

AGREEMENT AMENDING TREATY WITH CANADA CON-  
CERNING PACIFIC COAST ALBACORE TUNA VESSELS  
AND PORT PRIVILEGES

MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

AGREEMENT AMENDING THE TREATY BETWEEN THE GOVERN-  
MENT OF THE UNITED STATES OF AMERICA AND THE GOVERN-  
MENT OF CANADA ON PACIFIC COAST ALBACORE TUNA VES-  
SELS AND PORT PRIVILEGES DONE AT WASHINGTON MAY 26,  
1981 (THE "TREATY"), EFFECTED BY AN EXCHANGE OF DIPLO-  
MATIC NOTES AT WASHINGTON ON JULY 17, 2002, AND AUGUST  
13, 2002 (THE "AGREEMENT"). ENCLOSED IS THE REPORT OF  
THE SECRETARY OF STATE ON THE AGREEMENT AND A RE-  
LATED AGREEMENT, EFFECTED BY AN EXCHANGE OF NOTES AT  
WASHINGTON ON AUGUST 21, 2002, AND SEPTEMBER 10, 2002,  
AMENDING THE ANNEXES TO THE TREATY



JANUARY 9, 2003.—Agreement was read the first time, and together with  
the accompanying papers, referred to the Committee on Foreign Rela-  
tions and ordered to be printed for the use of the Senate



## LETTER OF TRANSMITTAL

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THE WHITE HOUSE, *January 9, 2003.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement Amending the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges done at Washington May 26, 1981 (the "Treaty"), effected by an exchange of diplomatic notes at Washington on July 17, 2002, and August 13, 2002 (the "Agreement"). I am also enclosing, for the information of the Senate, the report of the Secretary of State on the Agreement and a related agreement, effected by an exchange of notes at Washington on August 21, 2002, and September 10, 2002, amending the Annexes to the Treaty; this related agreement was concluded pursuant to Article VII of the Treaty.

The Treaty currently permits unlimited fishing for albacore tuna by vessels of each Party in waters under the jurisdiction of the other Party. The Agreement amends the Treaty to allow for a limitation on such fishing necessitated by changing circumstances.

The U.S. fishing and processing industries strongly support the amendment to the Treaty. The amendment not only allows the Parties to redress the imbalance of benefits received by U.S. fishers that has developed in the operation of the Treaty, but also preserves U.S. interests under the Treaty, including the interest of U.S. fishers to fish in Canadian waters at times when the albacore stock moves northward, the interest of U.S. processors to continue to receive Canadian catches for processing, and the U.S. interest in being able to conserve and manage the stock.

The recommended legislation necessary to implement the Agreement will be submitted separately to the Congress.

I recommend that the Senate give favorable consideration to this Agreement and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.



## LETTER OF SUBMITTAL

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*October 9, 2002.*

The PRESIDENT,  
*The White House.*

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Agreement Amending the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges done at Washington May 26, 1981 (the "Treaty"), effected by an exchange of diplomatic notes at Washington on July 17, 2002 and August 13, 2002 (the "Agreement"). I also enclose, for the information of the Senate, a related agreement, effected by an exchange of notes at Washington on August 21, 2002 and September 10, 2002 amending the Annexes to the Treaty.

The Treaty currently permits unlimited fishing for albacore tuna by vessels of each Party in waters under the jurisdiction of the other Party. The Agreement amends Article 1(b) of the Treaty to allow for a limitation on such fishing necessitated by changing circumstances. The details of such limitation are set forth in a new Annex C to the Treaty. The new Annex C and a few additional amendments to Annex A are contained in the related agreement that is being submitted for the information of the Senate. Like an October 9, 1997, exchange of notes that amended Annex B, this related agreement has been concluded pursuant to Article VII of the Treaty.

The original Treaty, concluded in 1981, was negotiated to allow unlimited fishing by U.S. and Canadian fishers in one another's waters at a time when Canada asserted jurisdiction over tuna out to 200 miles, but the United States did not recognize or assert such claims. (This U.S. position changed in the early 1990's.) In the years since 1981, however, albacore tuna have been found more frequently in U.S. waters than in Canadian waters. As a result, Canadian fishers have fished regularly in U.S. waters, while U.S. fishers have fished significantly in Canadian waters only in approximately three out of the last twenty years. Since 1998, Canada has more than doubled its albacore tuna fishery in U.S. waters.

