

(g) “Secretary” means the Secretary of Commerce;

(h) “Treaty” means the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985;

(i) “treaty Indian tribe” means any of the federally recognized Indian tribes of the Columbia River basin, Washington coast or Puget Sound areas having reserved fishing rights to salmon stocks subject to the Treaty under treaties with the United States Government; and

(j) “United States Section” means the four United States Commissioners appointed by the President pursuant to this chapter.

(Pub. L. 99-5, §2, Mar. 15, 1985, 99 Stat. 7; Pub. L. 102-251, title III, §306(a), Mar. 9, 1992, 106 Stat. 66; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

#### AMENDMENT OF SECTION

*Pub. L. 102-251, title III, §§ 306(a), 308, Mar. 9, 1992, 106 Stat. 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, this section is amended by redesignating subsections (h) to (j) as (i) to (k), respectively, and by inserting after subsection (g) the following new subsection:*

*(h) “Special areas” means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.*

#### REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of

Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

#### SHORT TITLE

Pub. L. 99-5, §1, Mar. 15, 1985, 99 Stat. 7, provided: “That this Act [enacting this chapter and repealing sections 776 to 776f of this title and provisions set out as notes under section 776 of this title] may be cited as the ‘Pacific Salmon Treaty Act of 1985’.”

#### TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

### § 3632. United States Section

#### (a) Commissioners

The United States shall be represented on the Commission by four United States Commissioners who are knowledgeable or experienced concerning Pacific salmon, to be appointed by and serve at the pleasure of the President. Of these, one shall be an official of the United States Government who shall be a nonvoting member of the United States Section; one shall be a resident of the State of Alaska and shall be appointed from a list of at least six qualified individuals nominated by the Governor of that State; one shall be a resident of the States<sup>1</sup> of Oregon,<sup>2</sup> or Washington and shall be appointed from a list of at least six qualified individuals nominated by the Governors of those States; and one shall be appointed from a list of at least six qualified individuals nominated by the treaty Indian tribes of the States of Idaho, Oregon or Washington. Two of the initial appointments shall be for two-year terms; all other appointments shall be for four-year terms. Each Commissioner is eligible for reappointment. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Unless otherwise agreed, the chairmanship of the United States Section shall rotate annually among all four members with the order of rotation determined by lot at the first meeting.

#### (b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary and the Secretary of the Interior, shall designate an Alternate Commissioner for each Commissioner from the respective lists referred to in subsection (a), and may designate an Alternate Commissioner for the Federal Commissioner. In the absence of a Commissioner, the Alternate Commissioner may exercise all functions of such Commissioner at any meeting of the Commission or of the United States Section. Alternate Commissioners are eligible for reappointment and may attend all meetings of the United States Section.

#### (c) Southern Panel

The United States shall be represented on the southern Panel by six Panel members, of whom—

<sup>1</sup> So in original. Probably should be “State”.

<sup>2</sup> So in original. The comma probably should not appear.

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Oregon, with salmon fishery management responsibility and expertise;

(3) one shall be an official of the State of Washington, with salmon fishery management responsibility and expertise;

(4) two shall be appointed from a list submitted by the treaty Indian tribes of individuals with salmon fishery management responsibility and expertise; and

(5) one shall be appointed from the commercial or recreational sector who is knowledgeable and experienced in the salmon fisheries for which the southern Panel is responsible.

**(d) Northern Panel**

The United States shall be represented on the northern Panel by six Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

(3) four shall be individuals knowledgeable and experienced in the salmon fisheries for which the northern Panel is responsible.

**(e) Fraser River Panel**

The United States shall be represented on the Fraser River Panel by four Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Washington, with salmon fishery management responsibility and expertise;

(3) one shall be appointed from a list submitted by the treaty Indian tribes of individuals with salmon fishery management responsibility and expertise for the fisheries for which the Fraser River Panel is responsible; and

(4) one shall be appointed from the commercial sector of the salmon fishing industry concerned with fisheries for which the Fraser River Panel is responsible.

