fishery limits”: The expression “exclusive fishery limits of the British Islands” means that portion of the seas surrounding the British Islands within which Her Majesty’s subjects have, by international law, the exclusive right of fishing, and where such portion is defined by the terms of convention, treaty, or arrangement for the time being in force between Her Majesty and any foreign State, includes, as regards the sea-fishing boats and officers and subjects of that State, the portion so defined...

“Person”: The expression “person” includes a body of persons corporate or unincorporate.

“Court”: The expression “court” includes any tribunal or magistrate exercising jurisdiction under this Act.

29. (*Repealed by the S.L.R. Act, 1898 (c. 22).*)

30. *Repeal.*

(1) (*Repealed by the S.L.R. Act, 1898 (c. 22).*)

(2) ... The Acts specified in the second part of the second schedule to this Act shall be repealed to the extent specified in the third column of that schedule:

Provided that, until the date hereinafter mentioned at which such repeal takes full effect, the repeal of the enactments specified in the said second part shall, except within the North Sea as defined by the first schedule to this Act, be subject to the following limitations:

(a) The repeal shall not extend to section 12 of the Sea Fisheries Act, 1868 (which section relates to oyster fishing), nor to the recovery of any penalty for a violation of that section;

(b) The repeal shall extend only to officers and boats within the exclusive fishery limits of the British Islands and to British sea-fishing boats when outside the exclusive fishery limits of the British Islands;

(c) The repeal shall not affect the power of French sea-fishery officers and French courts over British sea-fishing boats when outside the exclusive fishery limits of the British Islands, or the power of British and French sea-fishery officers and British courts over French sea-fishing boats brought within the exclusive fishery limits of the British Islands for offences committed outside those limits;

(d) The repeal shall not alter the power of receiving as evidence any depositions, minutes, and other documents which by the said Acts are made receivable as evidence;

(e) If the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, comes into operation, then, upon notice thereof being given in the *London Gazette*, the said enactments shall, subject to the provisions of this section, be in force for the purposes of such Convention.

If this Act is applied by Order in Council to French sea-fishery officers and French sea-fishing boats within the seas to which the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, applies, the said repeal of the enactments specified in the second part of the second schedule to this Act shall take full effect as from the date at which such application of this Act takes effect.

(3) (*Repealed by the S.L.R. Act, 1898 (c. 22).*)

31. *Continuance of Act.* So much of this Act as has effect outside of the exclusive fishery limits of the British Islands shall, if the Convention ceases to be binding on Her Majesty, cease to apply to the boats and



officers of any foreign State bound by the Convention, and if the Convention ceases to be binding on any foreign State shall cease to apply to the boats and officers of such State, but subject as aforesaid this Act shall continue in force notwithstanding the determination of the Convention.

[Schedules omitted.]

*Note.* The Criminal Justice Act of 1948 (c. 58, sections 1 and 83) abolished hard labour, and all references in the Sea Fisheries Act of 1883 to "imprisonment with hard labour" should be construed as referring merely to "imprisonment". The fines in section 7 were increased from "ten" and "twenty" pounds by the Sea Fish Industry Act of 1938 (c. 30, section 54). The last sentence in section 17 was repealed by the Forgery Act of 1913 (c. 27, section 20). The words omitted in sections 21 and 27 were repealed by the Statute Law Revision Act of 1898 (c. 22).

## 2. Canada — United States of America

### (a) SOCKEYE SALMON FISHERIES

- (i) *Convention for protection, preservation and extension of sockeye salmon fisheries, 26 May 1930. "U.S. Treaty Series", no. 918; "Treaties, Conventions, etc., between the United States of America and Other Powers", vol. 4, p. 4002*

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 1.* 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 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 1 of this article, then 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 Seachelt 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 14 March 1930, and on the British Admiralty Chart Number 579, copies of which are annexed 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 annexed 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 Treaty 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 24 February 1925.

*Article 2.* 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.

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 3.* 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 2 and 3 of article 1 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 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 4.* The Commission is hereby empowered to limit or prohibit taking sockeye salmon in respect of all or any of the waters described in article 1 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 1 of

article 1, 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 2 of article 1, 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 2 and 3 of article 1, 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 licence to fish in the waters on their respective sides of the boundary, or in their respective territorial waters embraced in paragraph 1 of article 1 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 1 of article 1 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 5.* 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 1 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 number 1 of article 1 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 1 of article 1 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 6.* 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 7.* 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 8.* 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 9 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 1 of article 1 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 3.

*Article 9.* 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 1 of article 1 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 seizures, 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 1 of article 1 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 10.* 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.

*Note.* This Convention was ratified by the United States subject to the following understandings: "(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 8 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 nonexecutive meetings of the Commission and shall be given full opportunity to examine and to be heard on all proposed orders, regulations, or recommendations." *Treaties, Conventions, etc., between the United States of America and Other Powers*, vol. 4, p. 4007.

National acts for the enforcement of this Convention are reproduced below. Special regulations, adopted annually by the International Pacific Salmon Fisheries Commission, have been put into force by Canadian Orders in Council and by Orders of the Director of the Department of Fisheries of the State of Washington. For the text of the 1948 regulations, see *International Pacific Salmon Fisheries Commission, Annual Report, 1948* (New Westminster, Canada, 1949), pp. 8-10; *Canada Gazette*, vol. 82 (1948), part II (Statutory Orders and Regulations), p. 1654.

(ii) *Canada*

*Act respecting the Convention relating to the protection of the sockeye salmon fisheries, 30 May 1930. 20-21 George V, c. 10; "Statutes, 1930", p. 143*

1. The Convention relating to the protection, preservation and extension of the sockeye salmon fisheries in the Fraser River System between His Majesty in respect of Canada and the United States of America, signed at Washington on the 26th day of May, 1930, and set out in the schedule to this Act is hereby confirmed and sanctioned.

2. Any law of Canada repugnant to the provisions of the said Convention is hereby amended and altered so as to permit, authorize and sanction the performance of the obligations undertaken by His Majesty in and under the said Convention; and so as to sanction, confer and impose the various rights, duties and disabilities intended by the said Convention to be conferred or imposed or to exist in Canada.

3. Section 82 and all sections following, except section 90 of the Fisheries Act, chapter 73 of the Revised Statutes of Canada, 1927, shall be deemed to apply, *mutatis mutandis*, for all purposes of this Act and shall have effect as if enacted herein.

4. (1) The owner or master of every vessel or any other person who:

(a) Uses any port or place within Canada for the purpose of furnishing, providing, preparing or outfitting in any manner, whether in whole or in part, any vessel for the purpose of engaging in the sockeye salmon fishery in contravention of any regulation or order made in pursuance of the said Convention; or

(b) Causes or permits any vessel to depart from any such port or place with the intention of fishing for sockeye salmon in contravention of any regulation or order made in pursuance of the said Convention; shall be guilty of an offence against this Act.

(2) The owner or master of any vessel shall, if the said vessel enter or come to any port or place in Canada while upon or in the prosecution of any voyage at any time during which the said vessel fished or was

used in fishing for sockeye salmon as aforesaid, or having on board the said vessel any sockeye salmon so caught, be guilty of an offence against this Act.

5. Every person who contravenes any provision of this Act or of any order or regulation made by the International Pacific Salmon Fisheries Commission, shall be guilty of an offence, and shall be liable upon summary conviction to a penalty of not less than 100 dollars and not more than 1,000 dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

6. This Act may be repealed by the Governor in Council provided that it shall not be so repealed during the existence of the International Pacific Salmon Fisheries Commission.

(iii) *United States*

*Sockeye Salmon Fishery Act, 29 July 1947. "U. S. Statutes at Large", vol. 61, c. 345, p. 511.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

This Act may be cited as the "Sockeye Salmon Fishery Act of 1947".

*Sec. 2. When used in this Act:*

(a) *Convention:* The word "convention" means the convention between the United States of America and the Dominion of Canada for the protection, preservation, and extension of the sockeye salmon fishery of the Fraser River system, signed at Washington on the 26th day of May 1930.

(b) *Commission:* The word "Commission" means the International Pacific Salmon Fisheries Commission provided for by article II of the convention.

(c) *Person:* The word "person" includes individuals, partnerships, associations, and corporations.

(d) *Convention waters:* The term "convention waters" means those waters described in article I of the convention.

(e) *Sockeye salmon:* The term "sockeye salmon" means that species of salmon known by the scientific name *Oncorhynchus nerka*.

(f) *Vessel:* The word "vessel" includes every type of description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

(g) *Fishing:* The word "fishing" means the fishing for, catching, or taking, or the attempted fishing for, catching, or taking, of any sockeye salmon in convention waters.

(h) *Fishing gear:* The term "fishing gear" means any net, trap, hook, or other device, appurtenance or equipment, of whatever kind or description, used or capable of being used, for the purpose of capturing fish or as an aid in capturing fish.

*Sec. 3. (a)* It shall be unlawful for any person to engage in fishing for sockeye salmon in convention waters in violation of the convention or of this Act or of any regulation of the Commission.

(b) It shall be unlawful for any person to ship, transport, purchase, sell, offer for sale, import, export, or have in possession any sockeye

salmon taken in violation of the convention or of this Act or of any regulation of the Commission.

(c) It shall be unlawful for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with fishing in violation of the convention or of this Act or of any regulation made by the Commission.

(d) It shall be unlawful for any person or vessel to engage in fishing for sockeye salmon in convention waters without first having obtained such license or licenses as may be used by or required by the Commission, or to fail to produce such license, upon demand, for inspection by an authorized enforcement officer.

(e) It shall be unlawful for any person to fail to make, keep, submit, or furnish any record or report required of him by the Commission or to refuse to permit any officer authorized to enforce the convention, this Act, and the regulations of the Commission, or any authorized representative of the Commission, to inspect any such record or report at any reasonable time.

(f) It shall be unlawful for any person to molest, interfere with, tamper with, damage, or destroy any boat, net, equipment, stores, provisions, fish-cultural stations, rearing pond, weir, fishway, or any other structure, installation, experiment, property, or facility acquired, constructed, or maintained by the Commission.

(g) It shall be unlawful for any person or vessel to do any act prohibited or to fail to do any act required by the convention or by this Act or by any regulation of the Commission.

*Sec. 4.* Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the Commission, or any person who furnishes a false return, record, or report, upon conviction shall be subject to such fine as may be imposed by the court not to exceed \$ 1,000, and shall in addition be prohibited from fishing for and from shipping, transporting, purchasing, selling, offering for sale, importing, exporting, or possessing sockeye salmon from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been replaced by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 5 of this Act shall not be invoked for failure to comply with requirements respecting returns, records, and reports.

*Sec. 5 (a)* Except as provided in section 4, any person violating any provision of the convention or of this Act or the regulation of the Commission upon conviction shall be fined not more than \$ 1,000 or be imprisoned not more than one year, or both, and the court may prohibit such person from fishing for, or from shipping, transporting, purchasing, selling, offering for sale, importing, exporting, or possessing sockeye salmon for such period of time as it may determine.

(b) The catch of fish of every vessel or of any fishing gear employed in any manner, or any fish caught, shipped, transported, purchased, sold, offered for sale, imported, exported, or possessed in violation of this Act or the regulations of the Commission shall be forfeited; and upon a second and subsequent violation the catch of fish shall be forfeited



and every such vessel and any fishing gear and appurtenances involved in the violation may be forfeited.

(c) All procedures of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws and the disposition of such vessel or the proceeds from the sale thereof shall apply to seizures, forfeitures, and condemnations incurred, or alleged to have been incurred, under the provisions of this Act in so far as such provisions of law are applicable and not inconsistent with this Act.

(d) In cases of minor violations of the provisions of the convention or of this Act or the regulations of the Commission, and in cases where immediate arrest of the person or seizure of fish, fishing gear, or of a vessel, together with its tackle, apparel, furniture, appurtenances, and cargo, would impose an unreasonable hardship, the person authorized to make such arrest or seizure or any court of competent jurisdiction may, in his or its discretion, issue a citation requiring such person to appear before the proper official of the court having jurisdiction thereof within a specified time, not exceeding fifteen days; or in the case of property, post such citation upon the said property and require its delivery to such court within such specified time. Upon the issuance of such citation and the filing of a copy thereof with the clerk of the appropriate court the person so cited and the property so seized and posted shall thereupon be subject to the jurisdiction of the court to answer the order of the court in such cause. Any property so seized shall not be disposed of except pursuant to the order of such court or the provisions of subsection (e) of this section.

(e) When a warrant of arrest or other process *in rem*, including that specified in subsection (d) of this section, is issued in any cause of admiralty jurisdiction under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation with sufficient sureties of approved corporate surety in such sum as the court shall order, conditioned to deliver the property seized, if condemned, without impairment in value (or, in the case of sockeye salmon, to pay its equivalent in money) or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in the event of any breach of the conditions thereof as determined by the court.

Sec. 6. (a) The President of the United States shall designate a Federal agency which shall be responsible for the enforcement of the provisions of the convention and this Act and the regulations of the Commission, except to the extent otherwise provided for in the convention and this Act. It shall be the duty of the Federal agency so designated to take appropriate measures for enforcement at such times and to such extent as it may deem necessary to insure effective enforcement and for this purpose to cooperate with other Federal agencies, State officers, the Commission, and with the authorized officers of the Dominion of Canada.

(b) The Federal agency designated by the President for enforcement purposes may authorize officers and employees of the State of Washington to enforce the provisions of the convention and of this Act and the regulations of the Commission. When so authorized such officers may function as Federal law-enforcement officers for the purposes of this Act.

(c) Enforcement of the convention and this Act and the regulations of the Commission shall be subject to and in accordance with the provisions of article IX of the convention.

(d) Any duly authorized officer or employee of the Federal agency designated by the President for enforcement purposes under the provisions of subsection (a) of this section 6; any officer or employee of the State of Washington who is authorized by the Federal agency so designated by the President; any enforcement officer of the Fish and Wildlife Service of the Department of the Interior, any Coast Guard officer, any United States marshal or deputy United States marshal, any collector or deputy collector of customs, and any other person authorized to enforce the provisions of the convention, this Act, and the regulations of the Commission, shall have power, without warrant or other process, but subject to the provisions of the convention, to arrest any person committing in his presence or view a violation of the convention or of this Act or of the regulations of the Commission and to take such person immediately for examination before an officer or trial before a court of competent jurisdiction; and shall have power, without warrant or other process, to search any vessel within convention waters when he has reasonable cause to believe that such vessel is subject to seizure under the provisions of the convention or this Act, or the regulations of the Commission, and to search any place of business or any commercial vehicle when he has reasonable cause to believe that such place or vehicle contains fish taken, possessed, transported, purchased, or sold in violation of any of the provisions of the convention, this Act, or the regulations of the Commission. Any person authorized to enforce the provisions of the convention and of this Act and the regulations of the Commission shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any person, vessel, or place, at any time. The judges of the United States courts and the United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention and this Act and the regulations of the Commission may seize, whenever and wherever lawfully found, all fish caught, shipped, transported, purchased, sold, offered for sale, imported, exported, or possessed contrary to the provisions of the convention or this Act or the regulations of the Commission and may seize any vessel, together with its tackle, apparel, furniture, appurtenances and cargo, and all fishing gear, used or employed contrary to the provisions of the convention or this Act or the regulations of the Commission, or which it reasonably appears has been used or employed contrary to the provisions of the convention or this Act or the regulations of the Commission.

