



Canadian Consulate General

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January 21, 2013

**RECEIVED**

Donald McIsaac  
Executive Director  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon  
97220-1384

**JAN 24 2013**

**PFMC**

Re: Canada-United States Pacific Albacore Tuna Treaty

Dear Mr. McIsaac:

I am writing to share my views with the Council on several aspects of the *Canada-United States Pacific Albacore Tuna Treaty*.

I would first off like to express our appreciation of the interest and seriousness with which the Council has addressed Treaty issues during its meetings over the past 18 months. We are also pleased to note the recent correspondence between the Council and Dr. Kerri-Ann Jones of the U.S. State Department, which indicates that both the Council and State Department appear to share our desire to resume negotiations in order to reach agreement on a new fishing regime.

We share the view of the Council and the State Department that, while any agreement needs to be based on a solid understanding of the current realities of the fishery and how changes have occurred over time, the lack of perfect data should not be a cause for delaying negotiations. On the basis of this understanding, we are pleased that renewed negotiations will be underway shortly – discussions have been scheduled for February 13-14 in Vancouver, British Columbia.

At this time I would like to take the opportunity to highlight many of the positive aspects of the Treaty, before recounting our recent negotiating efforts and addressing some of the misinformation that has been presented to the Council in recent months.

This bilateral Treaty, in place since 1981 at the request of the United States, has supported a prosperous and sustainable albacore fishing industry on both sides of the border for over three decades. Many of the albacore fishing groups off the Pacific Northwest coast are made up of both Canadian and American harvesters. In fact, the original intention of the Treaty was to

ensure the continued access of harvesters to albacore on their traditional fishing grounds along the Northwest coast.

While Canada recognizes that the nature of the fishery has evolved, we strongly believe that many in industry on both sides of the border have become reliant on the benefits accorded under the Treaty and that many of the difficulties experienced in the absence of bilateral access in 2012 (e.g., the difficulties associated without having automatic access to Canadian ports for the purposes of crew exchanges and landings for American albacore vessels) highlighted some of the less obvious benefits of the Treaty.

The treaty has also provided a forum for increased collaboration on scientific and management related issues within both the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission. Close cooperation between our two countries within these international organizations is essential to ensuring the responsible management of albacore.

Clearly Canada was disappointed that a fishing regime could not be negotiated for the 2012 fishing season, and in our view this was not due to a lack of effort to address several areas of concern expressed by the American harvesters, including, but not limited to, issues of fleet etiquette, fleet capacity and joint scientific work.

As you may recall, following the November 2011 negotiating session in Vancouver, British Columbia, three Working Groups were established to work through some of the issues leading to these concerns. Despite a lot of good work being accomplished in the Data and Economic Working Groups in a short time period, Canada was informed in March 2012 that the official United States position was no fishing in 2012.

Notwithstanding this, in May 2012, the delegations met again informally in Portland, Oregon, at which time Canada tabled a number of proposals aimed at addressing concerns of the American fishing industry: notably on fishing behaviour, capacity, and the transfer of licences. These proposals are attached and we remain open to discussing how best to address the concerns expressed by U.S. industry.

We have also reviewed issues raised by the Council in its previous correspondence and Canada is willing to show flexibility in a number of these areas. The important step at this time is for the Parties to return to the negotiating table and to have meaningful discussions to resolve the outstanding areas of concern.

As I am sure the Council is aware, the global economy has changed dramatically over the past decade. The Government of Canada is committed to providing Canadian workers, businesses and investors with the tools, access and support they need to succeed in global markets. Given the slow progress of the work at the World Trade Organization, the United States and Canada, like many of our trading partners, have pursued the development of bilateral trade arrangements in order to better position ourselves in key markets. In response to the concerns expressed regarding any competitive advantage Canada might enjoy due to a potential Canada – European Union Comprehensive Economic and Trade Agreement, it is important to remain mindful that the United States currently has significant duty-free access to

the EU market even in the absence of a free trade agreement for its albacore products. Given Canadian trade of albacore tuna to the EU is minimal, any alleged advantage Canada might see in the near future does not accord with reality.

