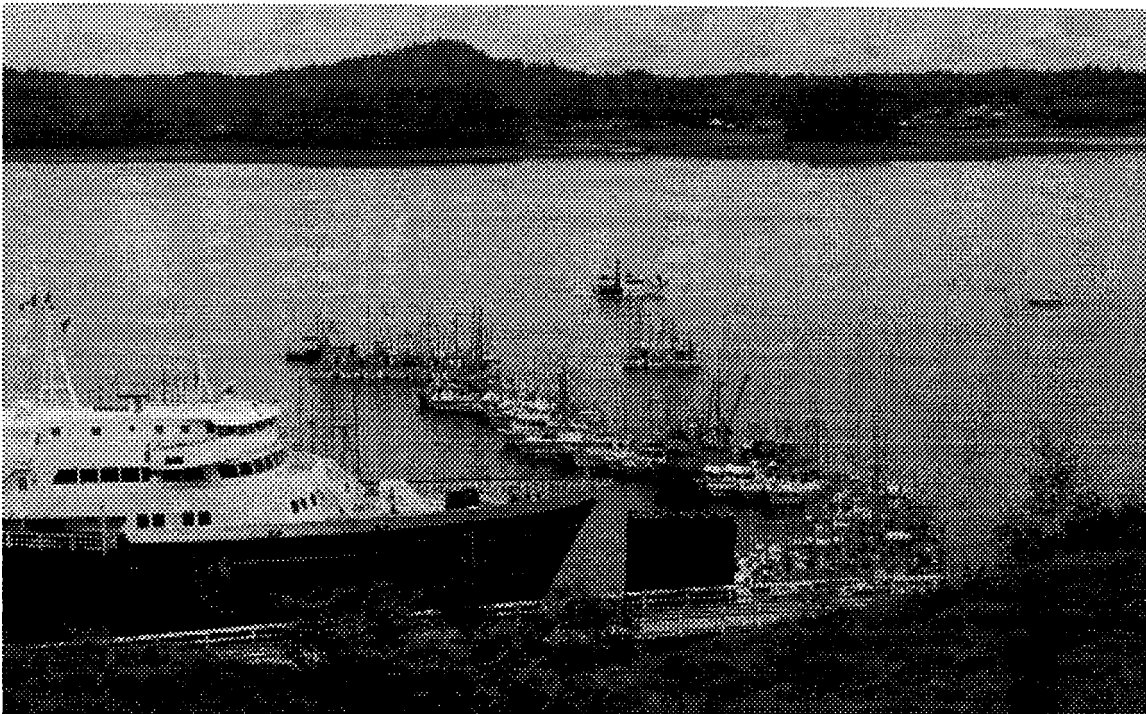


THE PACIFIC SALMON TREATY: A BRIEF TRUCE IN THE CANADA/U.S.A. PACIFIC SALMON WAR

Presented to:

**The Annual Winter Meeting
of the
Dartmouth Lawyer's Association**

February 19-21, 1999
Whistler, British Columbia



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This is a slightly revised version of a paper which was presented to the Annual Meeting of the International Bar Association in September of 1998 at Vancouver, B. C. and published in the Advocate, Vol. 57 Part 3 May 1999.

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Introduction	1
Nature of the Resource	2
Events Leading up to the signing of the Pacific Salmon Treaty	3
Problem of Foreign Interceptions	3
Status of Interceptions	4
Washington and Oregon Treaty Tribes	5
Convention for the Conservation of Salmon in the North Atlantic Ocean (ICNAF)	6
Third United Nations Conference on the Law of the Sea (UNCLOS III)	6
Signing of the Pacific Salmon Treaty	8
The Pacific Salmon Treaty	9
Nature of Agreement	9
Implementation of the Treaty	12
A Brief Truce	13
Failures of the Pacific Salmon Treaty	14
1992 - The Beginning of the End	14
1993 - The Equity Dispute	14
1994 - Transit Fees	15
1995 - Canada and Treaty Tribes Become Allies	16
1996 - Canada Loses its Ally and Christopher Beebe Reports	18
1997 - Ferry Blockade Kick Starts Negotiations	19
1998 - Coho Crisis - Strangeway and Ruckelshaus Report	22
Prospects for the Future	28

Introduction

Shortly after the ratification of the Pacific Salmon Treaty' in 1985, Thomas Jensen, a senior United States policy advisor to the negotiations of the Pacific Salmon Treaty, described the treaty as *"a peace treaty memorializing the end of the Pacific Salmon war."*² Unfortunately, viewed 12 years later, the Pacific Salmon Treaty is more accurately described as a brief truce in a long standing battle.

Nature of the Resource

In order to understand the underlying causes of this dispute, one must first understand the nature of the Pacific salmon and its migratory patterns. The Pacific salmon is an anadromous species which simply means that it reproduces in fresh water, but journeys to the ocean before returning to spawn.' The country in who's rivers salmon spawn is commonly referred to as the "host country". In the case of Pacific salmon, these fish spend several years migrating through the ocean, making them vulnerable to being harvested by countries other than their host country. This is commonly called "interception". The exposure of the Pacific salmon to interception is shown in Schedules One and Two.⁴ Generally speaking, salmon stocks from both Canada and the United States head north from their rivers of origin, reaching the end of their northward migration in Alaskan and adjacent waters' and then return by a southerly route to their rivers of origin to spawn.⁶ As a result of this exposure to interception, both neighbouring countries and high seas fishing fleets can easily over fish the stocks of a host country. Consequently, unless a host country is assured of co-operation from both neighbouring countries and high seas fishing fleets, it has little incentive to forego using its rivers and watersheds for other uses, such as the production of hydro-electricity and mining or to otherwise conserve or enhance its fishery.

An estimate' made by Canada of the interceptions of salmon by Canada and the United States is set out in Schedules Three and Four.⁹ Schedule Three shows that in the two years preceding the signing of the treaty, the United States intercepted approximately two million more fish than did Canada. Schedule Four translates this difference of interceptions into Canadian dollars, using wholesale values for salmon. This shows a difference in value in the two years preceding the treaty of approximately thirty million dollars.

There are five different species of salmon, namely chinook, sockeye and coho, which have a relatively high market value, and chum and pink, which have a much lower market

value.¹⁰ Until very recently, the market value for all salmon had dropped significantly." However, as a result of the collapse of the 1998 Bristol Bay sockeye run in Alaska, it has been reported that sockeye prices have reached levels not seen in years.¹²

In addition to being of great economic importance, salmon are often closely related to the aspirations and beliefs of the people who surround them making them *"enormously important in the social and cultural life of their home territory, resulting in significant domestic political pressure to protect the species."*

Events Leading up to the signing of the Pacific Salmon Treaty

Although a detailed history of the events leading up the signing of the treaty are beyond the scope of this article¹⁴, a brief review of the more significant events is necessary.

Problem of Foreign Interceptions

Since the migratory patterns of both Pacific salmon and Atlantic salmon make them vulnerable to interception by nations fishing on the high seas, both Canada and the United States have always sought to reduce such interceptions as much as possible. However, in order to have credibility when asking high seas fishing nations to co-operate in reducing interceptions at sea, Canada and the United States had to be seen as co-operating with respect to the interceptions of each others salmon.¹⁵ In a recent Canadian report entitled "Ocean Pasturage in the Pacific Salmon Treaty Fact or Fiction", the authors have done an admirable job of reviewing joint U.S. and Canadian initiatives to prevent interceptions on the high seas and have concluded:

"Throughout the various negotiations from the 1930s through conclusion of UNCLOS in 1995, the United States joined Canada in pressing for the concept of State of origin `ownership' of salmon. (p.44) [As a result of opposition from other

countries] ... *"the two Parties did not achieve complete success in having the ownership principle articulated in treaty language. Nevertheless, it found a close reflection in the principle that the State of origin has primary interest in the resource, which has received prominent recognition in all multilateral agreements dealing with salmon."*¹⁶

More recently, the United States was able to further its efforts to reduce high seas interceptions of salmon by signing the 1992 Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean."

Status of Interceptions

With respect to the fisheries of Washington and Oregon, it was generally recognised, at the time the treaty was being negotiated, that while Washington fishers were intercepting a large number of Canadian sockeye and pink salmon originating from the Fraser River, Canadian fishers were intercepting a large number of U.S. coho and chinook off of the West coast of Vancouver Island which originated from Washington and especially the Columbia River which forms the border between Washington and Oregon. While not necessarily conceding the point, Canadian negotiators have taken the view that there was a *"rough balance"*¹⁸ between these interceptions in the South.

With respect to the fisheries of Alaska, the situation was different. Although the exact numbers were not known, Alaskan trollers were known to be intercepting a large number of chinook from Canada, Oregon and Washington¹⁹ and Alaskan net fisherman were intercepting a large number of high value Canadian sockeye while conducting fisheries for low value American pinks.²⁰ This created an imbalance, because Canada has very few opportunities to intercept salmon of Alaskan origin.

Although the Alaskan interceptions were problematic, they were not an insurmountable issue because based upon the data available in 1985, it was estimated that only 20% of the interceptions of Canadian salmon were by the Alaskan fishing fleet²¹

Washington and Oregon Treaty Tribes

In 1974, the decision of *Washington v. Washington*²², commonly referred to as the "Boldt decision", held that treaties between the United States and numerous Puget Sound and Washington coastal Indian tribes reserved -up to 50% per cent of the harvestable surplus of the runs to the Treaty Tribes.²³ In an attempt to provide fish to satisfy the requirements of the Boldt decisions without disrupting existing fisheries, the United States embarked on an ambitious hatchery construction effort.²⁴

In the early 80's , despite this hatchery construction effort, stocks of chinook began to fall drastically, with some stocks facing a danger of extinction. In response to this crisis, the Treaty Tribes sued the Secretary of Commerce alleging that Federal and State harvesting regulations were allowing an over harvest of chinook and thus interfering with treaty rights. They later added the State of Alaska to their law suit.²⁵ This litigation posed a grave threat to Alaska, because it was estimated without a treaty with Canada, Alaska would have to cut as much as 50% of its harvest to ensure an adequate escapement of chinook to the Treaty tribes. If Alaska could get an agreement with Canada to pass through chinook headed for Washington and Oregon, it was estimated that Alaska would only have to reduce its harvest of chinook by 30%.²⁶

As an aside, it should be noted that Canada is also constrained by its legal obligations to aboriginal groups. See for example *R. v. Sampson*,²⁷ where the British Columbia Court of Appeal ruled that the Department of Fisheries had infringed an aboriginal right to fish for salmon by gill net at the mouth of creek, because it had allowed for over fishing by

commercial and sports fishers in the Johnstone Straits where the salmon from this creek were intermingled with much larger runs of other salmon."

Convention for the Conservation of Salmon in the North Atlantic Ocean (ICNAF)

Unlike the Pacific coast where Canada has few opportunities to intercept Alaskan salmon, the situation is reversed on the Atlantic coast. While Atlantic salmon originating from waters on the East coast of the United States are subject to interception by Canada, Greenland and other European countries, the United States has no opportunity to intercept their salmon. As a result of an initiative by the United States, in 1982, the ICNAF convention was signed. While making some allowance for long established fisheries in Greenland, as between the United States and Canada, Article 7 of this agreement focused on the "minimizing" of interceptions by Canada.²⁹

Third United Nations Conference on the Law of the Sea (UNCLOS III)

During roughly the same period that Canada and the United States were negotiating the Pacific Salmon Treaty, they were also negotiating at UNCLOS III for an international agreement on salmon interceptions. As discussed above, although Canada and the United States originally pressed for recognition of state of origin ownership of salmon when dealing with the problem of foreign interceptions, they ended up having to settle for the "special interest" concept³⁰ as enshrined in article 66 (1) of the United Nations Convention on the Law of the Sea:³¹

66(1) States in whose rivers anadromous stock originate shall have the primary interest in and responsibility for such stock.