(e) Evidence of any regulation made by the Commission may be given in any court proceedings by the production of a copy of such regulation certified by the Secretary of the Commission to be a true copy and no proof of the signature of the Secretary on such certification shall be required.

(f) Any authorized representative of the Commission, or any person authorized to enforce this Act and the regulations of the Commission

may inspect any licenses issued to persons or vessels engaging in fishing for sockeye salmon in convention waters and for this purpose may at any reasonable time board any vessel or enter upon any premises where such fishing is or may be conducted.

(b) NORTHERN PACIFIC HALIBUT FISHERIES

- (i) *Convention for the preservation of halibut industry, 29 January 1937. "U.S. Treaty Series", no. 917: "Treaties, Conventions, etc., between the United States of America and Other Powers", vol. 4, p. 4014*

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,

Desiring to provide more effectively for the preservation of the halibut fishery of the northern Pacific Ocean and Bering Sea, have resolved to conclude a convention revising the convention for the preservation of that fishery signed on their behalf at Ottawa on 9 May 1930, and have named as their plenipotentiaries for that purpose :

. . .

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

*Article 1.* The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the United States of America, including the southern as well as the western coasts of Alaska, and of Canada, from the first day of November next after the date of the exchange of ratifications of this Convention to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by article 3 is hereby empowered, subject to the approval of the President of the United States of America and of the Governor General of Canada, to suspend or change the closed season provided for by this article, as to part or all of the convention waters, when it finds after investigation such suspensions or changes are necessary, and to permit, limit, regulate and prohibit in any area or at any time when fishing for halibut is prohibited, the taking, retention, and landing of halibut caught incidentally to fishing for other species of fish, and the possession during such fishing of halibut of any origin.

It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Convention or by any regulations adopted in pursuance of its provisions.

It is further understood that nothing contained in this Convention shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes at any time.

*Article 2.* Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in halibut fishing on the high seas in violation of this Convention or of any regulation adopted under the provisions thereof may be seized by the duly authorized officers of either high contracting party and detained by the officers making such seizure and delivered 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. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, 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.

Each high contracting party shall be responsible for the proper observance of this Convention, or of any regulation adopted under the provisions thereof, in the portion of its waters covered thereby.

*Article 3.* The high contracting parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention for the preservation of the halibut fishery, signed at Washington, 2 March 1923, and continued under the Convention signed at Ottawa, 9 May 1930, consisting of four members, two appointed by each party, which Commission shall make such investigations as are necessary into the life history of the halibut in the convention waters and shall publish a report of its activities from time to time. Each of the high contracting parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each of the high contracting parties shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two high contracting parties in equal moieties.

The high contracting parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the President of the United States of America and of the Governor General of Canada, may, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, from time to time :

- (a) Divide the convention waters into areas;
- (b) Limit the catch of halibut to be taken from each area within the season during which fishing for halibut is allowed;
- (c) Prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Fisheries Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (b) of this paragraph;
- (d) Fix the size and character of halibut fishing appliances to be used in any area;

(e) Make such regulations for the licensing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;

(f) Close to all halibut fishing such portion or portions of an area or areas as the International Fisheries Commission find to be populated by small, immature halibut.

*Article 4.* The high contracting parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder, with appropriate penalties for violations thereof.

*Note.* Conventions for the preservation of halibut fishery were previously concluded by Canada and the United States on 2 March 1923 and 9 May 1930. *U.S. Treaty Series*, nos. 701 and 837; *Treaties, Conventions, etc., between the United States of America and Other Powers*, vol. 4, pp. 3982 and 3999.

(ii) *Canada*

*Northern Pacific Halibut Fishery (Convention) Act, 10 April 1937. 1 George VI, c. 36; "Statutes, 1937", p. 183*

1. This Act may be cited as The Northern Pacific Halibut Fishery (Convention) Act, 1937.

2. In this Act, unless the contrary intention appears:

(a) "Closed season" means, in respect of fishing for halibut in the convention waters, the period from the 1st day of November in any year to the 15th day of February in the next following year, both days inclusive, or any other period which may be substituted therefor either as to part or all of the convention waters by the International Fisheries Commission, with the approval of the Governor in Council and of the President of the United States of America;

(b) "Convention" means the convention between Canada and the United States of America for the preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 29th day of January, 1937;

(c) "Convention waters" comprises and means the territorial waters and the high seas off the western coasts of Canada and of the United States of America, including the southern as well as the western coasts of Alaska;

(d) "Halibut" means the species of fish known as *hippoglossus*;

(e) "International Fisheries Commission" means the commission established by the Convention for the preservation of the halibut fishery aforesaid concluded on 2 May 1923, and under the authority of the Northern Pacific Halibut Fishery Protection Act and continued by the Convention for the preservation of the said fishery concluded on 9 May 1930, and which is further continued under the Convention and under the provisions of this Act;

(f) "Regulations" means orders or regulations of the Governor in Council;

(g) "Territorial waters of Canada" means Canadian waters as defined for the purposes of the Customs Act which are contiguous to the western coast of Canada.

3. The Convention, which is set out in the schedule to this Act, is hereby confirmed and sanctioned.

4. In the event of any inconsistency between the provisions of this Act and of the Convention, and the operation of any other law, the provisions of this Act and of the Convention shall to the extent of such inconsistency prevail.

5. Section 5 and all of the following sections, except sections 10 and 29, of the Customs and Fisheries Protection Act, chapter 43 of the Revised Statutes of Canada, 1927, shall be deemed to apply in so far as applicable for all the purposes of this Act, and shall have effect as if enacted herein.

6. The Governor in Council may make such appointments, establish such offices, and do such things as may be deemed necessary for carrying out the Convention, and for giving effect to any of its provisions.

7. Canada shall pay the salaries and expenses of the members of the International Fisheries Commission appointed by the Governor in Council and one-half of the joint expenses incurred by the Commission out of moneys provided by Parliament.

8. Every person who at any time in the closed season fishes for, or catches, or attempts to catch, halibut in the territorial waters of Canada in contravention of any provision of this Act, or of any regulation; and every national or inhabitant of Canada who at any time in the closed season fishes for, or catches, or attempts to catch, halibut in convention waters, in contravention of any provision of this Act, or of any regulation, is guilty of an offence against this Act.

9. (1) The Governor in Council may make orders and regulations to give effect to any permission, limitation, regulation, prohibition, or other action of the International Fisheries Commission, pursuant to the provisions of the Convention.

(2) The Governor in Council may make such orders and regulations as may be deemed necessary for the purpose of carrying out the Convention or for giving effect to any of its provisions.

(3) The Governor in Council may make such orders and regulations as appear to him to be necessary to prevent the use of the territorial waters of Canada or of Canadian ports or of any other Canadian facilities, whether directly or indirectly, by any vessel, national or inhabitant of any country not a party to the Convention employed or intended to be employed either directly or indirectly in the halibut fishery in Convention waters.

(4) The Governor in Council may rescind, revoke, amend or vary any order or regulation made under the authority of this section.

(5) Every person who at any time contravenes any order or regulation made under the provisions of this section shall be guilty of an offence against this Act.

(6) Every order or regulation made under the authority of this section shall be published in the *Canada Gazette* and shall, as on the date of such publication or any later date mentioned therein, have force and effect as if it were enacted by parliament.

10. (1) The owner or master of any vessel, or any other person, who:  
(a) Makes use of any port or place within Canada for the purpose of furnishing, providing, preparing or outfitting in any manner, whether in whole or in part, any vessel for the purpose of engaging in the halibut

fishery within convention waters or within any specified area thereof in contravention of any provision of this Act, or of any regulation; or

(b) Causes or permits any vessel to depart from any such port or place with the intention of fishing for halibut within convention waters or within any specified area thereof in contravention of any provision of this Act, or of any regulation;

shall be guilty of an offence against this Act.

(2) The owner or master of any vessel shall, if the said vessel enter or come to any port or place in Canada while upon or in the prosecution of any voyage at any time during which the said vessel fished or was used in fishing for halibut as aforesaid, or have on board the said vessel any halibut caught while so fishing, be guilty of an offence against this Act.

11. The owner or master of any vessel or any person who lands or attempts to land, or knowingly has in his possession, in any port or place within Canada any halibut caught in convention waters or within any specified area thereof in contravention of any provision of this Act, or of any regulation, shall be guilty of an offence against this Act.

12. (1) Every ship, vessel, or boat, including all furniture, apparel, appliances, gear, tackle and rigging and all cargo and stores found on board thereof, which is in any manner operated or used for the commission of any offence against this Act, or for fishing for halibut in convention waters in contravention of any regulation, or for aiding or facilitating the commission of any such offence, or of any such contravention, may be seized by any officer authorized by the Customs and Fisheries Protection Act to board and search and shall, save as herein otherwise provided, be forfeited.

(2) Every national or inhabitant of Canada or of the United States engaged in fishing for halibut in convention waters in contravention of any provision of this Act or of any regulation, or in aiding or facilitating fishing as aforesaid, may be taken into custody and detained by any officer authorized by the Customs and Fisheries Protection Act to board and search.

(3) Whenever any such person is a national or inhabitant of the United States, or any such ship, vessel, boat or other property is registered in the United States or belongs to a national or an inhabitant of the United States, and is taken into custody and seized and detained for an offence against any provision of this Act or for a contravention of any regulation committed in convention waters other than the territorial waters of Canada, such person, ship, vessel, boat or other property shall be delivered as soon as practicable to an authorized official of the United States to be dealt with in accordance with the law of the United States.

13. Every person who knowingly has in his possession any halibut unlawfully caught within convention waters or unlawfully retained shall be guilty of an offence against this Act.

14. (1) Every person guilty of an offence against this Act or of a contravention of any regulation shall be liable upon summary conviction to a fine of not less than 100 dollars and not more than 1,000 dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

(2) The justice making the conviction shall adjudge and order as forfeited to the Crown for the public uses of Canada any halibut in the possession of the person convicted which is found to have been unlawfully caught in convention waters or unlawfully retained: Provided that if the conviction be quashed on an appeal or on a stated case, the person aggrieved shall be recouped the reasonable market value of the halibut so forfeited as of the date the forfeiture was so adjudged and ordered.

[Schedule not reproduced.]

*Note.* This Act replaced the Northern Pacific Halibut Protection Act of 1923. *Revised Statutes of Canada, 1927*, vol. 2, c. 75, p. 1759.

(iii) *United States*

*Northern Pacific Halibut Act, 28 June 1937, as amended. "U.S. Statutes at Large". vol. 50, c. 392, p. 325; "U.S. Code" (1946 edition), Title 16 (Conservation), sections 772a-772h*

*Section 772a. Definitions*

When used in sections 772-772i of this title:

(a) *Convention*: The word "Convention" means the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 29th day of January 1937, and shall include the regulations of the International Fisheries Commission promulgated thereunder.

(b) *Commission*: The word "Commission" means the International Fisheries Commission provided for by article III of the Convention.

(c) *Person*: The word "person" includes partnerships, associations, and corporations.

(d) *Territorial waters of the United States*: The term "territorial waters of the United States" means the territorial waters contiguous to the western coast of the United States and the territorial waters contiguous to the southern and western coasts of Alaska.

(e) *Territorial waters of Canada*: The term "territorial waters of Canada" means the territorial waters contiguous to the western coast of Canada.

(f) *Convention waters*: The term "Convention waters" means the territorial waters of the United States, the territorial waters of Canada, and the high seas of the Northern Pacific Ocean and the Bering Sea, extending westerly from the limits of the territorial waters of the United States and of Canada.

(g) *Halibut*: The word "halibut" means the species of *Hippoglossus* inhabiting Convention waters.

(h) *Vessel*: The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water. (June 28, 1937, ch. 392, section 2, 50 Stat. 325.)



*Section 772b. Acts unlawful*

It shall be unlawful for:

(a) Any person other than a national or inhabitant of the United States to catch or attempt to catch any halibut in the territorial waters of the United States;

(b) Any person to transfer to or to receive upon any vessel of the United States, or to bring to any place within the jurisdiction of the United States any halibut caught in Convention waters by the use of any vessel of a nation not a party to the Convention, or caught in Convention waters by any national or inhabitant of the United States or Canada in violation of the Convention or of sections 772-772i of this title;

(c) Any national or inhabitant of the United States to catch, attempt to catch, or to possess any halibut in the territorial waters of the United States or in Convention waters in violation of any provision of the Convention or of sections 772-772i of this title;

(d) Any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel, other than a vessel of the United States or Canada, in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in Convention waters or the territorial waters of the United States or Canada;

(e) Any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel of the United States or Canada in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in violation of any provision of the Convention or of sections 772-772i of this title;

(f) Any person within the territory or jurisdiction of the United States or any national or inhabitant of the United States within Convention waters knowingly to have or have had in his possession any halibut taken, transferred, received, or brought in in violation of any provision of the Convention or of sections 772-772i of this title;

(g) Any person to depart from any place within the jurisdiction of the United States in any vessel which departs from such place in violation of the Convention or of sections 772-772i of this title;

(h) Any person in the territorial waters of the United States or any national or inhabitant of the United States in Convention waters to catch or attempt to catch any halibut, or to possess any halibut caught incidentally to fishing for other species of fish by the use of or in any vessel required by the Convention to have on board any license or permit unless such vessel shall have on board a license or permit which shall comply with all applicable requirements of the Convention and which shall be available for inspection at any time by any officer authorized to enforce the Convention or by any representative of the Commission;

(i) Any person to take, retain, land, or possess any halibut caught incidentally to fishing for other species of fish, in violation of any provision of the Convention or of sections 772-772i of this title. (June 28, 1937, ch. 392, section 3, 50 Stat. 326.)

*Section 772c. Records and reports of master or owner.*

It shall be unlawful for the master or owner or person in charge of any vessel or any other person required by the Convention to make, keep, or furnish any record or report to fail to do so, or to refuse to permit any officer authorized to enforce the Convention or any representative of the Commission to examine and inspect any such record or report at any time. (June 28, 1937, ch. 392, section 4, 50 Stat. 327.)

*Section 772d. Enforcement; arrest and seizure; detention; testimony of officers*

(a) The provisions of the Convention and of sections 772-772i of this title and any regulations issued under said sections shall be enforced by the Coast Guard, the Customs Service, and the Fish and Wildlife Service. For such purposes any officer of the Coast Guard, Customs, or Fish and Wildlife Service may at any time go on board of any vessel in territorial waters of the United States, or any vessel of the United States or Canada in Convention waters, except in the territorial waters of Canada, to address inquiries to those on board and to examine, inspect, and search the vessel and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel, and use all necessary force to compel compliance.

(b) Whenever it appears to any such officer that any person, other than a national or inhabitant of Canada, on any vessel of the United States is violating or has violated any provision of the Convention or of sections 772-772i of this title, he shall arrest such person and seize any such vessel employed in such violation. If any such person on any such vessel of the United States is a national or inhabitant of Canada, such person shall be detained and shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention or at such other port or place as such officers of the United States and of Canada may agree upon.

(c) Whenever it appears to any such officer of the United States that any person, other than a national or inhabitant of the United States, on any vessel of Canada in Convention waters, except in the territorial waters of Canada, is violating or has violated any provision of the Convention, such person, and any such vessel employed in such violation, shall be detained and such person and such vessel shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention, or at such other port or place as such officers of the United States and of Canada may agree upon. If any such person on any such vessel of Canada, is a national or inhabitant of the United States, such person shall be arrested as provided for in subsection (b) of this section.

