

**PRESENT
AGREEMENT**

The Secretary of State for External Affairs



Secrétaire d'Etat aux Affaires extérieures

Canada
U. S. COAST GUARD
13th Coast Guard District
SEATTLE, WASHINGTON

JAN 21 1980

OTTAWA, December 19, 1979.

RECEIVED
NATIONAL MARINE SAFETY DIV.

FLM-211

Excellency,

I have the honour to refer to discussions between representatives of our two Governments for the purpose of reaching agreement on cooperative arrangements for vessel traffic management in waters near the common boundary of Canada and the United States in the region of Juan de Fuca Strait. Such arrangements are desirable for marine safety in light of increasing oil tanker and other vessel traffic in the west coast waters of Canada and the United States. The world-wide trend towards large tankers, and the possibility of their presence in coastal areas where they might add to the existing traffic, greatly strengthen the need for such cooperation.

The two Governments have already taken a number of parallel measures for safety of navigation in the Juan de Fuca area, including improved communications, surveillance radar installations and a voluntary routing system. I have the honour to propose that these cooperative arrangements be further strengthened. The attached Annex sets out the

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Excellency Kenneth Curtis,
Ambassador of the U.S.A. to
Canada,
OTTAWA.

arrangements for implementation of a cooperative vessel traffic management system for the region of Juan de Fuca Strait, consistent with our shared goals of safety of navigation and preservation of the marine environment.

I have the honour to propose that if these arrangements are acceptable to the United States Government this Note, together with the attached Annex, which are authentic in English and French, and your confirming reply, shall constitute an Agreement between our two Governments for vessel traffic management in waters near the common boundary of Canada and the United States in the region of Juan de Fuca Strait. I have the honour further to propose that this Agreement enter into force on the date of your reply. This Agreement may be terminated by either Government upon six months' notice to the other or upon such longer period as may be specified in the notice of termination.



Secretary of State for
External Affairs.

EMBASSY OF THE
UNITED STATES OF AMERICA
Ottawa, December 19, 1979

No. 341

Madame,

I have the honor to refer to your note No. FLM-211 of this date, and to its Annex, proposing cooperative arrangements for joint management of vessel traffic in waters near the common boundary of Canada and the United States in the region of Juan de Fuca Strait.

I have the further honor to confirm that the cooperative arrangements set forth in your Note and its Annex are acceptable to the Government of the United States, and that your Excellency's Note and its Annex, together with this reply, shall constitute an agreement on this subject between our two Governments which will enter into force on the date of this Note.

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

Harriet M. Curtis

The Honorable

Flora MacDonald, P.C., M.P.

Secretary of State for External Affairs

ANNEX

AGREEMENT FOR A COOPERATIVE VESSEL TRAFFIC MANAGEMENT
SYSTEM FOR THE JUAN DE FUCA REGION

100 PURPOSE AND OBJECTIVE

100.1 The purpose of this Agreement is to provide for a cooperative system of vessel traffic management in the applicable waters.

100.2 The objective of this Agreement is to enhance safe and expeditious vessel traffic movement and to minimize risk of pollution of the marine environment in the applicable waters by setting forth standards and procedures for:

- (a) establishing a cooperative system of vessel traffic management;
- (b) ascertaining through pre-clearance procedures and subsequent traffic monitoring, vessel compliance with pertinent regulations, procedures and practices; and alerting responsible authorities where non-compliance occurs;
- (c) monitoring traffic movements to the degree required of the locality;
- (d) providing on a routine basis, or on request, real time information to mariners on traffic, navigational dangers, weather and other safety matters;
- (e) providing on request position fixing data where this capability exists;
- (f) responding to emergency situations.

101 DEFINITIONS

101.1 Applicable Waters

Means the waters on the southern coasts of British Columbia and the northern coasts of the State of Washington that are bounded:

- (1) in the waters through which the international boundary runs,
 - (a) on the north, by the 49° north parallel of latitude,
and

(b) on the south and east, by a rhumb line joining Point Partridge (Whidbey Island) and McCurdy Point (Quimper Peninsula); and

(2) in the waters to seaward

(a) on the northwest, by the 48°35'45" north parallel of latitude,

(b) on the southwest, by the 48°23'30" north parallel of latitude, and

(c) on the west, by the rhumb line joining 48°35'45"N., 124°47'30"W. with 48°23'30"N., 124°48'37"W.

101.2 Authority

Means the Commissioner of the Canadian Coast Guard or the Commandant of the United States Coast Guard.

101.3 Berth

Means any wharf, pier, anchorage or mooring buoy.

101.4 Canadian Vessel Traffic Regulator or U.S. Watch Supervisor

Means the person at a vessel traffic management centre authorized by the appropriate Authority to administer the vessel traffic management regulations.