This change in fishing patterns resulted in complaints by U.S. fishers that the increased number of Canadian vessels was causing overcrowding on U.S. fishing grounds and that Canadian fishers were receiving disproportionate benefits under the Treaty. Many U.S. fishers called for termination of the Treaty if limitations were not placed on Canadian vessels in U.S. waters.

In response to U.S. industry complaints, and after consultations with the National Marine Fisheries Service and the U.S. fishing

and seafood processing industries, the Department of State initiated technical discussions with Canada in November 2000 to develop data on the albacore tuna fishery and to share our concerns. In early 2001, the United States entered into negotiations with Canada to amend the Treaty to provide a mechanism for setting a limitation on the fishery in each other's waters under the Treaty.

The U.S. goal in the negotiations was not only to reduce Canadian fishing effort in U.S. waters to tolerable and more equitable levels, but also to create a fishery limitation mechanism for both Parties that could respond to future needs to conserve and manage the stock. The United States expects to implement a management plan for the albacore fishery in U.S. waters with respect to U.S. vessels in the near future. It would be difficult to implement such a management plan if unlimited fishing by Canadian vessels were still to be permitted under the Treaty.

On April 24, 2002, U.S. and Canadian negotiators reached agreement on an amendment to Article 1(b) of the Treaty that changes the Treaty's purpose from allowing unlimited fishing to one that allows the United States and Canada to establish a mutually agreed fisheries limitation regime applicable to each Party's vessels fishing for albacore in waters subject to the fisheries jurisdiction of the other Party. They also agreed in the related agreement amending the Treaty's Annexes to an initial three-year fisheries limitation regime, set out in Annex C, that reduces the fishing effort each year until a level is reached in the third year that is slightly above the pre-1998 average level of fishing.

Annex C also provides for a further reduced level of fishing after the three-year period if the Parties are not able to reach agreement on a subsequent regime. The structure of the regime and its placement in Annex C provide the mechanism for readjustment of the fishing limitation to respond to changing conservation and fishery management needs in a timely manner through agreements to amend the Annexes pursuant to Article VII of the Treaty.

The U.S. Department of Commerce and the U.S. fishing industry strongly support the amendment of the Treaty to allow the Parties to set fishing limitations. The Agreement not only allows the Parties to redress the imbalance of benefits that has developed in the operation of the Treaty, but also preserves U.S. interests under the Treaty, including the interests of U.S. fishers to fish in Canadian waters at times when the albacore stock moves northward, the interest of U.S. processors in continuing to receive Canadian catches for processing, and the U.S. interest in being able to conserve and manage the stock.

The recommended legislation necessary to implement the Agreement will be submitted separately to the Congress.

I therefore recommend that you submit the Agreement to the Senate for its advice and consent to ratification at the earliest possible date.

Respectfully submitted.

COLIN L. POWELL.

Enclosures: As stated.

DEPARTMENT OF STATE  
WASHINGTON  
August 21, 2002

Sir:

I have the honor to refer to recent discussions between our two Governments regarding the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, as amended by the Exchange of Notes of October 9, 1997 (the "Treaty"). I also have the honor to refer to the Diplomatic Note of July 17, 2002, and your Note number 84 of August 13, 2002, in reply, which contained an agreement on a proposed amendment to Article 1(b) of the Treaty.

The Honorable

Bertin Côté,

Chargé d'Affaires ad interim  
of Canada.

DIPLOMATIC NOTE

I have the further honor to propose certain amendments to the Treaty as follows:

1. Annex A is amended so that it reads in its entirety as follows:

ANNEX A

1.
  - a. Each Party agrees to provide annually to the other Party a list of its fishing vessels which propose to fish albacore tuna off the coast of the other Party. The list will include (1) vessel name, (2) home port, (3) radio call sign or vessel identification marking that identifies the flag state of the vessel ("Vessel Identification Marking"), (4) fishing vessel registration number, and (5) captain or operator's name, if known.
  - b. Each Party may provide the other Party with additions or deletions to its list at any time.
  - c. As soon as possible after receipt, and subject to paragraph 1(d) below, the receiving Party shall satisfy itself that the list received meets the criteria of paragraph 1(a) and shall so inform the other Party in order to enable the albacore fishery to proceed pursuant to this Treaty.
  - d. Should, due to serious or repeated fisheries violations or offenses, one Party object to the inclusion of a particular vessel on the list of the other Party, the two Parties shall consult. In this event, actions pursuant to paragraph 1(c), with regard to other vessels shall not be delayed. Following consultations, each Party shall notify its vessels which both Parties agree shall not be included on the list referred to in paragraph 1(c).
2. If required by either Party, each vessel shall, prior to entering and leaving the fishing zone of such Party, so inform the appropriate authorities and provide the vessel name, radio call sign or Vessel Identification Marking,



captain or operator's name and the purpose for being in such Party's fishing zone.

