

**No. 12783**

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**BRAZIL  
and  
UNITED STATES OF AMERICA**

**Agreement concerning shrimp (with annexes, agreed minute and exchanges of notes). Signed at Brasília on 9 May 1972**

*Authentic texts: Portuguese and English.*

*Registered by Brazil on 12 October 1973.*

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**BRÉSIL  
et  
ÉTATS-UNIS D'AMÉRIQUE**

**Accord relatif à la crevette (avec annexes, procès-verbal conjoint et échanges de notes). Signé à Brasília le 9 mai 1972**

*Textes authentiques : portugais et anglais.*

*Enregistré par le Brésil le 12 octobre 1973.*

## AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING SHRIMP

The Parties to this Agreement,

Note the position of the Government of the Federative Republic of Brazil, that it considers its territorial sea to extend to a distance of 200 nautical miles from Brazil's coast, that the exploitation of crustaceans and other living resources, which are closely dependent on the seabed under the Brazilian territorial sea, is reserved to Brazilian fishing vessels, and that exceptions to this provision can only be granted through international agreements,

Note also the position of the Government of the United States of America that it does not consider itself obligated under international law to recognize territorial sea claims of more than 3 nautical miles nor fisheries jurisdiction of more than 12 nautical miles, beyond which zone of jurisdiction all nations have the right to fish freely, and that it does not consider that all crustaceans are living organisms belonging to sedentary species as defined in the 1958 Geneva Convention on the Continental Shelf,<sup>2</sup> and further

Recognizing that the difference in the respective juridical positions of the Parties has given rise to certain problems relating to the conduct of shrimp fisheries,

Considering the tradition of both Parties for resolving international differences by having recourse to negotiation,

Believing it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudice to either Party's juridical position concerning the extent of territorial seas or fisheries jurisdiction under international law,

Concluding that, while general international solutions to issues of maritime jurisdiction are being sought and until more adequate information regarding the shrimp fisheries is available, it is desirable to conclude an interim agreement which takes into account their mutual interest in the conservation of the shrimp resources of the area of this Agreement,

Have agreed as follows:

**Article I.** This Agreement shall apply to the fishery for shrimp (*Penaeus* (M.) *duorarum* *notialis*, *Penaeus* *braziliensis* and *Penaeus* (M.) *aztecus* *subtilis*) in an area of the broader region in which the shrimp fisheries of the Parties are conducted, hereinafter referred to as the "area of agreement" and defined as follows: the waters off the coast of Brazil having the isobath of thirty (30) meters as the south-west limit and the latitude 1° north as the southern limit and 47°30' west longitude as the eastern limit.

**Article II.** 1. Taking into account their common concern with preventing the depletion of the shrimp stocks in the area of agreement and the substantial difference in the stages of development of their respective fishing fleets, which

<sup>1</sup> Came into force on 14 February 1973, the date mutually agreed upon by an exchange of notes dated at Washington on 12 and 14 February 1973, upon completion of the internal procedures of both Parties, in accordance with article XI.

<sup>2</sup> United Nations, *Treaty Series*, vol. 499, p. 311.

results correspondingly in different kinds of impact on the resources, the two Parties agree that, during the term of this Agreement, the Government of the Federative Republic of Brazil is to apply the measures set forth in annex I to this Agreement and the Government of the United States of America is to apply the measures set forth in annex II to this Agreement.

2. The measures set forth in annexes may be changed by agreement of the Parties through consultation pursuant to article X.

*Article III.* 1. Information on catch and effort and biological data relating to shrimp fisheries in the area of agreement shall be collected and exchanged, as appropriate, by the Parties. Unless the Parties decide otherwise, such exchange of information shall be made in accordance with the procedure described in this article.

2. Each vessel fishing under this Agreement shall maintain a fishing log, according to a commonly agreed model. Such fishing logs shall be delivered quarterly to the appropriate Party which shall use the data therein contained, and other information it obtains about the area of agreement, to prepare reports on the fishing conditions in that area, which shall be transmitted periodically to the other Party as appropriate.

3. Duly appointed organizations from both Parties shall meet in due time to exchange scientific data, publications and knowledge acquired on the shrimp fisheries in the area of agreement.