(d) Officers or employees of the Coast Guard, Customs, and Fish and Wildlife Service may be directed to attend as witnesses and to produce such available records and files or certified copies thereof as may be produced compatibly with the public interest and as may be considered essential to the prosecution in Canada of any violation of the provisions of the Convention or any Canadian law for the enforcement thereof when requested by the appropriate Canadian authorities in the manner prescribed in article V of the Convention to suppress smuggling concluded between the United States and Canada on June 6, 1924 (44 Stat. (pt. 3), 2097). (June 28, 1937, ch. 392, section 5, 50 Stat. 327;

1939 Reorg. Plan No. II, section 4 (e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, section 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232.)

*Section 772e. Penalties and forfeitures*

(a) Any person violating any provision of section 772b of this title upon conviction shall be fined not more than \$ 1,000 nor less than \$ 100 or be imprisoned for not more than one year, or both.

(b) The cargo of halibut of every vessel employed in any manner in connection with the violation of any provision of section 772b of this title shall be forfeited; upon a second violation of the provisions of said section, every such vessel, including its tackle, apparel, furniture, and stores may be forfeited and the cargo of halibut of every such vessel shall be forfeited; and, upon a third or subsequent violation of the provisions of said section, every such vessel including its tackle, apparel, furniture, cargo, and stores shall be forfeited.

(c) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of sections 772-772i of this title, in so far as such provisions of law are applicable and not inconsistent with the provisions of said sections: *Provided*, That except as provided in section 772d of this title all rights, powers, and duties conferred or imposed by said sections upon any officer or employee of the Treasury Department shall, for the purposes of said sections, be exercised or performed by the Secretary of the Interior or by such persons as he may designate. (June 28, 1937, ch. 392, section 6, 60 Stat. 328; 1939 Reorg. Plan No. II, section 4 (e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

*Section 772f. Penalties relative to records and reports*

Any person violating section 772c of this title shall be subject to a penalty of \$ 50 for each such violation. The Secretary of the Interior is authorized and empowered to mitigate or remit any such penalty in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws. (June 28, 1937, ch. 392, section 7, 50 Stat. 328; 1939 Reorg. Plan No. II, section 4 (e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

*Section 772g. Exemption of Commission*

None of the prohibitions contained in sections 772-772i of this title shall apply to the Commission or its agents when engaged in any scientific investigation. (June 28, 1937, ch. 392, section 8, 50 Stat. 328.)

*Section 772h. Rules and regulations*

The Secretary of the Treasury and the Secretary of the Interior are authorized to make such joint rules and regulations as may be necessary to carry out the provisions of sections 772-772i of this title. (June 28, 1937, ch. 392, section 9, 50 Stat. 328; 1939 Reorg. Plan No. II, section 4 (e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

*Note.* This Act replaces the Northern Pacific Halibut Acts of 7 June 1924 and 2 May 1932. *U.S. Statutes at Large*, vol. 43, c. 345, p. 648, and vol. 47, c. 154, p. 142.

(iv) *United States*

*Regulations of the International Fisheries Commission concerning Pacific halibut fisheries, approved by the President of the United States, 28 April 1949. "Code of Federal Regulations", title 50, chapter III, part 301; "Federal Register", vol. 14, no. 88 (7 May 1949), p. 2380*

*Section 301.1. Regulatory areas. (a)* Convention waters which include the territorial waters and the high seas off the western coast of Canada and the United States of America including the southern as well as the western coasts of Alaska, shall be divided into the following areas, all directions given being magnetic unless otherwise stated.

*(b)* Area 1A shall include all convention waters southeast of a line running northeast and southwest through Cape Blanco Light, as shown on Chart 5952, published in February, 1935, by the United States Coast and Geodetic Survey, which light is approximately latitude  $42^{\circ} 50' 14''$  N., longitude  $124^{\circ} 33' 45''$  W.

*(c)* Area 1B shall include all convention waters between Area 1A and a line running northeast and southwest through Willapa Bay Light on Cape Shoalwater, as shown on Chart 6185, published in July, 1939, by the United States Coast and Geodetic Survey, which light is approximately in latitude  $46^{\circ} 43' 17''$  N., longitude  $124^{\circ} 04' 15''$  W.

*(d)* Area 2 shall include all convention waters off the coasts of the United States of America and of Alaska and of the Dominion of Canada between Area 1B and a line running through the most westerly point of Glacier Bay, Alaska, to Cape Spencer Light as shown on Chart 8304, published in June, 1940, by the United States Coast and Geodetic Survey, which light is approximately latitude  $58^{\circ} 11' 57''$  N., longitude  $136^{\circ} 38' 18''$  W., thence south one-quarter east and is exclusive of the areas closed to all halibut fishing in section 301.9.

*(e)* Area 3 shall include all the convention waters off the coast of Alaska that are between Area 2 and a straight line running from the light on Cape Kabuch at the head of Ikaton Bay as shown on Chart 8701 published in February, 1943, by the United States Coast and Geodetic Survey which light is approximately latitude  $53^{\circ} 49' 03''$  N., longitude  $163^{\circ} 21' 42''$  W., thence to Cape Sarichef Light at the western end of Unimak Island as shown on Chart 8860 published in December, 1942 (12th edition) by the United States Coast and Geodetic Survey which light is approximately latitude  $54^{\circ} 36' 00''$  N., longitude  $164^{\circ} 55' 45''$  W., thence true west.

*(f)* Area 4 shall include all convention waters in Bering Sea which are not included in Area 3.

*Section 301.2. Limit of catch in each area. (a)* The catch of halibut to be taken during the halibut fishing season of the year 1949 from Area 2 shall be limited to approximately 25,500,000 pounds of salable halibut and from Area 3 to approximately 28,000,000 pounds of salable halibut, and from Area 4 to approximately 500,000 pounds of salable halibut, the weight in each or any such limit to be computed as with heads off and entrails removed.

(b) The catch of halibut to be taken from each area during the halibut fishing season of the year 1949 shall also be limited to halibut which with the head on are twenty-six inches or more in length as measured from the tip of the lower jaw to the extreme end of the middle of the tail or to halibut which with the head off and entrails removed are five pounds or more in weight, and the possession of any halibut of less than the above length or the above weight, according to whether the head is on or off, by any vessel or by any master or operator of any vessel or by any person, firm or corporation, is prohibited.

(c) The International Fisheries Commission shall as early in the said year as is practicable determine the date on which it deems each limit of catch defined in paragraph (a) of this section will be attained, and the limit of each such catch shall then be that which shall be taken prior to said date, and fishing for or catching of halibut in the area or areas to which such limit applies shall at that date be prohibited until after the end of the closed season as defined and modified in section 301.3, except as provided in section 301.5, and in article I of the Convention: And provided, That if it shall at any time become evident to the International Fisheries Commission that the limit will not be reached by such date, it may substitute another date.

*Section 301.3. Length of closed season*

(a) Under the authority of article I of the aforesaid Convention the closed season as therein defined shall be modified so as to end at 12 midnight of the 30th day of April of the year 1949 and of each year thereafter and shall begin at 12 midnight of the 30th day of November of each year unless an earlier date is determined upon for any area under the provisions of paragraph (b) of this section.

(b) Under authority of article I of the Convention, the closed season as therein defined shall begin in each area on the date on which the limit is reached as provided in paragraph (c) of section 301.2 and the closing of such area or areas shall be taken to have been duly approved unless before the said date either the President of the United States of America or the Governor General of Canada shall have signified his disapproval (the burden of proving any such signification being upon the person alleging it) and provided that the closing date of Area 2 or of Area 3, whichever shall be later, shall apply to Areas 1A and 4, unless Area 4 shall have been previously closed under this section, and that the closing date of Area 2 shall apply to Area 1B.

(c) Nothing contained in the regulations in this part shall prohibit the fishing for species of fish other than halibut or prohibit the International Fisheries Commission from conducting fishing operations as provided for in article I of the Convention.

*Section 301.4 Issuance of licenses and conditions limiting their validity*

(a) All vessels of any tonnage which shall fish for halibut in any manner or hold halibut in possession in any area, or which shall transport halibut otherwise than as a common carrier documented by the Government of the United States or of Canada for the carriage of freight, must be licensed by the International Fisheries Commission: Provided, That vessels of less than five net tons or vessels which do not use set lines need

not be licensed unless they shall require a permit as provided in section 301.5.

(b) Each vessel licensed by the International Fisheries Commission shall carry on board at all times while at sea the halibut license thus secured whether it is validated for halibut fishing or endorsed with a permit as provided in section 301.6 and this license shall at all times be subject to inspection by authorized officers of either of said governments or by representatives of the International Fisheries Commission.

(c) The halibut license shall be issued without fee by the customs officers of either of said governments or by representatives of the International Fisheries Commission or by fishery officers of either of said governments at places where there are neither customs officers nor representatives of the International Fisheries Commission. A new license may be issued by the officer accepting statistical return at any time to vessels which have furnished proof of loss of the license form previously issued, or when there shall be no further space for record thereon, providing the receipt of statistical return shall be shown on the new form for any halibut or other species taken during or after the voyage upon which loss occurred. The old license form shall be forwarded in each case to the International Fisheries Commission.

(d) The halibut license of any vessel shall be validated before departure from port for each halibut fishing operation for which statistical returns are required. This validation of a license shall be by customs officers or by fisheries officers of either of said governments when available at places where there are no customs officers and shall not be made unless the area in which the vessel will fish is entered on the license form and unless the provisions of section 301.7 have been complied with for all landings and all fishing operations since issue of the license: Provided, That if the master or operator of any vessel shall fail to comply with the provisions of section 301.7, the halibut license of such vessel may be validated by customs officers upon evidence either that there has been a judicial determination of the offense or that the laws prescribing penalties therefor have been complied with, or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

(e) The halibut license of any vessel fishing for halibut in Area 1A as defined in section 301.1 after the closure of Areas 1B and 2 must be validated at a port or place within Area 1A prior to each such fishing operation.

(f) No halibut license shall be validated for departure for halibut fishing in Areas 1A or 1B or 2 more than three days, and in Areas 3 or 4 more than five days before the end of the closed season as defined in section 301.3(a).

(g) No halibut license shall be valid for halibut fishing in more than one area, as defined in section 301.1, during any one trip nor shall it be revalidated for halibut fishing in another such area while the vessel has any halibut on board.

(h) The halibut license shall not be valid for halibut fishing in any area closed to halibut fishing or for the possession of halibut in any area closed to halibut fishing except while in actual transit to or within a port of sale.

(i) The halibut license shall not be valid for halibut fishing in any area while a permit endorsed thereon is in effect, nor shall it be validated while halibut taken under such permit is on board.

(j) The halibut license of any vessel shall not be valid for the possession of any halibut in any area other than that for which validated, if such vessel is in possession of baited gear, except in those waters included within a twenty-five mile radius of Cape Spencer Light, Alaska.

*Section 301.5. Retention of halibut taken with other fish under permit*

(a) There may be retained for sale on any vessel which shall have a permit as provided in section 301.6 such halibut as is caught incidentally to fishing by that vessel in any area that is closed to halibut fishing under section 301.2 with set lines (of the type commonly used in the Pacific coast halibut fishery) for other species, not to exceed at any time one pound of halibut for each seven pounds of salable fish, actually utilized, of other species not including salmon or tuna, and such halibut may be sold as the catch of said vessel, the weight of all fish to be computed as with heads off and entrails removed: Provided, That it shall not be a violation of this regulation for any such vessel to have in possession halibut in addition to the amount therein allowed to be sold if such additional halibut shall not exceed thirty per cent of such amount and shall be forfeited and surrendered at the time of landing as provided in paragraph (d) of this section.

(b) The catch of halibut taken and retained under such permit shall be limited to halibut which with the head on are twenty-six inches or more in length as measured from the tip of the lower jaw to the extreme end of the middle of the tail or to halibut which with the head off and entrails removed are five pounds or more in weight, and the possession of any halibut of less than the above length or the above weight, according to whether the head is on or off, by any vessel or by any master or operator of any vessel or by any person, firm or corporation, is prohibited.

(c) Halibut retained under such permit shall not be landed or otherwise removed or be received by any person, firm or corporation from the catching vessel until all halibut on board shall have been reported to a customs, fishery or other authorized enforcement officer of either of said governments by the captain or operator of said vessel and also by the person, firm or corporation receiving the halibut, and no halibut or other fish shall be landed or removed or be received from the catching vessel except with the permission of said officer and under such supervision as the said officer may deem advisable.

(d) Halibut retained under such permit shall not be purchased or held in possession by any person other than the master, operator or crew of the catching vessel in excess of the proportion allowed in paragraph (a) of this section until such excess whatever its origin shall have been forfeited and surrendered to the customs, fishery or other authorized officers of either of said governments. In forfeiting such excess, the vessel shall be permitted to surrender any part of its catch of halibut: Provided, That the amount retained shall not exceed the proportion herein allowed.

(e) Permits for the retention and landing of halibut in the year 1949 shall become invalid at 12 midnight of the 15th day of November

of said year or at such earlier date as the International Fisheries Commission shall determine.

*Section 301.6 Issuance of permits and conditions limiting their validity*

(a) Any vessel which shall be used in fishing for other species than halibut in any area closed to halibut fishing under section 301.2 must have a halibut license and a permit, if it shall retain, land or sell any halibut caught incidentally to such fishing or possess any halibut of any origin during such fishing, as provided in section 301.5.

(b) The permit shall be shown by endorsement of the issuing officer on the face of the halibut license form held by said vessel and shall show the area for which the permit is issued.

(c) The permit shall terminate at the time of first landing thereafter of fish of any species and a new permit shall be secured before any subsequent fishing operation for which a permit is required.

(d) A permit shall not be issued to any vessel which shall have halibut on board taken while said vessel was licensed to fish in an open area unless such halibut shall be considered as taken under the issued permit and is thereby subject to forfeiture when landed if in excess of the proportion permitted in paragraph (a) of section 301.5.

(e) A permit shall not be issued to, or be valid if held by, any vessel which shall fish with other than set lines of the type commonly used in the Pacific coast halibut fishery.

(f) The permit of any vessel shall not be valid unless the permit is granted before departure from port of each fishing operation for which statistical returns are required. This granting of a permit shall be by customs officers or by fishery officers of either of said governments when available at places where there are no customs officers and shall not be made unless the area in which the vessel will fish is entered on the halibut license form and unless the provisions of section 301.7 have been complied with for all landings and all fishing operations since issue of the license or permit: Provided, That if the master or operator of any vessel shall fail to comply with the provisions of section 301.7, the permit of such vessel may be granted by customs officers upon evidence either that there has been a judicial determination of the offense or that the laws prescribing penalties therefor have been complied with, or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

(g) The permit of any vessel shall not be valid if said vessel shall have in its possession at any time halibut in excess of the amount allowed under paragraph (a) of section 301.5.

*Section 301.7. Statistical return by vessels*

(a) Statistical return as to the amount of halibut taken during fishing operations must be made by the master or operator of any vessel licensed under the regulations in this part and as to the amount of halibut and other species by the master or operator of any vessel operating under permit as provided for in section 301.5 and 301.6, within forty-eight hours of landing, sale or transfer of halibut or of first entry thereafter into a port where there is an officer authorized to receive such return.

(b) The statistical return must state the port of landing and the amount of each species taken within the area defined in the regulations in this part for which the vessel's license is validated.