**(f) Transboundary Panel**

The United States shall be represented on the Transboundary Panel by seven panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

(3) five shall be individuals knowledgeable and experienced in the salmon fisheries for which the Transboundary Panel is responsible.

**(g) Panel appointments**

Panel members described in subsections (c)(2), (c)(3), (d)(2), and (e)(2) shall be appointed by the Governor of the applicable State. Panel members described in subsections (c)(4) and (e)(3) shall be appointed by the Secretary of the Inte-

rior from lists of nominations provided by the appropriate treaty Indian tribes. All other Panel members shall be appointed by the Secretary: *Provided*, That at least one member of the northern Panel shall be a voting member of the North Pacific Fishery Management Council, at least one member of the southern Panel shall be a voting member of the Pacific Fishery Management Council; and the Panel members described in subsections (c)(5), (d)(3), and (e)(4) shall be appointed from lists of nominations provided by the Governors of the applicable States. For the northern, southern, and Fraser River panels, the appointing authorities listed above may also designate an alternate Panel member, meeting the same qualifications and having the same term of office, to service in the absence of a Panel member appointed under this subsection. Panel members and alternate Panel members, other than the southern Panel member described in subsection (c)(5), shall serve four-year terms; except that the Secretary of State shall designate one-half of the initial appointments to each Panel as serving two-year terms. The southern Panel member described in subsection (c)(5) and the corresponding alternate shall each be appointed for one-year terms; the first such member shall be appointed from the commercial sector and an alternate shall be appointed from the recreational sector, with the alternate succeeding to the member position in the subsequent year; thereafter the member and alternate positions shall rotate between the commercial and recreational sectors on an annual basis. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Panel members and alternates shall be eligible for reappointment and may attend all meetings of the relevant United States Panel Section.

**(h) Voting requirements**

(1) Except as provided in paragraph (2), the United States Section shall operate with the objective of attaining consensus decisions in the development and exercise of its single vote within the Commission. A decision of the United States Section shall be taken when there is no dissenting vote.

(2) A decision of the United States Section with respect to any salmon fishery regime covered by chapter 1 or 2 (except paragraph 4 of chapter 2) of Annex IV to the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of the United States Commissioner appointed from the list submitted by the Governor of Alaska pursuant to subsection (a). A decision of the United States Section with respect to any salmon fishery regime covered by chapter 4, 5 (except paragraph 2(b) of chapter 5), or 6 of the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of both the United States Commissioner appointed from the list submitted by the Governors of Washington and Oregon pursuant to subsection (a) and the United States Commissioner appointed from the list submitted by the treaty Indian tribes of the State of Idaho, Oregon, or Washington pursuant to subsection (a). Before a decision of the United States Section is made under this paragraph,

the voting Commissioner or Commissioners shall consult with the Commissioner who is an official of the United States Government under subsection (a)<sup>3</sup>

(3) All decisions and recommendations of the United States Section of the northern, southern, and transboundary Panels shall require the concurring vote of a majority of the United States Panel members present and voting, except that decisions and recommendations of the southern Panel shall require the concurring vote of the members designated in subsections (c)(2) and (c)(3) and one of those members designated in subsection (c)(4).

(4) All decisions and recommendations of the United States Section of the Fraser River Panel shall require the concurring vote of all United States Panel members present and voting, except that orders referred to in article VI(6) of the Treaty may be agreed to on the basis of a majority, provided that the Panel members representing the State and Tribal fishery management authorities concur.

(5) All decisions and recommendations of any joint Panel shall require the concurring votes of each Panel under the voting rules specified in paragraphs (2) and (3).

(6) To assist in the resolution of disputes affecting decisions of the United States Section or of the United States Panel sections, a three-person Conciliation Board may be established. The members of the Conciliation Board shall be selected by the United States Section as follows: each non-Federal Commissioner shall submit a list of no fewer than three qualified nominees; one person shall be selected from each list by consensus decision of the Federal Commissioner and the other two non-Federal Commissioners. The Conciliation Board shall operate under such bylaws as may be established by the United States Section.

