

**No. 53313\***

**Canada  
and  
United States of America**

**Agreement between the Government of Canada and the Government of the United States of America on Pacific hake/whiting. Seattle, 21 November 2003**

**Entry into force:** *25 June 2008 by notification, in accordance with article V*

**Authentic texts:** *English and French*

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**Canada  
et  
États-Unis d'Amérique**

**Accord relatif au merlu du Pacifique entre le Gouvernement du Canada et le Gouvernement des États-Unis d'Amérique. Seattle, 21 novembre 2003**

**Entrée en vigueur :** *25 juin 2008 par notification, conformément à l'article V*

**Textes authentiques :** *anglais et français*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT  
BETWEEN  
THE GOVERNMENT OF CANADA  
AND  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
ON PACIFIC HAKE/WHITING**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA** (hereinafter referred to as “the Parties”),

**RECOGNIZING** the transboundary nature of the offshore hake/whiting (*Merluccius productus*) resource off the Pacific coast of Canada and the United States,

**MINDFUL** of the importance of this resource to the social and economic sustainability of fishing communities, including harvesters, processors, license holders, and other stakeholders reliant on the offshore hake/whiting fishery,

**DESIRING** to cooperate in the stewardship of this resource and to benefit the industries involved in this fishery, and

**RECOGNIZING** the desirability of maintaining existing levels of scientific research with respect to the offshore hake/whiting resource,

**HAVE AGREED** as follows:

**ARTICLE I**

**Definitions**

For the purposes of this Agreement:

“Catch” means all fishery removals from the offshore hake/whiting resource, including landings, discards, and bycatch in other fisheries;

“F-40 percent” means a fishing mortality rate that would reduce the biomass, calculated on a per recruit basis, to 40 percent of what it would have been in the absence of fishing mortality;

“40/10 adjustment” means an adjustment to the overall total allowable catch (TAC) that is triggered when the biomass falls below 40 percent of its unfished level. This adjustment reduces the TAC on a straight-line basis from the 40 percent level such that the TAC would equal zero when the stock is at 10 percent of its unfished level;

“Offshore hake/whiting resource” means the transboundary stock of *Merluccius productus* that is located in the offshore waters of the United States and Canada. The hake/whiting located in Puget Sound and the Strait of Georgia is not included in the offshore hake/whiting resource; and

“Potential yield” means the range of results obtained from applying the harvest rate established pursuant to paragraph 1 of Article III to a range of forecasted biomass estimates.

## ARTICLE II

1. A Joint Technical Committee (JTC) is hereby established comprising up to five scientific experts, with up to two appointed by each Party and one independent member jointly appointed by the Parties from a list supplied by the Advisory Panel established pursuant to paragraph 4 of this Article. The Parties shall jointly bear the independent member’s travel expenses associated with the work of the JTC. JTC members may seek advice from others as they deem appropriate. The JTC shall meet annually, and more often as necessary, to:
  - (a) propose its terms of reference for approval by the Joint Management Committee (JMC) established in paragraph 3 of this Article;
  - (b) develop stock assessment criteria and methods, and design survey methods;
  - (c) exchange survey information, including information on stock abundance, distribution, and age composition;
  - (d) exchange and review relevant annual catch and biological data, including information provided by the public;
  - (e) provide, by no later than February 1 of each year unless otherwise directed by the JMC, a stock assessment that includes scientific advice on the annual potential yield of the offshore hake/whiting resource that may be caught for that fishing year, taking into account uncertainties in stock assessment and stock productivity parameters and evaluating the risk of errors in parameter estimates produced in the assessment;
  - (f) take into account any adjustments pursuant to paragraph 5 of this Article as part of its stock assessment; and
  - (g) perform other duties and functions that may be referred to it by the Scientific Review Group (SRG) established in paragraph 2 of this Article and by the JMC.
2. A Scientific Review Group (SRG) is hereby established to provide independent peer review of the work of the JTC. The SRG shall comprise up to six scientific experts, with up to two appointed by each Party and two independent members appointed jointly by the Parties from a list supplied by the Advisory Panel. All SRG members shall be different individuals than those who serve on the JTC. The Advisory Panel may also nominate, for appointment by the Parties, two public advisors to participate in SRG meetings. The public advisors shall have the right to provide their views on all aspects of the work of the SRG, both orally and in writing. The Parties shall jointly bear the travel expenses of the independent members and the public advisors for meetings of the SRG. In addition, SRG members may seek advice from others as they deem appropriate. SRG meetings shall be open to the public. The SRG shall meet annually, and more often as necessary, to:

- (a) propose its terms of reference for approval by the JMC;
  - (b) review the stock assessment criteria and methods and survey methodologies used by the JTC;
  - (c) provide, by no later than March 1 of each year, unless otherwise directed by the JMC, a written technical review of the stock assessment and its scientific advice on annual potential yield; and
  - (d) perform other duties and functions that may be referred to it by the JMC.
3. A Joint Management Committee (JMC) is hereby established comprising eight members, four appointed by each Party. The members appointed by each Party shall comprise the national section of that Party. Recommendations of the JMC shall be made by agreement of the two national sections. JMC meetings shall be open to the public, unless the JMC determines that, due to extraordinary circumstances, a closed session is necessary. The JMC shall meet at least once per year and more often as necessary to:
- (a) adopt its terms of reference and approve the terms of reference of the JTC and SRG;
  - (b) provide the SRG and JTC the direction necessary to guide their deliberations;
  - (c) refer any technical issues or other duties to the SRG or JTC as it deems appropriate;
  - (d) consider information on management measures employed by the Parties; and
  - (e) review the advice of the JTC, the SRG, and the Advisory Panel and, by no later than March 25 of each year, recommend for approval of the Parties the overall TAC for that year, calculate each Party's individual TAC pursuant to paragraph 2 of Article III, and identify any adjustments pursuant to paragraph 5 of this Article.
4. An Advisory Panel on Pacific Hake/Whiting (Advisory Panel) is hereby established comprising members appointed by each Party. The members appointed by each Party shall comprise the national section of that Party. Decisions of the Advisory Panel shall be made by agreement of the two national sections. Members of the Advisory Panel shall be individuals knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the Pacific hake/whiting fisheries and may not be employees of either Party. Meetings of the Advisory Panel shall be open to the public. The Advisory Panel shall meet annually prior to the meeting of the JMC, or more often as necessary, to:
- (a) establish its terms of reference;
  - (b) compile and provide to the Parties, by no later than March 25 of each year, the names of at least three scientific experts as candidates for the JTC and the names of at least five scientific experts as candidates for the SRG, for appointment in the following year;
  - (c) review the advice of the SRG and JTC;

- (d) review the management of the fisheries of the two Parties during the previous year; and
  - (e) make recommendations to the JMC regarding the overall TAC.
5. Adjustments:
- (a) If, in any year, a Party's catch exceeds its individual TAC, an amount equal to the excess catch shall be deducted from its individual TAC in the following year.
  - (b) If, in any year, a Party's catch is less than its individual TAC, an amount equal to the shortfall shall be added to its individual TAC in the following year, unless otherwise recommended by the JMC. Adjustments under this subparagraph shall in no case exceed 15 percent of a Party's unadjusted individual TAC for the year in which the shortfall occurred.
6. In any year in which the JMC has made recommendations pursuant to subparagraph 3(e) of this Article, paragraph 5 of this Article or paragraph 1 of Article III, the Parties shall manage their respective fisheries for the offshore hake/whiting resource consistent with such recommendations of the JMC as the Parties have approved.

### ARTICLE III

1. For the purposes of this Agreement, the default harvest rate shall be F-40 percent with a 40/10 adjustment. Having considered any advice provided by the JTC, the SRG or the Advisory Panel, the JMC may recommend to the Parties a different harvest rate if the scientific evidence demonstrates that a different rate is necessary to sustain the offshore hake/whiting resource. If the Parties approve such a recommendation, they shall so inform the JMC.
2. The United States' share of the overall TAC shall be 73.88 percent. The Canadian share of the overall TAC shall be 26.12 percent. This division shall apply for an initial nine-year period, and thereafter unless the Parties agree in writing to adjust it. Any such adjustment shall take effect in the following year, unless the Parties agree otherwise.

### ARTICLE IV

The Parties agree to conduct scientific research to support the effective implementation of this Agreement, including trawl, acoustic, and recruit surveys to provide adequate data on the offshore hake/whiting resource. The Parties should, where appropriate, conduct such research using private vessels.