(c) The statistical return must include all halibut landed or transferred to other vessels and all halibut held in possession on board and must be full, true and correct in all respects herein required. A copy of such return must be forwarded to the International Fisheries Commission at such time as the latter shall require.

(d) The master or operator and/or any person engaged on shares in the operation of any vessel licensed or holding a permit under the regulations in this part may be required by the International Fisheries Commission or by any officer of either of said governments authorized to receive such return to certify to its correctness to the best of his information and belief and to support the certificate by a sworn statement. Validation of a halibut license or issuance of a permit after such sworn return is made shall be provisional and shall not render the license or permit valid in case the return shall later be shown to be false or fraudulently made.

(e) The master or operator of any vessel holding a license or permit under the regulations in this part shall keep an accurate log of all fishing operations including therein date, locality, amount of gear used, and the amount of halibut taken daily in each such locality. This log record shall be open to inspection of representatives of the International Fisheries Commission authorized for this purpose.

(f) The master, operator and/or any other person engaged on shares in the operation of any vessel licensed under the regulations in this part may be required by the International Fisheries Commission or by any officer of either of said governments to certify to the correctness of such log record to the best of his information and belief and to support the certificate by a sworn statement.

*Section 301.8. Statistical return by dealers*

(a) All persons, firms or corporations that shall buy halibut or receive halibut for any purpose from fishing or transporting vessels or other carrier shall keep and on request furnish to customs officers or to any enforcing officer of either of said governments or to representatives of the International Fisheries Commission, records of each purchase or receipt of halibut, showing date, locality, name of vessel, person, firm or corporation purchased or received from and the amount in pounds according to trade categories of the halibut and other species landed with the halibut.

(b) All persons, firms or corporations receiving fish from a vessel fishing under permit as provided in section 301.5 shall within forty-eight hours make to an authorized enforcing officer of either of said governments a signed statistical return showing the date, locality, name of vessel received from and the amount of halibut and of other species landed with the halibut and certifying that permission to receive such fish was secured in accordance with paragraph (c) of section 301.5. Such persons, firms or corporations may be required by any officer of either of said governments to support the accuracy of the above signed statistical return with a sworn statement.

(c) All records of all persons, firms or corporations concerning the landing, purchase, receipt and sale of halibut and other species landed therewith shall be open at all times to inspection of any enforcement officer of either of said governments or of any authorized representative

of the International Fisheries Commission. Such persons, firms or corporations may be required to certify to the correctness of such records and to support the certificate by a sworn statement.

(d) The possession by any person, firm or corporation of halibut which such person, firm or corporation knows to have been taken by a vessel without a valid halibut license or a vessel without a permit when such license or permit is required, is prohibited.

*Section 301.9. Closed small halibut grounds*

(a) The following areas have been found to be populated by small, immature halibut and are hereby closed to all halibut fishing and the possession of halibut of any origin is prohibited therein during fishing for other species:

(b) First, that area in the waters off the coast of Alaska within the following boundary as stated in terms of the magnetic compass unless otherwise indicated: From the north extremity of Cape Ulitka, Noyes Island, approximately latitude  $55^{\circ} 33' 48''$  N., longitude  $133^{\circ} 43' 35''$  W., to the south extremity of Wood Island, approximately latitude  $55^{\circ} 39' 44''$  N., longitude  $133^{\circ} 42' 29''$  W.; thence to the east extremity of Timbered Islet, approximately latitude  $55^{\circ} 41' 47''$  N., longitude  $133^{\circ} 47' 42''$  W.; thence to the true west extremity of Timbered Islet, approximately latitude  $55^{\circ} 41' 46''$  N., longitude  $133^{\circ} 48' 01''$  W.; thence southwest three-quarters south sixteen and five-eighths miles to a point approximately latitude  $55^{\circ} 34' 46''$  N., longitude  $134^{\circ} 14' 40''$  W.; thence southeast by south twelve and one-half miles to a point approximately latitude  $55^{\circ} 22' 23''$  N., longitude  $134^{\circ} 12' 48''$  W.; thence northeast thirteen and seven-eighths miles to the southern extremity of Cape Addington, Noyes Island, latitude  $55^{\circ} 26' 11''$  N., longitude  $133^{\circ} 49' 12''$  W.; and to the point of origin on Cape Ulitka. The boundary lines herein indicated shall be determined from Chart 8157, as published by the United States Coast and Geodetic Survey at Washington, D. C., in June, 1929, and Chart 8152, as published by the United States Coast and Geodetic Survey at Washington, D. C., in March, 1933, and reissued March, 1939, except for the point of Cape Addington which shall be determined from Chart 8158, as published by the United States Coast and Geodetic Survey in December, 1923: Provided, That the duly authorized officers of the United States of America may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein and such mark or marks shall thereafter be considered as correctly defining said boundary.

(c) Second, that area lying in the waters off the northern coast of Graham Island, British Columbia, within the following boundary, and including the waters of Sturgess Bay, Masset Sound, Masset Inlet, and bays and inlets thereof; from the northwest extremity of Wiah Point, latitude  $54^{\circ} 06' 50''$  N., longitude  $132^{\circ} 19' 18''$  W., true north five and one-half miles to a point approximately latitude  $54^{\circ} 12' 20''$  N., longitude  $132^{\circ} 19' 18''$  W.; thence true east approximately sixteen and three-tenths miles to a point which will lie northwest (according to magnetic compass at any time) of the highest point of Tow Hill, Graham Island, latitude  $54^{\circ} 04' 24''$  N., longitude  $131^{\circ} 48' 00''$  W.; thence southeast to the said highest point of Tow Hill. The points on the shoreline of the above-mentioned island shall be determined from

Chart 3754, published at the Admiralty, London, April 11, 1911: Provided, That the duly authorized officers of the Dominion of Canada may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein, and such marks shall thereafter be considered as correctly defining said boundary.

*Section 301.10. Dory gear prohibited*

The use of any hand gurdy or other appliance in hauling halibut gear by hand power in any dory or small boat operated from a vessel licensed under the provisions of the regulations in this part is prohibited in all convention waters.

*Section 301.11. Nets prohibited*

It is prohibited to retain halibut taken with a net of any kind or to have in possession any halibut while using any net or nets other than bait nets for the capture of other species of fish, nor shall any license or permit held by any vessel under the regulations in this part be valid during the use or possession on board of any net or nets other than bait nets: Provided, That the character and the use of said bait nets conform to the laws and regulations of the country where they may be utilized and that said bait nets are utilized for no other purpose than the capture of bait for said vessel.

*Section 301.12. Retention of tagged halibut*

Nothing contained in the regulations in this part shall prohibit any vessel at any time from retaining and landing any halibut which bears an International Fisheries Commission tag at the time of capture: Provided, That such halibut with the tag still attached is reported at the time of landing to representatives of the International Fisheries Commission or to enforcement officers of either of said governments and is made available to them for examination.

*Section 301.13. Responsibility of master*

Wherever in the regulations in this part any duty is laid upon any vessel, it shall be the personal responsibility of the master or operator of said vessel to see that said duty is performed and he shall personally be responsible for the performance of said duty. This provision shall not be construed to relieve any member of the crew of any responsibility with which he would otherwise be chargeable.

*Section 301.14. Supervision of unloading and weighing*

The unloading and weighing of the halibut of any vessel licensed or holding a permit under the regulations in this part shall be under such supervision as the customs or other authorized officer may deem advisable in order to assure the fulfilment of the provisions of the regulations in this part.

*Previous regulations superseded*

These regulations shall supersede all previous regulations adopted pursuant to the Convention between the United States of America and the Dominion of Canada for preservation of the halibut fishery of the

northern Pacific Ocean and Bering Sea, signed 29 January, 1937, except as to offenses occurring prior to the approval of these regulations. These regulations shall be effective as to each succeeding year, with the dates herein specified changed accordingly, until superseded by subsequently approved regulations. Any determination made by the International Fisheries Commission pursuant to these regulations shall become effective immediately.

*Note.* For a Canadian enactment of the Regulations of the International Fisheries Commission, see Canadian Order in Council of 6 March 1948 (P.C. 923), *Canada Gazette*, vol. 82 (1948), part II (Statutory Orders and Regulations), p. 745.

(c) PELAGIC SEALING

- (i) *Provisional Fur Seal Agreement, embodied in an Exchange of Notes, 8 and 19 December 1942.* "U.S. Executive Agreement Series", no. 415; "United Nations Treaty Series", vol. 26, p. 363

*Article 1.* The provisions of this Agreement shall apply to all waters of the Bering Sea and the Pacific Ocean, north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian.

*Article 2.* The Government of the United States of America and the Government of Canada mutually and reciprocally agree that:

(a) Excepting as may be authorized pursuant to paragraph (c) of this article, nationals or citizens of the respective countries, and all persons, and vessels, subject to their laws and treaties, shall be prohibited, while this Agreement remains in force, from engaging in pelagic sealing in the waters within the area defined in article 1, and that every such person and vessel offending against such prohibition may be seized, except within the territorial jurisdiction of the other party to this Agreement, and detained by the naval or other duly commissioned officers of either of the parties, to be delivered as soon as practicable to an authorized official of their own nation at the nearest point to the place of seizure, or elsewhere as may be mutually agreed upon; and that the authorities of the nation to which such person or vessel belongs alone shall have jurisdiction to try the offense and impose the penalties for the same; and that the witnesses and proofs necessary to establish the offense, so far as they are under the control of either of the parties to this Agreement, shall be furnished with all reasonable promptness to the authorities having jurisdiction to try the offense;

(b) No person or vessel shall be permitted to use any of the ports or harbors of either of the parties to this Agreement or any part of the territories of such parties for any purposes connected with the operation of pelagic sealing in the waters within the area defined in article 1; and the importation into or possession within their respective territories of skins of fur seals taken in those waters other than in accord with the provisions of this Agreement shall not be permitted; and

(c) Notwithstanding the foregoing provisions, pelagic sealing may be conducted, in the event of emergency circumstances, by an agency or agencies authorized by either of the two governments under such conditions and for such a period as may be agreed upon by consultation

between the two governments, and the skins thus taken shall be shared in such a manner as may be agreed upon between them.

*Article 3.* The United States agrees that of the total number of sealskins taken annually under the authority of the United States upon the Pribilof Islands or any other islands or shores of the waters defined in article 1 subject to the jurisdiction of the United States to which any seal herds hereafter resort, there shall be delivered at the Pribilof Islands or at such other point or points as may be acceptable to both governments, at the end of each season during the term of this Agreement twenty per cent gross in number and value thereof to an authorized agent of the Canadian Government.

*Article 4.* It is agreed on the part of Canada that in case any fur seals hereafter resort to any islands or shores of the waters defined in article 1 subject to the jurisdiction of Canada, there shall be delivered at the end of each season during the term of this Agreement twenty per cent gross in number and value of the total number of sealskins taken annually from such herd to an authorized agent of the Government of the United States of America at Vancouver, British Columbia, or at such other point or points as may be acceptable to both governments.

*Article 5.* The provisions of this Agreement shall not apply to Indians, Aleuts, or other aborigines dwelling on the coasts of the waters defined in article 1, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practised, and without the use of firearms; provided that such aborigines are not in the employment of other persons or under contract to deliver the skins to any person.

*Article 6.* The term pelagic sealing is hereby defined for the purposes of this Agreement as meaning the killing, capturing, or pursuing in any manner whatsoever of fur seals at sea.

*Article 7.* Notwithstanding anything contained in the preceding articles of the present Agreement, either party to this Agreement may grant to any of its nationals or agencies a special permit to take fur seals for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the party deems appropriate. Each party shall at the end of each calendar year inform the other party of the number of animals taken and the data obtained under such permits.

*Article 8.* Nothing contained in the present Agreement shall restrict the right of the United States at any time to suspend altogether the taking of sealskins upon the Pribilof Islands or any other islands or shores of the waters defined in article 1 subject to its jurisdiction, or the right of the United States to impose such restrictions and regulations upon the total number of skins which may be taken in any season and the manner and times and places of taking skins as may seem necessary to protect and preserve the seal herd or to increase its numbers, provided, however, that the two governments will consult from time to time regarding the level of population at which the seal herd is to be maintained or other important phases of management or policy.

*Article 9.* Each of the parties agrees to enact and enforce such legislation as may be necessary to make effective the foregoing provisions with appropriate penalties for violations thereof.

The parties further agree to co-operate with each other in taking such measures as may be appropriate for the enforcement of the foregoing provisions.

*Note.* This Agreement was extended by the exchange of Notes of 26 December 1947. *United Nations Treaty Series*, vol. 27, p. 30. With respect to the enforcement of this Agreement see U.S. Public Law No. 237, of 26 February 1944, and Canadian Act No. 21 of 14 May 1948, which are reproduced below.

A multilateral convention for the preservation and protection of fur seals was concluded on 7 July 1911 (*U.S. Treaty Series*, no. 564; Martens, *Nouveau Recueil général de Traités*, 3rd series, vol. 5, p. 720); it was denounced by Japan on 23 October 1940 (*U.S. Department of State Bulletin*, vol. 3, p. 412).

(ii) *Canada*

*Pelagic Sealing (Provisional Agreement) Act, 14 May 1948. 11-12 George VI, c. 21; "Statutes, 1948", p. 147*

1. This Act may be cited as The Pelagic Sealing (Provisional Agreement) Act.

2. In this Act:

(a) "Agreement" means the Provisional Fur Seal Agreement entered into between Canada and the United States of America by Exchange of Notes dated the eighth day of December, nineteen hundred and forty-two, the nineteenth day of December, nineteen hundred and forty-two, and the twenty-sixth day of December, nineteen hundred and forty-seven, set out in schedule A;

(b) "North Pacific waters" means the waters within such part of the Pacific Ocean as are north of the thirtieth parallel of north latitude, and east of the one hundred and eightieth meridian, including the Bering Sea;

(c) "Equipment" includes any boat, tackle, apparel, furniture, provisions, munitions, fuel or stores with which a vessel is furnished and any other thing that is used in or about a vessel for the purpose of fitting or adapting her for the sea or for carrying, taking or hunting seals; and "equipping" includes furnishing a vessel with any equipment;

(d) "Pelagic sealing" means the killing, capturing or pursuing in any manner whatsoever of fur seals at sea;

(e) "Vessel" includes any ship, boat, canoe or any other description of vessel used in navigation.

3. (1) Any commissioned officer on full pay in the naval, military or air forces of Canada or in any other naval, military or air forces of His Majesty, or any fishing officer or stipendiary magistrate, on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any other person duly commissioned for that purpose, may go on board of any vessel within the territorial waters of Canada covered by the Agreement that he has reason to believe is in any manner being operated or used in contravention of this Act or the Agreement, or for aiding or facilitating any such

contravention, and may search her cargo and equipment and examine the master or person in command under oath touching the cargo, equipment and voyage.

(2) Where the master or person in command of any vessel mentioned in subsection 1, upon examination under oath by any officer or person under the authority of this Act touching the cargo, equipment or voyage of such vessel refuses or fails to answer truly all questions put to him in such examination, or where such master or person in command refuses to take an oath for the purpose of such examination, he is guilty of an offence and liable on summary conviction to a fine not exceeding 400 dollars.

4. (1) No citizen or inhabitant of Canada shall engage in, and no vessel registered in Canada or belonging to any such citizen or inhabitant shall be operated or used in or for any purpose connected with pelagic sealing in North Pacific waters.