Article 66 (2) of the convention provides for the state of origin to implement regulatory measures applying to its fish on the high seas and also provides for the setting of allowable catches both for high seas fisheries and for fisheries by neighbouring states.

Article 66 (4) provides for co-operation with regard to conservation and management by neighbouring states.

Article 66 (5) provides for the implementation of the special interest principle through regional organisations.

The object of this convention was to reduce the Japanese catch of Alaskan sockeye and chinook.³² With respect to the interceptions by neighbouring states, the treaty was not quite as ambitious. It is noted by McDorman that with respect to the harvest rights of neighbouring states, "*the state of origin primacy yields, to a large extent, to the 200-n mile zone regime's sovereignty aspects* [article 560]."³³

Standing alone, it would not appear that article 66 of UNCLOS III is sufficient to address the problem of interceptions between Canada and the United States. However, it did provide for the setting of allowable catches by host country and for co-operation to be implemented through the creation of regional organisations. Thus, it set the groundwork for the creation of the Pacific Salmon Treaty and the Pacific Salmon Commission.

Although UNCLOS III has not been ratified by either Canada or the United States,³⁴ it has been argued that the provisions of Article 66 have become customary international law. While this argument has some force as it relates to high seas interceptions³⁵, Ted L. McDorman has concluded that it remains uncertain whether or not customary international law requires neighbouring states to minimize interceptions or provide compensation for interceptions.³⁶

Signing of the Pacific Salmon Treaty

In 1982, 11 years after the commencement of negotiations, negotiators initialled a draft agreement. However, as a result of subsequent opposition from the State of Alaska, the treaty was never presented to the U.S. senate for approval.³⁷ It was not until approximately two years later in December of 1984 that Alaska's opposition was finally overcome and an agreement was reached. Instruments of ratification were exchanged on March 18, 1995. A large number of factors contributed to the success in reaching an agreement, but Jensen attributes the success largely to active involvement of the Reagan administration and the involvement of the Treaty Tribes.

With respect to involvement of the Reagan Administration, Jensen reports that the administration *"stung by Canadian and domestic criticism of its slow action on the transboundary acid rain issue and generally desirous of improved relations with the Ottawa government, turned its eye to this opportunity to improve relations with Canada."*³⁸

With respect to the involvement of the Treaty Tribes, in consideration of Alaska entering into the Pacific Salmon Treaty, the Treaty Tribes agreed to give up their claim, as described above, against the State of Alaska of up to 50% of the chinook harvested in Alaskan waters. The consideration received by the Treaty Tribes, included an equal vote over treaty allocation decisions and a share of the increased fish stocks which was anticipated to result from the treaty.³⁹ This agreement was documented as a court stipulation and order, commonly referred to as the Baldrige Stipulation and Order.⁴⁰ Amongst other things, this order set out a method for allocating fish between the North and the South and provided for the court to have continuing supervisory jurisdiction.⁴¹

In an article published by Alaskan Senator Ted Stevens in 1986, he sets out some additional factors which caused Alaska to give its support to the treaty. One such factor was the need for recognition that *"unreasonable limitations on United States harvests of*

Canadian sockeye would significantly impede the ability of southeast Alaska fishermen to harvest the Alaskan pink salmon resource" ⁴² The final agreement moderated the strict harvest limitations on the harvest of these Pinks at Noyes Island and Tree Point by *"permitting United States fishermen an incidental catch of 480, 000 sockeye at Noyes Island [over] a four year period and 130, 000 sockeye per year at Tree Point."* ⁴³

Another factor contributing to the conclusion of the treaty attributed by Munro and Stokes is the reversion by Canada to *"competitive behaviour"* ⁴⁴ They report that after Alaska refused to co-operate, Canada allowed pressure to increase on Fraser River stocks by fishing outside the Fraser River Convention area and also increased pressure on endangered U.S. chinook stocks. ⁴⁵

As an aside, Munro and Stokes report that it was also *"fishing overexploitation"* by Canada on the Fraser River stocks which eventually convinced the Americans to sign the original Fraser River Treaty in 1930. ⁴⁶

The Pacific Salmon Treaty

Nature of Agreement

The main focus of the Treaty, is the creation of the Pacific Salmon Commission. Thomas Jensen provides a *"greatly simplified-and perhaps idealized"* description of the Commission as follows:

"[T]he panels will receive technical information from the two countries and from bilateral technical teams. The Commission will receive conservation and management information and recommendations from the panels. The Commission will recommend harvest regulations to each country, and each

country will promulgate and enforce regulations to implement the commission recommendations. s⁴⁸

The fundamental role of the Commission is to apply the principles of "conservation" and "equity" as set out in Article III, Paragraph 1 of the Treaty as follows:

"1. With respect to stocks subject to this Treaty, each Party shall conduct its fisheries and its salmon enhancement programs so as to:

- prevent overfishing and provide for optimum production [conservation principle]; and*
- b) provide for each Party to receive benefits equivalent to the production of salmon originating in its waters [equity principle]. "*

In applying the equity and conservation principles, Article 3, Paragraph 3 of the Treaty also provides that the Commission shall take into consideration the following:

- the desirability in most cases of reducing interceptions;*
- b) the desirability in most cases of avoiding undue disruptions of existing fisheries; and*
- annual variations in abundances of the stocks.*

An often quoted passage of Jensen's 1986 article on the Pacific Salmon Treaty encapsulates the equity principal as follows:

Equity is basically a pragmatic reformulation of the countries' state-of-origin principle for harvest of anadromous fish. In international forums, both countries argued that salmon should only be harvested by the country producing the fish. Since Canadian and United States fisheries could not, without massive economic disruption, be restructured to eliminate interceptions, the countries devised a

*principle that theoretically achieves the same effect as the state-of-origin principle. The countries may not get all their own fish back under the equity principle, but both countries will receive benefits commensurate with their production.*⁴⁹

To provide further context to the negotiation of the equity principal, Michael Shephard, the Canadian Chief negotiator of the Pacific Salmon Treaty, reports that during the negotiation of the Pacific Salmon Treaty, Canadian negotiators sought a commitment from the United States to a reduction of interceptions, as Canada had agreed to in Article 7 of the ICNAF convention for the Atlantic coast. However, since the United States insisted on maintaining traditional interception fisheries, the equity principle was agreed to.⁵⁰

As a result of both the lack of available data on mutual interceptions and the inability of the parties to agree upon a method of valuation of the benefits of intercepted salmon, the parties agreed to postpone a comprehensive resolution of the issue to a later date. It was agreed that *"if it is determined that one country or the other is deriving substantially greater benefits than those provided from its rivers, it would be expected that the Parties would develop a phased program to eliminate the inequity within a specified time period taking into account the provisions of Article III paragraph 3 . Since correction of imbalances is a national responsibility and may involve differential fishery adjustments or enhancement projects on a regional basis within either country, the Party with the advantage shall submit appropriate proposals to the Commission for consideration. "'*

In the interim, they agreed to a set of management plans by way of memorandum of understanding which essentially allowed for maintenance of existing states of interceptions with some reductions for conservation purposes.⁵²

Although the management plans all differed, one element common to them all, except the low value chum fishery, was a management regime based upon pre-season harvest limits being set.

Once again, viewed in a greatly simplified and perhaps idealised manner, the role created for the Pacific Salmon Commission was to assist with the negotiation of new harvest limits and allocations of interceptions as the allocations and harvest limits set out in the memorandum of understanding expired."

Although the Treaty provides for a dispute settlement mechanism for technical matters regarding interceptions and over fishing, it does not provide for a mechanism to resolve disputes over application of the equity principle.

Implementation of the Treaty

Although on its face, the Pacific Salmon Treaty purports to be an agreement between the Government of Canada and the Government of the United States,⁵⁴ the manner in which the treaty has been implemented by the United States, has to a large extent made it a treaty between the Government of Canada on the one hand, and the Treaty Tribes, Alaska and Oregon and Washington on the other hand.⁵⁵ The United States implementing legislation assigns four seats to its section of the Pacific Salmon Commission. Of those four seats, three of them are voting and assigned as follows:

1. Alaska;
2. Treaty Tribes; and
3. Washington and Oregon.

The fourth seat is assigned to a federal Commissioner who is appointed by the President of the United States. The federal Seat is non voting and is expected to serve in a conciliatory and advisory role. A consensus of the three voting members is required before the United States can vote on the Commission. This effectively gives a veto to each of the three voting members.⁵⁶

The United States Government is given a right of pre-emption under sections 6-7 of their legislation⁵⁷ in the event that an action is taken by a State or Treaty Tribe which places the United States in jeopardy of not fulfilling its treaty obligations. However, these provisions have lengthy notice and procedural provisions which must be complied with before the Government of the United States can act. In addition, the Federal Government has shown little inclination to use its right of pre-emption.⁵⁸

In Canada, the Federal Department of Fisheries and Oceans has the sole legislative jurisdiction to administer the Pacific Salmon Treaty."

A Brief Truce

During the period up to 1992/3, a period of fruitful co-operation has been documented by Gordon Munro and his co-authors as follows:

"[T]he first few years of the life of the treaty encouraged at least cautious optimism. The Washington/Oregon harvest of coho and chinook showed a gratifying strong improvement over the years 1986-1988, providing reason to hope that a restoration of these beleaguered stocks was indeed taking place. In addition, the seemingly all-important Fraser River component of the treaty appeared to work well. After the signing, Canada implemented its Fraser River sockeye rebuilding program and the river's sockeye harvest increased rapidly. Since all of the benefits of enhancement flowed to Canada, the Canadian share of the Fraser River sockeye harvest rose to 80 percent. The American harvest of the Fraser River sockeye in Washington State waters was protected in absolute terms. Both sides were pleased with the outcome. . . . Finally, the treaty enabled Canada and Alaska to come together to resolve the disputes over the salmon fisheries based upon the so-called transboundary rivers, streams that rise in

Canada and flow to the sea through Alaska (e.g. the Stikine River). The treaty resulted in a model of cooperation with respect to these fisheries. ⁶⁰

Failures of the Pacific Salmon Treaty

The shortcomings of the Pacific Salmon Treaty from 1992 to 1997 have been well documented by Munro and other authors ⁶¹ Although an exhaustive description of the difficulties encountered by the parties is beyond the scope of this paper, a chronological description, including the events of the 1998 fishery, are set out below.

1992 - The Beginning of the End

The first deadlock arose in 1992 when the U.S. refused to count Alaskan interceptions of Fraser River sockeye against the seven million 1987-1992 cap for Fraser River sockeye provided for in the treaty. As a result there was no agreement on Fraser sockeye sharing for 1992 and both sides attempted to reduce the other's catch. ⁶²

1993 - The Equity Dispute

Munro explains the end of this truce or honeymoon period as being caused by two key problems. The first problem being the fact that *"the 'equity' principle could no longer go on being finessed and had to be addressed head on.* ⁶³ The second problem was the failure of chinook and coho stocks originating from Washington and Oregon so as to upset the rough balance between American interceptions and Canadian interceptions.

Despite failure to agree upon an overall management plan, the parties were able to agree upon a management plan for the Fraser River stocks in 1993. ⁶⁴

40

As a result of the lack of progress of the equity issue, Canada appointed L. Yves Fortier, Q.C. as its Chief Negotiator to engage the United States in government to government negotiations.⁶⁵

Based upon Schedule Four, in 1993 the value of the difference of interceptions was approximately 62 million dollars in favour of the United States. Given the fact that Canadians were harvesting fewer coho and chinook from the failing Washington and Oregon stocks, the imbalance was coming largely from interceptions by Alaska of increasing Northern stocks, and secondarily from continental U.S. interceptions of Fraser River sockeye and pinks.