101.5 Cooperative Vessel Traffic Management System

Means the cooperative system of vessel traffic management established within the applicable waters pursuant to this Agreement.

101.6 Exchange Line

Means a sector boundary where vessel traffic passes from management by one Authority to management by the other Authority.

101.7 Parties

Means the Government of Canada and the Government of the United States of America.

101.8 Routing System

Means any system of routing measures aimed at reducing the risk of casualties, including traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, precautionary areas and deep water routes.

101.9 Sector

Means a subdivision of the applicable waters geographically defined for purposes of allocating the responsibility for vessel traffic management to one of the Authorities.

101.10 Traffic Clearance

Means an authorization by a Canadian vessel traffic regulator or a U.S. watch supervisor for a vessel to enter the cooperative vessel traffic management system, depart a berth, proceed or manoeuvre within the applicable waters.

101.11 Vessel

Means every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.

101.12 Vessel Traffic Management

Means the management of vessel traffic by the use of such procedures and equipment as may be agreed by the Authorities, including vessel movement reporting systems, radar surveillance equipment, standard operation procedures and routing systems.

101.13 Vessel Traffic Management Centre

Means a centre established by the appropriate Authority for managing vessel traffic in the cooperative vessel traffic management system.

101.14 Vessel Traffic Management Regulations

Means regulations promulgated by each Party for vessel traffic management pursuant to this Agreement.

102 APPLICATION TO VESSELS

102.1 Except as otherwise herein provided this Agreement shall apply to all vessels.

102.2 Any vessel that is exempt from compliance with the provisions of this Agreement shall observe the ordinary practice of seamen and, so far as is reasonable and practicable, act in a manner consistent with this Agreement.

103 EXCHANGE LINES

103.1 The Exchange Lines in the applicable waters are as follows:

- (a) The $124^{\circ}40'$ west meridian of longitude in the Juan de Fuca Strait from the Canadian low-water line to the U.S. low-water line as depicted on official charts;
- (b) Donaldson Island in position $48^{\circ}19'54''\text{N.}$, $123^{\circ}42'24''\text{W.}$ to position $48^{\circ}13'37''\text{N.}$, $123^{\circ}31'36''\text{W.}$; thence to position $48^{\circ}12'32''\text{N.}$, $123^{\circ}24'24''\text{W.}$; then to Hein Bank in position $48^{\circ}21'06''\text{N.}$, $123^{\circ}02'30''\text{W.}$; thence to Cattle Point, San Juan Island in position $48^{\circ}27'00''\text{N.}$, $122^{\circ}57'42''\text{W.}$;
- (c) Lime Kiln Point in position $48^{\circ}31'00''\text{N.}$, $123^{\circ}09'06''\text{W.}$ to Kellet Bluff in position $48^{\circ}35'18''\text{N.}$, $123^{\circ}12'03''\text{W.}$; thence to Turn Point in position $48^{\circ}41'20''\text{N.}$, $123^{\circ}14'10''\text{W.}$; thence to Skipjack Island in position $48^{\circ}44'00''\text{N.}$, $123^{\circ}02'16''\text{W.}$; thence to Clements Reef in position $48^{\circ}46'42''\text{N.}$, $122^{\circ}53'22''\text{W.}$; thence to Alden Bank Buoy in position $48^{\circ}50'24''\text{N.}$, $122^{\circ}52'10''\text{W.}$, thence in a 000° direction to the point of intersection with the $49^{\circ}00'\text{N.}$ parallel of latitude.

103.2 The Exchange Lines may be modified by agreement of the Authorities, pursuant to recommendations of the Joint Coordinating Group established under this Agreement.

200 JOINT POLICY

201 JOINT PROCEDURES

- 201.1 The Parties agree that the development and implementation of the cooperative vessel traffic management system is best achieved by:
- (a) developing and issuing vessel traffic management regulations and developing standard procedures at the headquarters level of the Authorities;
 - (b) developing the local vessel traffic management technical and operational details at the regional and district level of the Authorities, within the framework of national standards, with headquarters consultation; and
 - (c) developing routing systems and vessel traffic management systems taking into account, where appropriate, standards developed at IMCO on ships' routing and ship movement systems.

202 SYSTEM COMPATIBILITY

202.1 The Parties agree that the cooperative vessel traffic management system procedures and regulations in each country shall be compatible, to the extent possible, with those in the other and that any joint traffic separation scheme shall be submitted to the Inter-Governmental Maritime Consultative Organization.

203 REGULATING OF VESSEL TRAFFIC

203.1 Each Party undertakes to promulgate all vessel traffic management regulations necessary to give effect to this Agreement. The Authorities shall jointly determine the vessels to which particular regulations shall apply.