(2) Every person who violates subsection 1 or who procures, aids or abets any such violation, is guilty of an offence.

5. Every person who uses any port or harbour within Canada for the purpose of equipping any vessel intended to be operated or used for any purpose connected with the operations of pelagic sealing in North Pacific waters is guilty of an offence and

(a) May be prosecuted under part XV of the *Criminal Code* and if convicted is liable to a fine not exceeding 500 dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment ; or

(b) May be prosecuted upon indictment and if convicted is liable to a fine not exceeding 2,000 dollars or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

6. Sections 4 and 5 do not apply to an Indian or other aborigine dwelling on the coast of Canada contiguous to North Pacific waters, while engaging in pelagic sealing in North Pacific waters in compliance with article V of the Agreement.

7. No person shall import into or have in possession within Canada any skins of seals

(a) Taken in contravention of this Act or the Agreement ; or

(b) Identified as being of the species known as *Callorhinus alascanus*, *Callorhinus ursinus* and *Callorhinus kurilensis*, except such as are taken under the authority of the United States of America or the respective parties to any fur seal agreement between Canada and any other country that are officially marked and certified as having been so taken.

8. No person shall import into or have in possession within Canada or buy, sell, ship or otherwise dispose of any fur seal skin, except skins taken and officially marked and certified as provided in paragraph (b) of section 7, and except skins that have been dressed and dyed, unless a fishery officer or other officer authorized by the Minister of Fisheries has, with respect to such skin, issued a certificate in the form set forth in schedule B and the person taking such skin has duly completed and signed the statement prescribed in such form and such skin is marked with a tag affixed thereto by such officer bearing the number designated in such certificate.

9. Subject to section 14, every vessel, including her equipment and any skins of fur seals found on board thereof, that is in any manner operated or used in contravention of this Act or the Agreement, or for

aiding or facilitating such contravention is subject to forfeiture to His Majesty.

10. Where any vessel has become subject to forfeiture to His Majesty under this Act, any person authorized by section 3 to board and search may, except within the territorial waters of the United States of America, seize and detain the vessel, together with her equipment and any skins of fur seals found on board thereof, and bring her for adjudication before the Exchequer Court of Canada on its Admiralty side or before any superior court in the province in or near which the vessel was seized and the court may thereupon adjudge the vessel, including her equipment and any skins of fur seals found on board thereof, to be forfeited to His Majesty and the court may make such order in the case as to it seems just.

11. No officer who has seized or detained under this Act any vessel, equipment, skins or fur seals or other property, notwithstanding that such vessel, equipment, skins or other property are not brought in for adjudication or if so brought in are declared not subject to forfeiture, is responsible either civilly or criminally to any person if he shows to the satisfaction of the court before which any trial relating to such seizure or detention is held that he had reasonable grounds for making such seizure or detention; but if no such grounds are shown the court may award costs and damages to any party aggrieved and may make such other order as the court thinks just.

12. (1) Where a person who is by section 3 authorized to board and search reasonably believes that an offence against section 7 or section 8 has been committed he may seize all skins of fur seals by means of or in relation to which he reasonably believes the offence was committed.

(2) All skins of fur seals seized pursuant to subsection 1 may be detained for a period of six months following the day of seizure, unless during that period proceedings under this Act in respect of those skins are undertaken, in which case the skins may be further detained until such proceedings are finally concluded.

(3) Where a person is convicted of an offence against section 7 or section 8, the convicting court or judge may, in addition to any other penalty that may be imposed, order that any skins by means of or in relation to which the offence was committed are forfeited; and thereupon such skins are forfeited to His Majesty and may be disposed of by such person in such manner and at such time and place as the Minister of Fisheries may direct; but no skins shall be disposed of pending an appeal against the conviction or before the time within which such appeal may be taken has expired.

13. Every citizen or inhabitant of Canada or of the United States of America engaged in pelagic sealing in North Pacific waters in contravention of this Act or the Agreement may, except within the territorial jurisdiction of the United States of America, be taken into custody.

14. Where in respect of a contravention of this Act or the Agreement committed in North Pacific waters other than within the territorial waters of Canada a vessel registered in or belonging to a citizen or inhabitant of the United States of America is seized and detained under this Act or a citizen or inhabitant of the United States of America is taken into custody under this Act, the person or vessel, as the case may be, shall be delivered as soon as practicable to an authorized official of the United States of America to be dealt with in accordance with the law of the United States of America.



15. Every person who obstructs or aids or abets any other person in the obstruction of any officer or person in the execution of his duty under this Act, is guilty of an indictable offence and liable on conviction thereof to a fine not exceeding 800 dollars or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

16. Every person guilty of an offence against this Act is, unless some other penalty is expressly provided therefor in this Act, liable on summary conviction to a fine not exceeding 500 dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

17. The Attorney General of Canada may in His Majesty's name sue for or enforce any forfeitures imposed by this Act.

18. (1) No action, suit or information for any forfeiture imposed by this Act shall be brought or laid except within three years after the cause of action arose or after the offence for which such forfeiture is imposed was committed.

(2) No complaint or information in respect of an offence against this Act shall be made or laid except within three years from the time when the matter of complaint or information arose.

19. This Act shall be administered by the Minister of Fisheries.

20. (1) Notwithstanding anything in this Act, pelagic sealing may be conducted as provided in paragraph (c) of article II of the Agreement.

(2) In any prosecution or proceeding under this Act, the defendant may prove that the pelagic sealing was conducted as provided in paragraph (c) of article II of the Agreement, but such fact need not be specified or negated in the information or complaint, and whether it is or is not so specified or negated, no proof in relation thereto is required by the informant or complainant.

[Schedules not reproduced.]

*Note.* Prior to this Act, pelagic sealing was governed in Canada by the Regulations issued by Order in Council No. P.C. 4112, 30 May 1944. *Canadian War Orders and Regulations, 1944*, vol. 2, p. 535.

(iii) *United States*

*Act to give effect to the Provisional Fur Seal Agreement with Canada, 26 February 1944.* "U.S. Statutes at Large", vol. 58, c. 65, p. 100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act:

(a) "Pelagic sealing" means the killing, capturing, or pursuing, or the attempted killing, capturing, or pursuing of fur seals at sea, whether within or without the territorial waters of the United States.

(b) "Sealing" means the killing, capturing, or pursuing, or the attempted killing, capturing, or pursuing, of fur seals in or on any lands or waters subject to the jurisdiction of the United States.

(c) "Sea otter hunting" means the killing, capturing, or pursuing, or the attempted killing, capturing, or pursuing, of sea otters at sea, except in waters subject to the jurisdiction of the United States where other laws are applicable.

(d) "Person" includes individual, association, partnership, and corporation.

(e) "Secretary" means the Secretary of the Interior.

(f) "Fur-seal agreement" means the provisional fur-seal agreement between the United States and Canada effected by an exchange of notes signed at Washington on 8 December 1942, and on 19 December 1942, and any other treaty, convention or other agreement hereafter entered into by the United States for the protection of fur seals.

(g) "North Pacific Ocean" includes the Bering Sea.

(h) "Import" means land on or bring into, or attempt to land on or bring into, any place subject to the jurisdiction of the United States.

*Sec. 2.* It shall be unlawful, except as hereinafter provided, for any citizen or national of the United States, or person owing duty of obedience to the laws or treaties of the United States, or any vessel of the United States, or person belonging to or on such vessel, to engage in pelagic sealing or sea otter hunting in or on the waters of the North Pacific Ocean; or for any person or vessel to engage in sealing or for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with the operation of pelagic sealing, sea otter hunting, or sealing; or for any person to transport, import, offer for sale, or have in possession at any port, place, or on any vessel subject to the jurisdiction of the United States, raw, dressed, or dyed skins of sea otters taken contrary to the provisions of this section or, where taken pursuant to section 3 of this Act, not officially marked and certified as having been so taken, or raw, dressed, or dyed skins of fur seals taken in or on the waters of the North Pacific Ocean or on lands subject to the jurisdiction of the United States, except seal skins which have been taken under the authority of this Act or under the authority of the respective parties to any fur-seal agreement and which have been officially marked and certified as having been so taken.

*Sec. 3.* Indians, Aleuts, or other aborigines dwelling on the American coasts of the waters of the North Pacific Ocean shall be permitted to carry on pelagic sealing or sea otter hunting without the use of firearms from canoes or undecked boats, propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way heretofore practised by said Indians, Aleuts, or other aborigines, and shall be permitted to dispose of the skins of fur seals or sea otters so taken as they see fit, but only after such skins have been officially marked and certified as provided in section 2 of this Act. The exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall engage in pelagic sealing or sea otter hunting under contract to deliver the skins to any person.

*Sec. 4.* In order to continue the proper utilization of the fur-seal herd of the North Pacific Ocean and to carry out the purposes of this Act, the Secretary is authorized to permit sealing on the Pribilof and other islands and on the shores of waters subject to the jurisdiction of the United States, by officers and employees of the Fish and Wildlife Service designated by him and by the natives of the Territory of Alaska, and to adopt suitable regulations governing the same whenever he shall determine that such sealing is necessary or desirable and not inconsistent with preservation of the fur seals of the North Pacific Ocean. The Secre-

tary is also authorized to permit pelagic sealing in the event of emergency circumstances by officers, employees, and agents of the United States and by the natives of the Territory of Alaska under such conditions and for such periods as may be agreed upon by consultations between the Government of the United States and the Government of Canada in accordance with the provisions of article 2 of the Provisional Fur Seal Agreement of 1942.

*Sec. 5.* Subject to the provisions of sections 3 and 15 of this Act, all seal or sea-otter skins taken under the authority conferred by this Act, or forfeited to the United States, and all sealskins delivered to the United States pursuant to the terms of any fur-seal agreement shall be sold under the direction of the Secretary in such market, at such times, and in such manner as he may deem most advantageous; and the proceeds of such sale shall be paid into the Treasury of the United States.

*Sec. 6.* The Pribilof Islands, including the islands of Saint Paul and Saint George, Walrus and Otter Islands, and Sea Lion Rock, in Alaska, are declared a special reservation for government purposes. It shall be unlawful for any person other than natives of the said islands and officers and employees of the Fish and Wildlife Service to land or remain on any of those islands, except through stress of weather or like unavoidable cause or by the authority of the Secretary, and any person found on any of these islands, contrary to the provisions of this section shall be summarily removed and shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding \$ 500 or by imprisonment not exceeding six months, or by both fine and imprisonment.

*Sec. 7.* Whenever seals are killed and sealskins taken on any of the Pribilof Islands; the native inhabitants of the islands shall be employed in such killing and in curing the skins taken, and shall receive for their labor fair compensation to be fixed from time to time by the Secretary, who shall have the authority to prescribe the manner in which such compensation shall be paid to the natives or expended or otherwise used on their behalf and for their benefit.

*Sec. 8.* The Secretary shall have authority to establish and maintain depots for provisions and supplies on the Pribilof Islands and to provide for the transportation of such provisions and supplies from the mainland of the United States to the islands by the charter of private vessels or by the use of public vessels of the United States which may be under his control or which may be placed at his disposal by the President; and he likewise shall have authority to furnish food, shelter, fuel, clothing, and other necessities of life to the native inhabitants of the Pribilof Islands and to provide for their comfort, maintenance, education, and protection.

*Sec. 9.* Under the direction of the Secretary, the Fish and Wildlife Service is authorized to investigate the conditions of seal life upon the rookeries of the Pribilof Islands, and to continue the inquiries relative to the life history and migration of the seals frequenting the waters of the North Pacific Ocean.

*Sec. 10.* Any officer or employee of the Department of the Interior authorized by the Secretary, any naval or other officer designated by the President, any marshal or deputy marshal, any collector or deputy

collector of customs, and any other person authorized by law to enforce the provisions of this Act shall have power, without warrant, to arrest any person committing a violation of this Act or any regulation made pursuant thereto in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction : and shall have power, without warrant, to search any vessel within any of the territorial waters of the United States, or any vessel of the United States on the high seas, when he has reasonable cause to believe that such vessel is subject to seizure under this section. Any officer, employee, or other person authorized to enforce the provisions of this Act shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this Act; and shall have power with a search warrant to search any person, vessel, or place at any time. The judges of the courts established under the laws of the United States, and the United States commissioners, may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to the provisions of this Act or of any regulation made pursuant thereto, and any vessel used or employed contrary to the provisions of this Act or of any regulation made pursuant thereto, or which it reasonably appears has been or is about to be used or employed in or in aid of the performance of any act forbidden by the provisions of this Act or of any regulation made pursuant thereto, together with its tackle, apparel, furniture, appurtenances, and cargo, may, whenever and wherever lawfully found, be seized by any such officer, employee, or other person.

*Sec. 11.* Except where otherwise expressly provided in this Act, any person violating any provision of this Act or any regulation made pursuant thereto shall be punished for each such offense, upon conviction thereof, by a fine of not less than \$ 200 nor more than \$ 2,000, or by imprisonment for not more than six months, or by both fine and imprisonment. All fur seals or sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to any provision of this Act or any regulation made pursuant thereto shall be forfeited to the United States and shall be disposed of pursuant to section 5 of this Act. Any vessel used or employed contrary to any provision of this Act or of any regulation made pursuant thereto shall, together with its tackle, apparel, furniture, appurtenances, and cargo, be forfeited to the United States and shall be disposed of as directed by the Court having jurisdiction.

*Sec. 12.* It shall be the duty of all collectors of customs to enforce the provisions of this Act with respect to the importation of the skins of fur seal and sea otter.

*Sec. 13.* Any person or vessel described in section 2 of this Act in any of the waters of the North Pacific Ocean designated in any fur-seal agreement, including in any event the waters north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian, violating or being about to violate the prohibitions of this Act against pelagic sealing may be seized and detained by the naval or other duly commissioned officers of any of the parties to such fur-

seal agreement other than the United States, except within the territorial jurisdiction of one of the other said parties, on condition, however, that when such person or vessel is so seized and detained by officers of any party other than the United States, such person or vessel shall be delivered as soon as practicable at the nearest point to the place of seizure, with witnesses and proofs necessary to establish the offense so far as they are under the control of such party, to the proper official of the United States, whose courts alone shall have jurisdiction to try the offense and impose penalties for the same. The said officers of any party to any such fur-seal agreement other than the United States shall seize and detain persons and vessels, as in this section specified, only after such party, by appropriate legislation or otherwise, shall have authorized naval or other officers of the United States duly commissioned and instructed by the President to that end to seize, detain, and deliver to the proper officers of such party vessels and persons under the jurisdiction of that government offending against any such fur-seal agreement, or any statute or regulation made by that government to enforce any such fur-seal agreement. Upon the giving of such authority by such party, such naval or other officers of the United States shall have authority to make the seizures, detentions, and deliveries described. The President of the United States shall determine by proclamation when such authority has been given by the other party to any such fur-seal agreement, and his determination shall be conclusive upon the question; such proclamation may be modified, amended, or revoked by proclamation of the President whenever in his judgment it is deemed expedient.

*Sec. 14.* It shall be the duty of the President to cause a guard or patrol to be maintained in the waters frequented by the seal herds and sea otter in the protection of which the United States is especially interested, composed of naval or other public vessels of the United States designated by him for such service.