1994 - Transit Fees

McDorman reports that in January of 1994, Canada postponed negotiations because of a lack of proposals from the United States on the equity issue. Furthermore, in May of 1994 Canada broke off negotiations because of the United State's inability to form a united position.⁶⁶

At this point in time, the chinook and coho stocks from Washington and Oregon were so depressed that a complete harvesting moratorium was imposed upon the fishery.⁶⁷ Accordingly, Canada could not use a threat to aggressively fish Washington and Oregon stocks as a negotiating lever.

In an attempt to gain some leverage, in June of 1994, Canada announced a levy of \$1,500 dollars for U.S. commercial fishing vessels traversing *the "inside water passages"* of British Columbia in order to get access to fishing grounds in Alaska.⁶⁸ Robert J. Schmidt argues that this levy was a breach of Article 26(1) of UNCLOS III which prohibits the charging of a levy for ships passing through a country's territorial sea. However, in a detailed analysis of the issues, McDorman argues persuasively that *"existing straight base*

lines, fishery closing lines, historic waters possibility, and the geographical reality that these waterways are an integral component of British Columbia's coast-lead to the inescapable conclusion that the waterways where a transit license was required are, as a matter of international law, part of Canada's internal waters. ⁶⁹

In response to the implementation of Transit Fees, both the U.S. Senate and the House of Representatives passed legislation directing the United States Government to reimburse U.S. fishers for any transit fees paid.⁷⁰ Shortly after their implementation, Canada stopped enforcing the transit fee requirement. McDorman attributes this change of position to both the direct intervention by Vice President Gore⁷¹ and the fact that a few days after the imposition of the fee, *"a proposal to subject an oil pollution levy on Canadian vessels using the Strait of Juan de Fuca surfaced in the United States"*.⁷² Canada was also concerned about a threat originating from the U.S., to charge a transit fee to British Columbia Ferries travelling through U.S. waters to get from the mainland to Vancouver Island.

In 1994, Canada also aggressively fished its Fraser River Sockeye in order to deny access to the Americans. However, this strategy backfired when Canada missed its escapement targets.⁷³

Based upon Schedule Four, in 1994 the value of the difference of interceptions was approximately 67 million dollars in favour of the United States.

1995 - Canada and Treaty Tribes Become Allies

Although Canada agreed to reduce its harvest of coho off of the West coast of Vancouver Island in exchange for a reduced U.S. Harvest on the Fraser River, Canada would not agree to what it perceived to be an excessive harvest of chinook by Alaska.⁷⁴ Accordingly, for the third year in a row, no coast wide agreement was reached.

In an interesting development, Canada allied itself with the Treaty Tribes by being appointed as *amici curiae* (friend of the court), in an action in the United States District Court of Western Washington. With the assistance of Canada, the Treaty Tribes argued that by unilaterally changing from a catch ceiling approach to management to an abundance based approach, the State of Alaska was in breach of the Baldrige Stipulation and Order. In an interesting judgement, which reviews the history of the Baldrige Stipulation and the scientific evidence in support of abundance based management, Judge Rothstein ruled that Alaska had breached its duty of good faith which it owed to the Treaty Tribes. Accordingly, she granted a preliminary injunction against the southern Alaska chinook fishery.

One interesting fact which arose in her reasons for judgement is that under the catch ceiling approach to harvest management *"the stock exploitation rates [agreed to pursuant to the treaty], the percentage of available fish caught, would decline as the stocks were rebuilt. The parties rejected a harvest rate alternative which would have permitted catches to increase as stocks increased. Implementing a harvest rate alternative would have required much more severe cuts in the number offish permitted to be caught at the beginning of the rebuilding period."*⁶⁵

Another significant development in 1995, was an agreement by the parties to the appointment of former New Zealand Ambassador Christopher Beebe as a mediator .⁷⁶ It is reported that the United States only reluctantly agreed to this appointment after Canada agreed that the mediator's report would not be made public without the consent of the United States.⁷⁷

Another development in 1995 worth noting was the proposal by the United States to pay monetary compensation to Canada for past inequities. This proposal was not accepted by Canada.⁷⁸

Based upon Schedule Four, in 1995 the value of the difference of interceptions was approximately 61 million dollars in favour of the United States. Gordon Munro observes that the collapse of the Washington and Oregon stocks of coho and chinook were accompanied by rapidly increasing harvests off of Alaska. He documents a 10 fold increase in Alaska harvest from their lows in the mid 70's to the mid 1990's.⁷⁹ Alaskans argue that this occurrence can be explained by habitat degradation in the South contrasted with their superior management practices in the North." According to Munro, Kathleen Miller argues persuasively that *"Washington/Oregon harvest depression and the Alaska boom are connected and reflect an underlying climatic shift ... But Miller concedes as well that climatic shifts cannot be disentangled from management practises."*⁸¹

1996 - Canada Loses its Ally and Christopher Beebe Reports

Canada's alliance with the Treaty Tribes in 1995 was short lived, for in June of 1996 the Treaty Tribes signed an agreement with the Alaska, Washington and Oregon agreeing to the implementation of an abundance based management approach.⁸² This approach was rejected by Canada, which launched a dispute under the technical dispute resolution provisions of the treaty, on the basis that the U.S. approach would over fish Canadian chinook from the West coast of Vancouver Island."

Although not made public until leaked to the press in November of 1997, in 1996 Christopher Beebe tabled his mediation report. It is reported by the press that Mr. Beebe largely sided with the Canadian position over the application of the equity principle. Apparently Mr. Beebe recommended that the parties count the interceptions of fish for a four year period and then compare those interceptions to a subsequent four year period. If an imbalance occurred, then the aggrieved party would be eligible for remedial action in the form of either an adjustment of an intercepting fishery, the expansion or creation of an enhancement project, or a cash payment.⁸⁴ With respect to the valuation of interceptions, Mr. Beebe recommended a valuation based upon wholesale values." It is reported that

the Alaskans strongly oppose a blanket valuation based upon the wholesale values and dismiss it as *"irrelevant bean counting"*.⁸⁶ They say fish caught in different areas are worth drastically disparate amounts, especially if social and environmental values are taken into consideration. For example, they say that a ten pound Snake River sockeye, a fish on the U.S. endangered species list, is worth more like one million dollars.⁸⁷

Although the Beebe report was largely favourable to Canada, it is reported that Beebe did not accept Canada's argument that past interceptions should be compensated. Instead, he proposed *"a clean slate where recent fish interception levels would not be allowed to increase"*⁸⁸

Christopher Beebe's report was rejected outright by the United States, which refused to allow disclosure of the report. It is reported that the U.S. Special Negotiator described it as *"nothing more than new chrome on an old car"*⁸⁹

In a further attempt to break the impasse, in April of 1996, Canada appointed former Fisheries Minister, John Fraser to try to influence negotiations at a high diplomatic level.

Based upon Schedule Four, in 1996 the value of the difference of interceptions was approximately 65 million dollars in favour of the United States.

1997 - Ferry Blockade Kick Starts Negotiations

With some reluctance, in February of 1997 Canada agreed to a negotiating process between stakeholders on the condition that all issues left unresolved by stakeholders would be negotiated on a government to government level.⁹⁰ Unfortunately this process was unsuccessful and broke down in May. A further attempt in June at a government to government level was also unsuccessful.⁹¹

The failure of negotiations in the spring of 1997 also coincided with a federal election in Canada which some have blamed for an aggressive approach taken by both federal and provincial politicians from Canada.⁹²

In July of 1997, Alaska allowed a very aggressive fishery of low value pinks near Noyes Island which resulted in an incidental catch of high value Canadian sockeye in the amount approximately 350,000 - 400,000 fish, rather than the 120,000 fish which they were entitled to under the treaty.⁹³ Fishers in Northern British Columbia, who because of area licensing were not able to share Fraser River sockeye in Southern British Columbia, were infuriated by this fishery. In response, on July 19, 1997 approximately 200 fishing vessels mounted a blockade of the Alaskan ferry "Malaspina", preventing her and some 300 passengers from leaving the Prince Rupert Harbour.⁹⁴ Much to the consternation of Alaska, the provincial police force chose not to take any immediate action to interfere with the blockade. The following day, the State of Alaska filed a notice of claim in the Federal Court of Canada⁹⁵ and obtained an interim injunction, with an express order for enforcement by the police.⁹⁶ Shortly after receiving both service of the injunction, and an assurance by Fisheries Minister Anderson that he would intercede and resume treaty negotiations, the blockade was abandoned.

A high diversion rate of Fraser River bound sockeye around the north end of Vancouver Island, instead of through the Juan De Fuca Straits worked to the advantage of Canada.⁹⁷

In retaliation for the aggressive Alaskan Noyes Island fishery, Canada advanced its "Canada First" strategy of allowing gill net vessels in the Strait of Juan de Fuca to aggressively fish stocks at the expense of U.S. Seine openings scheduled to follow.⁹⁸ Over the objections of the Canadian Government, Provincial Premier Glenn Clark, put the Government of United States on notice that he was going to terminate its lease of a torpedo testing range in Nanoose Bay.⁹⁹

Shortly after the blockade of the Alaska ferry was abandoned, American Secretary of Commerce, William Daley, said that the blockade seemed to have *jump started negotiations*".¹⁰⁰ He in fact was correct, for it resulted in both governments appointing special envoys to attempt to *"suggest ways to reinvigorate the stakeholder process established last winter to resolve the Pacific Salmon controversy"*." Canada appointed David Strangeway who reported directly to the Prime Minister and the United States appointed William Ruckleshaus who reported directly to the President.¹⁰²

It is noteworthy, that when the U.S. Secretary of Commerce made his comment about the blockade, he also emphasised the positive aspects of the 370 billion dollars worth of trade between the United States and Canada in 1996. It is the perception of many persons from British Columbia, particularly its Premier, Glen Clark¹⁰³, that the Canadian Federal Government is allowing its desire to maintain a good trading relationship between the United States and all of Canada to weaken its resolve to force a settlement of the West coast salmon dispute for the benefit of only British Columbia.¹⁰⁴ This perception may have some validity, for unlike the State of Alaska, which has a lot of influence on the U.S. President'⁵ after the Canadian election in the Spring of 1997, British Columbia only elected seven M.P.'s to the governing Liberal Party out of a total of 34 ridings.

This regional tension is illustrated by the opposition of the Government of Canada to the unilateral cancellation of the lease to the Nanoose Bay submarine missile testing range. In an action launched on August 14, 1997, the Government of Canada commenced a Federal Court action, asking for an injunction prohibiting the cancellation of the provincial lease.¹⁰⁶ In what is seen by some as a face saving gesture, the Premier then agreed to delay cancellation of the lease until the court case could be heard at an unspecified date."

Although the blockade did kick start negotiations, it was not without its costs. The State of Alaska immediately halted ferry service from Ketchichkan, Alaska to Prince Rupert, which is reported to have been a *"serious blow to Rupert's increasingly tourist-dependent local economy"*.¹⁰⁸ In addition, it rather aggressively pursued its Federal Court action

against the approximately 200 fishing vessels which blockaded its ferry. - It is reported that on August 17, 1998 the State threatened to arrest the fishing vessels named in the action unless a 2.8 million dollar bond was posted.⁹ Fortunately for the fishers, most of them were represented in the action by a law firm retained by the Province of British Columbia.¹⁰ After a number of pre-trial motions, a settlement was finally achieved in January of 1998 based upon an agreement from the fishers to a permanent injunction and a commitment from the Government of Canada to spend \$2.725 million dollars on tourist initiatives which would benefit both Canada and Alaska." There was also some talk of making changes to the police force, which would allow it to respond more quickly to a subsequent blockade.

