

No. 13165

**BRAZIL
and
BARBADOS**

**Exchange of notes constituting an agreement on shrimp
fishing (with annex). Brasília, 29 June 1973**

Authentic texts: English and Portuguese.

Registered by Brazil on 21 March 1974.

**BRÉSIL
et
BARBADE**

**Échange de notes constituant un accord sur la pêche de la
crevette (avec annexe). Brasília, 29 juin 1973**

Textes authentiques : anglais et portugais.

Enregistré par le Brésil le 21 mars 1974.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN BRAZIL AND BARBADOS ON SHRIMP FISHING

I

29 June 1973

No. EX-C141

Excellency,

I have the honour to refer to the recent discussions held between representatives of the Governments of Barbados and of the Federative Republic of Brasil in a spirit of mutual understanding, and relating to shrimp fishing in the waters off the coast of Brazil.

2. In the course of such discussions, the representatives of the two Governments made the following statements:

- a) the position of the Government of the Federative Republic of Brazil is 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;
- b) the position of the Government of Barbados is that it does not consider itself obligated under international law to recognise territorial sea claims and fisheries jurisdictions claims which are not consonant with the 1958 United Nations Convention on the Territorial Sea and Contiguous Zone,² to which Agreement Barbados considers herself for the time being a Party in accordance with her international obligations.

3. Notwithstanding the difference in their respective juridical positions as stated above, for the purpose of concluding an Agreement, and motivated by the friendly relations existing between the two Governments and peoples, the Governments of Barbados and the Federative Republic of Brazil have agreed as follows:

1. This Agreement shall govern the operation of shrimp fishing by Barbados flag vessels in the waters off the coast of Brazil during the period from 1st June, 1973 to 30th November, 1973.

2. The species of shrimp to be fished are *Penaeus (M) Duorarum notialis*, *Penaeus braziliensis*, and *Penaeus (M) aztecus subtilis*. The simultaneous and inevitable catch of other marine species in quantities and conditions which characterize them as incident fauna of the species of shrimp authorized under this Agreement shall not be considered as a violation of the Agreement.

3. The shrimp fishing shall be conducted exclusively within a zone 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. Shrimp fishing, however, in the part of the above-mentioned zone which lies southeast of a bearing of 240° drawn from Ponta do Céu radio beacon shall be limited to the period ending 1st July, 1973.

¹ Came into force on 29 June 1973, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 516, p. 205.

4. Ten (10) shrimp vessels flying the Barbados flag shall be admitted to fish for shrimp in the zone described in article 3 of this Agreement. These vessels shall not exceed eighty five (85) feet in length, and shall not employ electric equipment for fishing purposes.

5. (1) The Government of Barbados will furnish the Government of the Federative Republic of Brazil, through the appropriate diplomatic channels, with a list of the vessels to be covered by this Agreement as well as with the basic data relating to these vessels. Such data shall include the name, length, radio frequency, maximum speed, gross and net tonnage of each vessel, a description of its navigation and fishing gear and its communication equipment, and the identification sign to be used. In addition, the port of registry, the name of the vessel's captain, the name and legal address of the Company owning the vessel and proof that such Company is owned and controlled by Barbadian nationals shall also be provided.

(2) To complete the registration procedure, the Government of the Federative Republic of Brazil will inform the Government of Barbados of the vessels authorized to fish under the terms of this Agreement.

6. Before any authorized vessel begins shrimp fishing under the terms of this Agreement, the Government of Barbados shall produce to the Brazilian Embassy to Barbados, resident in Trinidad and Tobago.

- (i) the documents of the vessel (registration certificate, crew list, up-to-date seaworthiness certificate, insurance certificate);
- (ii) a photograph of the vessel and a statement as to its methods and gear.

7. The fee for operation in the season shall be calculated on the basis of US\$ 100.00 (one hundred dollars) for each month of operation by each authorized vessel; an amount of US\$ 3,000.00 (three thousand dollars) shall be paid through the Brazilian Embassy to Barbados, resident in Trinidad and Tobago, to the appropriate Brazilian authorities by the Barbadian company within one month of the entry into force of the Agreement; the balance, if any, shall be paid not later than 30th November 1973.

8. Each of the authorized vessels shall display an identification sign agreed by Parties to this Agreement and shall carry the appropriate documents of identification to be produced on demand to the Brazilian authorities.

9. While conducting shrimp fishing according to the provisions of this Agreement, the captains of the vessels shall—

- (a) proceed directly to the authorized fishing zone defined in Article 3, unless circumstances of an unusual nature make it necessary to do otherwise in which case, such circumstances shall be reported as soon as possible to the Brazilian authorities;
- (b) fill out fishing logs to be furnished by the Brazilian Embassy to Barbados, resident in Trinidad and Tobago and have them returned to the Embassy within 21 days of their return to Barbados;
- (c) be familiar with and respect Brazilian laws and regulations, particularly those regarding fishing and prevention of sea pollution;
- (d) land the catch in Barbados, transshipment being permitted only between vessels authorized under this Agreement.

10. The Government of Barbados will supply the Government of the Federative Republic of Brazil periodically with statistical data relating to the size and species of the catches taken by Barbados flag vessels in the waters off the coast of Brazil.

11. (a) Estimated dates of arrival at the fishing zones and dates of departure from and return to ports of Barbados, may be requested, if necessary, by the Brazilian authorities.

(b) While in waters claimed as territorial waters by Brazil, the Barbadian shrimp vessels shall be subject to Brazilian surveillance. Duly appointed officials may board the vessels for inspection.

