

No. 12891

**BRAZIL
and
NETHERLANDS**

**Agreement concerning shrimp (with annex). Signed at
Brasília on 13 December 1972**

Authentic texts: Portuguese, Dutch and English.

Registered by Brazil on 30 November 1973.

**BRÉSIL
et
PAYS-BAS**

**Accord relatif à la pêche de la crevette (avec annexe). Signé
à Brasília le 13 décembre 1972**

Textes authentiques : portugais, néerlandais et anglais.

Enregistré par le Brésil le 30 novembre 1973.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERN- MENT OF THE KINGDOM OF THE NETHERLANDS 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 Kingdom of the Netherlands 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,² 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 that their common interests as coastal states in the conservation of shrimp resources should be effectively safeguarded and their diverging interests regarding shrimping reconciled, and that therefore it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudicing either Party's legal 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, it is desirable to conclude the following interim Agreement,

¹ Came into force on 1 January 1973, in accordance with article XIV.

² United Nations, *Treaty Series*, vol. 499, p. 311.

Have agreed as follows:

Article I. This Agreement will by no means establish any precedent as to the contents of any subsequent agreement.

Article II. 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 III. This Agreement shall apply to the fishery for shrimp:

- a) of the species *Penaeus (M.) duorarum notialis*, *Penaeus brasiliensis* and *Penaeus (M.) aztecus subtilis*;
- b) in an area having the isobath of thirty (30) meters as the southwest limit and the latitude 1° north as the southern limit and 47°30' west longitude as the eastern limit;
- c) during a season limited to the period from March 1 to November 30. However, shrimp fishing in that part of the above-mentioned area southeast of a bearing of 240° from Ponta do Céu radio-beacon shall be limited to the period March 1 to July 1;
- d) by twenty (20) Surinam vessels flying the Kingdom of the Netherlands flag.

Article IV. Taking into account their common interests in the conservation of shrimp resources, the Parties agree that in the conduct of shrimping activities destructive practices in general should be prevented, in particular the following:

- a) the use of gear and equipment known to have destructive effects on the stocks, including electric equipment for fishing purposes;
- b) the use of chemical, toxic or explosive substances in or near the fishing areas;
- c) the discharge of oil and organic waste;
- d) fishing in spawning and breeding areas.

Article V. 1. Information on catch and effort and biological data relating to shrimp fisheries in the area defined in article III shall be collected and exchanged by the Parties.

2. Each vessel fishing under this Agreement shall maintain a fishing log, according to the model provided for in the annex. 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 defined in article III, to prepare reports 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 defined in article III.

Article VI. 1. The Party which under article VII has the responsibility for enforcing observance of the terms of this 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 of the vessel, copies of the documents of the vessel (registry certificate, up-to-date seaworthiness certificates, insurance certificate), port of registry, port where operations are usually based, general description and photograph in profile, radio frequencies by which communication may be established, main engine horse-power and speed, length (which shall not exceed eighty-five feet), and fishing methods 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 through diplomatic channels.

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 as provided for in the annex.

Article VII. The Parties agree that for the implementation in a specific shrimping area of measures pertinent to the attainment of objectives as those pursued in a bilateral agreement such as the present one, enforcement by one of the Parties is needed. They further agree that, despite the difference in their respective legal positions as to the extent of territorial waters and fisheries jurisdiction, and without prejudice to said positions, it shall be incumbent on the Government of the Federative Republic of Brazil to ensure the proper conduct of shrimp fisheries in the area defined in article III.

Article VIII. 1. A duly authorized official of the Government of the Federative Republic of Brazil, in exercising the responsibility described in article VII may, if he has reasonable cause to believe that any provision of this Agreement has been infringed, 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 infringed, he may seize and detain such vessel. In the case of boarding or seizure and detention of a Surinam vessel, the Government of the Federative Republic of Brazil shall promptly inform the Government of the Kingdom of the Netherlands of its action.

2. After compliance with the provision of item *c*) of article XI, a Surinam vessel seized and detained under the terms of this Agreement shall, as soon as practicable, be delivered to an authorized official of the Kingdom of the Netherlands at the nearest Brazilian port to the place of seizure, or any other place which is mutually acceptable to the competent authorities of both Parties. The Government of the Federative Republic of Brazil shall, after delivering such vessel to an authorized official of the Kingdom of the Netherlands, provide a certified copy of the full report of the infringement and the circumstances of the seizure and detention.

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

4. In the case of vessels delivered to an authorized official of the Kingdom of the Netherlands under paragraph 2 of this article, the Government of the Federative Republic of Brazil will be informed of the institution and disposition of any case by the Kingdom of the Netherlands.

Article IX. The vessels mentioned in article III shall land the catch in Surinam, transshipment being permitted only between said vessels.

Article X. 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 XI. In connection with the enforcement arrangements specified in article VII, including any unusual expenses incurred in carrying out, under the terms of paragraph 1 of article VIII, the seizure and detention of a Surinam vessel registered in accordance with paragraph 1 of article VI, the Government of the Federative Republic of Brazil will be compensated in the following amounts:

- a) US\$ 100.00 (one hundred USA dollars) per vessel for each month of operation in the 1972 season, this amount being calculated from a date one month following the date on which the information on the vessel is considered complete and in good order, according to paragraph 3 of article VI;
- b) US\$ 900.00 (nine hundred USA dollars) per vessel for the 1973 season;
- c) US\$ 100.00 (one hundred USA dollars) for each day a vessel is detained by Brazilian enforcement authorities, pursuant to the terms of paragraph 1 of article VIII.