Based upon Schedule Four, in 1997 the value of the difference of interceptions was approximately 76 million dollars in favour of the United States. While stocks of chinook and coho originating from Oregon and Alaska remained dangerously low, a new conservation concern arose in Northern British Columbia. It was reported that coho from the upper Skeena river were approaching extinction with escapement at 1.5 percent of the historic average, while the Alaskans harvested more British Columbia coho than they had ever harvested before (1.6 million).¹²

1998 - Coho Crisis - Strangeway and Ruckelshaus Report

In January of 1998, the Strangeway and Ruckelshaus report was presented to the Prime Minister of Canada and the President of the United States. It was tabled as a joint report with a number of findings and recommendations. In describing the current state of affairs at that time, Strangeway and Ruckelshaus reported that the system for managing salmon had become "dysfunctional" ^x¹³ and that the dispute had "rendered the Pacific Salmon Commission largely inoperative".¹¹⁴ They then concluded that the root cause of the failure of the Pacific Salmon Commission was the "absence of agreed upon fish-sharing arrangements".¹¹⁵ They suggested that in order to reach an agreement on fish sharing, the

United States would have to agree to the movement of fish to Canada (reduction in U.S. interceptions) and Canada would have to agree that not all the fish they deemed to be theirs would be returned.¹¹⁶ They also pointed that there would be no agreement without the political will to achieve one by those responsible for managing the fish. The report's key recommendation was to abandon the stakeholder process and seek a political solution to the deadlock.¹¹⁷

The report was seen as a victory by the Canadians, but was not well received by the Alaskans. ""

In September, of 1997, apparently in response to Alaska's aggressive pursuance of its Federal Court actions against the vessels involved in the ferry blockade, Premier Glen Clark announced that the Province was taking the United States parties to the treaty to court for failing to implement the treaty. He in fact did commence such an action and received an unwanted decision from the United States District Court of Washington on January 30, 1998.¹¹⁹ In response to a preliminary motion by the Defendants to dismiss the Province's action, the court looked at the issue of whether or not there was a justiciable controversy before it. It concluded that the case was not justiciable based upon the "political question doctrine" which *"excludes from judicial review those controversies which revolve around policy choices and value determinations constitutionally committed for resolution to the halls of Congress or the confines of the Executive Branch."*¹²⁰ In making its ruling, the court reasoned, that since neither the Pacific Salmon Treaty nor the Magnuson Act requires an executive officer to *"accept any recommendations, negotiated in good faith, or anything else in the formulation of fishing regimes"*¹²¹ the political question doctrine applied to exclude the matter from judicial review. With respect to the application of the equity principle, in a portion of the court's judgement which would probably be considered *obiter dictum*, the court said as follows:

"[T]he Court cannot apply principles of statutory construction to a statute that has not been finished yet (8) ... [p]ut in its most simple terms, the portions of the

*Pacific Salmon Treaty that Plaintiffs seek to enforce are **an agreement to agree*** "[emphasis added]¹²²

This decision has been appealed to the Ninth Circuit Court of Appeal.¹²¹

Shortly after the tabling of the Strangeway/Ruckelshaus report, and on the same day the Washington District Court handed down its judgement, Canada's chief negotiator, Yves Fortier Q.C. resigned.¹²⁴ In his lengthy letter of resignation, which is stinging critical of the United States, he said as follows:

"Ultimately, after many lengthy and frustrating negotiating sessions, Canada's objectives proved to be unattainable in a negotiating forum in which the U.S. Government considered itself hostage to the demands of various state and tribal jurisdictions. In the end, Canada ran into the very obstacles that had caused the impasse in the first place: greed and fear. Greed, on the part of U.S. regional interests who, being in what the MO. U. refers to as the "'advantaged' position, and feeling immune to any meaningful pressure, had little or no incentive to reduce their harvests of Canadian fish. Fear, on the part of a U.S. federal Administration reluctant to exercise the political will necessary to challenge those regional interests so as to satisfy its national obligations toward Canada under the Treaty. "'²⁵

Shortly after the resignation of Yves Fortier, Donald McRae was appointed as Canada's chief negotiator and talks began in late March of 1998. During the second meeting held in April of 1998, Donald McRae announced that talks were working on two tracks. The first track being an interim agreement and the second being a framework for a long term agreement on equity.¹²⁶ At these meetings, a key concern expressed by Canada was Alaskan over fishing of endangered Northern coho stocks, as documented in a report prepared by Dr. Blair Holtby and Barry Finnegan.¹²⁷

In April of 1998, while the Federal Government was attempting to obtain an agreement through negotiation, the Provincial Government took a rare opportunity to put some pressure on Alaska by fast tracking the final approval process for a mining project in the watershed of the Taku River. By way of background, Alaska and Canada have several salmon bearing rivers which originate in Canada, but flow through Southern Alaska before emptying in the waters within the Alaska panhandle. These are commonly called "transboundary rivers." Three of the most significant transboundary rivers are the Stikine, the Taku and the Alasek, to which the Tatshenshini is a tributary. In 1993, at the tail end of the brief truce in the salmon war described above, the Provincial Government of British Columbia moved to make the watershed of the Tatshenshini a Provincial Park which effectively locked the provinces mining industry out of an area that contained immense mineral wealth, including the Windy Craggy Mine worth 8.5 billion dollars.¹²⁸ In creating this park, the British Columbia Government paid 156 million in compensation to the owners of the Windy Craggy Mine and are reported to have caused a number of other mining companies to take their business to more friendly countries such as Chile.¹²⁹ The Alaskans who fish the Tatshenshini, did not share in any of the compensation paid, or economic opportunities forgone. Furthermore, they have not stopped intercepting British Columbia Salmon originating from the river's watershed.¹³⁰ It is reported that Alaska, "*which fishes the salmon runs of the Tastshenshini, creating a small city at the mouth of the river every summer*"¹³¹ was thrilled by the actions of the British Columbia Government, "*as was U.S. Vice President Al Gore, who toasted [B.C. Premier] Harcourt in Washington.*"¹³²

When a similar opportunity arose -with--respect the Taku River in 1998, the Provincial Government of British Columbia responded quite differently than it did in 1993. It is reported that on March 13, 1998, an application to re-open a mine in the watershed of the Taku River completed a lengthy administrative review under the provisions of the provincial *Environmental Assessment Act*.¹¹³ Just four business days later, the provincial Ministers of both Mines and the Environment granted approval in principal for the project and referred it to third stage of the review process.¹³⁴ It is also reported that the

Government *"cut short the environment assessment process in the final stage by giving members of the review committee just 48 hours to respond to a 140 page draft report.*

*Within five days, cabinet had approved the project.*¹³⁵ Although publicly denied by both the Minister of Mines and the Minister of the Environment,¹¹⁶ columnist Vaughn Palmer¹³⁷ and others¹³ have suggested that the reason for the fast approval of the project, was to punish the Alaskans for their intransigence with respect to the salmon interception issue.

In a letter published in response to Vaughn Palmer's article, David Bedford, spokesman for the U.S. section of the Pacific Salmon Treaty Coalition, pointed out that Alaska warned Canada of its impending coho crisis as far back as 1988. He suggested that Canada shot itself in the foot by over fishing Canadian coho while attempting to intercept U.S. coho. He argued that since the Taku River is a shared resource, Canada was shooting itself in the foot again by endangering salmon on it.¹³⁹

In what, at first blush appears to be a classic Good Guy/[Bad Guy routine, Canadian Fisheries Minister David Anderson called a press conference on May 21, 1998 and announced massive unilateral catch reductions in order to protect endangered coho from both the upper Skeena River in Northern British Columbia and the Thompson River in Southern British Columbia.¹⁴⁰ These measures included a goal of zero mortality for fisheries with a composition of upper Skeena or Thompson River coho stocks. With respect to the Pacific Salmon Treaty negotiations, he said *"coho are exploited by fishermen in Alaska, British Columbia, Washington State and Oregon. In Canada, we will take the necessary conservation measures. **Our American neighbours have a moral obligation to do the same**"* [emphasis added].¹⁴¹

Shortly thereafter, Premier Clark delivered an open letter to Prime Minister Chretien demanding that Canada block U.S. fishing vessels from passing through Canadian waters if *"last-ditch salmon quota negotiations fail"*.¹⁴² In his letter, he was also critical of Government for ignoring the concerns of British Columbia when it announced the coho fishing ban.¹⁴¹

Apparently yielding to Premier Clark's exhortations to get tough with the Americans, on or about May 23, 1998, Fisheries Minister David Anderson invoked the *Coastal Fisheries Protection Act*¹⁴⁴ in ordering a U.S. fishing vessel away from a Canadian shipyard because it was heading eventually to the Alaska fishing grounds.⁴⁵ However, after being publicly attacked by a Provincial member of Parliament in whose riding the shipyard was located, and upon discovering that the measure was costing as many as 400 jobs in his own federal riding,¹⁴⁶ Fisheries Minister Anderson eventually softened his position and restricted the work prohibition only to fish boats used for the U.S. salmon and hake fisheries.¹⁴⁷

After, at least partially bypassing his own chief negotiator,¹⁴⁸ Fisheries Minister Anderson announced that he had signed a deal with the State of Washington which would give Washington State fewer sockeye than they caught the year before (1.25 million down from 1.3 million), but a larger share of the run (24.9 percent, up from 12.5 percent). In exchange, Washington State limited its fisheries to a five week period which would protect the early Stuart sockeye run and Thompson coho.¹⁴⁹ Fisheries Minister Anderson was immediately criticised within British Columbia by Westcoast fishing interests,⁵⁰ including Premier Clark in an article published in the Vancouver Sun.⁵¹ Probably the most serious criticism levelled against the deal was his signing of the Washington State agreement prior to obtaining an agreement from Alaska. Another serious criticism was that the agreement guaranteed that the U.S. fishery would be open on certain guaranteed days, while the Canadian fishers followed the established procedure of remaining closed, unless all parties agreed to open it.¹¹²

The criticism with respect to separating the Washington negotiations from the Alaska negotiations proved valid, for on July 9, 1998, Fisheries Minister Anderson announced that negotiations had come to an end without an agreement from Alaska -for adequate protection of coho stocks.⁵² The criticism with respect to allowing certain guaranteed days of fishing for United States fishers also turned out to be valid. As a result of extremely high water temperatures in the Fraser River, Canada had initially started

managing the fishery based upon an estimate of 40 percent mortality. As a result of this high mortality estimate, the fishery was closed to Canadian fishers on August 7, 1998. However, the U.S. who would only accept a 25 percent estimate of mortality, were able to allow their fishers to continue fishing because of the guaranteed days fishing provided to them under their agreement.¹⁵⁴ Fortunately for Canada, the warm water temperatures subsided, and Canada was able to downgrade its estimate of a 40 percent mortality and upgrade its estimate of the run size." This allowed further fishing by the Canadian fleet.

In Premier Clark's article published on July 11, 1998, he called upon the Prime Minister to directly intervene with President Clinton, re-impose transit fees on U.S. fishing vessels and join a court action brought by British Columbia in the State of Alaska to force American compliance with the Pacific Salmon Treaty.¹⁵⁶ Presumably, he was referring to the appeal of the decision of the Washington District Court handed down on January 30, 1997.¹⁵⁷

Based upon Schedule Four, in 1998 the value of the difference of interceptions was approximately 69 million dollars in favour of the United States. Since this estimate was based upon 1997 fish prices, these differences are likely to be even larger now, given the increase in prices for sockeye in 1998.