*Sec. 15.* The Secretary shall have authority to receive on behalf of the United States any fur sealskins taken by any party to any fur-seal agreement and tendered for delivery by such party in accordance with the terms of such fur-seal agreement, and all skins which are or shall become the property of the United States from any source whatsoever shall be disposed of in accordance with the provisions of section 5 of this Act. The Secretary likewise shall have authority to deliver to the authorized agents of any government that is a party to a fur-seal agreement the skins to which such government is entitled under the provisions of such fur-seal agreement, and to do or perform, or cause to be done or performed, any act which the United States is authorized or obliged to do or perform by the provisions of such fur-seal agreement.

*Sec. 16.* Nothing contained in this Act shall apply to the killing, capturing, pursuing, transportation, importation, offering for sale, or possession of fur seals or sea otters, or the skins thereof, for scientific purposes under special permit issued therefor by the Secretary.

*Sec. 17.* The Secretary shall supervise and direct the administration of this Act through the Fish and Wildlife Service and shall make all regulations necessary for the enforcement of this Act and any fur-seal agreement. It shall be his duty to provide for the enforcement of all of

the provisions of this Act and of the regulations issued thereunder, except to the extent otherwise provided for in this Act, and to cooperate with other Federal agencies and with the duly authorized officials of the government of any party to any fur-seal agreement in the enforcement of such agreement. Out of such moneys as may be appropriated for such purposes, he shall employ in Washington, District of Columbia, and elsewhere such individuals and means as he may deem necessary for the administration of this Act and of any other function imposed upon him by any fur-seal agreement.

*Sec. 18.* All Acts and parts of Acts inconsistent with the provisions of this Act, including but not limited to the following, are hereby repealed: Sections 1956, 1959, 1960, and 1961 of the Revised Statutes of the United States; Act of February 21, 1893 (27 Stat. 472, ch. 150); Act of April 6, 1894 (28 Stat. 52); Act of December 29, 1897 (30 Stat. 226, ch. 3); Act of April 21, 1910 (36 Stat. 326, ch. 183); Act of August 24, 1912 (37 Stat. 499, ch. 373); and joint resolution of June 22, 1916 (39 Stat. 236, ch. 171), all as amended.

*Sec. 19.* The provisions of this Act which implement the Provisional Fur-Seal Agreement of 1942 concluded between the United States of America and Canada shall remain in effect only for the duration of the present hostilities and twelve months thereafter unless either the Government of the United States of America or the Government of Canada enacts legislation contrary thereto, or until twelve months after either government shall have notified the other government of its intention to terminate the agreement.

*Note.* Section 19 of this Act was repealed by section 1 of Act of 25 July 1947. *U.S. Statutes at Large*, vol. 61, c. 327, p. 100.

### 3. Denmark — United Kingdom

(a) CONVENTION FOR REGULATING THE FISHERIES OUTSIDE TERRITORIAL WATERS IN THE OCEAN SURROUNDING THE FARÖE ISLANDS AND ICELAND, 24 JUNE 1901. "HERTSLET'S COMMERCIAL TREATIES", VOL. 23, P. 425

*Article 1.* The provisions of the present Convention, the object of which is to regulate the police of the fisheries in the ocean surrounding the Faröe Islands and Iceland outside the territorial waters of these islands, shall apply to the subjects of the high contracting parties.

*Article 2.* The subjects of His Majesty the King of Denmark shall enjoy the exclusive right of fishery within the distance of three miles from low-water mark along the whole extent of the coasts of the said islands, as well as the dependent islets, rocks, and banks.

As regards bays, the distance of three miles shall be measured from a straight line drawn across the bay, in the part nearest the entrance, at the first point where the width does not exceed ten miles.

The present article shall not prejudice the freedom of navigation or anchorage in territorial waters accorded to fishing boats, provided they conform to the Danish police regulations ruling this matter, amongst others the one stipulating that trawling vessels, while sojourning in territorial waters, shall have their trawling gear stowed away in-board.

*Article 3.* The miles mentioned in the preceding article are geographical miles, whereof sixty make a degree of latitude.

*Article 4.* The geographical limits for the application of the present Convention shall be fixed as follows :

On the south by a line commencing from where the meridian of North Unst Lighthouse (Shetland Islands) meets the parallel of 61st degree of north latitude to a point where the 9th meridian of west longitude meets the parallel of 60° north latitude, and from thence westward along that parallel to the meridian of 27° west longitude.

On the west by the meridian of 27° west longitude.

On the north by the parallel of 67° 30' of north latitude.

On the east by the meridian of the North Unst Lighthouse.

The aforesaid limits are shown on the chart appended to the present Convention.

*Article 5.* The fishing boats of the high contracting parties shall be registered in accordance with the administrative regulations in force in their respective countries.

For each port there shall be a consecutive series of numbers, preceded by one or two initial letters, which shall be specified by the superior competent authority.

Each government shall draw up a list showing these initial letters.

This list, together with all modifications which may subsequently be made in it, shall be notified to the other government.

*Article 6.* Fishing boats shall bear the initial letter or letters of the port to which they belong, and the registry number in the series of numbers for that port.

*Article 7.* The name of each fishing boat and that of the port to which she belongs shall be painted in white oil colour on a black ground on the stern of the boat, in letters which shall be at least eight centimetres in height and twelve millimetres in breadth.

*Article 8.* The letter or letters and numbers which shall have been assigned to a vessel on its registration shall be painted in white oil colour on a black ground, and so as to be clearly visible on each bow of the vessel, eight or ten centimetres below the gunwale, provided the space admit it. The letters and numbers of vessels of fifteen tons burden (gross tonnage) and upwards shall be forty-five centimetres in height and six centimetres in breadth.

For boats of less than fifteen tons burden (gross tonnage) the dimensions shall, if possible, be twenty-five centimetres in height and four centimetres in breadth.

The same letters and numbers shall also be painted in oil colour on each side of the mainsail of the boat immediately above the close reef, and in such a manner as to be plainly visible; they shall be painted on white sails in black, or black sails in white, and on sails of an intermediate shade in black or in white as may be decided by the authority superintending the marking, in accordance with article 5 of the present Convention.

Steam fishing vessels shall in addition bear the above marks on the funnel in a plainly visible manner. These marks should be of the same dimensions as those on the bow.

The letter or letters and numbers on the sails shall be one-third larger in every way than those placed on the bows of the boat.

*Article 9.* Fishing boats may not have, either on their outside, on their sails, or on their funnels, any names, letters or numbers, other than those prescribed by articles 6, 7 and 8 of the present Convention.

*Article 10.* The names, letters, and numbers placed on the boats and on their sails and funnels shall not be effaced, altered, made illegible, covered or concealed in any manner whatsoever.

*Article 11.* All the small boats, buoys, principal floats, trawls, grapnels, anchors and generally all fishing implements shall be marked with the letter or letters and numbers of the boats to which they belong.

These letters and numbers shall be large enough to be easily distinguished. The owners of the nets or other fishing implements may further distinguish them by any private marks they think proper.

*Article 12.* The master of each boat must have with him an official document, issued, by the proper authority in his own country, for the purpose of enabling him to establish the nationality of the boat.

This document must always give the letter or letters and number of the boat, as well as her description and the name or names of the owner or the name of the firm or association to which she belongs.

*Article 13.* The nationality of a boat must not be concealed in any manner whatsoever.

*Article 14.* No fishing boat shall anchor, between sunset and sunrise, on grounds where drift-net fishing is actually going on.

This prohibition shall not, however, apply to anchorings which may take place in consequence of accidents or of any other compulsory circumstances.

*Article 15.* Boats arriving on the fishing grounds shall not either place themselves or shoot their nets in such a way as to injure each other, or as to interfere with fishermen who have already commenced their operations.

*Article 16.* Whenever, with a view of drift-net fishing, decked boats and undecked boats commence shooting their nets at the same time, the undecked boats shall shoot their nets to windward of the decked boats.

The decked boats, on their part, shall shoot their nets to leeward of the undecked boats.

As a rule, if decked boats shoot their nets to windward of undecked boats which have begun fishing, or if undecked boats shoot their nets to leeward of decked boats which have begun fishing, the responsibility as regards any damages to nets which may result shall rest with the boats which last began fishing, unless they can prove that they were under stress of compulsory circumstances, or that the damage was not caused by their fault.

*Article 17.* No net or any other fishing engine shall be set or anchored on grounds where drift-net fishing is actually going on.

*Article 18.* No fisherman shall make fast or hold on his boat to the nets, buoys, floats, or any other parts of the fishing tackle of another fisherman.



*Article 19.* When trawl fishermen are in sight of net or of long line fishermen, they shall take all necessary steps in order to avoid doing injury to the latter. Where damage is caused the responsibility shall be on the trawlers, unless they can prove that they were under stress of compulsory circumstances, or that the loss sustained did not result from their fault.

*Article 20.* When nets belonging to different fishermen get foul of each other, they shall not be cut without the consent of both parties.

All responsibility shall cease if the impossibility of disengaging the nets by any other means is proved.

*Article 21.* When a boat fishing with long lines entangles her lines in those of another boat, the person who hauls up the lines shall not cut them, except under stress of compulsory circumstances, in which case any line which may be cut shall be immediately joined together again.

*Article 22.* Except in case of salvage and in the cases to which the two preceding articles relate, no fisherman shall, under any pretext whatever, cut, hook, or lift up nets, lines, or other gear not belonging to him.

When a fisherman fouls or otherwise interferes with the fishing-gear of another fisherman, he shall take all necessary measures for reducing to a minimum the injuries which may result to the gear or to the boat of the other fisherman.

*Article 23.* The use of any instrument or engine which serves only to cut or destroy nets is forbidden.

The presence of any such engine on board a boat is also forbidden.

The high contracting parties engage to take the necessary measures for preventing the embarkation of such engines on board fishing boats.

*Article 24.* Fishing boats shall conform to the general rules respecting lights and sound signals, as well as those concerning steering and navigation, which have been, or may be, adopted in respect of these boats by mutual arrangement between the high contracting parties with the view of preventing collisions at sea.

*Article 25.* All fishing boats, all their small boats, all rigging gear, or other appurtenances of fishing-boats, all nets, lines, buoys, floats, or other fishing implements whatsoever found or picked up at sea, whether marked or unmarked, shall as soon as possible be delivered to the competent authority of the first port to which the salvaging boat returns or puts in.

Such authority shall inform the consul or consular agent of the country to which the boat of the salvor belongs, and the nation of the owners of the articles found. They (the same authority) shall restore the articles to the owners thereof, or to their representatives, as soon as such articles are claimed and the interests of the salvors have been properly guaranteed.

The administrative or judicial authorities, according as the laws of the respective countries may provide, shall fix the amount which the owner shall pay to the salvors. It is, however, agreed that this provision shall not in any way prejudice such Conventions respecting this matter as are already in force, and that the high contracting parties reserve the right of regulating, by special arrangements between themselves, the amount of salvage at a fixed rate per net salvaged.

Fishing implements of any kind found unmarked shall be treated as wreck.

*Article 26.* The superintendence of the fisheries shall be exercised by vessels belonging to the national navies of the high contracting parties. In the case of Denmark, such vessels may be vessels belonging to the State, commanded by captains who hold commissions.

*Article 27.* The execution of the regulations respecting the documents establishing nationality, the marking and numbering of boats, etc., and of fishing implements, as well as the presence on board of instruments which are forbidden (articles 6, 7, 8, 9, 10, 11, 12, 13, and 23 para. 2), is placed under the exclusive superintendence of the cruisers of the nation of each fishing boat. Nevertheless, the commanders of cruisers shall acquaint each other with any infractions of the above-mentioned regulations committed by the fishermen of the other nation.

*Article 28.* The cruisers of the high contracting parties shall be competent to authenticate all infractions of the regulations prescribed by the present Convention other than those referred to in article 27, and all offences relating to fishing operations, whichever may be the nation to which the fishermen guilty of such infraction may belong.

*Article 29.* When the commanders of cruisers have reason to believe that an infraction of the provisions of the present Convention has been committed, they may require the master of the boat inculpated to exhibit the official document establishing her nationality. The fact of such document having been exhibited shall then be indorsed upon it immediately. The commanders of cruisers shall not pursue further their visit or search on board a fishing boat which is not of their own nationality, unless it should be necessary for the purpose of obtaining proof of an offence or of a contravention of regulations respecting the police of the fisheries.

*Article 30.* The commanders of the cruisers of the high contracting parties shall exercise their judgment as to the gravity of facts brought to their knowledge, and of which they are empowered to take cognizance, and shall verify the damage, from whatever cause arising, which may be sustained by fishing boats of the nationalities of the high contracting parties.

They shall draw up, if there is occasion for it, a formal statement of the verification of the facts as elicited both from the declaration of the parties interested and from the testimony of those present.

The commander of the cruiser may, if the case appears to him sufficiently serious to justify the step, take the offending boat into a port of the nation to which the fisherman belongs.

He may even take on board the cruiser a part of the crew of the fishing boat, in order to hand them over to the authorities of her nation.

*Article 31.* The formal statement referred to in the preceding article shall be drawn up in the language of the commander of the cruiser, and according to the forms in use in his country. The accused and the witnesses shall be entitled to add, or to have added, to such statement, in their own language, any observations or evidence which they may think suitable. Such declarations must be duly signed.

*Article 32.* Resistance to the direction of commanders of cruisers charged with the police of the fisheries, or of those who act under their orders, shall, without taking into account the nationality of the cruiser, be considered as resistance to the authority of the nation of the fishing boat.

*Article 33.* When the act alleged is not of a serious character, but has, nevertheless, caused damage to any fisherman, the commanders of cruisers shall be at liberty, should the parties concerned agree to it, to arbitrate at sea between them, and to fix the compensation to be paid. Where one of the parties is not in a position to settle the matter at once, the commanders shall cause the parties concerned to sign in duplicate a formal document specifying the compensation to be paid.

One copy of this document shall remain on board the cruiser and the other shall be handed to the master of the boat to which the compensation is due, in order that he may, if necessary, be able to make use of it before the courts of the country to which the debtor belongs.

Where, on the contrary, the parties do not consent to arbitration, the commanders shall act in accordance with the provisions of article 30.

*Article 34.* The prosecution for offences against or contraventions of the present convention shall be instituted by, or in the name of, the State.

*Article 35.* The high contracting parties engage to propose to their respective Legislatures any measures which may be necessary for insuring the execution of the present Convention, and particularly for the punishment by either fine or imprisonment, or by both, of persons who may contravene the provisions of articles 6 to 23 inclusive.

*Article 36.* In all cases of assault committed, or of wilful damage or loss inflicted, by fishermen of one of the contracting countries upon fishermen of the other nationality, the courts of the country to which the boats of the offenders belong shall be empowered to try them.

The same rule shall apply with regard to offences against and contraventions of the present Convention.

*Article 37.* The proceedings and trial in cases of infraction of the provisions of the present Convention shall take place as summarily as the laws and regulations in force will permit.

*Article 38.* The present Convention shall be ratified. The ratifications shall be exchanged in London as soon as possible.

*Article 39.* The present Convention shall come into operation from and after a day to be fixed upon by the two high contracting parties after it shall have been notified by the Danish Government that measures have been passed in respect of the Farøe Islands and Iceland, by which freedom of navigation and anchorage within the territorial waters of the said islands is accorded to British fishermen (*vide* article 2, para. 3). The Convention shall continue in force until the expiration of two years from notice by either party for its termination.

The high contracting parties, however, reserve to themselves the power to make, by mutual consent, any modification in the Convention which experience shall have shown to be desirable, provided it is not inconsistent with the principles upon which the Convention is based.

