

法規名稱：AGREEMENT BETWEEN THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS AND THE AMERICAN INSTITUTE IN TAIWAN CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

簽訂日期：民國 71 年 06 月 07 日

生效日期：民國 71 年 06 月 01 日

The Coordination Council for North American Affairs (hereinafter CCNAA) and the American Institute in Taiwan (hereinafter AIT).

Considering their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

Recognizing that the United States has established a fishery conservation zone within 200 nautical miles of its coasts within which the United States exercises exclusive fishery management authority over all fish and that the United States also exercises such authority over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States exercises exclusive fishery management authority;

Have agreed as follows:

#### ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by the people and vessels of the parties represented by CCNAA for the living resources over which the United States exercises exclusive fishery management authority as Provided by United States law.

#### ARTICLE II

As used in this Agreement, the term:

1 " living resources over which the United States exercises exclusive fishery management authority" means all fish within the fishery conservation zone of the United States, (except highly migratory species), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while Present in the United States fishery conservation zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2 " fish" means all finfish, molluscs, crustaceans, and other f-

orms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3 " fishery" means

a one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

b any fishing for such stocks;

4 " fishery conservation zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5 " fishing" means

a the catching, taking or harvesting of fish;

b the attempted catching, taking or harvesting of fish;

c any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish:

d any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above,

Provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6 " fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

a fishing; Or

b aiding or assisting one or more vessel at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7 " highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8 " marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

### ARTICLE III

1 AIT is willing to allow access for foreign fishing vessels to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to foreign fishing vessels in accordance with United States law.

2 AIT shall determine each year, subject to such adjustments as

- may be necessitated by unforeseen circumstances affecting the stocks, and in accordance with United States law,
- a the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;
  - b the harvesting capacity of United States fishing vessels in respect of each fishery;
  - c the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and
  - d the allocation of such portion that may be made available to qualifying fishing vessels of the parties represented by CCNAA.
- 3 In implementation of paragraph 2.d. of this Article, AIT shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law. Such measures may include, inter alia:
- a designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;
  - b limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;
  - c limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel of the total fleet may engage in a designated area for a specified fishery;
  - d requirements as to the types of gear that may, or may not, be employed; and
  - e requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.
- 4 AIT shall notify CCNAA of the determinations provided for by this Article on a timely basis.

#### ARTICLE IV

In determining the portion of the surplus that may be made available to vessels of the parties represented by CCNAA, AIT will decide on the basis of the factors identified in United States law including:

- 1 whether, and to what extent, the parties represented by CCNAA imposes tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish or fishery products;
- 2 whether, and to what extent the parties represented by CCNAA cooperate in the advancement of existing and new opportunities

for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

- 3 whether, and to what extent, the parties represented by CCNAA and its fishing fleets have cooperated with the United States in the enforcement of United States fishing regulations;
- 4 whether, and to what extent, the parties represented by CCNAA require the fish harvested from the fishery conservation zone for their domestic consumption;
- 5 whether, and to what extent, the parties represented by CCNAA otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;
- 6 whether, and to what extent, the fishing vessels of the parties represented by CCNAA have traditionally engaged in fishing in such fishery;
- 7 whether, and to what extent, the parties represented by CCNAA are making substantial contributions to fishery research and the identification of fishery resources; and
- 8 such other matters as the AIT deems appropriate.

#### ARTICLE V

CCNAA shall cooperate with and assist AIT in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as reducing or removing impediments to the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the market of the parties represented by CCNAA, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking such other actions as may be appropriate.

#### ARTICLE VI

CCNAA shall take all necessary measures to insure:

- 1 that people and vessels of the parties represented by CCNAA refrain from fishing for living resources over which the United States exercises exclusive fishery management authority except as authorized pursuant to this Agreement;
- 2 that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and
- 3 that the total allocation referred to in Article III, paragraph

2.d. of this Agreement is not exceeded for any fishery.

#### ARTICLE VII

CCNAA may submit an application to AIT for a permit for each fishing vessel of the parties represented by CCNAA that wishes to engage in fishing in the fishery conservation zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with the Annex, which constitutes an integral part of this Agreement. AIT may require the payment of fees for such permits and for fishing in the United States fisheries zone. CCNAA undertakes to keep the number of applications to the minimum requiredt, in order to aid in the efficient administration of the permit program.

#### ARTICLE VIII

CCNAA shall insure that people and vessels of the parties represented by CCNAA refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established under the laws of the United States.

#### ARTICLE IX

CCNAA shall insure that the conduct of the fisheries under this Agreement:

- 1 the authorizing permit for each vessel of the parties represented by CCNAA is prominently displayed in the wheelhouse of such vessel;
- 2 appropriate position-fixing and identification equipment, as determined by AIT, is installed and maintained in working order on each vessel;
- 3 designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall cooperate with observers in the conduct of their official duties, and, further, AIT shall be reimbursed for the costs incurred in the utilization of observers;
- 4 agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of the parties represented by CCNAA for any cause arising out of the conduct of fishing activities for the living resources over which the United States exercises exclusive fishery management authority; and

5 all necessary measures are taken to minimize fishing gear conflicts and to insure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic losses, that is caused by any fishing vessel of the parties represented by CCNAA as determined by applicable United States procedures.