204 COMPATIBILITY OF OTHER REGULATIONS AND THEIR ENFORCEMENT

204.1 The Parties recognize the desirability of compatibility in their respective national regulations bearing on marine safety and environmental protection applicable to vessels using the cooperative vessel traffic management system. The Parties further recognize the desirability of consultation and coordination between the Authorities to promote compatibility of these regulations to the fullest extent practicable consistent with domestic law and policy. At the request of either Authority, the other will provide an opportunity for consultation and coordination concerning such regulatory measures significantly affecting vessels using the cooperative vessel traffic management system.

204.2 The Parties consider that their respective vessel design, construction, manning and equipment requirements, and the measures for enforcement of these requirements, provide a comparable degree of marine safety and environmental protection and that their cooperative application will enhance the effectiveness of the vessel traffic management system. Each Party recognizes that vessels meeting its own standards enter the waters of the other Party in accordance with the agreed routing system. Each Party, in applying its regulations to vessels proceeding through its portion of the applicable waters solely en route to or departing from a port of the other Party, will consider compliance with the requirements of the other Party to be effectively equivalent to material compliance with its own requirements, so long as the requirements and enforcement practices of the other Party, in their totality, continue to provide a comparable degree of marine safety and environmental protection.

204.3 Nothing in Article 204 shall derogate from the right of each Party to take appropriate measures in accordance with its law in its portion of the applicable waters in relation to any specific vessel, the condition or activities of which may pose an actual threat to marine safety or the marine environment. In order to facilitate cooperative enforcement action each Authority will consult at the request of the other, where time permits, concerning enforcement measures to be taken in particular situations posing a threat to marine safety or the marine environment in the applicable waters.

204.4 Should either Party consider making a determination that the requirements and measures for enforcement referred to in 204.2, in their totality, no longer provide a comparable degree of marine safety and environmental protection, that Party will notify the other Party and offer to consult on the matter. No final determination will be made in this respect for at least six months from the time of initial notification in order to allow sufficient time for the consultation process to be completed.

205 RELATION TO NATIONAL LAW AND POLICY

205.1 This Agreement and actions hereunder shall be without prejudice to the position of the Governments of the United States and Canada with respect to the character of, and the nature and extent of coastal state jurisdiction, over the applicable and adjacent waters:

206 RESPONSIBILITY FOR SAFE NAVIGATION

206.1 It is not the purpose of the cooperative vessel traffic management system instituted under this Agreement to attempt to manoeuvre or navigate vessels from the shore. Therefore, the responsibility for safe navigation shall remain with the vessel's master or commanding officer. Notwithstanding any requirement in the vessel traffic management regulations, the master or commanding officer of the vessel shall retain the responsibility to take any action which by the ordinary practice of seamen or by any special circumstances is necessary to ensure safety of life or the safety of his own or any other vessel.

207 ENFORCEMENT

207.1 In the applicable waters under its jurisdiction, each Party shall enforce compliance with its vessel traffic management regulations.

208 NAVAL VESSELS AND GOVERNMENT VESSELS

208.1 Warships, naval auxiliaries and other vessels used for the time being for military purposes in non-commercial service will comply with the provisions of this Agreement, except when compliance would impair defence operations or defence operational capabilities. To the extent that it is consistent with the nature of these operations notice will be given to the vessel traffic management centre concerned.

208.2 Other vessels owned and operated by a State and used for the time being only on Government non-commercial service and performing governmental functions in the applicable waters will comply with the provisions of this Agreement, except when compliance would impair the performance of governmental functions of a marine contingency nature. To the extent that it is consistent with the nature of the governmental functions being performed, notice will be given to the vessel traffic management centre concerned.

300 OPERATIONAL ELEMENTS

301 VESSEL TRAFFIC CLEARANCE

301.1 Prior to entering the cooperative vessel traffic management system or departing a berth within the system, each vessel shall obtain a traffic clearance in accordance with procedures to be agreed upon between the Authorities.

302 VESSEL TRAFFIC MANAGEMENT CENTRES

302.1 Vessel traffic management centres shall be established as necessary to manage and coordinate vessel traffic. These centres shall be in communication with each other by dedicated communications circuits in order to ensure real time knowledge of the total vessel traffic pattern in the applicable waters.