Prospects for the Future

As suggested by Strangeway and Ruckelshaus, it would appear that the root cause of the failure of the Pacific Salmon Treaty is the absence of an agreed upon sharing formula. It is true that the memorandum of understanding provides a procedure for implementing the equity principle, however, given the absence of an effective dispute resolution mechanism, there is no way of forcing the U.S. to do anything more than pay lip service to those procedures.

From the Canadian point of view, this state of affairs is very frustrating, as Alaska received consideration for its support of the Pacific Salmon Treaty in 1985 in the form of both the Baldrige Stipulation and the support provided by Canada in its international efforts to secure an agreement to prevent high seas interception of Alaskan salmon.

Yves Fortier advocates *ad hoc* international arbitration to resolve the dispute. He says the procedure is "*well known and commonly used in disputes between sovereign states after the failure of good faith negotiations and mediation*".¹⁵⁸ A similar approach has also been suggested by Ted McDorman, who notes that if, "*as Canada asserts, the state of origin principle is equivalent to salmon ownership, then any U.S. interception would require compensation of direct monies or equivalent resources ... it might be easier for the United States to accept that interceptions must be reduced or direct compensation paid if the decision came from an international judicial authority rather than through a political compromise.*"¹⁵⁹

In a paper attached to a recent letter to President Clinton, Peter K Berman and Frank Haw, say that the commercial value to Alaska fishers of the Canadian fish they intercept is a small fraction of the cost to Washington and Oregon of having coho and chinook placed on the endangered species list. Accordingly, they advocate imposing some sort of tribunal upon the parties to force a settlement.¹⁶⁰

While this approach has a lot of merit, given the U.S. experience with the mediation report of Christopher Beebe, it is doubtful that it would agree to such an arbitration.

Charles R. Horner, has suggested that a partial solution might be for interested parties to sue under the *Administrative Procedure Act*¹⁶¹ to force the U.S. Department of Commerce to comply with new procedures set out in the *Magnuson Act*¹⁶² with respect to direct and indirect habitat losses.¹⁶³

At least one American commentator has suggested amending the U.S.-enabling legislation to the Pacific Salmon Treaty to remove the veto power of the various U.S. interests.¹⁶⁴ However, given the shift in the balance of power that this would give to Canada, it is unlikely that this approach would ever be agreed to.¹⁶¹

Several commentators have used game theory to suggest the use of side payments as the best way to resolve the impasse on the equity issue. Robert J. Schmidt Jr., has suggested amending the U.S. enabling legislation to allow for side payments amongst the U.S. parties to the treaty. He has suggested side payments from Washington, Oregon and/or the Treaty Tribes to Alaska for reductions in interceptions of Canadian salmon so as to compensate Canada for reductions in chinook interceptions.¹⁶⁵ He suggests that non salmon issues should be linked to the negotiations so as to create some method to compensate Alaska for its contribution to the treaty. For example, Washington and Oregon could lend their support to Alaska in an application to develop oil resources of the Arctic National Wildlife Refuge, in exchange for concessions on the Pacific Salmon Treaty problems.¹⁶⁷

Gordon Munro, and his co-authors have endorsed Schmidt's approach and further suggested that side payments should not be confined to the U.S. coalition. They suggest that side payments could be made to Canada as well.¹⁶⁸ As previously discussed, in 1995 Canada turned down an offer of a monetary side payment. It has been reported that recently, Canada has changed its position and indicated a willingness to accept such side payments.¹⁶⁹ It has been observed by A.W. (Sandy) Argue,¹⁷⁰ that a number of U. S. utilities on the Columbia River have a large vested interest in seeing that Canada's chinook fishery is curtailed.¹⁷¹ Accordingly, one possibility would side payments from these utilities in one form or another in order to induce Canada to reduce its interceptions of Columbia River chinook. For example, funds could be used to retire U.S. fishers from the Fraser River and Southeast Alaska sockeye fisheries, in order to induce Canada to make similar retirements out of its West coast chinook and coho fishery. Of course, such

reductions, would have to be tied by firm commitments from each -side to reduce interceptions.

It should be noted that the use of side payments, or more accurately issue linkage, was a contributing factor to the initial signing of the treaty in 1985. As previously discussed, President Reagan gave his support to the treaty in order to deflect criticism from Canada on the acid rain issue. Furthermore, the abandonment by the Treaty Tribes of their action against the State of Alaska, could also be seen as a side payment.

While side payments are a good idea, given the economic, social and cultural significance of salmon to many coastal communities in Alaska, these payments are going to have to be very large in order to induce the reductions of interceptions of the magnitude which are being sought.

Since over fishing of the resource by Canada was instrumental in securing agreements in both the 1930's and in 1985, it reasonable to assume that Canada will have to continue its "Canada First" strategy in order to resolve the current impasse. However, with the growing strength of the environmental movement, Canada cannot over fish endangered coho and chinook stocks to the same extent it has done in the past, without risk of an environmental boycott of its products.

From British Columbia's perspective, the underlying problem is the disproportionate amount of political influence which Alaska has on the President and conversely, the relative lack of political influence which British Columbia has on its Federal Government. Until this situation is reversed, it is unlikely that the Canadian Federal Government will be able exert enough pressure through issue linkage to force the President to -exercise his right of pre-emption over Alaska.

Since it is unlikely that British Columbia will increase its political clout in Ottawa in the near future, the only hope for breaking the impasse is either a reduction of Alaska's

influence, or an increase in the influence of interests in Oregon and Washington who wish to reduce the interceptions of their endangered coho and chinook.

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¹ An Agreement Between the Government of Canada and the Government of the U.S.A. concerning Pacific Salmon signed January 28, 1985 Annex IV amended May, 1991 (Available on the World Wide Webb at: <https://www.psc.org/Who/TREATY.HTM>).

² Thomas C. Jensen, "The United States-Canada Pacific Salmon Interception Treaty: An Historical and Legal Overview"(1986) 33 *Environmental Law* 365-422 at 372.

³ William T. Burke, *The New International Law of Fisheries: UNCLOS 1982 and Beyond* (Oxford: Clarendon Press, 1994) at 151.

⁴ Supplied by and used with the permission of C. Graham, Assistant Deputy Minister, Programs & Operations, Ministry of Fisheries, Province of British Columbia.; See also Jensen, *supra* note 2 at 370-1.

⁵ Charles R. Horner, "Habitat Preservation and Restoration Under the Pacific Salmon Treaty" (1998) 29 *Ocean Development and International Law* 43-72 at 49.

⁶ David W. Strangeway and William D. Ruckelshaus, "Pacific Salmon: Report to the Prime Minister of Canada and the President of the United States" Fisheries and Oceans Canada (12 January 1998) at 2 (hereinafter called "Strangeway").

⁷ For a detailed analysis of the opportunities for interceptions of Pacific salmon between Canada and the U.S.A. see Jensen, *supra* note 2 at 369-771.

⁸ The Countries have not always agreed upon each others estimates of interceptions, however, according to A. W. Argue, Chief of the International and Intergovernmental Affairs Division of the Pacific Region of the Canadian Department of Fisheries and Oceans, through to 1994 the Countries have been 95% in agreement. Apparently there is still some disagreement over the amount of salmon interceptions from transboundary rivers and some chum stocks. (Telephone interview 25 August 1998).

⁹ Supplied by and used with the permission of C. Graham *supra* note 4.

¹⁰ Daniel D. Huppert, "Why the Pacific Salmon Treaty Failed to End the Salmon Wars" (1995) *SMA* 95-1, at 4.

¹¹ Gordon Munro, Ted McDorman and Robert McKelvey, "Transboundary Fishery Resources and the Canada-United States Pacific Salmon Treaty" (1998) 33 *Canadian American Public Policy* (Occasional Paper sponsored by the Canadian-American Centre, University of Maine) (**hereinafter called "Munro (1998)"**) at 6-8. The authors of this article believe that there is likely link between the world wide decline of salmon prices and the ever increasing supply of salmon supplied to the market by aquaculture.

¹² "Sockeye Price in Japan the Highest Since 1989" *The Fisherman* (24 August 1998) (Vancouver, B.C.).

¹³ Burke, *supra* note 3 at 151.

¹⁴ For a detailed history see Jensen, note 2, Burke note3 and M.P. Shepard and A.W. Argue, "Ocean Pasturage in the Pacific Salmon Treaty Fact or Fiction?" (February 1998) *Canadian Industry Report of Fisheries and Aquatic Sciences* 242 (Soon to be available on the Department of Fisheries and Oceans web site).

¹⁵ Barbara Johnson, "Canadian Foreign Policy and Fisheries", in *Canadian Foreign Policy and the Law of the Sea* as quoted from Ted L. McDorman, "The West Coast Salmon Dispute: A Canadian View of the

Breakdown of the 1985 Treaty and the Transit License Measure" 17 *Loyala of Los Angeles International and Comparative Law Journal* (1995) 477-506 n. 13.

¹⁶ Shepard & Argue, *supra* note 14 at 44.; See also McDorman, *supra* note 14 at 487-8; See also Munro (1998) *supra* note 11 at 20 n. 45.

¹⁷ Kelly R. Bryan, "Swimming Upstream: Trying to Enforce the 1992 North Pacific Salmon Treaty" (1995) 28 *Cornell International Law Journal* 241-63.

¹⁸ Gordon R. Munro and Robert L. Stokes (1989), "The Canada-United States Pacific Salmon Treaty," in Donald McRae and Gordon Munro (eds.), *Canadian Oceans Policy: National Strategies and the New Law of the Sea* (Vancouver: U.B.C. Press) 31; Munro (1998) *supra* note 11 at 25.

¹⁹ Jensen, *supra* note 2 at 386; Although Canadian statistics claim a 35 million dollar difference in interceptions in 1985, U.S. statistics make similar claims in favour to the U.S.. Accordingly, there was a rough balance.

²⁰ Senator Ted Stevens, "United States - Canada Salmon Treaty Negotiations: The Alaskan Perspective" (1986) 16 *Environmental Law* 423 at 427.

²¹ Munro (1998) *supra* note 11 at 30; According to A.W. Argue *supra* note 8, later studies revealed that the Alaskan interceptions were actually much larger.

²² 384 F. Supp. 312 (W.D. Wash. 1974) *aff'd*, 500 F.2d 676.

²³ Jensen, *supra*, note 2 at 382; Joy A. Yanagida, "The Pacific Salmon Treaty" (1987) *The American Journal of International Law* 577 at 579-8.; Stevens, *supra* note 20 at 429-10.

²⁴ Jensen, *supra*, note 2 at 382

²⁵ Jensen, *supra* note 2 at 389; see also *Confederated Tribes and Bands of the Yakama Indian Nations et al. v. Malcojn Baldrige et al.* (7 September 1995) No. 80-342 (U.S. District Ct. Western District of Washington)

²⁶ Jensen, *supra* note 2 at 399 n. 100; See also Munro (1998) *supra* note 11 at 22 & 25; Munro & Stokes *supra* note 18 at 27; Yaniga, *supra* note 23 at 584.

²⁷ *R. v. Sampson* (1995), 67 B.C.A.C. 180.

²⁸ It was ruled that the infringement was not justified, despite the fact that the Department of Fisheries had made available ample fish to satisfy the groups food requirements from surpluses from other nearby fisheries. See also *R. v. Sparrow*, [1990] 1 S.C.R. 1075.

