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Exchange Of Notes Constituting An Agreement Between The Government Of Japan And The Government Of The United States Of America Regarding The King And Tanner Crab Fisheries In The Eastern Bering Sea

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Source: United Nations, Treaty Series, vol. 205, p. 65.

Exchange Of Notes Constituting An Agreement Be-Tween The United States Of America And Japan Relating To King And Tanner Crab Fisheries

Source: United Nations, Treaty Series, vol. 205, p. 65.

The Japanese Ambassador to the Secretary of State

EMBASSY OF JAPAN

WASHINGTON

December 20, 1972 Excellency,

I have the honor to refer to the consultation between the representatives of the Government of Japan and the Government of the United States of America in regard to the king and tanner crab fisheries in the eastern Bering Sea, held in Washington, D.C., from November 7 to November 27, 1972, and to confirm, on behalf of the Government of Japan, the following understandings which shall replace the previous Agreement between the two Governments on the king and tanner crab fisheries in the eastern Bering Sea contained in the exchange of notes on December 11, 1970:2

The Government of Japan holds the view that king crabs and tanner crabs are high seas fishery resources, and that nationals and vessels of Japan are entitled to continue fishing for king crabs and tanner crabs in the eastern Bering Sea.

The Government of the United States of America is of the view that king crabs and tanner crabs are natural resources of the continental shelf over which the coastal State (in this case the United States of America) has exclusive jurisdiction, control, and rights of exploitation.

However, the two Governments, having regard to the fact that nationals and vessels of Japan have over a period of years exploited the crab resources in the eastern Bering Sea, have agreed, without prejudice to their respective positions as described above, as follows:

1) The fisheries for king and tanner crabs by nationals and vessels of Japan in the eastern Bering Sea will continue in and near the waters which have been fished historically by Japan; that is, those waters in which migrate the crab stocks exploited in the past by Japan; provided that in order to avoid overfishing of the crab resources in the eastern Bering Sea, the Government of Japan ensures that the annual commercial catches of king and tanner crabs by nationals and vessels of Japan for the years 1973 and 1974 shall not exceed:

A. 270,000 king crabs and 6,000,000 tanner crabs in the area lying within the following designated

boundaries: a line running from Cape Newenham on the Bering Sea coast of western Alaska, southwest to position 57°00' North Latitude, 168°00' West Longitude, thence due south to position 54°36' North Latitude, 168°00' West Longitude, and thence east to Cape Sarichef on the west coast of Unimak Island, Alaska.

B. 430,000 king crabs and 8,000,000 tanner crabs outside the area designated above.

The two Governments shall apply such interim measures as described in the appendix to this note to their respective nationals and vessels fishing for king and tanner crabs in the eastern Bering Sea.

The International Commission under the North Pacific Fishery Convention' will be asked by the two Governments to continue and intensify the study of the king and tanner crab resources in the eastern Bering Sea and to transmit to the two Governments annually by November 30 the findings of such study.

For the purpose of carrying out faithfully measures under the provisions of the proviso of sub-paragraph (1) and the provisions of sub-paragraph (2) of this paragraph, the two Governments shall take appropriate and effective measures respectively, and either Government shall, if requested by the other Government, provide opportunity for observation of the conduct of enforcement.

The two Governments shall meet before December 31, 1974, to review the operation of these arrangements and the conditions of the king and tanner crab fisheries of the eastern Bering Sea, and decide on future arrangements, bearing in mind paragraphs 1 and 2, and the introductory part of this paragraph, and the United States President's assurance of May 20, 1964 that full consideration would be given to Japan's long established fishery for king crab.

I have further the honor to propose that this note and Your Excellency's reply confirming the above understandings on behalf of your Government shall be regarded as constituting an agreement between the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

NOBUHIKO USHIBA

His Excellency William P. Rogers Secretary of State

APPENDIX

Female and soft-shelled king and tanner crabs, and small king crabs less than 15.8 cms in maximum carapace width shall not be retained and used. Any such crabs which might be taken incidentally, any king crabs taken in excess of the agreed quotas, and any tanner crabs taken in excess of the agreed quotas shall be returned immediately to the sea with a minimum of injury.

King crabs and tanner crabs shall not be taken in 1973 or 1974 by means of fishing gear other than pots.

II

DEPARTMENT OF STATE

WASHINGTON

December 20, 1972

Excellency,

I have the honor to acknowledge receipt of Your Excellency's note of today's date, which reads as follows:

[See note I]

I have further the honor to confirm the above understandings on behalf of the Government of the United States of America and to agree that Your Excellency's note and this reply shall be regarded as constituting an agreement between the two Governments.

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

WILLIAM P. ROGERS Secretary of State of the United States of America

His Excellency Nobuhiko Ushiba Ambassador of Japan

AGREED MINUTES

The representatives of the Government of the United States of America and the Government of Japan have agreed to record the following in connection with the notes exchanged today between Secretary of State Rogers and Ambassador Ushiba concerning the king and tanner crab fisheries in the eastern Bering Sea:

It is agreed that the respective Governments will take all possible measures to ensure that their nationals and vessels refrain from engaging in such harmful practices as would result in pollution of the seas and would have deleterious effects upon the health and well-being of the living resources thereof.

It is recognized to be appropriate that, with respect to cases of gear conflict which may arise between the fisheries of the two countries, prompt consultation be held between the Parties concerned as necessary in each case.

Washington, D.C., December 20, 1972.

For the United States Delegation:

DONALD L. MCKERNAN For the Japanese Delegation:

YUTAKO NOMURA

RELATED NOTE

EMBASSY OF JAPAN

WASHINGTON

December 20, 1972 Excellency,

I have the honor to refer to the provisions of paragraph 3 (4) of the notes exchanged between us today concerning the king and tanner crab fisheries in the eastern Bering Sea and to inform Your Excellency that it is the intention of the Government of Japan to take appropriate measures to ensure that officials of the Government of the United States of America be allowed to board Japanese vessels engaged in fishing operations in the eastern Bering Sea for the purpose of observation of the conduct of enforcement of the provisions of the agreements, and that the observation be carried out effectively.

It is also the intention of the Government of Japan that appropriate measures be taken in case the said United States officials report to the Japanese authorities concerned any alleged violation by Japanese vessels of the provisions of the agreements.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

NOBUHIKO USHIBA

His Excellency William P. Rogers Secretary of State