In closing, I would like to highlight that the *Canada-United States Pacific Albacore Tuna Treaty* has always been an example of the strong bilateral fisheries relationship between our two countries. As you know, this relationship touches a significant number of fisheries on both Coasts. Although issues come up from time to time, our ability to discuss and work through differences has ensured that these fisheries are sustainably harvested in a manner that benefits fishers on both sides of the border.

Consistent with this spirit, I am encouraged by the Council's recommendations to the State Department to return to the negotiating table. I am also confident that when the Council reviews Treaty developments during its upcoming meetings in March and April, that it will do so with the same balanced perspective that has been inherent in Council positions to date.

In the interest of transparency, I kindly ask that you circulate this letter to Council members and, if possible, post it on the Council website so that it can be viewed by others with an interest in the Treaty.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Stevens', with a long horizontal line extending to the right.

Denis Stevens  
Consul General of Canada in Seattle

Attachments (4):

1. Proposal for revisions to Annex C
2. Proposal for revisions to Annex A
3. Proposal for Joint Scientific Research
4. Proposal on fleet etiquette

c.c: David Hogan, U.S. Department of State  
Sylvie Lapointe, Fisheries and Oceans Canada

**Proposed Revisions to Annex C  
Canadian Proposal – May 23, 2012**

5 (bis)

1. Taking into consideration the Proposal to Encourage and Facilitate Improved Tuna Fleet Behaviour (Code of Behaviour) adopted by the Parties (or fishing association entities of the Parties as the case may be), any vessel owner or vessel captain engaged in fishing pursuant to the Fishing Regime may complain to an in-season contact representing the vessels of his Party of any alleged violation of the Code of Behaviour by the crew of any vessel of the other Party as soon as may be practicable. The complaint should include the following information:
  - the name, radio call sign or vessel identification of the vessel whose crew is alleged to have violated the Code of Behaviour
  - the nature of the alleged violation
  - the date and location where the alleged violation took place.
2. The in-season contact will forward the complaint to all other in-season contacts designated by both the Parties one or more of whom will take responsibility to further investigate the complaint and liaise with one or more in-season contacts designated by the other party.
3. Should the in-season contacts involved in the investigation of the complaint reach a consensus on the nature of the violation and any possible sanction, this consensus will be forwarded by the in-season contact designated by the party of the alleged violator to the violator, to the fishing association representing the alleged violator, to the fishing association of the complainant and to the authorities of each of the parties designated by the Party to receive complaints under this section. The association of the alleged violator will be responsible for imposing any sanction on the alleged violator, failing which, the designated authorities of the parties shall further consult to arrive at a conclusion respecting the alleged facts and whether a sanction may be imposed by either of the parties consistent with their rules and regulations, including those related to licensing.
4. Should the in-season contacts involved in investigating the complaint fail to reach a consensus, the complaint will be forwarded by the in-season contacts involved in the investigation to the designated authorities of the parties referred to under 3. for further action.
5. It is desirable for any complaint filed, investigation conducted and sanction imposed to be carried out as soon as possible after the date of the alleged violation and, in any event, during the course of the fishing season in which the alleged violation took place.

**Proposed Revisions to Annex A**  
**Canadian Proposal – May 23, 2012**

\* changes are tracked to reflect suggested revisions to existing language in the Treaty annexes

**Annex A**

**1(b)**

With regard to the ~~transfer of licences~~~~list of Canadian vessels~~, the list of Canadian vessels shall remain fixed for the entirety of the fishing ~~season~~Regime as defined in paragraph 2 of Annex C. No vessels shall be added to or replaced on the list during the fishing season except pursuant to paragraph 1(c) below.

**1(c)**

~~In the event of force majeure or other cause for a exceptional request by the captain or owner of a Canadian vessel on the list in 1(a) for replacement of a vessel is received by the Canadian Government within a season, it shall convene~~ an ad hoc review panel ~~will be convened by the Government of Canada~~ to review the request and determine whether the request is warranted. If the finding is positive, the basis for the finding and the information regarding the replacement vessel per paragraph 1(a) shall be transmitted to the Government of the United States prior to the vessel entering the EEZ of the United States. The following are circumstances in which vessel replacements may be granted to Canadian vessels:

- (i) A vessel may be replaced by another Canadian vessel of the same size or shorter in overall length. Vessel replacements of this type are not permitted to occur within a fishing season as defined in paragraph 2 of Annex C.
- (ii) In the event of a force majeure request for a vessel replacement within a fishing season, the replacement vessel shall not exceed the length overall of the original vessel it is replacing by more than 10 feet. Any subsequent replacements of that first replacement vessel must be of the same size or shorter than the vessel being replaced. Any replacement vessel shall not exceed the length overall of the original vessel it is replacing by more than 10 feet. Any subsequent replacements of that first replacement vessel must be of the same size or shorter than the vessel being replaced.