*Article IV.* 1. The Party which under article V has the responsibility for enforcing observance of the terms of the Agreement by vessels of the other Party's flag shall receive from the latter Party the information necessary for identification and other enforcement functions, including name, port of registry, port where operations are usually based, general description with photograph in profile, radio-frequencies by which communications may be established, main engine horsepower and speed, length, and fishing method and gear employed.

2. Such information shall be assembled and organized by the flag Government and communications relating to such information shall be carried out each year between the appropriate authorities of the Parties.

3. The Party which receives such information shall verify whether it is complete and in good order, and shall inform the other Party about the vessels found to comply with the requirements of paragraph 1 of this article, as well as about those which would, for some reason, require further consultation among the Parties.

4. Each of those vessels found in order shall receive and display an identification sign, agreed between the Parties.

*Article V.* 1. In view of the fact that Brazilian authorities can carry out an effective enforcement presence in the area of agreement, it shall be incumbent on the Government of Brazil to ensure that the conduct of shrimp fisheries conforms with the provisions of this Agreement.

2. A duly authorized official of Brazil, in exercising the responsibility described in paragraph 1 of this article may, if he has reasonable cause to believe that any provision of this Agreement has been violated, board and search a shrimp fishing vessel. Such action shall not unduly hinder fishing operations. When, after boarding or boarding and searching a vessel, the official continues to have reasonable cause to believe that any provision of this Agreement has been

violated, he may seize and detain such vessel. In the case of a boarding or seizure and detention of a United States vessel, the Government of Brazil shall promptly inform the Government of the United States of its action.

3. After satisfaction of the terms of article VI as referred to in paragraph 4 of this article, a United States vessel seized and detained under the terms of this Agreement shall, as soon as practicable, be delivered to an authorized official of the United States at the nearest port to the place of seizure, or any other place which is mutually acceptable to the competent authorities of both Parties. The Government of Brazil shall, after delivering such vessel to an authorized official of the United States, provide a certified copy of the full report of the violation and the circumstances of the seizure and detention.

4. If the reason for seizure and detention falls within the terms of article II or article IV, paragraph 4 of this Agreement, a United States vessel seized and detained shall be delivered to an authorized official of the United States, after satisfaction of the terms of article VI relating to unusual expenses.

5. If the nature of the violation warrants it, and after carrying out the provision of article X, vessels may also suffer forfeiture of that part of the catch determined to be taken illegally and forfeiture of the fishing gear.

6. In the case of vessels delivered to an authorized official of the United States under paragraphs 3 or 4 of this article, the Government of Brazil will be informed of the institution and disposition of any case by the United States.

*Article VI.* In connection with the enforcement arrangements specified in article V, including in particular any unusual expenses incurred in carrying out the seizure and detention of a United States vessel under the terms of paragraph 4 of article V, and taking into account Brazil's regulation of its flag vessels in the area of agreement, the Government of Brazil will be compensated in an amount determined and confirmed in an exchange of notes between the Parties. The amount of compensation shall be related to the level of fishing by United States nationals in the area of agreement and to the total enforcement activities to be undertaken by the Government of Brazil pursuant to the terms of this Agreement.

*Article VII.* The implementation of this Agreement may be reviewed at the request of either Party six months after the date on which this Agreement becomes effective, in order to deal with administrative issues arising in connection with this Agreement.

*Article VIII.* The Parties shall examine the possibilities of cooperating in the development of their fishing industries; the expansion of the international trade of fishery products; the improvement of storage, transportation and marketing of fishery products; and the encouragement of joint ventures between the fishing industries of the two Parties.

*Article IX.* Nothing contained in this Agreement shall be interpreted as prejudicing the position of either Party regarding the matter of territorial seas or fisheries jurisdiction under international law.

*Article X.* Problems concerning the interpretation and implementation of this Agreement shall be resolved through diplomatic channels.

*Article XI.* This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon completion [of] the internal procedures of both Parties, and shall remain in force until January 1, 1974, unless the Parties agree to extend it.

IN WITNESS WHEREOF the undersigned Representatives have signed the present Agreement and affixed thereto their seals.

DONE in duplicate, this ninth day of May 1972, in the Portuguese and English languages, both texts being equally authoritative.