²⁹ Shepard & Argue, *supra* note 14 at 28-9.

³⁰ See Shepard & Argue, *supra* note 14 at 20.

³¹ Signed at Montego Bay, Jamaica December 10, 1982; Available on the World Wide Web at <https://www.un.org/Depts/los/unclos/closindx.htm>

³² Interview A.W. Argue, *supra* note 8 (15 September 98); see also Burke, *supra* note 3 at 159 n. 20.

³³ McDorman, *supra* note 15 at 482-3; see also Munro (1998) *supra*, note 11 at 20-1.

³⁴ See McDorman *supra* 15 at 483-4 where he explains that Canada has not ratified the Treaty because of its actions on the East coast to extend jurisdiction beyond its 200 mile limit. He also explains that the United States has concerns over the Treaty provisions regarding deep seabed mining and has little domestic support for it.

³⁵ See McDorman *supra* note 15 at 485 and Burke *supra* note 3 at 192-6.

³⁶ McDorman *supra* note 15 at 486; see also Horner *supra* note 5 at 46.

³⁷ Jensen, *supra* note 3 at 394-5.

³⁸ Jensen, *supra* note 3 at 397.

³⁹ Munro & Stokes *supra* note 18 at 28.

⁴⁰ *Confederated Tribes and Bands of Yakima Indian Nation, et al. v. Malcolm Baldrige, et al.*, 605 F. Supp. 833 (W.D. Wash. March 7, 1985) as cited in *Confederated Tribes and Bands of Yakima Indian Nation, et al. v. Malcolm Baldrige, et al.*, *supra* note 25 at 4; see also Jensen *supra* note 2 at 416-8; Yanagida *supra* note 23 at 579-86; Munro & Stokes *supra* note 18 at 26-8; Munro (1998) *supra* note 11 at 22; Robert J. Schmidt, Jr., "International Negotiations paralyzed by domestic Politics: Two-Level Game Theory and the Problem of the Pacific Salmon Commission" (1996) 26 *Environmental law* 95-139 at 130.

⁴¹ Jensen *supra* note 2 at 418; *Confederated Tribes and Bands of Yakima Indian Nation, et al. v. Malcolm Baldrige, et al.*, *supra* note 25 at 6.

⁴² Stevens, *supra* note 20 at 427.

⁴³ Stevens, *supra* note 20 at 427; see also the Pacific Salmon Treaty *supra* note 1 at Annex IV, ch. 2. Paras. 2&3.

⁴⁴ Munro & Stokes *supra* note 18 at 26; see also Munro (1998) *supra* note 11 at 22.

⁴⁵ Munro & Stokes *supra* note 18 at 26.

⁴⁶ Munro & Stokes *supra* note 18 at 20.

⁴⁷ Jensen, *supra* note 2 at 403.

⁴⁸ Jensen, *supra* note 2 at 403-4.

⁴⁹ Jensen, *supra* note 2 at 400.

⁵⁰ Shepard & Argue *supra* note 14 at 33.

⁵¹ Pacific Salmon Treaty - Memorandum of Understanding *supra* note 1 Para. A.; Burke *supra* note 3 at 182 ; see also Jensen, *supra* note 2 at 404 and *The Province of British Columbia et al. v. United States of America et al.* (30 January 1998) No. C97-1464C (United States District Ct., Western District of Washington at Seattle); Munro & Stokes *supra* note 18 at 24.

⁵² Jensen, *supra* note 2 at 404 note 125.

⁵³ Munro (1998) *supra* note 11 at 24; Jensen *supra* note 2 at 404-8.; Pacific Salmon Treaty, Annex IV *supra* note 1.

⁵⁴ Pacific Salmon Treaty Preamble *supra* note 1.

⁵⁵ *Pacific Salmon Fishing Act Pub. L. No. 105-41, 99 Stat. 7 (1985) (codified as amended at 16 USC 3631-3644 (West 1985 & Supp. 1997).*

⁵⁶ Jensen *supra* note 2 at 410-12; Yanagida *supra*, note 23 at 585-7, in particular see at 587 where he discusses the jurisdiction of the States within 3 nautical miles of the coast pursuant to the 1976 Magnuson Fishery Conservation Act.; Schmidt *supra* note 40 at 121-2.

⁵⁷ *Supra* note 55.

⁵⁸ As far as I have been able to ascertain, the federal right of pre-emption has only been used once or twice. One occasion was when a Washington based Treaty Tribe wished to fish after the total allowable catch for the Fraser River had been caught - Telephone Interview: A.W. Argue *supra* note 8 (14 July 1998); See also Huppert, *supra* note 10 where he explains that after the 1994 election, the Alaskan delegation to U.S. Congress was in the majority party and had senior members who chaired key Congressional committees including the Natural Resources committee in the House of Representatives (Congressman Sung); see also Schmidt *supra* note 40 at 128; See also Peter K Bergman and Frank Haw, "Failure of the Pacific Salmon Treaty: Causes, Effects, and Solutions" (July 1998) where it is said that much of the United State's unwillingness to compromise rests with the Alaskan Congressional Delegation; Alaska Senator Frank H. Murkowski chairs the Senate Energy & Natural Resources Committee and Alaska Senator Stevens Chairs the Senate Appropriations Committee.

⁵⁹ Horner *supra* note 5 at 48-9.

⁶⁰ Munro (1998) *supra* note 11 at 26.; see also Huppert *supra* note 10 at 10.

⁶¹ Munro (1998) *supra* note 11 at 27-33; McDorman, *supra* note 15 at 477-9, 491-7; Horner *supra* note 5 at 49-50; see also numerous newspaper article to be referred to *infra*.

⁶² Interview, A.W. Argue *supra* note 8 (15 September 98)

⁶³ Munro (1998) *supra* note 11 at 27.

⁶⁴ McDorman *supra* note 15 at 494.

⁶⁵ Letter of Resignation from Yves Fortier dated January 30, 1998 (hereinafter called "Fortier Letter"); see also Department of Fisheries and Oceans chronology on its Pacific Region web site at https://www.pac.D.F.O.ca/comm/pages/english/pstchr_e.htm(hereinafter called the "D.F.O. Chronology")

⁶⁶ McDorman *supra* note 15 at 494.

⁶⁷ Munro (1998) *supra* note 11 at 27; McDorman *supra* note 15 p.495.

⁶⁸ Department of Fisheries and Oceans, Canada, News Release, (9 June 1994); see also McDorman *supra* note 15 at 495.

⁶⁹ McDorman *supra* note 15 at 500-1, McDorman also addresses other possible arguments in support of the U.S. position based upon both Article 8(2) of the UNCLOS III (straight base lines enclosing waters not previously considered internal) and the concept of "shared waters".

⁷⁰ McDorman *supra* note 15 at 495.

⁷¹ McDorman *supra* note 15 at 496

⁷² McDorman *supra* note 15 at 503.

⁷³ Munro (1998) *supra* note 11 at 31.

⁷⁴ Huppert *supra* note 10 at 22.

⁷⁵ *Confederated Tribes v. Baldrige supra* note 25 at 15-16.; see also Munro (1998) *supra* note 11 at 31.

⁷⁶ Fortier Letter *supra* Note 65 at 2-3.

" Jeffrey Simpson, "Americans Have a Lot of Vetoes When It Come to Salmon" *Globe & Mail* (27 Nov. 1997) A24.

⁷⁸ Huppert, *supra* note 10 at 22; Interview A.W. Argue *supra* note 8 (15 Sept 98).

⁷⁹ Munro (1998) *supra* note 11 at 27.

⁸⁰ Munro (1998) *supra* note 11 at 27; Charles P. Meacham and John H. Clark, "Pacific Salmon Management - The View from Alaska" (1994) Alaska Fishery Research Bulletin 76-9; Stevens *supra* note 20.

⁸¹ Munro (1998) *supra* note 11 at 27 discussing Kathleen Miller, "Salmon Stock Variability and the Political Economy of the Pacific Salmon Treaty" (1996) Contemporary Economic Policy at 112-29.

⁸² Pacific Salmon Commission (United States Section) Press Release (26 June 1996); Letter of Agreement Regarding Abundance Based Approach to Managing Chinook Salmon Fisheries in Southeast Alaska (24 June 1997).

⁸³ Interview A. W. Argue *supra* note 8 (15 Sept. 98).

⁸⁴ Simpson *supra* note 77.

⁸⁵ Danny Westneat, "Secret Fishing Report Sides With Canada" *Seattle Times* (31 May 1997) A-1.

⁸⁶ Westneat *supra* note 85.

⁸⁷ Westneat *supra* note 85; see also Huppert *supra* note 10 at 12-13.

⁸⁸ Justine Hunter, "Report on Salmon War Backs Canada" *Vancouver Sun* (17 May 1997)

⁸⁹ Fortier Letter *supra* note 65 at 3.

⁹⁰ Fortier Letter *supra* note 65 at 3.; Munro (1998) *supra* note I 1 at 32.

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- ⁹¹ Munro (1998) *supra* note 11 at 32.; see also Fortier Letter *supra* note 65 at 3.
- ⁹² Ross Howard, "Record Alaskan Salmon" *Globe & Mail* (17 July 1997) A3 quoting David Benton, Deputy Fish and Game Commissioner for the State of Alaska.
- ⁹³ Pacific Salmon Treaty *supra* note 1, Annex IV Ch. 2, Para. 2(a)(I); Kevin MacDonell, "Following the Peak" *Westcoast Fisherman* (September 1997) 17-18; Howard *supra* note 93; See also Munro (1998) *supra* note 11 at 32.
- ⁹⁴ MacDonnell *supra* note 93 at 19; Thomas Hawkins, "The Prince Rupert Blockade" *Harbour & Shipping* (September 1997); Howard *supra* note 92; Munro (1998) *supra* note 11 at 32.
- ⁹⁵ Action No. T1552-97.
- ⁹⁶ Hawkins *supra* note 94.
- ⁹⁷ Howard *supra* note 92.
- ⁹⁸ MacDonell, *supra* note 93.
- ⁹⁹ MacDonell, *supra* note 93 at 19.
- ¹⁰⁰ Jack Branswell, "Blockade May Help Win Pact" *Victoria Times Colonist* (5 August 1997) A1.
- ¹⁰¹ Strangeway *supra* note 6.
- ¹⁰² MacDonnell *supra* note 93.
- ¹⁰³ "Salmon Treaty Talks Stalled" *Westcoast Fisherman* (June 1998) 44.
- ¹⁰⁴ This view is also held by Senator Pat Carney, who was Canada's Minister for International Trade, during the negotiation of the Free Trade Agreement. See Pat Carney, "Canadians Won't Raise U.S. Salmon" *Vancouver Sun* (13 May 98).
- ¹⁰⁵ See discussion of Bergman and Haw's comments at note 58 *supra*; see also Howard *supra* note 92 where he quotes Prime Minister Chretien as cited the U.S. system of powerful politicians and lobbyist for the failure of his personal appeal to President Clinton in June of 1997.
- ¹⁰⁶ MacDonnell *supra* note 93 at 19.
- ¹⁰⁷ MacDonnell *supra* note 93.
- ¹⁰⁸ MacDonnell *supra* note 93 at 18.
- ¹⁰⁹ Brad Caldwell, "Drawn Out Court Battle Expected Over Alaska Ferry Blockade" *Westcoast Fisherman* (November 1997) quoting from the *Vancouver Sun*.
- ¹¹⁰ "D.F.O. Minister Silent As Boats Face Seizure" *Fisherman* (22 September 1997) 3; see also MacDonell *supra* note 93 at 19.