## **Proposal for Jointly Funded Scientific Research on North Pacific Albacore Proposal by Canada – May 23, 2012**

- Funds collected by AFRF and CHMSF from US and Canadian fishermen, respectively, using existing mechanisms
- Funds to be held in trust by each body for research purposes
- Research priorities identified by the ISC Albacore Working Group in the stock assessment document will form the basis for acceptable areas of research
- Research proposals developed jointly by US and Canadian scientists will be brought forward for funding. Proposals will include a detailed budget that identifies costs and source of funds (AFRF, CHMSF) by component.
- Proposals will be assessed by the Data WG.
- Proposals can be single or multi-year; proponents will be required to report results and conclusions, including a budget report, to the Data WG annually.

## **Proposals to Encourage and Facilitate Improved Tuna Fleet Behaviour**

The issue of crowding and aggressive behaviour is an issue across both Canadian and United States fleets.

In response, the British Columbia Tuna Fishermen's Association has developed a number of proposals to encourage and facilitate improved tuna fleet behaviour with a focus on:

- improved communication between United States and Canadian fishermen
- increased awareness of all albacore fishermen of the critical importance of proper behaviour on the grounds.

The British Columbia Tuna Fishermen's Association proposes the following:

### **EDUCATION**

- to work with United States counterparts to revise the existing British Columbia Tuna Fishermen's Association Code of Conduct.
  - to seek agreement on a revised Code of Conduct from the Western Fishboat Owners Association and the American Albacore Fishing Association.
  - to add the revised Code of Conduct to Canadian and United States tuna logbooks
- to attach a copy of the International Collision Regulations to the Canadian and United States tuna logbooks
  - Most if not all Canadian skippers have a Fishing Masters Certificate, granted by the Canadian Ministry of Transportation. Certification ensures that the skipper has a comprehensive working knowledge of the International Collision Regulations.
- to offer a program to teach appropriate fishing behaviour to Canadian skippers based on the Code of Conduct, and would be pleased to explore the possibility of a joint education programme with their American counterparts.
- to distribute a wheelhouse window sticker to every Canadian tuna fisherman, for placement on the inside of the window facing the helmsman. The sticker will be worded to be a constant reminder to Canadian skippers that they are guests in American waters, and that access to American waters is contingent upon their behaviour.

## INFORMATION

- to develop a reporting program to inform both fleets of the fishing conditions in Canadian waters. This could take place in the form of a weekly update to the Western Fishboat Owners Association and the American Albacore Fishing Association providing a synopsis of the fishing opportunities available north of the border. Such a report will encourage communication between fleets and will spread the fleet out over more of the coast, resulting in reduced effort in American waters.

## DISPUTE RESOLUTION

- to encourage Canadian fishermen to monitor **and use** VHF channel 72 to communicate with US fishermen on the grounds. Getting in the habit of communication with other vessels about their course, their fishing activity and their intentions is crucial to safe fishing. Talking to others when there has been a close call, whether caused by inattention or other factors, is critical to pre-empting the escalation of tension on the grounds.
- to form a joint United States / Canada Dispute Resolution Committee when communication on Ch. 72 has not been effective in addressing a problem. The committee could be comprised of an equal number (5 or 6?) of respected and experienced senior American and Canadian tuna fishermen, retired or active, who will be available in-season to receive complaints and contact their counterparts to deal with those complaints. Any complaints received would be brought to both the skipper's and the vessel owner's attention immediately, to be dealt with promptly.
  - Continued joint efforts should occur to determine an appropriate process through which complaints which are not resolved on the grounds can be effectively dealt with.

The British Columbia Tuna Fishermen's Association looks forward to discussing these matters with our American friends.

The British Columbia Tuna Fishermen's Association