For the United States  
of America:  
WILLIAM M. ROUNTREE

For the Federative Republic  
of Brazil:  
MARIO GIBSON BARBOZA

#### ANNEX I

- a) Prohibition of shrimp fishing activities, for conservation purposes, in spawning and breeding areas;
- b) Prohibition of the use of chemical, toxic or explosive substances in or near fishing areas;
- c) Registry of all fishing vessels with the Maritime Port Authority (Capitania dos Portos) and with SUDEPE;
- d) Payment of fees and taxes for periodical inspections;
- e) Use of the SUDEPE fishing logs to be returned after each trip or weekly;
- f) Prohibition of the use of fishing gear and of other equipment considered by SUDEPE to have destructive effects on the stocks;
- g) Prohibition of discharging oil and organic waste.

#### ANNEX II

a) Not more than 325 vessels flying the United States flag shall fish for shrimp in the area of agreement and the United States Government undertakes to maintain a presence of no more than 160 of those vessels in the area at any one time. Such vessels shall be of the same type and have the same gear as those commonly employed in this fishery in the past, noting that electric equipment for fishing purposes has not been commonly employed by boats in this fishery in the past.

b) Shrimp fishing in the area of agreement shall be limited to the period from March 1 to November 30.

c) Shrimp fishing in that part of the area of agreement southeast of a bearing of 240° from Ponta do Céu radio-beacon shall be limited to the period March 1 to July 1.

d) Transshipment of catch may be made only between vessels authorized under this Agreement to fish in the area of agreement.

#### AGREED MINUTE RELATING TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING SHRIMP

The Delegations of the Government of the Federative Republic of Brazil and the Government of the United States of America consider it desirable to record the points set out below relating to the Agreement between the two Governments concerning shrimp signed on this ninth day of May, 1972:

The Brazilian Delegation informed the United States Delegation that the portion of the area of agreement between the true bearing of 240° and 225°, drawn from the Ponta do Céu radio-beacon, has a special interest to the Brazilian shrimp vessels, in view of its vicinity to both the port and the industries existing in Belem, State of Para. Under these circumstances, the Brazilian Delegation informed the United States Delegation that it was not the intention of the Brazilian Government to re-include such region in agreements it might conclude after 1973.

The United States Delegation stated its view to the Brazilian Delegation that the area of the Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Céu radio-beacon, lies on the high seas and is thus open to fishing by all nations.

Both the Brazilian and the United States Delegations agreed that, based on the available information, the expression "of the same type", included in item *a* of annex II in relation to United States vessels that have in the past fished in the area of the Agreement, means vessels having a length up to approximately eighty-five feet.

With respect to item *a* of annex II, both Delegations agreed that an excess of up to 15 vessels in the area of agreement over the figure of 160 shall constitute, during the first fishing season of the Agreement, a situation requiring consultations between the Parties within the scope of article X with a view toward arriving at as promptly as possible the agreed figure. In view of the special nature of the arrangements contained in item *a* of annex II, both Delegations understand that consultations referred to in paragraph 2, article II will be held as soon after the close of the current fishing season as possible, to examine the operation of this provision with a view toward revising, if necessary, the measures outlined in item *a* of annex II or revising the procedures necessary to achieve better compliance with them.

DONE in duplicate, this ninth day of May, 1972, in the English and Portuguese languages, both texts being equally authoritative.

For the Federative Republic  
of Brazil:  
[Signed — Signé]<sup>1</sup>

For the United States  
of America:  
[Signed — Signé]<sup>2</sup>

<sup>1</sup> Signed by Mario Gibson Barboza — Signé par Mario Gibson Barboza.

<sup>2</sup> Signed by William M. Rountree — Signé par William M. Rountree.

## EXCHANGES OF NOTES—ÉCHANGES DE NOTES

I *a*

Brasília, May 9, 1972

No. 150

Excellency:

I have the honor to refer to the Agreement on shrimp signed today by the Governments of the Federative Republic of Brazil and the United States of America and to confirm, on behalf of my Government, the following:

*a*) The Government of the United States of America shall, after the appropriation of funds by Congress, compensate the Government of Brazil in an annual amount of U.S. \$200,000 (two hundred thousand dollars) pursuant to the terms of article VI;

*b*) The Government of the United States of America shall, after the appropriation of funds by Congress, further compensate the Government of Brazil in the amount of U.S. \$100.00 (one hundred dollars) for each day a United States flag shrimp fishing vessel is under the control of Brazilian enforcement authorities pursuant to the terms of paragraph 2 of article V.