3. When in the fishing zone of the other Party, each vessel shall have its name and radio call sign or Vessel Identification Marking prominently displayed where they will be clearly visible both from the air and from a surface vessel.
4. Vessels of both Parties shall keep accurate log records while fishing pursuant to this Treaty.
5. In order that better information on the stocks of albacore tuna which migrate off the west coasts of the United States and Canada may be obtained, each vessel engaged in fishing pursuant to this Treaty shall provide to its government statistics and other scientific information on its operations in the fishing zone of the other Party. Each Party shall provide to the other Party such information and in particular the amount (weight) of albacore tuna caught by its vessels in waters under the fisheries jurisdiction of the other Party. Such information shall be provided on an annual basis and at least 30 days prior to the annual consultations referred to in paragraph 6 of this Annex. Other specific information to be provided, as well as the forms and procedures for providing such information, shall be agreed upon by the two Parties.
6. The Parties shall consult annually, *inter alia*, to:
  - a. discuss data and information on albacore tuna fisheries exchanged under paragraph 5 of this Annex; and
  - b. exchange information on their respective conservation and management measures for albacore tuna and on implementation of internationally agreed conservation and management measures applicable to the Parties related to fisheries covered under this Treaty.

The Parties shall also notify one another of the conservation and management laws and regulations applicable to vessels fishing in each other's waters pursuant to Article 1(b) of this Treaty.

2. A new "Annex C" shall be added and it shall read in its entirety as follows:

## ANNEX C

1. The Parties agree to limit fishing by each Party's vessels engaged in fishing for albacore tuna in the waters under the fisheries jurisdiction of the other Party in accordance with the limitation regime (the "Regime") below, beginning on the first June 1st occurring after the date of entry into force of this Annex and expiring at the end of the third year of the Regime as set out in paragraph 5 below.
2. For purposes of this Annex, a "vessel fishing month" as it applies to a vessel of a Party shall mean any calendar month or part thereof in which that vessel is in the waters subject to the fisheries jurisdiction of the other Party for the purpose of fishing for albacore tuna in those waters.
3. During the first year of the Regime, which shall commence on the first June 1<sup>st</sup> occurring after the date of entry into force of this Annex and end on the following March 31<sup>st</sup>, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:
  - (a) 680 vessel fishing months; or
  - (b) 170 vessels with a limit of four calendar months fishing for each vessel.
4. During the second year of the Regime, which shall commence on the April 1<sup>st</sup> immediately following the end of the first year of the Regime and end on the following March 31<sup>st</sup>, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:
  - (a) 560 vessel fishing months; or
  - (b) 140 vessels with a limit of four calendar months fishing for each vessel.
5. During the third year of the Regime, which shall commence on the April 1<sup>st</sup> immediately following the end of the second year of the Regime and end on the following March 31<sup>st</sup>, each Party shall limit fishing for albacore tuna by its

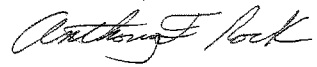
vessels in waters under the fisheries jurisdiction of the other Party to:

- (a) 500 vessel fishing months; or
  - (b) 125 vessels with a limit of four calendar months fishing for each vessel.
6. In the event that in the first or second year of the Regime, fishing effort of vessels of a Party in waters under the fisheries jurisdiction of the other Party is less than the annual limit set out for that year in paragraph 3 or 4 above, the unused portion of that year's limit may be carried forward and added to the limit for any subsequent year of the Regime, provided that the resulting level of fishing effort in that year of the Regime shall not exceed the limit applicable during the preceding year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime.
  7. Twelve months prior to the expiration of this Regime, the Parties shall consult to consider a new limitation regime or extension of this Regime for one or more years.
  8. If no agreement is reached and implemented by the Parties by the expiration of the Regime, then vessels of each Party may continue to fish for albacore tuna in waters subject to the fisheries jurisdiction of the other Party at a level no more than 75% of the limit applicable during the last year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime, until a new agreement is reached and implemented.

If the above understandings are acceptable to your Government, I have the further honor to propose that this Note together with your Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the same date as the amendment to Article 1(b) of the Treaty enters into force in accordance with the terms of the agreement between our two Governments constituted by the exchange of Notes of July 17, 2002, and August 13, 2002.