*Additional article.* Any other government, the subjects of which carry on fishery in the ocean surrounding the Farøe Islands and Iceland, may adhere to the present Convention. The adhesion shall be notified to one of the Governments at Copenhagen or at London respectively. Such notification shall be communicated to the other Signatory Power.

*Note.* An Order in Council of 12 March 1903, issued under section 23, the Sea Fisheries Act, 1883 (part III, chapter 1, no. 1c, above), directed that all of the provisions of that Act, "so far as they may be necessary for giving effect to and insuring the execution of" the Convention with Denmark shall apply to that Convention. *London Gazette*, 13 March 1903; *Hertslet's Commercial Treaties*, vol. 23, p. 443.

#### 4. France — United Kingdom

- (a) REGULATIONS FOR THE GUIDANCE OF FISHERMEN, 24 MAY 1843, ANNEXED TO THE LONDON DECLARATION OF 23 JUNE 1843. "BRITISH AND FOREIGN STATE PAPERS", VOL. 31. P. 165

*Art. I.* British and French subjects fishing in the seas lying between the coasts of the United Kingdom of Great Britain and Ireland, and those of the Kingdom of France, shall conform to the following regulations.

LXIII. The execution of the regulations concerning the fittings of nets and the size of their meshes, the weight and dimensions of fishing instruments, and in short concerning everything connected with the implements of fishing, is placed, with respect to the fishermen of each of the two nations, under the exclusive superintendence of the cruisers and agents of their own nation.

Nevertheless, the commanders of the cruisers of each nation shall mutually acquaint the commanders of the other nation with any transgressions of the above-mentioned regulations, committed by the fishermen of the other nation, which may come to their knowledge.

LXIV. Infractions of regulations concerning the placing of boats, the distances to be observed, the prohibition of certain fisheries by day or by night, or during certain periods of the year, and concerning every other operation connected with the act of fishing; and more particularly as to circumstances likely to cause damage, shall be taken cognizance of by the cruisers of both nations, whichever may be the nation to which the fishermen guilty of such infractions may belong.

LXV. The commanders of cruisers of both countries shall exercise their judgment as to the cause of any transgressions committed by British or French fishing boats, in the seas where the said boats have the right to fish in common; and when the said commanders shall be satisfied of the fact of the transgression, they shall detain the boats having thus infringed the established regulations, and may take them into the port nearest to the scene of the occurrence, in order that the offence may be duly established, as well by comparing the declarations and counter-declarations of parties interested, as by the testimony of those who may have witnessed the facts,

LXVI. When the offence shall not be such as to require exemplary punishment, but shall, nevertheless, have caused injury to any fisherman,

the commanders of cruisers shall be at liberty, should the circumstances admit of it, to arbitrate at sea between the parties concerned; and on refusal of the offenders to defer to their arbitration, the said commanders shall take both them and their boats into the nearest port, to be dealt with as stated in the preceding article.

LXVII. Every fishing boat which shall have been taken into a foreign port, under either of the two preceding articles, shall be sent back to her own country for trial, as soon as the transgression for which she may have been detained shall have been duly established. Neither the boat nor her crew shall, however, be detained in the foreign port more than four days.

LXVIII. The depositions, minutes of proceedings, and all other documents concerning the transgression, after being authenticated by the Collector of Customs, or by the Commissary of Marine, according to the country into which the boat may have been taken, shall be transmitted by that functionary to the consular agent of his nation residing in the port where the trial is to take place.

This consular agent shall communicate these documents to the Collector of Customs, if in the United Kingdom, or to the Commissary of Marine if in France; and if, after having conferred with that functionary, it shall be necessary for the interest of this countrymen, he shall proceed with the affair before the competent tribunal or magistrates.

LXIX. All transgressions of these regulations established for the protection of fisheries in the seas lying between the coasts of the British Islands and those of France shall, in both countries, be submitted to the exclusive jurisdiction of the tribunal, or the magistrates which shall be designated by law.

This tribunal or these magistrates shall also settle all differences and decide all contentions, whether arising between fishermen of the same country, or between fishermen of the two countries, and which cannot have been settled by the commanders of cruisers, or by the consular agents and the collectors of customs, or commissaries of marine, according to the country.

The above-mentioned jurisdiction shall not, however, be understood to apply to murder, felony, or any other grave crime; all such crimes remaining subject to the ordinary laws of each country respectively.

LXX. The trial and judgment of the transgressions mentioned in the preceding article, shall always take place in a summary manner, and at as little expense as possible.

LXXI. In both countries the competent tribunal or magistrates shall be empowered to adjudge the following penalties for offences against the regulations committed by fishermen subject to their jurisdiction:

1. Forfeiture and destruction of nets or other fishing implements which are not conformable to the regulations.
2. Fines from eight shillings (ten francs) to ten pounds sterling (250 francs), or imprisonment for not less than two days and not more than one month.

LXXII. The use of nets, or other fishing implements, of which the fittings, size of meshes, dimensions, or weight, shall not be conformable to the regulations established for each kind of fishery, shall subject the

said nets or implements to seizure and destruction; and the offenders to a fine of not less than eight shillings (ten francs), nor more than three pounds sterling (75 francs), or to imprisonment from two to ten days.

In cases of repetition of the offence, the fine or imprisonment may be doubled.

LXXIII. All persons shall be condemned to a fine of from eight shillings to five pounds sterling (ten francs to 125 francs), or to imprisonment from five to fifteen days, who, either by night or by day, conjointly or separately, shall offend against the measures established by the regulations for the preservation of peace and good order, and specifically against those concerning:

1. The letters, numbers, and names to be placed on the boats and their sails, and on nets, buoys, etc.
2. The vanes to be carried by the boats.
3. The distances to be observed between the boats.
4. The placing and anchoring of boats.
5. The placing or shooting of nets, and taking them up.
6. The clearing of nets.
7. The placing of buoys upon nets.
8. Lastly, the lights to be shown.

In cases of repetition of any of these offences, the fine or imprisonment may be doubled.

LXXIV. In all cases of assault committed at sea by fishermen on other fishermen; or, whenever they shall have, intentionally, caused damages or loss, the competent tribunal or magistrates may condemn the delinquents to a term of imprisonment not exceeding twenty days, or to a fine not exceeding five pounds sterling (125 francs).

Should there have been, at the same time, any infringement of the regulations, the imprisonment or fine above mentioned may be awarded, over and above the penalties to which the said infringement shall have given rise.

LXXV. The competent tribunal or magistrates shall, when the circumstances are such as to call for it, award, over and above all penalties inflicted for offences against the regulations, the payment of damages to the injured parties, and shall determine the amount of such damages.

*Note.* These Regulations were enacted under the Convention of 2 August 1839 (*British and Foreign State Papers*, vol. 27, p. 986). The Paris Convention of 11 November 1867 (*British and Foreign State Papers*, vol. 57, p. 9) provided for their repeal, but as this Convention had not come into force, the Regulations are still in operation. Some changes in these Regulations—not relevant here—were made by the Paris Declaration of 29 September 1923 and the London Declaration of 20 December 1928 (*League of Nations Treaty Series*, vol. 21, p. 137, and vol. 86, p. 429).

These Regulations were carried into effect in the British Islands by the Sea Fisheries Act of 22 August 1843 (6 & 7 Vict., c. 79; *Halsbury's Statutes of England*, 2nd edition, 1949, vol. 10, pp. 141-148), and in France by the Law of 23 June 1846 (Martens, *Nouveau Recueil général de Traités*, vol. 9 p. 544).

## 5. Italy — Yugoslavia

- (a) AGREEMENT CONCERNING FISHERIES, 13 APRIL 1949. "MEDJUNARODNI UGOVORI" (INTERNATIONAL AGREEMENTS OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA), 1949, N° 1; "RIVISTA MARITTIMA", VOL. 81, No. 7 (JULY 1949), PP. 296-299. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS

*Article 1.* The Government of the Federal People's Republic of Yugoslavia will permit Italian fishermen to fish with drag-nets drawn by boats in the territorial waters of the Federal People's Republic of Yugoslavia, namely:

(a) In the zone of the Premuda-Dugi Otok-Kornat Islands southwest of the Cape situated in the northeast of the Island of Premuda toward the Veli Rat and Sestice lighthouses as far as the Island of Purara in the Kornat Islands, with the exception of the waters within the two nautical mile limit reckoned from the shore in the direction of the open sea;

(b) In the zone of the Jabuka-Kamik Islands west of the meridian passing through the Island of Kamik, with the exception of the waters within the one nautical mile limit from the Island of Jabuka and those within the two nautical mile limit from the Island of Kamik reckoned from the shore in the direction of the open sea;

(c) In the zone of the Palagruza-Kajola Islands, with the exception of the waters within the two nautical mile limit reckoned from the shore in the direction of the open sea;

(d) In the zone of the Island of Mljet bounded on the west by the meridian passing through the Glavat Lighthouse and on the east by the meridian passing through Cape Gruj situated on the southeast point of the Island of Mljet, with the exception of the waters within the two nautical mile limit reckoned from the shore in the direction of the open sea.

The Government of the Federal People's Republic of Yugoslavia will also permit Italian fishermen to fish with drag-nets in the prohibited areas (*bandes*) of the closed zone — four nautical miles in width beyond the territorial waters, and extending parallel to the zones referred to in (a), (b), (c) and (d,) first paragraph of this article — which correspond to these zones in length and form with them a continuous fishing zone. During the validity of this Agreement, the Government of the Federal People's Republic of Yugoslavia will waive the right to establish prohibited areas in the zones delimited in this Agreement, or to take restrictive measures other than those referred to in this Agreement, for the protection of the resources of the sea. The number of boats fishing in these continuous fishing zones shall be: in the Premuda-Dugi Otok-Kornat zone—not more than sixty, in the Jabuka-Kamik and Palagruza-Kajola zones—an indeterminate number, in the Island of Mljet zone—not more than twenty-five.

In the prohibited areas of the four nautical mile closed zone beyond the territorial waters the competent authorities of the Federal People's Republic of Yugoslavia will exercise control and take any necessary measures to protect the resources of the sea. As regards protective

measures, the Italian fishermen shall not receive less favourable treatment than the Yugoslav fishermen.

When the waters northwest of the Island of Susak have been cleared of mines the Government of the Federal People's Republic of Yugoslavia will consider the possibility of establishing a fishing zone for Italian fishermen in these waters.

*Article 2.* The Government of the Federal People's Republic of Yugoslavia will permit Italian fishermen to fish for bluefish with twenty gangave-net trawlers (*seines à bougies*) in the waters of the zone referred to in article 1, sub-paragraph (*b*) of this Agreement, with the exception of the waters within 300 metres of the Island of Jabuka and those within the two nautical mile limit from the Island of Komik.

*Article 3.* The Government of the Federal People's Republic of Yugoslavia will permit Italian fishermen to fish for young fish in the waters contained in the Bays of Tar and Medulin.

Italian fishermen may fish for young fish in the waters referred to in the first paragraph of this article, using four fishing boats in all. The catch of the four Italian fishing boats may not exceed 4 million mullet and approximately 2 million bass and gilt-head.

The Italian fishing boats fishing for young fish in the waters referred to in the first paragraph of this article shall each take on board as active members of their crew two Yugoslav fishermen who shall verify the size of the catch.

The Italian fishing boats shall, whenever they enter or leave the zones referred to in the first paragraph of this article, report as follows: those fishing in the Bay of Tar shall report to the local People's Committee at Tar and those fishing in the Bay of Medulin shall report to the local People's Committee at Medulin.

*Article 4.* In case of dispute in determining whether an Italian fishing boat has fished within or outside the zones delimited in this Agreement, the findings of the competent Yugoslav authorities, based on the names and particulars entered in the special coastal charts annexed to this Agreement and forming an integral part thereof, shall be binding.

*Article 5.* Italian fishing boats holding the special permit for fishing in the waters of the zones delimited in this Agreement shall only be authorized to engage in drag-net fishing between 1 September and 30 April, in fishing with gangave-nets (*seines à bougies*) between 1 April and 30 September, and in fishing for young fish between 1 March and 31 August.

The competent Yugoslav authorities will permit Italian fishing boats which have the right to fish in the zone of the Premuda-Dugi—Otok-Kornat Islands, to enter the port of Premuda.

Upon each arrival at and departure from the port of Premuda the Italian fishing boats shall report to the local People's Committee at Premuda. If a fishing boat fails to report to the local People's Committee at Premuda when arriving at or leaving the port, the competent authorities may, in addition to another penalty, prohibit subsequent access to the port.

The competent Yugoslav authorities will also permit Italian fishing boats which use gangave-nets (*seines à bougies*) and have the right to catch bluefish in the waters of the Jabuka-Kamik Islands zone, to have



access to the coast of the Island of Jabuka, subject to observance of the 300-metre closed zone in accordance with article 2 of this Agreement.

*Article 6.* Italian fishing boats using drag-nets shall not approach within 500 metres of the buoys marking the position of the bluefish nets, deep-sea nets, fishing lines and eel-pots.

*Article 7.* Italian fishing boats shall carry, in addition to the registration certificate and bill of health, a special permit to fish in the zones delimited in this Agreement drawn up by the competent Italian authorities in conformity with the specimen given in Annex (b) which forms an integral part of this Agreement.

The special fishing permit shall be valid for one year and shall, in any event, cease to be valid as from the date of expiry of this agreement.

The permit shall be valid from the day on which the competent Yugoslav authorities notify their approval thereof.

*Article 8.* The Government of the Italian Republic will communicate to the Government of the Federal People's Republic of Yugoslavia for its approval the special permits to fish in the zones delimited in this Agreement.

The Government of the Federal People's Republic of Yugoslavia will return the special permits to the Government of the Italian Republic within thirty days of their receipt, specifying those which it has seen fit to approve and those which must be replaced.

*Article 9.* The competent Yugoslav authorities shall always have the right to inspect Italian fishing boats in the zones delimited in this Agreement.

*Article 10.* The Italian fishing boats shall comply with all the regulations of the Federal People's Republic of Yugoslavia, the provisions of this Agreement and those of the International Convention for the Safety of Life at Sea.

*Article 11.* If an Italian fishing boat fails, whilst in the waters of the zone delimited by this Agreement, to comply with the regulations of the Federal People's Republic of Yugoslavia, the provisions of this Agreement or those of the International Convention for the Safety of Life at Sea, it shall be subject, in every respect, to the relevant regulations of the Federal People's Republic of Yugoslavia.

In the event of a second or subsequent offence the competent authorities of the Federal People's Republic of Yugoslavia may order the forfeiture of the fishing rights acquired under the special permit issued by the competent Italian authorities. Where this occurs, the Italian Government shall have the right to replace the forfeited permit by another equivalent permit.

*Article 12.* During the validity of this Agreement the Government of the Italian Republic will annually place at the disposal of the Government of the Federal People's Republic of Yugoslavia the amount due from Italian fishermen in respect of fishing.

This amount is fixed at a total of 750 million lire for the first year and will be placed at the disposal of the Government of the Federal People's Republic of Yugoslavia by the Government of the Italian Republic as follows: 375 million lire by 1 October 1949 and 375 million lire by 1 January 1950.

At the beginning of each subsequent year the total amount and the time-limit for payment will be fixed by Agreement between the two contracting Governments.