I have the honor to propose that this note and Your Excellency's reply confirming the above points of understanding on behalf of your Government shall be regarded as constituting satisfaction of the terms of article VI of the aforementioned Agreement between the two Governments.

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

WILLIAM ROUNTREE

His Excellency Mario Gibson Barboza  
Minister of Foreign Affairs  
Brasília

II *a*

[PORTUGUESE TEXT—TEXTE PORTUGAIS]

Em 9 de maio de 1972

Senhor Embaixador,

Tenho a honra de acusar recebimento da nota de Vossa Excelência, datada de hoje, cujo teor, em português, é o seguinte:

«Excelência, Tenho a honra de referir-me ao Acordo sobre Camarão assinado hoje pelos Governos da República Federativa do Brasil e dos Estados Unidos da América e confirmar, em nome de meu Governo, o seguinte:

*a*) o Governo dos Estados Unidos da América, após apropriação dos recursos pelo Congresso, compensará o Governo do Brasil com um montante anual de US\$200.000 (duzentos mil dólares), conforme os termos do Artigo VI;

*b*) o Governo dos Estados Unidos da América, após apropriação dos recursos pelo Congresso, compensará também o Governo do Brasil com um montante de US\$100,00 (cem dólares) por cada dia em que uma embarcação de pesca de

camarão da bandeira dos Estados Unidos permanecer sob o controle das autoridades competentes brasileiras, conforme os termos do parágrafo 2 do Artigo V.

Tenho a honra de propor que esta nota e a de resposta de Vossa Excelência, confirmando, em nome de seu Governo, os pontos de entendimento acima mencionados, sejam consideradas como tendo atendido aos objetivos do Artigo VI do referido Acordo entre os dois Governos.

Queira aceitar, Excelência, os protestos renovados da minha mais alta consideração.»

2. Em resposta, desejo confirmar, em nome do Governo brasileiro, que os pontos de entendimento acima mencionados sejam considerados como tendo atendido aos termos do Artigo VI do Acordo sobre Camarão, assinado hoje pelos dois Governos.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos da minha mais alta consideração.

MARIO GIBSON BARBOZA

A Sua Excelência o Senhor William Manning Rountree  
Embaixador Extraordinário e Plenipotenciário  
dos Estados Unidos da América

[TRANSLATION—TRADUCTION]

9 May 1972

Sir,

I have the honour to acknowledge receipt of your note of today's date, the contents of which are as follows:

[See note I a]

2. In reply, I wish to confirm, on behalf of the Brazilian Government, that the aforementioned points of understanding shall be regarded as constituting compliance with the terms of article VI of the Agreement concerning shrimp, signed today by the two Governments.

Accept, etc.

MARIO GIBSON BARBOZA

His Excellency Mr. William Manning Rountree  
Ambassador Extraordinary and Plenipotentiary  
of the United States of America

I b

No. 151

The Embassy of the United States of America presents its compliments to the Ministry of External Relations of the Federative Republic of Brazil, and with reference to the Agreement concerning shrimp signed on this date, as well as the accompanying exchange of notes related to article VI of that Agreement, has the honor to inform the Ministry of the following:



Pending the entering into force of the Agreement as provided for in article eleven, the Government of the United States of America is prepared to make every effort to encourage the voluntary compliance by its industry of the provisions of the Agreement so as to ensure that events in the interim period do not prejudice the successful implementation of those provisions. It is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil intends also to abide by the spirit of the proposed interim Agreement.

Following the entering into force of the Agreement as provided for in article eleven, but prior to the passage of enabling legislation, the Government of the United States of America proposes to continue its efforts to encourage voluntary compliance.

In the period between the completion of internal procedures as noted in article eleven and the entering into force of the Agreement, the Government of the United States of America will seek, *inter alia*, with the voluntary cooperation of U.S. flag vessel owners,

1. To achieve the objectives of article II
2. To institute appropriate article III procedures
3. To achieve the intent of articles IV and V.

In stating its willingness to encourage the voluntary compliance with appropriate provisions of the Agreement so that the intent of the accord may be achieved while awaiting its entering into force, it is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil agrees that in this same interim period both Parties should have as their objective the achievement of the intent of the Agreement.