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

For the Secretary of State:

A handwritten signature in cursive script, appearing to read "Anthony F. Rock".

Canadian Embassy



Ambassade du Canada

Washington, September 10, 2002

Note No. 0086

Excellency:

I have the honour to acknowledge receipt of your Note of 21 August, 2002, which reads as follows:

I have the honor to refer to recent discussions between our two Governments regarding the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, as amended by the Exchange of Notes of October 9, 1997 (the "Treaty"). I also have the honor to refer to the Diplomatic Note of July 17, 2002 and your Note number 84 of August 13, 2002, in reply, which contained an agreement on a proposed amendment to Article 1(b) of the Treaty.

I have the further honor to propose certain amendments to the Treaty as follows:

1. Annex A is amended so that it reads in its entirety as follows:

ANNEX A

- a. Each Party agrees to provide annually to the other Party a list of its fishing vessels which propose to fish albacore tuna off the coast of the other Party. The list will include (1) vessel name, (2) home port, (3) radio call sign or vessel identification marking that identifies the flag state of the vessel ("Vessel Identification Marking"), (4) fishing vessel registration number, and (5) captain or operator's name, if known.
- b. Each Party may provide the other Party with additions or deletions to its list at any time.
- c. As soon as possible after receipt, and subject to paragraph 1(d) below, the receiving Party shall satisfy itself that the list received meets the criteria of paragraph 1(a) and shall so inform the other

Party in order to enable the albacore fishery to proceed pursuant to this Treaty.

- d. Should, due to serious or repeated fisheries violations or offenses, one Party object to the inclusion of a particular vessel on the list of the other Party, the two Parties shall consult. In this event, actions pursuant to paragraph 1(c), with regard to other vessels shall not be delayed. Following consultations, each Party shall notify its vessels which both Parties agree shall not be included on the list referred to in paragraph 1(c).
2. If required by either Party, each vessel shall, prior to entering and leaving the fishing zone of such Party, so inform the appropriate authorities and provide the vessel name, radio call sign or Vessel Identification Marking, captain or operator's name and the purpose for being in such Party's fishing zone.
3. When in the fishing zone of the other Party, each vessel shall have its name and radio call sign or Vessel Identification Marking prominently

displayed where they will be clearly visible both from the air and from a surface vessel.

4. Vessels of both Parties shall keep accurate log records while fishing pursuant to this Treaty.
  
5. In order that better information on the stocks of albacore tuna which migrate off the west coasts of the United States and Canada may be obtained, each vessel engaged in fishing pursuant to this Treaty shall provide to its government statistics and other scientific information on its operations in the fishing zone of the other Party. Each Party shall provide to the other Party such information and in particular the amount (weight) of albacore tuna caught by its vessels in waters under the fisheries jurisdiction of the other Party. Such information shall be provided on an annual basis and at least 30 days prior to the annual consultations referred to in paragraph 6 of this Annex. Other specific information to be provided, as well as the forms and procedures for providing such information, shall be agreed upon by the two Parties.



6. The Parties shall consult annually, *inter alia*, to:
  - a. discuss data and information on albacore tuna fisheries exchanged under paragraph 5 of this Annex; and
  - b. exchange information on their respective conservation and management measures for albacore tuna and on implementation of internationally agreed conservation and management measures applicable to the Parties related to fisheries covered under this Treaty.

The Parties shall also notify one another of the conservation and management laws and regulations applicable to vessels fishing in each other's waters pursuant to Article 1(b) of this Treaty.

2. A new "Annex C" shall be added and it shall read in its entirety as follows:

ANNEX C

1. The Parties agree to limit fishing by each Party's vessels engaged in fishing for albacore tuna in the waters under the fisheries jurisdiction of the other Party in accordance with the limitation regime (the "Regime") below, beginning on the first June 1st occurring after the date of entry into force of this Annex and expiring at the end of the third year of the Regime as set out in paragraph 5 below.
2. For purposes of this Annex, a "vessel fishing month" as it applies to a vessel of a Party shall mean any calendar month or part thereof in which that vessel is in the waters subject to the fisheries jurisdiction of the other Party for the purpose of fishing for albacore tuna in those waters.
3. During the first year of the Regime, which shall commence on the first June 1<sup>st</sup> occurring after the date of entry into force of this Annex and end on the following March 31<sup>st</sup>, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:

- a. 680 vessel fishing months; or
  - b. 170 vessels with a limit of four calendar months fishing for each vessel.
4. During the second year of the Regime, which shall commence on the April 1<sup>st</sup> immediately following the end of the first year of the Regime and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:
- a. 560 vessel fishing months; or
  - b. 140 vessels with a limit of four calendar months fishing for each vessel.
5. During the third year of the Regime, which shall commence on the April 1<sup>st</sup> immediately following the end of the second year of the Regime and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:

- a. 500 vessel fishing months; or
  - b. 125 vessels with a limit of four calendar months fishing for each vessel.
6. In the event that in the first or second year of the Regime, fishing effort of vessels of a Party in waters under the fisheries jurisdiction of the other Party is less than the annual limit set out for that year in paragraph 3 or 4 above, the unused portion of that year's limit may be carried forward and added to the limit for any subsequent year of the Regime, provided that the resulting level of fishing effort in that year of the Regime shall not exceed the limit applicable during the preceding year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime.
7. Twelve months prior to the expiration of this Regime, the Parties shall consult to consider a new limitation regime or extension of this Regime for one or more years.
8. If no agreement is reached and implemented by the Parties by the

expiration of the Regime, then vessels of each Party may continue to fish for albacore tuna in waters subject to the fisheries jurisdiction of the other Party at a level no more than 75% of the limit applicable during the last year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime, until a new agreement is reached and implemented.

If the above understandings are acceptable to your Government, I have the further honor to propose that this Note together with your Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the same date as the amendment to Article 1(b) of the Treaty enters into force in accordance with the terms of the agreement between our two Governments constituted by the exchange of Notes of July 17, 2002 and August 13, 2002.

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

I have the further honour to inform you that the Government of Canada accepts the proposal contained in Your Excellency's Note and to confirm that your Note and this Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the date of the second Note of a subsequent exchange of Notes confirming the completion of

all necessary internal procedures of each Party.

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



Michael Kergin

Ambassador of Canada to the United States of America

The Honourable Colin L. Powell

Secretary of State

Washington, D.C.



DEPARTMENT OF STATE

WASHINGTON

July 17, 2002

Excellency:

I have the honor to refer to recent discussions between our two Governments regarding the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, as amended by the Exchange of Notes of October 9, 1997 (the "Treaty") and to propose one amendment to the Treaty as follows:

Article 1(b) is amended so that it reads in its entirety as follows:

- (b) permit fishing vessels of the other Party to fish for albacore tuna in waters under its fisheries jurisdiction beyond twelve nautical miles of the baselines from which the territorial sea is measured, in accordance with and subject to the limitations and conditions in Annex "A" and Annex "C" to this Treaty and subject to other applicable laws and regulations.

His Excellency

Michael Frederick Kergin,  
Ambassador of Canada.

DIPLOMATIC NOTE

If the above understanding is acceptable to your Government, I have the further honor to propose that this Note together with your Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the date of the second Note of a subsequent exchange of Notes confirming the completion of all necessary internal procedures of each Party.

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

For the Secretary of State:

*Daufa Arbainy*



Canadian Embassy



Ambassade du Canada

Washington, August 13, 2002

Note No.0084

Excellency:

I have the honour to acknowledge receipt of your note of 17 July, 2002, which reads as follows:

I have the honor to refer to recent discussions between our two Governments regarding the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, as amended by the Exchange of Notes of October 9, 1997, (the "Treaty") and to propose one amendment to the Treaty as follows :

Article 1(b) is amended so that it reads in its entirety as follows:

(b) permit fishing vessels of the other Party to fish for albacore tuna in waters under its fisheries jurisdiction beyond twelve nautical miles of the baselines from which the territorial sea is measured, in accordance with and subject to the limitations and conditions in Annex "A" and Annex "C" to this Treaty and subject to other applicable laws and regulations.

If the above understanding is acceptable to your Government, I have the further honor to propose that this Note together with your Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the date of the second Note of a subsequent exchange of Notes confirming the completion of all necessary internal procedures of each Party.

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

I have the further honour to inform you that the Government of Canada accepts the proposal contained in your excellency's note and to confirm that your note and this note in reply

shall constitute an Agreement between our two Governments, which shall enter into force on the date of the second Note of a subsequent exchange of Notes confirming the completion of all necessary internal procedures of each Party.

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



Bertin Côté

Minister and Deputy Head of Mission

The Honourable Colin L. Powell

Secretary of State

Washington, D.C.



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