Article XII. At the request of either Party, both Parties shall, within one month, conduct consultations for a review of the operation of this Agreement or of its provisions.

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

Article XIV. This Agreement shall enter into force on January 1, 1973, and shall remain in force until January 1, 1974, unless the Parties agree to extend it.

DONE in the city of Brasilia, this thirteenth day of December one thousand nine hundred and seventy-two, in duplicate, in the Portuguese, Dutch and English languages. In case of dispute, the English language shall prevail.

For the Government
of the Federative Republic
of Brazil:

MÁRIO GIBSON BARBOZA

For the Government
of the Kingdom
of the Netherlands:

Jonkheer LEOPOLD QUARLES
VAN UFFORD

ANNEX

Identification requirements related to article VI, paragraph 4

1. Vessels receiving permits to fish in the area defined in article III will be provided with instructions for displaying permit identification numbers.
2. Identification numbers should be preceded by two identifying letters such as "SB" (Surinam-Brazil).
3. Identification numbers should consist of two digits assigned consecutively from 01 to 20 (allowing for additional permits up to 99).
4. Identification letters and numbers should be displayed on boards (approximately 2 feet high and 5 feet wide) mounted on both sides of the pilothouse, deckhouse or rail, and mounted on top of the pilothouse or deckhouse so that the identification letters and numbers are clearly visible from both sides of the vessel and from the air above the vessel.
5. Identification letters and numbers should be black on an orange background and at least 18 inches high with appropriate width.
6. In lieu of displaying identification letters and numbers on boards described in 4 above, such letters and numbers can be painted on the sides and top of the pilothouse or deckhouse provided such letters and numbers are black on an orange background and clearly visible.
7. Identification letters and numbers should be displayed in such a manner so that no obstructions, protuberances of the vessel, rigging, fishing gear, or any other objects interfere with the visibility of such numbers and letters.
8. Registered vessels will display their name and port of documentation in the usual manner.
9. A portable or fixed light or lights should be provided to illuminate identification letters and numbers at night or during periods of poor visibility to prevent the necessity of patrol vessels or patrol aircraft shining searchlights on registered vessels to identify such vessels and thereby interfere with the navigation of authorized vessels in the area defined in article III.
10. Netherlands-Brazil agreement registration numbers (SB...) will be assigned permanently to individual vessels and these numbers will not be reassigned to replacement vessels entering the Surinamese fleet.
11. The standard radio frequencies were selected for communication between fishing vessels and enforcement vessels. Frequencies 2182 KHz and 2638 KHz were selected.
12. In the event of the detention of a Surinam vessel alleged by a Brazilian enforcement official to have violated terms of the Agreement, a citation will be issued to the Surinam vessel defining the nature of the charges. Acknowledgement of the citation by signature will not be required.
13. A complete list of Surinam vessels, by name, which intend to fish in the area defined in article III will be provided to the Government of Brazil when SB agreement registration numbers have been assigned. This list will provide additional information for identification purposes including a listing of the color of each registered vessel.

Your fishing log information will be treated confidentially

INSTRUCTIONS

Instructions are illustrated in the sample log above. If you want copies of your log, carbon paper is included.

Make an entry in all columns of the log every day.

Record the following information:

1. DATE: Log the month and day.
2. FISHING AREA: Write the name of the fishing grounds, the zone number (shown in black circles on the chart) and the depth in fathoms. Use the names of the fishing grounds shown on the chart or if possible give more exact location by other commonly used names or by distance and direction from known landmarks.
3. FISHING TIME:
 - (a) *Day or night.* Put D for day fishing or N for night fishing. If you fish both day and night in the same 24-hour day, use a separate line for each type of fishing.
 - (b) *Number of drags.* Log the total number of drags made.
 - (c) *Total hours fished.* Log the total number of hours from time of first set to last haulback.
4. SHRIMP CATCH:
 - (a) *Total pounds.* Record the estimated total pounds caught, heads-off weight.
 - (b) *Kind and size of shrimp.* Check the kind of shrimp caught. List the chief size count (for example, 21-25, 26-30, etc.).
5. REMARKS: You may use this space for various purposes, such as logging running time to and from fishing grounds, transfer of catch at sea, engine breakdown, or bad weather.

Note: The Netherlands-Brazil Fishery Agreement area is shown as a shaded area on the log sheet chart. This area covers the waters adjacent to the coast of Brazil from the international boundary between French Guiana and Brazil on the north to 1° North Latitude on the south. The Agreement area extends eastward from the 30-meter (16.4 fathom) depth contour to 47°30' West Longitude. Under the current terms of the Agreement, this area is open to shrimp fishing from March 1 to November 30, except for the portion of the area south of a true bearing of 240° from seaward to Ponta do Céu lighthouse and radio-beacon, which is open only from March 1 to June 30.