With specific reference to article III, paragraph 2, the Government of the United States of America shall treat the information obtained from individual fishing logs as confidential.

The Embassy takes the opportunity to renew to the Ministry the assurance of its highest consideration.

Embassy of the United States of America

Brasília, May 9, 1972.

## II b

### [PORTUGUESE TEXT—TEXTE PORTUGAIS]

O Ministério das Relações Exteriores cumprimenta a Embaixada dos Estados Unidos da América e tem a honra de acusar recebimento da nota da Embaixada, datada de hoje, cujo teor, em português, é o seguinte:

«A Embaixada dos Estados Unidos da América cumprimenta o Ministério das Relações Exteriores da República Federativa do Brasil e, com referência ao Acordo sobre Camarão assinado hoje, bem como à troca de notas relativas ao Artigo VI do Acordo, tem a honra de informar o Ministério do seguinte:

«Enquanto se aguarda a entrada em vigor do Acordo, nos termos do Artigo XI, o Governo dos Estados Unidos da América dispõe-se a empenhar todos os seus esforços para estimular a sujeição voluntária da sua indústria às disposições pertinentes para assegurar que ocorrências durante o período intermediário não prejudiquem o êxito da execução daquelas disposições. O Governo dos Estados Unidos da América entende que o Governo da República Federativa do Brasil também pretende orientar-se pelo espírito do projeto de Acordo provisório.

Após a entrada em vigor do Acordo, nos termos do Artigo XI, mas antes da aprovação da legislação complementar, o Governo dos Estados Unidos da América dispõe-se a continuar os esforços para estimular a sujeição voluntária.

No período entre o cumprimento dos procedimentos internos, como consignado no Artigo XI, e a entrada em vigor do Acordo, o Governo dos Estados Unidos da América procurará *inter alia*, com a cooperação voluntária dos proprietários de embarcações da bandeira dos Estados Unidos,

1. atingir os objetivos do Artigo II
2. instituir os procedimentos adequados ao Artigo III
3. alcançar a meta estabelecida nos Artigos IV e V.

Ao declarar sua disposição de estimular a sujeição voluntária às disposições apropriadas do Acordo para que o objetivo do entendimento possa ser atingido enquanto se aguarda a entrada em vigor, o Governo dos Estados Unidos da América entende que o Governo da República Federativa do Brasil concorda que, nesse mesmo período intermediário, ambas as Partes deveriam ter por meta alcançar o objetivo do Acordo.

Com referência específica ao Artigo III, parágrafo 2, o Governo dos Estados Unidos da América dará tratamento confidencial às informações obtidas de mapas de bordo individuais.»

2. Em resposta, o Ministério das Relações Exteriores deseja confirmar que o entendimento, referido no penúltimo parágrafo da nota da Embaixada, é compartilhado pelo Governo brasileiro.

3. Ademais, o Ministério das Relações Exteriores deseja declarar que, enquanto se aguarda a entrada em vigor do Acordo, é intenção do Governo brasileiro aplicar suas disposições na medida do possível a partir de hoje e de maneira a assegurar que ocorrências nesse ínterim não prejudiquem o êxito da execução daquelas disposições.

4. Com referência específica ao Artigo III, parágrafo 2, o Governo da República Federativa do Brasil dará tratamento confidencial às informações obtidas de mapas de bordo individuais.

Brasília, em 9 de maio de 1972.

[TRANSLATION—TRADUCTION]

II b

The Ministry of External Relations presents its compliments to the Embassy of the United States of America and has the honour to acknowledge receipt of the Embassy's note of today's date, the contents of which are as follows:

[See note I b]

2. In reply, the Ministry of External Relations wishes to confirm that the understanding, referred to in the penultimate paragraph of the Embassy's note, is shared by the Brazilian Government.

3. Furthermore, the Ministry of External Relations wishes to state that, with regard to the entry into force of the Agreement, it is the intention of the Brazilian Government to apply its provisions to the extent possible with effect from this

day and in such a manner as to ensure that events in the interim period do not prejudice the successful implementation of those provisions.

4. With specific reference to article III, paragraph 2, the Government of the Federative Republic of Brazil will treat the information obtained from individual fishing logs as confidential.

Brasília, 9 May 1972.

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