The amounts fixed under the foregoing paragraphs will be deposited by the Government of the Italian Republic to the credit of the Government of the Federal People's Republic of Yugoslavia in the "A" account referred to in article 12 of the Commercial and Economic Co-operation Agreement between the Federal People's Republic of Yugoslavia and the Italian Republic.

*Article 13.* The present Agreement shall come into force on 1 May 1949 and shall remain in force for two years. It shall be prolonged by tacit agreement each year unless denounced by either of the two Governments by four months' notice.

*Note.* Previously, by the Brioni Agreement of 14 September 1921 (*League of Nations Treaty Series*, vol. 19, p. 13), the Italian and Yugoslav Governments have established joint fishing grounds in various gulfs and channels of the Eastern Adriatic. They also reserved the right to prohibit the introduction, within ten miles of their coasts, of new methods of fishing which have not previously been used and are regarded as injurious (article 25).

## 6. Portugal — Spain

- (a) REGULATIONS FOR THE POLICE SERVICE OF THE COAST AND FISHERIES, APPENDIX 6 TO THE TREATY OF COMMERCE AND NAVIGATION, 27 MARCH 1893. MARTENS, "NOUVEAU RECUEIL GÉNÉRAL DE TRAITÉS," 2ND SERIES, VOL. 22, PP. 414, 431. TRANSLATION FROM "BRITISH AND FOREIGN STATE PAPERS", VOL. 85, PP. 416, 455

*Section 1. Provisions applicable to the waters under the respective jurisdiction of either country*

*Article 1.* The following provisions will regulate the police service of the coast and fisheries in the jurisdictional waters of Portugal and Spain:

*Article 2.* The limit within which the general right of fishery is exclusively reserved in favour of fishermen, subject to the respective jurisdictions of the two countries, is fixed at six miles, reckoned from outside the low-water line of the lowest tides.

As regards bays the aperture of which is not more than ten miles, the six miles may be reckoned from a straight line drawn from one point to the other.

The miles referred to are geographical miles, sixty to a degree of latitude.

*Article 3.* Either of the two States will have the right to regulate the fisheries on its maritime coasts respectively within the distance of six miles from the same, within which limit native fishermen will alone be allowed to fish.

The two States agree that the use of *parelhas*, *muletas*, or of other apparatus of a harmful effect, shall be prohibited within the distance of twelve miles, and either State will be at liberty to detain any offenders until the judicial record of the act shall have been drawn up; such

offenders must, however, be delivered up within the term of eight days to the proper authority of the neighbouring country, in order that they may be subjected to the penalties imposed by the laws and regulations of their own country.

*Article 4.* For the intents and purposes of these regulations the division of the territorial waters in the adjacent maritime zones of the two countries will be determined as follows:

(a) At the mouth of the Guadiana by a middle line drawn between the two meridians, respectively suggested by the Spanish and Portuguese Commissions, to which the demarcation of those waters was entrusted in 1887.

(b) At the mouth of the Minho, by the parallel of latitude agreed to by the said Commissions.

*Article 5.* The fisheries in the boundary Rivers Minho and Guadiana will continue, as heretofore, to be carried out in common by the Portuguese and Spaniards, in accordance with the provisions and regulations which may be agreed upon; for the River Minho, by the Captain of the Port of Caminha and the Marine Adjutant of Guardia; and for the River Guadiana, by the Captain of the Port of Villa Real de San Antonio and by the Adjutant of Marine of Ayamonte, and sanctioned by the respective governments.

*Article 6.* The fishing vessels of either of the two countries must not approach any point of the coast of the other country at a less distance than that of six miles, as laid down in article 2, except under the following circumstances, which shall be considered as cases of *force majeure*:

(1) When on account of bad weather, or of any manifest damage, they are forced to seek shelter in the ports of the other country outside the fishery limits of their own country.

(2) When carried within the limits set apart for the fishery of the other country by contrary winds, by strong currents, or by any other cause independent of the wish of the master of the vessel.

(3) When compelled to tack on account of an adverse wind in order to reach their fishing-ground, and when, in consequence of the same cause, i.e., of contrary winds or tides, they are unable, without entering the zone, to proceed on their course in order to reach their fishing-ground or to return to port.

*Parelhas* and *muletas*, or other vessels making use for fishing of any harmful apparatus, are not allowed to tack within the zone reserved for each country.

(4) When it shall be absolutely necessary to enter the nearest port of the other country in order to obtain supplies.

The presence within the jurisdictional waters of either country of any floating apparatus or drag-nets belonging to fishermen of the other country shall likewise not be looked upon as a violation of the rule set forth in this article, in the event of the same having been carried there by currents or winds; nevertheless, the owners are bound to remove them as quickly as possible.

*Article 7.* Whenever, on account of any of the exceptional circumstances mentioned in the preceding article, the fishing vessels of either

nation require to navigate within the limits defined in articles 2 and 4, they are bound to reduce sail, if circumstances allow it, and also to hoist a conventional signal.

This signal will consist of a red burgee with a yellow point for the Spanish vessels, and of a white one with a blue point for Portuguese vessels, the dimensions of this burgee will be 0.50 metre in length, and 0.15 metre in breadth.

Whenever, on account of bad weather, of manifest damage, or of the need to take in supplies, vessels are compelled to seek for shelter in port, they will at once give notice to the local maritime authority, who will examine the matter as to the circumstances of their stay.

Should that authority consider that there is a reasonable cause for their stay, the fishing vessels will be entitled to all the facilities accorded to the vessels of the country in which they are, whether as regards procuring supplies or for the sale of fish, on payment of the proper amount of dues, as also as regards sanitary measures.

The customs officers shall have the right to visit the vessels as laid down in the customs regulations, before anything whatever is landed.

While these vessels remain within the limits above mentioned under no pretext whatever are they to fish, and they must depart from within the said limits as soon as the exceptional circumstances which gave rise to their entrance will admit of it.

*Article 8.* The commanding officers of any cruisers or coastguard vessels of both nations, as well as all other agents or police officers of fisheries, will inquire into infractions of the regulations issued which may be committed within the respective fishing limits, and should they find that such infractions are not justified, they will be at liberty to detain the vessels in fault, or to cause them to be detained, and will convey them, or cause them to be conveyed, to a port of the country to which the offenders belong, in order that they may be tried before the courts competent to take cognizance of the matter.

*Section 2. Provisions applicable to the waters adjacent to the coasts of both countries outside the six-mile zone*

*Article 9.* All fishing-vessels, both Spanish and Portuguese, are to have distinguishing signals and numbers.

In Spain, and similarly in Portugal, all fishing-vessels belonging to the same maritime district must have a series of numbers preceded by the initial letters of the respective maritime districts.

*Article 10.* The letters and numbers referred to in the foregoing article shall be placed on each side of the ship eight or ten centimetres below the gunwale, and shall be painted white, in oil, on a black ground, so as to be clearly visible.

The size of these letters and numbers shall be, in the case of vessels of more than fifteen tons, forty-five centimetres high and six centimetres wide; and in the case of vessels of less than fifteen tons, twenty-five centimetres high and four centimetres wide. The same letters and numbers will also be placed on both sides of the main sail of the vessel, painted in oil, of a black colour on the white sails, and of a white colour on any unbleached or dark sails; these letters and numbers are to be one-third larger than those placed on the sides of the vessels.

*Article 11.* The particular letter and number of each vessel will be marked on her buoys and principal floats of the appliances for fishing, and the same practice must be followed as regards the boats, anchors, nets, and, in general, the whole of the fishing apparatus belonging to the vessel. These marks will be of such a size that they may be easily distinguishable.

The owners of fishing appliances may, moreover, have them marked with any private marks they may deem expedient, but in order that these may be effective under these regulations, they must be notified to the local maritime authority.

*Article 12.* The letters and numbers of any Portuguese or Spanish fishing vessels are to be recorded in the muster-rolls of the same.

*Article 13.* The names of the owner and of the master of the vessel must also be stated in the ship's muster-roll.

*Article 14.* The masters of fishing vessels of either country are bound to exhibit, whenever required to do so, the muster-roll and all other ship's papers to the commanding officers of any ships of war or to their delegates, provided the ship to which they belong shall be in sight at the time.

*Article 15.* It is forbidden to erase, alter, or in any way conceal the letters or numbers on the vessels and on the sails when spread.

*Article 16.* The fishing vessels of the two countries shall comply with the general rules adopted in either country as regards lights, in order to prevent collisions.

*Article 17.* Vessels are forbidden, on reaching their fishing ground, to take up a position or to cast their fishing apparatus so as to cause harm, or to hinder in any way the vessels which may be already fishing there.

*Article 18.* Fishing vessels are forbidden to anchor, from sunset to sunrise, where floating nets have been cast, except in case of any accident, or of *force majeure*, which must be duly proved.

*Article 19.* Whenever decked or undecked fishing vessels shall assemble in the same fishing ground, and shall simultaneously cast their fishing apparatus, floating nets, or *deriva* nets, the last-named vessels shall cast their nets to windward of the first named.

Should they not cast their nets at the same time, and should a decked vessel cast her apparatus and nets to windward of an undecked vessel engaged in fishing, or should an undecked vessel do so to leeward of a decked vessel which may be already fishing, the vessel which cast its nets last will be responsible for any damages which may be sustained by the apparatus or nets of the other, unless it is proved that it was a case of *force majeure*, or that the damage was not due to any fault on its part.

*Article 20.* Fishermen are forbidden to moor or to make fast their vessels by the nets, floating buoys, or any part of the fishing tackle of another ship.

*Article 21.* Whenever fishermen with drag nets shall be in sight of others with floating *deriva* nets or with any apparatus such as *talhas*, *palangras*, etc., for line fishing, they must adopt the necessary measures

in order to prevent any damage being caused to the last named. Should any damage be done, those fishing with drag-nets will be responsible unless they prove that it was a case of *force majeure*, or that the losses sustained were not caused by any fault of their own.

*Article 22.* It is prohibited to make fast or interfere with any nets, ropes, lines, or any other fishing apparatus belonging to another person under any pretext whatever, saving a case of *force majeure*.

*Article 23.* Should any vessel fishing with apparatus or lines entangle the same with those of another ship, the vessel raising her nets is forbidden to cut those of the other vessel, unless it be a case of *force majeure*; but even in such a case it must at once make good the lines which were cut.

*Article 24.* Whenever the nets, apparatus, or lines of two or more vessels get entangled, a master is forbidden to cut any lines that do not belong to him, unless it be with the consent of the parties interested, or in case of danger, after it shall have been ascertained that it is impossible to separate them in any other manner, in which case all responsibility ceases.

*Article 25.* It is forbidden to make use of any instrument, apparatus, or material exclusively intended and serving for the purpose of destroying nets. The presence of such utensils or materials on board is prohibited and punishable, and either nation is bound to adopt the necessary measures in order to prevent the shipment of such articles.

The use of dynamite or any other explosive material is likewise prohibited.

*Article 26.* The supervision and fiscal control as to compliance with the rules concerning lights, signals, muster-rolls, fishing licences, and other ships' papers, the marking and numbering of vessels engaged in the fishing trade and of the fishing appliances, and with the subject-matter of the preceding articles, exclusively appertain to the agents of the country to which the fishermen belong. Nevertheless, the officials charged with the supervision and police of the fishing trade in both countries will be at liberty to report to the authorities of the other country any infractions that may come to their knowledge on the part of the fishermen of that other country.

*Article 27.* The competent vessels for recording any infractions of the rules laid down as to the place to be taken up by fishing vessels on the fishing ground, and generally for all things relating to these operations, and especially as regards any acts that may cause damage, irrespective of the nationality of the fishermen guilty of the same, are the cruising vessels of the two States; consequently, the commanding officers of those vessels will inquire into any infractions committed by the fishing vessels of the two nations, and will draw up a summary account or record of the case, and should it be of such a grave nature, and should they think it necessary to do so, they will take the delinquents and their vessels to the nearest port of their own country, in order that the case as well as the damage, if any, may be proved there, both by the declarations of the parties interested and by the evidence of any persons witnesses to the fact.

The summary account or record must be signed by two witnesses and by the offender; but should he refuse to sign, a declaration to that effect must be substituted: it will be drawn up in the language of the country to which the cruiser belongs, but the witnesses, as well as the offender, may insert in the same any declarations in their own language.

*Article 28.* In case the infraction should not have been of a grave nature, but should, nevertheless, have caused damage to any fisherman, the commanding officers of the cruisers may reconcile at sea the parties interested and may settle the amount of compensation, if the parties agree. In such a case, if one of the parties is unable to pay at once, the commanding officers will cause a declaration to be drawn up and signed in duplicate, with reference to the mode of payment of the compensation; one of these documents shall be kept on board the cruiser, and the other will be handed over to the master and creditor, in order that, if needful, he may make use of it before the courts of justice of the debtor.

Should both parties not agree, the commanding officers will proceed in accordance with the provisions of article 27.

*Article 29.* Whenever the fishermen of either country shall proceed to acts of violence against those of the other country, or may have wilfully caused damage or losses, the courts of the country to which the vessels of the offenders belong will be competent to try the case.

### *Section 3. General rules*

*Article 30.* Any fishing vessel, or any part of its tackle or rigging, apparatus, nets, buoys, or floating buoys, as well as any fishing appliances, found or picked up at sea, within or out of the jurisdictional waters, must be forwarded to the naval commandant if the article is sent to Spain, or to the captain of the port if sent to Portugal. The naval commandant or the captain of the port, as the case may be, will deliver up the article saved to the owners or to their representatives.

*Article 31.* The proper authorities, according to the law of either country, will fix the amount of compensation to be paid by the owners to the salvors. This compensation, which may in no case exceed one-fourth of the value of the articles saved on the occasion, will be paid by the owners.

*Article 32.* Any articles saved in the six-mile coast zone will become the property of the nation having jurisdiction there should they not be claimed, or if there should be insufficient evidence to prove the right of ownership.

Any article picked up on the high seas will become the property of the country of the salvors in the event of its being impossible to discover the owners.

*Article 33.* All penal proceedings arising out of offences or transgressions referred to in these regulations will lapse at the expiration of six months from the date of the commission of the offence. Penal proceedings, however, having reference to acts of violence or to any damages caused wilfully, are excepted from this rule, and come within the scope of the general law of the respective States.

*Article 34.* The six-mile zone, as laid down in article 2, is solely applicable for the purposes of these regulations.

*Article 35.* The supervision and police of the fisheries will be carried on by means of the ships of war of both countries.

*Article 36.* Any resistance to the orders of the officials charged with the supervision and police of the fisheries, or of their delegates, and any disobedience to any orders or demands necessary to enforce such supervision and police control, will be punishable as resistance to and disobedience of the authorities of the country to which the offenders belong.

*Note.* These regulations are similar to those embodied in the Convention regulating the exercise of fishing rights on the coasts of Portugal and Spain, 2 October 1885. Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 14, p. 77; *British and Foreign State Papers*, vol. 77, p. 1181.

A Final Protocol to the Convention of 27 March 1893 declares that the maritime line of the Guadiana, mentioned in article 4(a) of appendix 6, shall be fixed by common agreement "on the basis that the middle line, starting from the centre of the line of the mouth of the river, will descend in the direction of the junction of the 'thalwegs' of the two bars, so that both Portugal and Spain will be able to navigate in their own waters. From this point it will follow a course to the south-west, for a distance of six to twelve miles, until it reaches the last of the meridians proposed by the Spanish Commissioners, and thence to the extreme point of the zones". Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 22, p. 440; *British and Foreign State Papers*, vol. 85, p. 463.