(7) In any matter where the Fraser River Panel is unable to act because the United States Fraser River Panel members have been unable to reach a decision in accordance with paragraph (3) of this subsection, and upon a determination by the Chairman of the United States Section that an action of the Panel is required, the United States Section shall act for the United States Panel members in the Fraser River Panel.

(8) In any matter where the Secretary of State determines that the United States is in jeopardy of not fulfilling its international obligations under the Treaty, the Secretary of State shall so certify to the United States Section. Such certification shall include the reasons for such determination and shall specify the date by which a decision by the United States Section is desired. If the United States Section has not reached a decision by the date specified, the Secretary of State, after consultation with the Secretary and the Secretary of the Interior, shall report on the matter to the President.

#### (i) Consultation

In carrying out their functions under the Treaty, the Commissioners and Panel members may consult with such other interested parties

as they consider appropriate. The Federal Advisory Committee Act [5 U.S.C. App.] shall not apply.

(Pub. L. 99-5, §3, Mar. 15, 1985, 99 Stat. 8; Pub. L. 99-5, §16(c), formerly Pub. L. 106-113, div. B, §1000(a)(1) [title VI, §623(c)], Nov. 29, 1999, 113 Stat. 1535, 1501A-59, renumbered Pub. L. 109-479, title III, §302(d)(1), Jan. 12, 2007, 120 Stat. 3623; Pub. L. 106-554, §1(a)(4) [div. B, title I, §144(c)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A-239.)

#### REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (i), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

2000—Subsec. (f). Pub. L. 106-554, §1(a)(4) [div. B, title I, §144(c)(5)(A)], added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106-554, §1(a)(4) [div. B, title I, §144(c)(5)(B), (C)], redesignated subsec. (f) as (g) and substituted “For the northern, southern, and Fraser River panels, the appointing authorities” for “The appointing authorities”. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 106-554, §1(a)(4) [div. B, title I, §144(c)(5)(B)], redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(3). Pub. L. 106-554, §1(a)(4) [div. B, title I, §144(c)(5)(D)], substituted “northern, southern, and transboundary” for “northern and southern”.

Subsec. (i). Pub. L. 106-554, §1(a)(4) [div. B, title I, §144(c)(5)(B)], redesignated subsec. (h) as (i).

1999—Subsec. (g)(1). Pub. L. 99-5, §16(c)(1), formerly Pub. L. 106-113, §1000(a)(1) [title II, §623(c)(1)], as renumbered by Pub. L. 109-479, §302(d)(1), substituted “Except as provided in paragraph (2), the” for “The”.

Subsec. (g)(2) to (8). Pub. L. 99-5, §16(c)(2), (3), formerly Pub. L. 106-113, §1000(a)(1) [title II, §623(c)(2), (3)], as renumbered by Pub. L. 109-479, §302(d)(1), added par. (2) and redesignated former pars. (2) to (7) as (3) to (8), respectively.

### § 3633. Authority and responsibility

#### (a) Secretary of State

The Secretary of State is authorized to—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of and to the Commission and Panels;

(2) in consultation with the Secretary and the Secretary of the Interior, approve, disapprove, object to, or withdraw objections to fishery regimes, including enhancement programs and Fraser River Panel regulations proposed in accordance with the Treaty, on the condition that the United States shall be obligated to carry out such regimes or regulations only to the extent that funds are made available for such purposes in appropriation Acts; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection other than a proposed fishery regime or Fraser River Panel regulation.

#### (b) States and treaty Indian tribes

Recommendations of the Commission on fishery regimes or Fraser River Panel regulations approved by the Secretary of State pursuant to subsection (a)(2) shall be forwarded immediately

<sup>3</sup>So in original. Probably should be followed by a period.