¹¹¹ *Fisheries and Oceans Canada* News Release NR-HQ-98-4E (22 January 1998) available on the World Wide Web at https://www.Inc.Ndfo.ca/communic/newsrel/1998/hq4_e.htm

¹¹² Letter from Premier Glen Clark to Fisheries Minister David Anderson dated February 7, 1998 as published in the *Westcoast Fisherman* (April 1998) at 9-8.

¹¹³ Strangeway *supra* note 6 at 7.

¹¹⁴ Strangeway *supra* note 6 at 3.

¹¹⁵ Strangeway *supra* note 6 at 3.

¹¹⁶ Strangeway, *supra* note 6 at 6.

¹¹⁷ David Rahn, "B.C. and Feds Back Strangway/Ruckelshaus Recommendations, Alaska 'Disappointed' *Westcoast Fisherman* (February 1998) at 22.; See also: Strangeway, *supra* note 6 at 7-8; and Munro (1998) *supra* note 11 at 32; Fortier *supra* note 65 at 5.

¹¹⁸ Rahn, *supra* note 117; Fortier *supra* note 65 at 4.

¹¹⁹ *The Province of British Columbia et al. v. United States of America et al. supra* note 51.

¹²⁰ *The Province of British Columbia et al. v. United States of America et al. supra* note 51 at 7.

¹²¹ *The Province of British Columbia et al. v. United States of America et al. supra* note 51 at 8.

¹²² *The Province of British Columbia et al. v. United States of America et al. supra* note 51 at 8-9.

¹²³ Office of the Premier of British Columbia News Release and Backgrounder 98-32 (31 August 98).

¹²⁴ His stated reason for resigning was to allow himself to devote all of his time to work on a reference to the Supreme Court of Canada regarding the legality of a unilateral declaration of independence by the province of Quebec. Fortier, *supra* note 65 at 5.

¹²⁵ Fortier *supra* note 65 at 2.

¹²⁶ "Alaskans questioned the legitimacy of Canada's claims - Negotiators Open Canada-U. S. Talks On Salmon Treaty" *Fisherman* (27 April 1998).

¹²⁷ "Alaskans questioned the legitimacy of Canada's claims - Negotiators Open Canada-U.S. Talks On Salmon Treaty" *Fisherman* (27 April 1998).

¹²⁸ Mark Hume, "Rivers Reflect B.C.'s Changing View of the Environment" *Vancouver Sun* (9 April 98) A1.

¹²⁹ Hume, *supra* note 128.

¹³⁰ Hume, *supra* note 128.

¹³¹ Hume *supra* note 128.

¹³² Hume *supra* note 128.

¹³³ Vaughn Palmer, "Tulsequah Mine a Hammer to Beat the Alaskans" Vancouver Sun (8 April 98); see also "B.C. Minister Denies Mine Approval Was Too Swift" Vancouver Sun (8 April 98) B8.

134 Palmer supra note 133.

¹³¹ Hume supra note 128.

136 "B.C. Minister Denies Mine Approval Was Too Swift" Vancouver Sun (8 April 98) B8 supra note 133; Robert Matas and Ross Howard, "B.C. Mine May Fuel Fish Battle" Globe & Mail (7 April 98) A1.

137 Palmer Supra note 123.

138 For example, Suzuki Foundation director Jim Fulton said "B.C. government rushed the mine's approval to put pressure on Alaskan on-going talks over a Pacific Salmon treaty. Fulton said B.C. appears to be ready to sacrifice the Taku in order to punish the Alaskans for over-fishing salmon bound for B.C. waters. - as quoted in Mark Hume and Justine Hunter, "Outrage Greets Taku Decision" Vancouver Sun (7 April 98).

139 "A Caution from Alaska About Salmon Scare Tactics" Vancouver Sun (15 April 98) A12.

140 Fisheries & Oceans Canada News Release (22 May 98) available on the world wide web at https://www.nrc.D.F.O.ca/cor_munic/newsrel/1998/hg27_e.htm; see also "Twin Coho Conservation Objectives will Guide 1998 Fishery" Westcoast Fisherman (June 1998) 40.

¹⁴¹ Fisheries & Oceans Canada News Release (22 May 98) supra note 140; see also Robert Sarti, "Alaska Hints at Co-operation On Salmon" Vancouver Sun (23 May 98) A4 where Fisheries Minister Anderson is quoted assaying "We are still waiting for the United States to do the same ". The British Columbia sentiment regarding the expected American response to this "moral obligation" is depicted by a caricature cartoon by Peterson published in the Vancouver Sun on May 23, 1998 at page A22. The cartoon depicted "Uncle Sam" with his mouth wide open, about to eat a B.C. salmon on the end of a fork, upon which

Fisheries Minister Anderson is also perched. The caption reads, "We haven't heard from Uncle Sam yet ... he never speaks when his mouth is full ".

142 Ross Howard, "Clark Turns Up Heat In Fish Fight" Globe & Mail (23 May 98) A7.

¹⁴³ Ross Howard, "Clark Turns Up Heat In Fish Fight" Globe & Mail (23 May 98) A7 supra note 142.

¹⁴⁴ R.S.C. c. C-21 available on the world wide web at https://canada.justice.gc.ca/chi-bin/foliosa.dll/estats.nfo/query=*/doc {t25017}

¹⁴¹ Robert Sarti, "Alaska Hints at Co-operation On Salmon" Vancouver Sun (23 May 98) A4 supra note 141.

146 Justine Hunter, "Anderson Admits Barring U.S. Ships Will Cost Jobs" Vancouver Sun (6 June 98) A8.

147 "Curbs on U.S. Boats Ease As Talks Progress" Globe & Mail (11 August 98) A7. With respect to hake, Canada was also having difficulty negotiating a hake agreement.

¹⁴⁸ Ross Howard, "Anderson Making His Own Deals On Salmon Quotas" Globe & Mail (25 June 98). This was later denied by Canada's chief negotiator - see Dianne Rinehart and Petti Fong, "Anderson Refuses To Address Charges That His New Salmon Deal Is a Sellout" Vancouver Sun (27 June 98) A2.

¹⁹ "Anderson Cuts New Deal on Sockeye" *Westcoast Fisherman* (August 1998); see also Rinehart and Fong *supra* note 148.

¹⁵⁰ "Anderson Cuts New Deal on Sockeye" *Westcoast Fisherman* (August 1998); "U.S. Deal `not a conservation pact'" *Fisherman* (20 July 98) 13.

¹⁵¹ Glen Clark, "Clark: Salmon `threat' Merits PM's Attention" *Vancouver Sun* (11 July 98).

¹⁵² "Sovereignty, Conservation Compromised in Sox Deal" *Fisherman* (20 July 98) 12.

¹⁵³ "Treaty Failure - Anderson Unable to Get U.S. To Curb Coho Catch" *Fisherman* (20 July 98) 1; Canada did get an agreement from Alaska not to fish in Dixon Entrance, at the boundary between Alaskan panhandle and British Columbia. However critics have dismissed the deal as a "smoke screen" because the U.S. have never fished in the area in the past - Lori Culbert, "Alaska Says Plan Will Help Conserve Fish" *Vancouver Sun* (11 July 98) A2.

¹⁵⁴ "Washington Fishes as Canada Closed" *Fisherman* (24 August 98)14; "Warm Water Opens Holes in Agreement" *Fisherman* (24 August 98) 14.

¹⁵⁵ "Fraser Run Upgraded" *Fisherman* (24 August 98) 1& 3.

¹⁵⁶ Clark *supra* note 151.

¹⁵⁷ *The Province of British Columbia et al. v. United States of America et al. supra* note 51.

¹⁵⁸ Fortier Letter *supra* note 65 at 4-5; In 1991, Yves Fortier was involved in an *ad hoc* arbitration of the Canada-France dispute regarding delimitation of the maritime boundaries in to North Atlantic of St. Peirre and Miquelon - Letter from Stephen Drymer 19 August 1998; for a comprehensive review of the history of Canada/U.S. arbitrations, see: Wang, "Adjudication of Canada - United States Disputes" , (1981) *Canadian Yearbook of International Law* 158.

¹⁵⁹ McDorman *supra* note 15 at 504.

¹⁶⁰ Peter K. Bergman and Frank Haw, "Failure of the Pacific Salmon Treaty: Causes, Effects, and Solutions" (July 98) attached to open letter to President Clinton dated July 16, 1998.

¹⁶¹ 5 U.S.C.

¹⁶² *Sustainable Fisheries Act*, Pub. L. No. 104-297, 110 Stat. 3559 (1996).

¹⁶³ Horner, *supra* note 5 at 63.

¹⁶⁴ Editorial in the *News Trib.* (Tac. Wash) (12 July 95) as quoted in Schlunidt *supra* note 40 at 133 n. 199.

¹⁶⁵ See Schmidt *supra* note 40 at 132-6.

¹⁶⁶ Schmidt *supra* note 40 at 136-7.

¹⁶⁷ Schmidt, *supra* note 40 at 137-9.

¹⁶⁸ Munro (1998) *supra* note 11 at 33.

¹⁶⁹ Telephone interview A. W. Argue *supra* note 8 (25 August 98).

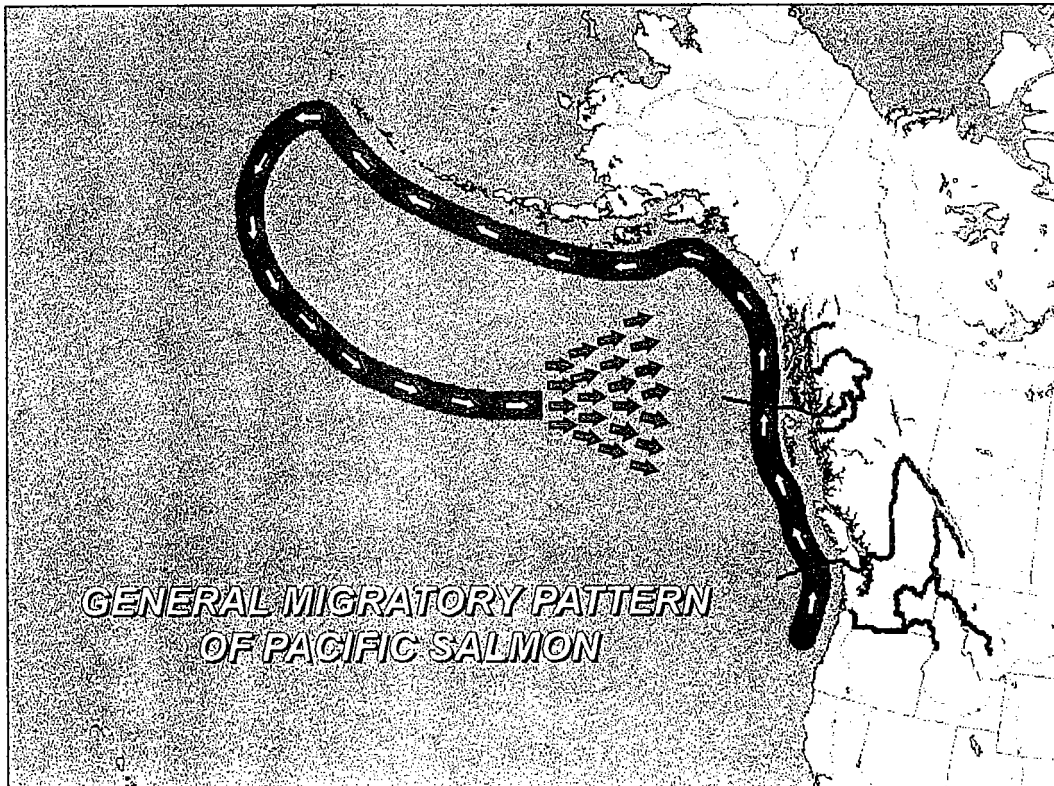
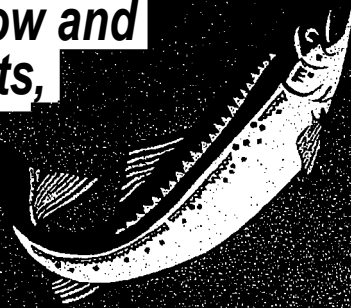
¹⁰ Chief Advisor, International and Intergovernmental Affairs Branch, Canadian Department of Fisheries and Oceans, Western Region.