303 METHOD OF OPERATIONS

303.1 Each vessel traffic management centre shall, within its applicable sector:

- (a) maintain VHF-FM radio contact with and receive reports from each vessel subject to the communications and movement reporting requirements of the vessel traffic management regulations;
- (b) maintain an accurate and up-to-date plot of all such vessels;
- (c) maintain an accurate and up-to-date status display of all known hazards to navigation, including adverse weather conditions, large concentrations of fishing or recreational vessels, and discrepancies in aids to navigation;
- (d) disseminate the information referred to in sub-paragraph (c) to all participating vessels that may be affected;
- (e) provide, upon request, position fixing assistance, within the capability of the centre;
- (f) in accordance with an agreed procedure, issue a vessel traffic clearance;
- (g) in accordance with an agreed procedure, transfer responsibility between centres for each vessel at the time it crosses an exchange line; and
- (h) upon detecting or becoming aware of any violation of the vessel traffic management regulations, report the violation to the appropriate enforcement official of the Party in whose waters the violation occurred.

304 SECTOR MANAGEMENT AND RESPONSIBILITY

304.1 All vessel traffic within the applicable waters to seaward of the exchange line established in subsection 103.1(a) shall be managed by Tofino Traffic Centre.

304.2 All vessel traffic to the east of the exchange line established by subsection 103.1(a) and to the south and east of the exchange lines established by subsections 103.1(b) and 103.1(c) shall be managed by the Seattle Traffic Centre.

304.3 All vessel traffic to the north and west of the exchange lines established by subsection 103.1(b) and 103.1(c) shall be managed by Vancouver Traffic Centre.

305 POLLUTION CONTINGENCY SUPPORT

305.1 In the event of a pollution incident occurring within the applicable waters where a response by one or both Parties under the terms of the Joint Canada/United States Marine Pollution Contingency Plan is required, the Authorities shall cooperate to the maximum extent practicable with the On-Scene Commander.

306 STANDARDS OF SHORE BASED EQUIPMENT

306.1 The Parties agree it is desirable to establish at the earliest feasible time a positive method of surveillance, generally radar where practicable, to ensure compliance with vessel traffic management regulations.

306.2 Except as they may otherwise agree, each authority shall be responsible for establishing, operating, and maintaining:

- (a) VHF-FM communications coverage within its sectors, and
- (b) radar surveillance systems incorporating provisions for the identification and tracking of vessels as follows:
 - (1) Canada: Strait of Georgia and Haro Strait from Point Roberts to Race Rocks; and on the west coast of Vancouver Island, from Estevan Point to Cape Flattery, Washington.
 - (2) United States: the Strait of Juan de Fuca from Cape Flattery to Whidbey Island; and Rosario Strait from Cherry Point to the southern entrance in the vicinity of Whidbey Island.

307 JOINT COORDINATING GROUP

307.1 The Authorities shall establish a Joint Coordinating Group at the Regional/District level. This Group shall have a permanent membership consisting of two VIM representatives from each Authority, one of whom shall serve as the Chairperson and that office shall alternate annually between each Authority. This Group may seek expert advice as it may deem appropriate. A meeting of the Joint Coordinating Group may be called by either Authority but in any event, it shall meet and submit a report to the Authorities annually.

307.2 The functions of this Group shall be:

- (a) to receive and respond to representations by interested parties on operational problems of a local nature;
- (b) to review and make early reports to both Authorities regarding the findings of any casualty investigation authority when a factor in its investigation concerns the management of traffic in the cooperative vessel traffic management system;
- (c) to review and make recommendations to the Authorities concerning operating procedures and regulations;
- (d) to review and make recommendations to the Authorities respecting modifications of the exchange lines established by section 103.1 of this Agreement;
- (e) to advise the Authorities on policy and standards;
- (f) to recommend to the Authorities consultative and operational procedures to be followed when a vessel is found to be in contravention of the vessel traffic management regulations; and
- (g) to facilitate consultations between the Authorities on the effective implementation of this Agreement.

308 COMMUNICATIONS

308.1 The Parties undertake to promulgate in consultation with each other appropriate communications regulations to ensure reliable and effective two-way voice communications throughout the vessel traffic management system.

309 AIDS TO NAVIGATION

309.1 The establishment and maintenance of aids to navigation in the applicable waters shall remain the responsibility of the Authority in whose territory or water the aids to navigation are located, except as may be otherwise expressly agreed by the Parties.

400 ADMINISTRATION AND RESPONSIBILITY

400.1 The Authorities shall be responsible for the administration of this Agreement.

400.2 The federal officers having Regional/District responsibilities for administration and operation of the cooperative vessel traffic management system are:

For Canada: The Regional Director,
Canadian Coast Guard,
Western Region.

For United States: The Commander,
Thirteenth Coast Guard District.

401 AMENDMENTS

401.1 Amendments to this Agreement may be made by mutual agreement of the Parties.

402 IMPLEMENTATION

402.1 The Authorities shall implement the cooperative vessel traffic management system as soon as possible, subject to appropriation of funds.

402.2 Each Party shall bear the costs of its own operations conducted pursuant to this Agreement.