#### ARTICLE X

CCNAA shall take all appropriate measures to assist in the enforcement of laws of the United States pertaining to fishing in the fishery conservation zone and to insure that each vessel of the parties represented by CCNAA that engages in fishing for living resources subject to the exclusive fishery management authority of the United States shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

#### ARTICLE XI

- 1 AIT will impose appropriate penalties, in accordance with the laws of the United States, on vessels of the parties represented by CCNAA or their owners or operators, that violate the requirements of this Agreement or of any permit issued hereunder .
- 2 Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.
- 3 The representatives of the United States will recommend to the court in any case arising out of fishing activities under this Agreement that the penalty for violation of fishery regulations not include imprisonment except in the case of enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.
- 4 In cases of seizure and arrest of a vessel of the parties represented by CCNAA by the authorities of the AIT, notification shall be given promptly informing the CCNAA of the action taken and of any penalties subsequently imposed.

#### ARTICLE XII

- 1 CCNAA and AIT shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the exclusive fishery management authority of the United States, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.
- 2 CCNAA and AIT, through appropriate channels, shall cooperate

in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

- 3 The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of the parties represented by CCNAA in the United States fishery conservation zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VIII.
- 4 CCNAA shall cooperate with AIT in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with applicable procedures. CCNAA shall similarly provide such economic data as may be requested by AIT.

#### ARTICLE XIII

CCNAA and AIT shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

#### ARTICLE XIV

Should AIT indicate to CCNAA that people and vessels of the United States wish to engage in fishing in the fishery conservation zone of the parties represented by CCNAA, or its equivalent, CCNAA will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

#### ARTICLE XV

Nothing contained in the present Agreement shall prejudice the views of either CCNAA or AIT with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

#### ARTICLE XVI

- 1 This Agreement shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both CCNAA and AIT, and remain in force until July 1, 1987, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may term-

inate this Agreement after giving written notice of such termination to the other Party six months in advance.

- 2 This Agreement shall be subject to review by CCNAA and AIT two years after its entry into force at the request of either or upon the conclusion of a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, in English.

For the Coordination Council  
for North American Affairs  
(Signed)

Tsai Wei-ping

For the American Institute  
of Taiwan  
(Signed)

David Dean

#### ANNEX

##### Application and Permit Procedures

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the parties represented by CCNAA to engage in fishing for living resources over which the United States exercises exclusive fishery management authority:

- 1 CCNAA may submit an application to AIT for each fishing vessel of the parties represented by CCNAA that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by AIT for that purpose.
- 2 Any such application shall specify
  - a the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;
  - b the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be required;
  - c a specification of each fishery in which each vessel wishes to fish;
  - d the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force,
  - e the ocean area in which, and the season or period during which, such fishing would be conducted; and
  - f such other relevant information as may be requested, including desired transshipping areas.
- 3 AIT shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be re-



quired, and shall inform CCNAA of such determinations. AIT reserves the right not to approve applications.

- 4 CCNAA shall thereupon notify AIT of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.
- 5 Upon acceptance of the conditions and restrictions by CCNAA and the payment of any fees, AIT shall approve the application and issue a permit for each fishing vessel of the parties represented by CCNAA, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.
- 6 In the event CCNAA notifies AIT of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and CCNAA may thereupon submit a revised application.
- 7 The procedures in this Annex may be amended by agreement through an exchange of notes between the two parties.

#### AGREED MINUTES

The representatives of CCNAA and AIT have agreed to record the following in connection with the Agreement Between the Coordination Council for North American Affairs and the American Institute in Taiwan Concerning Fisheries off the Coasts of the United States signed today:

- 1 The Representative of AIT stated that, in making allocations under Article III, AIT would take into account special economic circumstances affecting operations of vessels of the parties represented by CCNAA in the fishery conservation zone. The Representative of CCNAA and the Representative of AIT also recognized the advantages of their respective fishing industries of insuring stability of expectation in fishery relations.
- 2 The Representative of CCNAA and the Representative of AIT expressed their understanding that the trade provisions of Articles of Articles 4 and 5 apply only to trade in fish and fish products.
- 3 The Representative of AIT stated that, subject to applicable laws and regulations, fishing vessels of the parties represented by CCNAA could enter United States ports for the purpose of obtaining supplies and services normally available in those ports.
- 4 In connection with Article IV, the representative of AIT explained that recent U.S. legislation and practice emphasizes the importance of the performance of foreign countries in promoting the developing of the American fishing industry as a factor influencing allocations of surplus fishery resources in the fishery conservation zone. The level of allocations of such surplus resources to parties represented by CCNAA thus would not

be limited by traditional fishing levels.