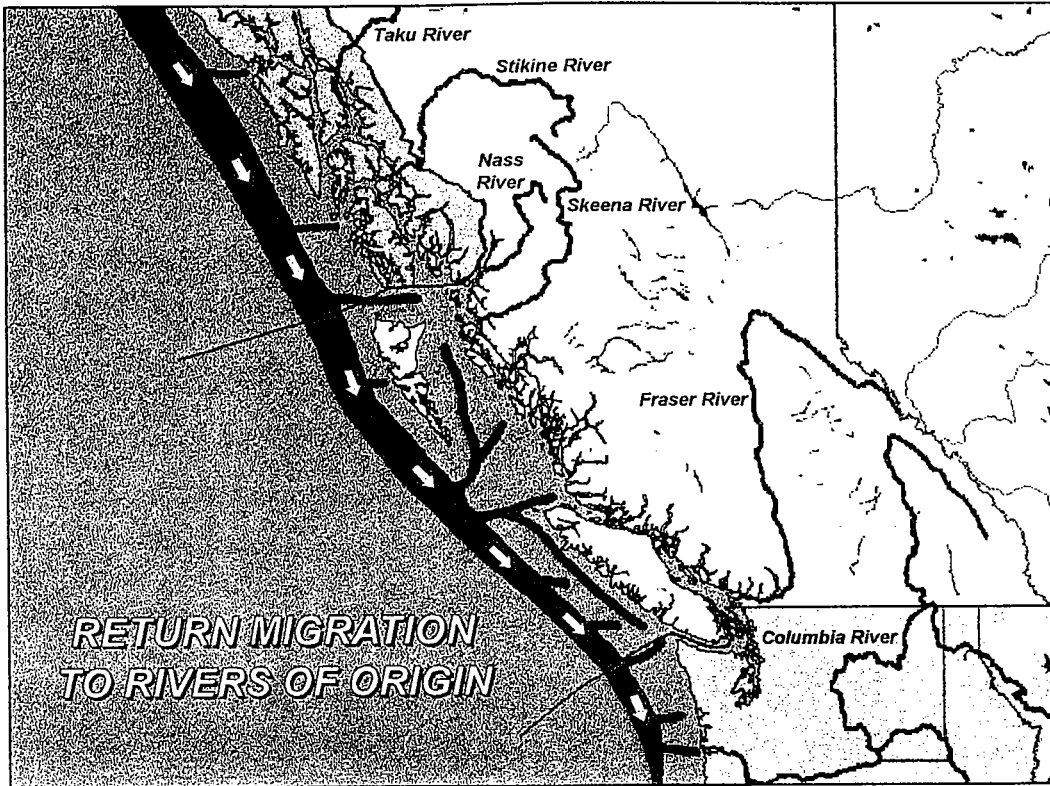
" Telephone interview A.W. Argue *supra* note 8 (25 August 98); see also comments of Homer *supra* note 5 where he suggests that if the "parties were to be truly bold, they might consider the removal of a few dams from the Columbia River or its tributaries in exchange for Canadian electricity generated in areas that do not contain salmon habitat. "(63).

Pacific Salmon

Pacific salmon spawn in rivers and streams along the west coast of Canada and the United States.

Young salmon migrate to the ocean where they grow and mature.. Then as adults, they return to their home streams to spawn and die.

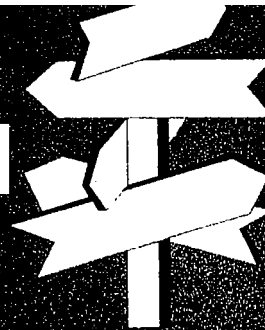




Interceptions

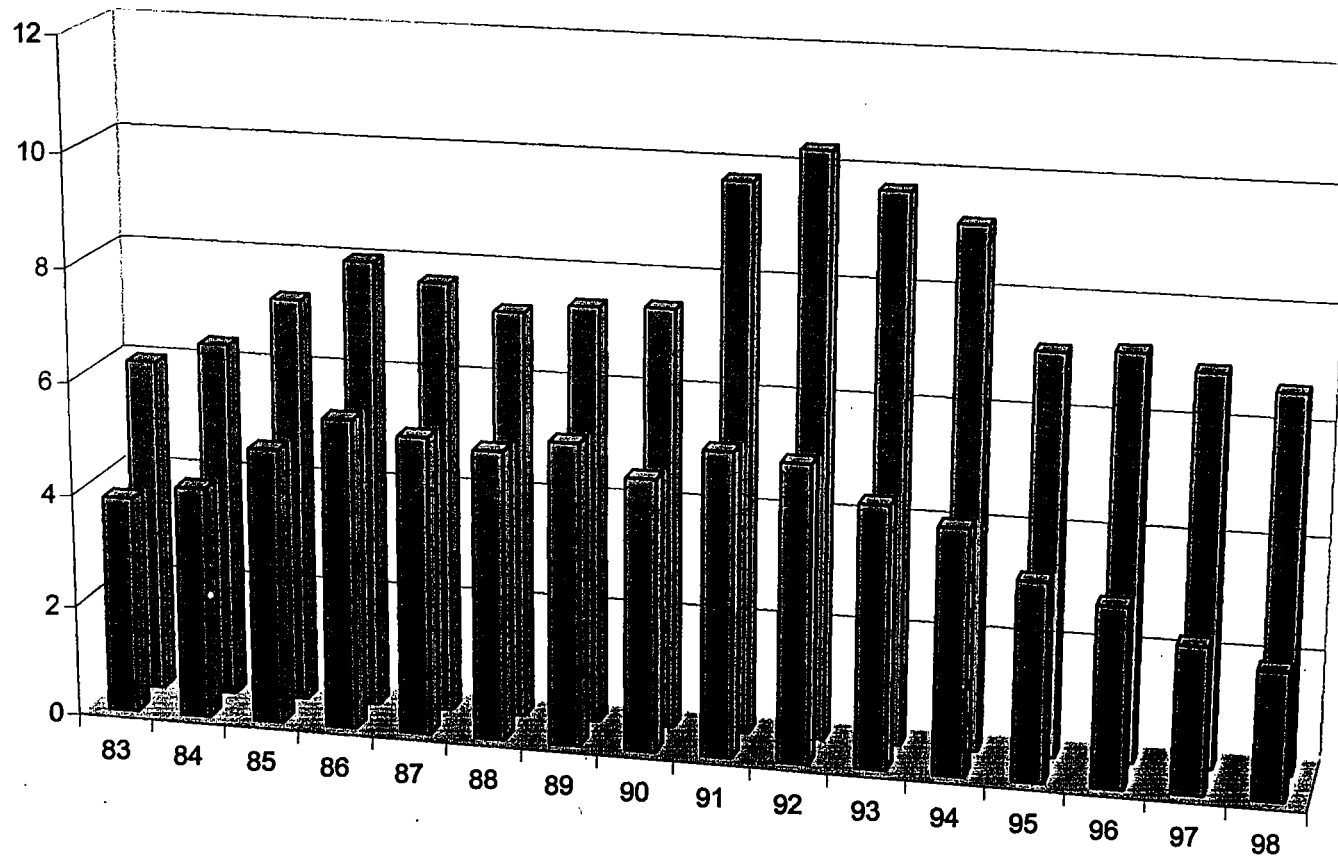
It is during their return migration that the salmon fisheries occur.

The migration, route and time spent in the ocean varies by species and stock. However many stocks move through the fisheries of both countries and interceptions are unavoidable.



Overall Salmon Interceptions

(Millions of fish - 4 Year Moving Average)

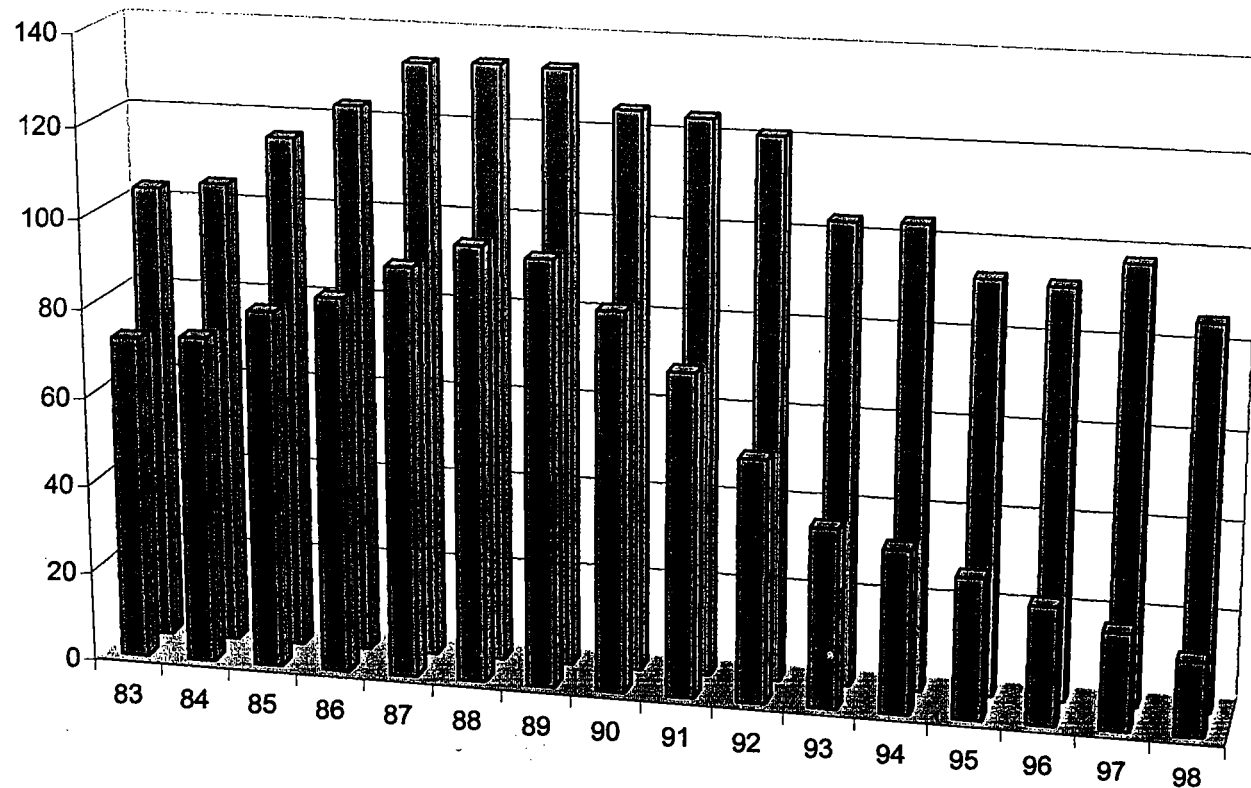


® Canadian Interceptions of U.S. Salmon

® U.S. Interceptions of Canadian Salmon

Overall Salmon Interceptions

(Value of Catch, Millions of Dollars - 4 Year Moving Average)



® Canadian Catch of U.S. Salmon

® U.S. Catch of Canadian Salmon