(c) Infringements of Brazilian law occurring in waters claimed as territorial waters by Brazil shall be dealt with according to Brazilian law. The Brazilian Government shall promptly inform the Government of Barbados of any such infringements and of any action taken by the Brazilian authorities in respect thereof.

12. Administrative details for identification of Barbadian vessels, an agreed fishing log, a map of the zone referred to in Article 3 and other agreed measures to facilitate the implementation of this Agreement are set forth in the Annex to this Agreement.

13. Problems concerning the interpretation and implementation of this Agreement shall be solved through diplomatic channels.

14. At the request of either Party to the Agreement, both Parties to the Agreement, shall within one month of such request, conduct consultations for a review of the operations of this Agreement or its provisions.

15. Nothing in this Agreement shall be deemed to prejudice in any way, the legal position of either Party to this Agreement in regard to the limits of territorial seas and fisheries jurisdictions.

16. It is further agreed that the Government of Barbados will submit to the Government of the Federative Republic of Brazil, as soon as possible, a brief stating reasons for an increase in the number of authorized vessels indicated in Article 4 above to which a formal reply will be given not later than six weeks from the date of its receipt.

17. Nothing contained in this Agreement necessarily constitutes a precedent.

4. I have the honour to propose that if the above terms are acceptable to the Government of the Federative Republic of Brazil, the present Note together with Your Excellency's Note in reply indicating your Government's concurrence therewith shall constitute an Agreement between the two Governments, to come into force on the date of Your Excellency's Note in reply, and the Agreement shall be cited as the Barbados—Brazil Shrimp Fishing Agreement (1973).

Please accept, Excellency, the assurances of my highest consideration.

V. T. McCOMIE
Ambassador of Barbados

His Excellency Mário Gibson Barboza
Minister of External Affairs
Federative Republic of Brazil

ANNEX

1. Registered vessels shall be required to have identification numbers displayed.

2. The identification numbers shall be preceded by two identification letters, such as "BB" (for Barbados—Brazil), or any other adequate combination of letters in order to distinguish such numbers from others displayed in different authorized vessels.

3. The identification numbers shall consist of two digits numbered consecutively from 01.

4. The identification letters and numbers shall be displayed on boards (approximately sixty centimeters high and one hundred and fifty centimeters wide) attached to the two sides or the top of the pilot house, or the rail, in such a way that they should be visible from both sides of the vessel or from the air.

5. The identification letters and numbers must be black having an orange background, being at least forty-five centimeters high and of adequate width.

6. As long as such identification letters and numbers are black with an orange background, they can be painted on the sides and on the top of the pilot house instead of being displayed on boards as described in paragraph 4 above.

7. The identification letters and numbers shall be displayed in such a way that no part of the vessel, ropes or fishing equipment interferes with the visibility of such letters and numbers.

8. One or more lights, either portable or fixed, shall be provided to light the letters and numbers at night or during periods of bad visibility so as to avoid the necessity of the patrol boats or airplanes using searchlights to identify such vessels and thus interfering with the vessel's navigation in the specified area.

9. Authorized vessels shall display their name and port of registration in the usual manner.

10. Barbados—Brazil identification numbers shall be assigned permanently to individual vessels and these numbers will not be reassigned to replacement vessels entering the Barbados fleet.

11. The standard radio frequencies have been selected for communication between fishing vessels and enforcement vessels. Frequencies 2182 KHZ and 2638 KHZ have been selected.

12. In the event of the detention of any Barbadian vessel alleged by a Brazilian enforcement official to have violated terms of the Agreement, a citation shall be issued to the Barbadian vessel defining the nature of charges. Acknowledgement of the citation by signature shall not be required.

13. A complete list of Barbadian vessels, by name, which intend to fish in the area defined in the Agreement shall be provided to the Government of the Federative Republic of Brazil when "BB" identification numbers have been assigned. This list will provide additional information for identification purposes including a description of the colours of each registered vessel.

14. A specimen of the fishing log and the respective instructions for completing it will be forwarded to the Government of Barbados on the date of the exchange of notes bringing into force the Agreement.

II

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

Em 29 de junho de 1973

DPB/DCS/DNU/DAI/07/662.8(B46)(B8)

Senhor Embaixador,

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

«Excelência, Tenho a honra de referir-me às recentes negociações realizadas entre representantes dos Governos de Barbados e da República Federativa do Brasil, num espírito de entendimento mútuo, e relativas à pesca de camarões nas águas adjacentes à costa do Brasil.

No decorrer das negociações, os representantes dos dois Governos fizeram as seguintes declarações:

- a) a posição do Governo da República Federativa do Brasil é a de que seu mar territorial se estende a uma distância de 200 milhas marítimas a partir da costa do Brasil, que a exploração de crustáceos e outros recursos vivos, que mantêm estreitas relações de dependência com o fundo subjacente ao mar territorial brasileiro, é reservada a embarcações brasileiras de pesca e que exceções a tal disposição podem ser feitas apenas através de acordos internacionais;
- b) a posição do Governo de Barbados é a de que não se considera obrigado pelo direito internacional a reconhecer reivindicações de mar territorial, nem de

[TRANSLATION — TRADUCTION]

29 June 1973

DPB/DCS/DNU/DA1/07/662.8(B46)(B8)

Sir,
I have the honour to acknowledge receipt of your note of today's date the text of which, in portuguese, reads as follows:

[*See note I*]

2. In reply, I would inform you that the Brazilian Government agrees to the terms of the note reproduced above which, together with this note, shall constitute an Agreement between our two Governments.

Accept, Sir, the assurances of my highest consideration.

MÁRIO GIBSON BARBOZA

His Excellency Mr. Valerie McComie
Ambassador Extraordinary and Plenipotentiary of Barbados

[*Annex as under note I*]
